44. Defendants performed certain scientifically valid tests, which clearly disproved their speculation that metals concentrated in forage grown under drought conditions in their study. Defendants, however, knowingly concealed these data, which refuted their conclusions. Specifically, they concealed the results of their analysis of ratios of cadmium (Cd) to nitrate-nitrogen (NO_3-N) in which they concluded: "There does not appear to be any relationship between amount of Cd and NO_3-N in the hay that would indicate the drought is consistently concentrating Cd."[41]

45. In 1984, the McElmurray family members applied lime to their farmlands to raise the soil pH for growing alfalfa as a forage crop to feed their dairy herds. As soon as they started using the alfalfa as feed in 1985, their cattle developed a reddish tinge to their coats, which is a symptom of molybdenosis. Molybdenum is much less soluble, i.e., less available for plant uptake, when soil pH is very acidic. When this forage was fed to the dairy cattle on the McElmurray farm, milk production quickly plummeted, many

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[41] Lawrence M. Risse, Julia W. Gaskin, William P. Miller, Richard McDaniel, *Metals Assessment for Burke and Richmond County Hayfields Receiving Biosolids:* A Report to Fulfill Grant No. 827759-01-0, p. 12 (Gaskin 00058).

of the cattle developed AIDS-like symptoms, outbreaks of *Salmonella* infections occurred in the herd, and mortality rates soared.

46. This same scenario played out on the Boyce family dairy farm. The Boyce lands had also received applications of Augusta's sewage sludge for 10 years until being taken out of the land application program in 1995. As an incentive to rejoin the program in 1996, Augusta offered Boyceland Dairy free lime to apply to their soil, which had become increasingly acidic after years of treatment with sewage sludge. As soon as the Boyce family began feeding their dairy herd forage in 1997 with forage which was grown on their sludged land, after it was heavily limed, milk production plummeted, many of the cattle began wasting away, and infection and mortality rates among the cattle rose dramatically.

47. To assess whether sewage sludge was responsible for the high morbidity and mortality rates experienced by the dairy cattle, Augusta's Messerly WWTP paid UGA to evaluate soil samples collected from the these dairy farms.[42] Soil samples from the dairy farms owned by the families of Relators

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[42]
- Letter from Defendant Miller to Moore, Messerly WWTP (1994) (UGA 00027-31)
- UGA analyses of soil samples from Relator McElmurray's farm
- UGA analyses of soil samples from Relator Boyce's farm

McElmurray and Boyce were analyzed under the supervision of Defendant Miller, assisted by his associates at UGA, from 1987 through 1999. The soil samples were obtained by employees of Augusta's Messerly WWTP and UGA's extension service offices in Burke and Richmond Counties. A total of 51 of these soil samples were analyzed for molybdenum.

48. Molybdenum concentrations in these soil samples ranged from undetectable levels (< 0.5 mg/kg) to 92 mg/kg and the mean concentrations in samples from the dairy farms owned by Relators McElmurray and Boyce were 19 mg/kg (S.D. ±17) and 34 mg/kg (S.D. ±33), respectively.

49. Federal regulations promulgated in February of 1993 (40 CFR, Part 503) set the maximum permitted molybdenum concentration in sewage sludge at 75 mg/kg and the cumulative loading limit at 18 kg/ha (9 mg/kg). These limits were designed to protect animal health from toxic levels of molybdenum in forage crops grown on sludge-treated lands. The mean concentrations of molybdenum on the Relators' dairy farms exceeded the cumulative loading limit for molybdenum by two-fold on Relator Boyce's family's farm and almost three-fold on Relator McElmurray's family's farm.

