



# Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency  
Office of Criminal Enforcement, Forensics and Training

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff.

**June 2014**

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# Defendant Summary

Region	Defendants	Case Type/Status
Region 3	<a href="#">Patrick Brightwell</a>	CWA/Knowingly discharging pollutants without a permit and making false statements
Region 5	<a href="#">Dennis Michael Egan, Egan Marine Corporation</a>	CWA/Maritime negligence that caused thousands of gallons of oil to pollute a navigable U.S. waterway
Region 6	<a href="#">Phil Joseph Rivkin, aka, Felipe Poiran Arriaga</a>	CAA, Energy Independence and Security Act of 2007/ Illegally created monetary incentives for the production of renewable fuels, wire fraud, mail fraud, CAA false statements, money laundering
Region 6	<a href="#">George L. Ryals, Michael Anaker</a>	RCRA/Illegal disposal of hazardous substances
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**Barge Captain and Marine Company Convicted in Fatal 2005 Explosion That Discharged Slurry Oil in Chicago Canal** -- On June 9, 2014, **DENNIS MICHAEL EGAN**, the captain of a petroleum barge that exploded in 2005, resulting in the death of a crew member, and **EGAN MARINE CORPORATION**, the company that owned and operated the vessel, were convicted in federal district court for the Northern District of Illinois on federal charges of felony maritime negligence and causing thousands of gallons of oil to pollute the Chicago Sanitary and Ship Canal. The defendants, and, were found guilty following a bench trial that was conducted intermittently since last September in U.S. District Court.

Egan, of Topeka, Illinois, and formerly of Lemont, Illinois, and Egan Marine, of Lemont, were each convicted of one count of negligent manslaughter of a seaman and one count of oil pollution of a navigable waterway. Sentencing has been tentatively set for September 24. The negligent manslaughter count against Dennis Egan carries a maximum sentence of 10 years in prison and a \$250,000 fine, and the same count against Egan Marine carries a maximum penalty of five years' probation and a \$500,000 fine. The misdemeanor oil pollution count carries a maximum penalty against Dennis Egan of a year in prison and a \$100,000 fine, while Egan Marine faces a maximum sentence of a year's probation and a \$200,000 fine. Both defendants face a minimum fine of \$2,500 on the pollution count. Restitution is mandatory. The court must impose a reasonable sentence under federal statutes and the advisory United States Sentencing Guidelines.



*Chicago Fire Department fighting fire on Egan Marine tank barge EMC-423*

According to the evidence at trial and court records, on Jan. 19, 2005, a fully-loaded Egan Marine tank barge, known as the EMC-423, being pushed by the tow boat Lisa E, was transporting approximately 600,000 gallons of clarified slurry oil (CSO) from the ExxonMobil Oil Corp. refinery near Joliet to the Ameropan Oil Corp. facility near the canal and California Avenue in Chicago. CSO is a byproduct of petroleum refining that can also be used as fuel, among other uses. About 4:40 p.m., just after clearing the Cicero Avenue Bridge and heading northeast parallel to the I-55 Stevenson Expressway, a large explosion erupted on the barge. As a result, the EMC-423 sank, discharging thousands of gallons of the combustible heavy oil into the canal. Immediately after the blast, crewman Alexander Oliva, who had been aboard the barge, was determined to be missing. His body was recovered from the canal on February 4, 2005.

The judge in the case ruled that Oliva's death resulted from the explosion and the negligence that created the explosion. Egan Marine and its employees negligently vented combustible vapors from the cargo hold of the barge to the deck of the vessel, causing an explosion hazard. Oliva was using a propane-fueled open flame from a handheld "rosebud torch" to heat a cargo pump on the barge deck. CSO hardens in cold temperatures, requiring the cargo pump to be heated to offload the oil at its destination. The use of an open