50. The implications of the Augusta cattle deaths to EPA and UGA were clear and potentially disastrous to Defendant Walker, Defendant Gaskin and others who built their careers on promoting EPA's sewage sludge regulations as being environmentally protective. Defendants knew from the existing data, including data created by UGA, that excessive morbidity and mortality rates on Relators McElmurray's and Boyce's families' farms were, more likely than not, caused by the accumulation of molybdenum in soil and its subsequent uptake by forage crops. Clearly, Defendant Walker, and others at EPA and USDA overseeing their agencies' sewage sludge programs, would be blamed for damages caused by removing the cumulative loading limits for molybdenum in 1994. In short, the Augusta cattle cases stood to prove that 40 C.F.R. Part 503 was not, and is not, adequately protective of public health and the environment. Defendants fully knew that, in order to protect the reputations of EPA and UGA and their own careers, they had to mask and coverup any evidence linking the Augusta cattle deaths to sewage sludge.

51. After discovering high levels of heavy metals and nitrates in soil samples from dairy farms owned by the families of Relators McElmurray and Boyce,

Defendant Miller received a telephone call from Defendant Walker.[43] From that point on, Defendant Miller refused to return telephone calls from Relators Boyce's and McElmurray's expert, Dr. Holly Ballantine, a dairy herd nutritionist. Rather, as part of the scheme to hide the truth, Defendant Miller began cooperating with other Defendants to publish false and fabricated scientific data. The purpose of this cooperation was to provide Augusta's attorneys with a peer-reviewed scientific article containing false scientific data to introduce in court as evidence that Augusta's sewage sludge did not contain hazardous wastes and, therefore, did not damage dairy farms owned by the families of Relators McElmurray and Boyce.

52. Defendant Gaskin and her co-authors intentionally and knowingly concealed all of the results of UGA's analysis of 51 soil samples[44] collected from dairy farms owned by Relators McElmurray and Boyce, most of which were collected when forages were most toxic, prior to 1999. These samples

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[43] Defendant Walker's written notes of his telephone calls to Defendants Risse, Gaskin, Brobst, Miller and others (November, 1998) (SC 00005-00010)

[44] Samples collected from Relator McElmurray's farm were single (grab) samples; each sample collected from Relator Boyce's farm was a composite of 10 sub-samples. For soil samples from non-dairy farms reported in the Gaskin paper, a composite sample was collected from each of 20 fields treated with Augusta's sewage sludge (10 fields treated for >6 years, 10 fields for <6 years) and each composite was a mixture of 12 sub-samples

showed that levels of heavy metals in soils from the affected dairy farms, for example, exceeded EPA's cumulative loading limit for molybdenum. In the Gaskin paper, Defendants only revealed results from 20 soil samples collected *in 1999* from farms *other than the Relators McElmurray's and Boyce's families' farms*. Even if Defendant Gaskin and her co-authors had a legitimate basis for excluding all of the samples UGA analyzed (which they did not), it was gross scientific misconduct on their part not to inform readers of the Gaskin paper that UGA had analyzed soil samples collected from farms where cattle deaths were attributed to hazardous wastes taken up by forages from Augusta's sewage sludge, that the samples were collected during the time when the forages became toxic, and that UGA found toxic levels of molybdenum and other heavy metals in the samples.

53. Defendant Gaskin and her co-authors were *intentionally and completely* deceptive from the beginning, when they chose not to disclose the true purpose of the Risse project. Specifically, the Risse project was funded, designed and conducted to assess whether Augusta's sewage sludge contained hazardous wastes that contaminated forages grown on dairy farms owned by the families of Relators McElmurray and Boyce and caused death

and injury to dairy herds as alleged in the *McElmurray* and *Boyce* lawsuits. Defendant Gaskin and the other authors also chose not to disclose that one of their co-authors, Defendant Brobst, headed EPA's BIRT, which was responsible for investigating the allegations in the lawsuits filed by the families of Relators McElmurray and Boyce. Defendants also chose not to disclose the fact that their co-author, Defendant Brobst, worked closely with attorneys for Augusta to prepare Augusta's defense in the lawsuits, which was based it upon the fraudulent Gaskin paper.

54. Based upon their "investigation" of cattle farms *other than the McElmurray and Boyce farms*, Defendant Gaskin and her co-authors falsely stated, contrary to Defendant Miller's own data, that the mean molybdenum concentration in soils historically treated with Augusta's sewage sludge was 0.089 mg/kg (S.D. ±0.041).[45] This level of molybdenum is only one-hundredth of EPA's 1993-94 cumulative loading limit. Defendant Gaskin and co-authors also

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[45] 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), *Table 3*, p. 149.

falsely stated in their conclusions: "Recoverable metal concentrations ... were low compared with the USEPA Part 503 cumulative loading limits."[46]

55. Defendants provided these false and misleading soil data to EPA Assistant Administrator G. Tracy Mehan III as a basis for dismissing allegations in the lawsuit filed by the family of Relator Boyce. These allegations were cited in a public petition calling for a moratorium on land application of sewage sludge which was filed with the EPA on October 7, 2003.[47]

56. Mr. Mehan stated in his response to the October 2003 Petition:

> EPA's BIRT also reviewed scientifically credible soil information from samples taken from the site and found that fields were within the range of national, uncontaminated background soil heavy metals for the metals in question (e.g., arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, selenium, and zinc).

57. This statement by Mr. Mehan, which was written by EPA employee Robert Bastian and Defendant Brobst, falsely states that BIRT reviewed "scientifically credible data" from soil samples collected from the dairy farm

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[46] 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), *Soil Metals Concentration*, p. 149.

[47] Letter from G. Tracy Mehan, III, Assistant Administrator, EPA Office of Water to J. Mendelson, III (December 24, 2003) [http://www.centerforfoodsafety.org/pubs/SewageSludgePetitionResponse12-22-03.pdf]. Last accessed January 14, 2006

owned by the family of Relator Boyce. Mr. Mehan further states that these data proved that levels of molybdenum and other heavy metals in the soil were within background soil concentrations found in uncontaminated soils.

58. The "scientifically credible" data to which Mr. Mehan referenced were analyses of heavy metals in soil samples collected in 1999 by Augusta from the dairy farm owned by the family of Relator Boyce. These data were produced by Savannah Laboratories & Environmental Services, Inc. Data spreadsheets show that most analytical results were marked with "J" or "UJ," meaning that the heavy metal concentration was *an estimated quantity* and that, when the metal was undetected, the detection limit was also *estimated*.

59. The degree of scientific certainty and validity of the analytical results associated with Augusta's estimates of metal concentrations reviewed by Defendant Brobst was *unknown*; therefore, these data can by no means be legitimately characterized as "scientifically credible." Certainly, Defendant Brobst had no scientific basis whatsoever for concluding that soils on the dairy farms owned by the families of Relators McElmurray and Boyce were not contaminated with toxic levels of heavy metals prior to 1999 based on estimates of their concentrations in samples collected in 1999. This is

especially true considering that UGA concealed *precise* analytical results of soil samples collected prior to 1999 from the dairy farms owned by the families of Relators McElmurray and Boyce, and the fact that these samples showed that toxic levels of molybdenum and other metals were present.

60. In addition to concealing even their own analyses showing the presence of illegally high levels of heavy metals in soil samples collected from the dairy farms owned by Relators McElmurray and Boyce, Defendants also chose not to acknowledge any of the analyses performed by Relators McElmurray's and Boyce's experts. These samples also proved that Augusta's sewage sludge contaminated the Relators' dairy farms with hazardous wastes.[48]

61. Relators' data proved that Augusta's sewage sludge contaminated the Relators McElmurray's and Boyce's families' dairy farms with high levels of a wide variety of highly toxic heavy metals and other hazardous wastes, which local industries were illegally dumping into Augusta's wastewater

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[48]
- UGA soil samples from Relator Boyce's farm
- Opinion *McElmurray v. Augusta, Georgia*, Georgia Court of Appeals, Case No. A05A0262 (July 27, 2005)

treatment system, including cadmium, molybdenum, selenium, thallium, vanadium, and antimony.[49]

62. The "can of worms" that Defendant Miller and his associates at UGA opened by analyzing soil samples from the dairy farms owned by the families of Relators McElmurray and Boyce for molybdenum from 1990 through 1999 did more than just prove that the soil data in the Gaskin paper were fraudulent. It revealed why Defendant Walker and others needed to cover up the Augusta cattle deaths, at any cost, and by any means necessary. The extent to which they were willing to commit scientific fraud is clearly evident from the fact that all three scientific pillars upon which Defendant Gaskin and her co-authors rested their conclusions, including Augusta's historical data, the forage data, and the soil data, were equally and completely fraudulent.

Other Grants Based on False and Fabricated Data and Information: 2002-2005

63. The Gaskin paper, which Defendants knew was based entirely on false, fabricated, and misleading scientific information, was cited by the *National Academy of Sciences* in 2002 as its basis for dismissing allegations that

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[49] A&L Laboratories soil sample data from Relator McElmurray's farm.

Augusta's sewage sludge harmed dairy cattle.[50] Also, in 2003, the Assistant Administrator for EPA's Office of Water cited the Gaskin paper as his basis for rejecting conclusions derived from the Augusta lawsuit involving the Boyce family which was contained in a public Petition for a Moratorium on land application of sewage sludges.[51] In these and numerous other cases and situations, the Gaskin paper published in 2003 brought national attention to Defendants' research programs, from which Defendants benefitted. Defendant Gaskin, for example, was elected Chair of the Residuals Recycling Committee for 2003-2004 and Co-Coordinator of the USDA/EPA funded Georgia Sustainable Agriculture Research and Education ("SARE") Advisory Committee. Defendants gained national attention and status by publishing the Gaskin paper with false and fabricated data. The false information in the Gaskin paper served as a springboard for

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50 National Research Council of the National Academy of Sciences *Biosolids Applied to Land: Advancing Standards and Practices*, *National Academy Press* (2002), fn., p. 52

51 Letter from G. Tracy Mehan, III, Assistant Administrator, EPA Office of Water to J. Mendelson, III (December 24, 2003) [http://www.centerforfoodsafety.org/pubs/SewageSludgePetitionResponse12-22-03.pdf]. Last accessed January 14, 2006

applying for additional funding under the SARE program and other sources of federal assistance.

64. Altogether, Defendants have submitted approximately nine additional applications for federal assistance, using false or fabricated data from the Risse project and Gaskin paper.[52] Six of these applications, from which federal funds were awarded, have resulted in approximately $1.6 million in damages to the United States. The remaining four, if funded, will result in approximately $12.5 million in additional damages.

65. Similar violations to those that the Realtors discovered at UGA were recently prosecuted under the False Claims Act by the United States Attorney in Vermont. In that case, Dr. Eric T. Poehlman at the University of Vermont knowingly used false and fabricated scientific data to obtain federal research funds.[53] Dr. Poehlman resigned after an internal investigation by the University of Vermont determined that he was guilty of scientific

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52 Defendant Gaskin, J. C. McKissick, $15,000; Defendants Risse and Gaskin, $60,000; Defendant Gaskin, M. Cabrera, M. Poore, D. Franklin, $349,768; Defendant Gaskin, M. Latimore, $20,000. Potentially funded: Defendant Gaskin, $10,000; Defendant Gaskin, $142,000; Defendant Tollner, *et al.* $750,000 + $2.7 million for pilot plant; K. Xia, Defendant Gaskin, *et al.* $495,672; Defendant Miller, $78,870 (Modification of previous grant).

53 *United States v. Poehlman*, United States District Court of Vermont (Burlington), Case 2:05-cr-00038-wks-ALL (March 17, 2005); Complaint, Plea Agreement

misconduct. In the present case, multiple Defendants were involved at UGA, and their violations were far more egregious than the Vermont case.

66. In stark contrast to the actions taken by the University of Vermont, Defendants in the present case were actually encouraged and supported by UGA administrators, who placed a greater importance on increasing UGA's research funding than on maintaining scientific integrity and complying with the law. Here, Defendants, *fully supported by UGA administrators at the highest levels*, knowingly refuse to acknowledge and/or correct any of the false scientific data and continue to use the false information to obtain federal assistance.[54] These actions reveal a complete and callous disregard for scientific integrity and the public welfare at every level.

67. In addition to establishing the Risse project to discredit lawsuits filed by the families of Relators McElmurray and Boyce, Defendant Walker needed a base of operations at UGA from which he could work with the other Defendants

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[54]
- Letter from F. Edwin Hallman, Jr., Decker, Hallman, Barber & Briggs, to Defendant Gaskin (February 5, 2004)
- Memorandum from Dr. Regina Smith, UGA, to Arnett Mace, Gordhan Patel (April 19, 2004)
- Letter from Defendant Gaskin to F. Edwin Hallman, Jr. (April 21, 2004)

and the companies involved with Augusta's land application program to discredit Relator Lewis.[55]

68. Relator Lewis was a GS-15 research microbiologist working for EPA's Office of Research and Development. He was assigned to UGA from December 1998 to November 2002. His previous research at UGA on HIV-transmission in dentistry, which was published in *Lancet* and *Nature Medicine* and widely covered by the international news media, led to the current heat-sterilization standard for dentistry adopted worldwide. Similarly, his groundbreaking environmental research was published in *Nature* and other leading science journals.

69. Beginning on December 1, 1998, and as part of his official EPA duties at UGA, Relator Lewis investigated adverse health effects linked to the land disposal of sewage sludge. His official EPA duties included investigating adverse health complaints reported by individuals exposed to sewage sludge produced by the City of Augusta, Georgia.

70. Defendant Gaskin and her co-workers became vocal opponents of Relator Lewis and his research while they were working on the Risse project. They

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[55] OMI, *Augusta, Georgia Sludge Management Program, Dewatered Sludge Amendment* (November 16, 2000) (EPD 19203-31)

argued to UGA administrators that EPA had not approved Relator Lewis' research on sludge and that it was improper for UGA to allow him to do the work.[56]

71. Defendant Gaskin's allegation that Relator Lewis' research at UGA was improper was the foundation for numerous allegations of scientific misconduct filed against Relator Lewis beginning in September 2000.[57] The goal of these concerted efforts between Defendant Gaskin and the other Defendants was to prevent Relator Lewis and his research at UGA, from uncovering the falsity of the Risse project and Gaskin paper. Relator Lewis had to be silenced by any means.

72. Defendant Walker also attacked Relator Lewis to discredit his research concerning health problems associated with land application of sewage sludge in general. EPA's Office of Inspector General, which published a report supportive of Relator Lewis' conclusion that 40 C.F.R. Part 503 lacked

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[56] *Lewis v. United States Environmental Protection Agency* U.S. Department of Labor, Administrative Review Board, ARB Case No. 04-117
- Deposition testimony of Prof. Robert E. Hodson, Ph.D. (January 31, 2003)
- Deposition testimony of Prof. David K. Gattie, Ph.D., (January 2003)

[57]
- Letter to UGA President, Michael Adams (September 28, 2000)
- Petition to Investigate Scientific Misconduct against David L. Lewis, Ph.D. (March 8, 2003)

an adequate scientific basis,[58] investigated Defendant Walker's actions in attacking Relator Lewis and his research.

73. The Office of Inspector General recommended, specifically, that disciplinary action be taken against Defendant Walker for distributing allegations of scientific misconduct against Relator Lewis under official EPA letterhead to Atlanta attorney Carol Geiger.[59] Ms. Geiger was an attorney representing Augusta in the lawsuits filed by the families of Relators McElmurray and Boyce. On December 11, 2001, Defendant Walker, as part of EPA's disciplinary action, informed Ms. Geiger that the allegations against Relator Lewis did not represent the EPA's views.

74. Also, on March 4, 2003, Assistant General Counsel, David Guerrero, informed the United States Department of Labor that, to EPA's knowledge, the allegations of scientific misconduct against Relator Lewis had no basis in any facts.[60]

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58 EPA Office of Inspector General, *Land Application of Biosolids Status Report* (2002) 2002-S-000004

59 *Lewis v. United States Environmental Protection Agency* U.S. Department of Labor, Administrative Review Board, ARB Case No. 04-117, ALJ Recommended Decision (March 4, 2003)

60 *Lewis v. United States Environmental Protection Agency* U.S. Department of Labor, Administrative Review Board, ARB Case No. 04-117, Joint Stipulation (March 4, 2003)

75. On March 8, 2003, the same allegations that Relator Lewis had engaged in scientific misconduct, which EPA had dismissed, were filed with UGA as a formal Petition to Investigate Scientific Misconduct.[61] The Petition was sent to Defendant Gaskin and one of her co-workers on Apr. 22, 2003.[62] Defendant Gaskin and other Defendants used the allegations to attack Relator Lewis' credibility and his research concerning adverse health effects of sewage sludge. In particular, Defendants Gaskin and Walker hoped to neutralize Relator Lewis' ability to uncover and disclose the fraudulent nature of the science advanced by the Defendants in the Gaskin paper.

76. UGA forwarded the Petition about scientific misconduct to EPA on April 8, 2003.[63] After reviewing EPA policies concerning scientific misconduct, EPA determined on April 22, 2003 that "there is no basis to warrant investigation of Dr. Lewis for research misconduct."[64]

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61 Petition to Investigate Scientific Misconduct against David L. Lewis, Ph.D. (March 8, 2003)

62 Email to Dr. Bill Segars, copied to Defendant Gaskin (April 22, 2003)

63 Letter from Dr. Judy Curry, UGA, to Dr. Rosemarie Russo (April 8, 2003)

64 Memorandum from Frank Stancil, EPA, to Dr. Rosemarie Russo (April 22, 2003)

77. Despite knowing that EPA had dismissed the allegations as having no basis in any facts, UGA administrators renewed their efforts to use the allegations to create a cloud of alleged scientific misconduct over Relator Lewis and his research on sewage sludge. On or about November 2, 2004, Arthur Leed in UGA's Office of Legal Affairs requested that Dr. Garnett Stokes, Dean of the College of Arts and Sciences, initiate additional, new investigations into Relator Lewis' research on sewage sludge.[65]

78. The purpose of these latest investigations, as was the case with other ongoing investigations, was to prevent Relator Lewis from further investigating the impacts of Augusta's sewage sludge applications to Relators McElmurray's and Boyce's families' farms.

79. Relator Lewis, completely independent of experts in the *McElmurray* and *Boyce* cases, concluded that hazardous wastes in sewage sludge impair the immune system and render chronically exposed humans and animals susceptible to infection. Thus, Relator Lewis, a UGA insider scientist, was on the verge of discovering that Defendants based the Gaskin paper upon false data and reached fraudulent conclusions. Defendants could not allow that

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[65] Memorandum from Dean Garnett Stokes, UGA, to Prof. James. T. Hollibaugh (November 2, 2004)

possibility to develop any further; hence, Defendants undertook an all-out effort to neutralize Relator Lewis and his research at UGA.

80. Relator Lewis notified UGA on December 1, 2004 that he had ended all of his research on sewage sludge.[66] On or about December 10, 2004, the Petition against Relator Lewis was withdrawn.[67]

81. On June 28, 2005, Relator Lewis requested that Dr. Judy Curry at UGA inform him of the status of its various scientific misconduct investigations into his research on sewage sludge. Dr. Regina Smith responded to Relator Lewis' request to Dr. Curry, stating that no conclusions/findings were reached regarding the Petition and allegations of scientific misconduct and that UGA's Legal Affairs Office was handing the latest investigation involving the request made of Dean Garnett Stokes.

82. By contrast, Dr. Smith purportedly assembled a panel to investigate the Gaskin paper, and without disclosing the identities of the purported "panel" members, determined that Defendants Gaskin, Miller, and Tollner did not *knowingly* publish false data. Dr. Smith informed UGA administrators that

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66 Memorandum from Relator Lewis to Prof. J. T. Hollibaugh (December 1, 2004)

67 Letter to Prof. J. T. Hollibaugh (December 10, 2004)

no scientific misconduct had occurred. No action has ever been taken by Dr. Smith or any of the Defendants, or anyone else on behalf of UGA, to inform the publisher or any recipients of the Gaskin paper that it is based upon false data.

83. Based upon the facts herein, it is clear that Defendants, with the full support of UGA administrators, knowingly used false statements to prevent Relator Lewis from exposing problems with sewage sludge and Augusta's illegal activities, with which Defendants and others at UGA have become deeply involved. The reputations and financial interests of the Defendants and UGA were substantially tied to promoting land application of sewage sludge and preventing the publication of any information that would uncover the true state of affairs. The true state of affairs is that sewage sludge contains hazardous chemical and biological wastes that are causing widespread adverse effects on human health and the environment, and the Defendants and others at UGA and elsewhere are using false statements to illegally obtain federal funding to cover up these effects.

84. The record establishes and proves that Defendants were highly motivated to discredit Relator Lewis and Relators McElmurray's and Boyce's families'

lawsuits at any cost. To this end, Defendants knowingly used numerous false statements to illegally obtain federal funding and, with these illegally obtained funds, knowingly published false, fabricated, and intentionally misleading scientific data. When, for example, Defendant Walker first initiated communications with the Defendants on November 24, 1998 to discuss apparent problems created by Augusta's sewage sludge at the dairy farms owned by the families of Relators McElmurray and Boyce, he created a written record stating that Defendant Gaskin told him: "The University of Georgia is very concerned about the situation because they have been promoting the use of biosolids."[68,69] Also, Relator Lewis' former department head at UGA, Professor Robert Hodson, testified under oath that UGA

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68 • Defendant Walker's written notes of his telephone calls to Defendants Risse, Gaskin, Brobst, Miller and others (November, 1998) (SC 00005-00010)

69 *See also*, for example, an application for federal assistance by Defendants Risse and Gaskin, which states: "[UGA's] land application program will continue to work with various groups to promote the beneficial reuse of by-products in agriculture ... Specific goals are ... Develop educational programs to improve public perception and understanding of the benefits of land application programs ..."

administrators told him, explicitly, that the University did not wish to support Relator Lewis because it would hurt UGA's funding from EPA.[70]

CAUSE OF ACTION
FALSE CLAIMS ACT

85. The Relators repeat and re-allege the allegations in paragraphs 1 through 84.

86. Between 1999 and the date of this Complaint, Defendants Risse, Gaskin, Miller, and Tollner, knowingly caused to be submitted approximately 10 grant applications, whereby they would obtain federal funds, by the use of false or fabricated data. Six of these applications have been funded, resulting in approximately $1.6 million in damages to the United States. The remaining four, if funded, will result in approximately $12.5 million in damages. Defendants caused these applications to be submitted, knowing that these applications contained false and fabricated information and/or with reckless disregard of their falsity, all in violation of the False Claims Act, 31 U.S.C. § 3729(a)(2).

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70 *Lewis v. United States Environmental Protection Agency* U.S. Department of Labor, Administrative Review Board, ARB Case No. 04-117; Administrative Law Judges, Case Nos. 2003-CAA-6, 2003-CAA-5; Deposition testimony of Prof. Robert E. Hodson (January 31, 2003)

RELIEF REQUESTED

WHEREFORE, the Relators request that the Court award judgment on their Complaint and award relief as follows:

(a) that Defendants be ordered to pay treble damages calculated based upon the total amounts of the assistance agreements obtained from the United States Government, which contain false claims;

(b) that Defendants be assessed the full amount of allowable civil penalties between $5,000 to $10,000 for each application containing false claims submitted prior to September 29, 1999 and between $5,500 to $11,000 for each application containing false claims submitted after September 29, 1999. 31 U.S.C. § 3729(a); 28 C.F.R. § 85.3(a)(9);

(c) that Defendants be required to pay all costs of this action and attorneys' fees and expenses incurred by Relators;

(d) that Relators, on behalf of the United States, receive a trial by jury on all issues so triable in this matter; and

(e) that Relators, on behalf of the United States, be awarded all other such relief as this Court determines to be appropriate.

Respectfully submitted March 29th, 2006.

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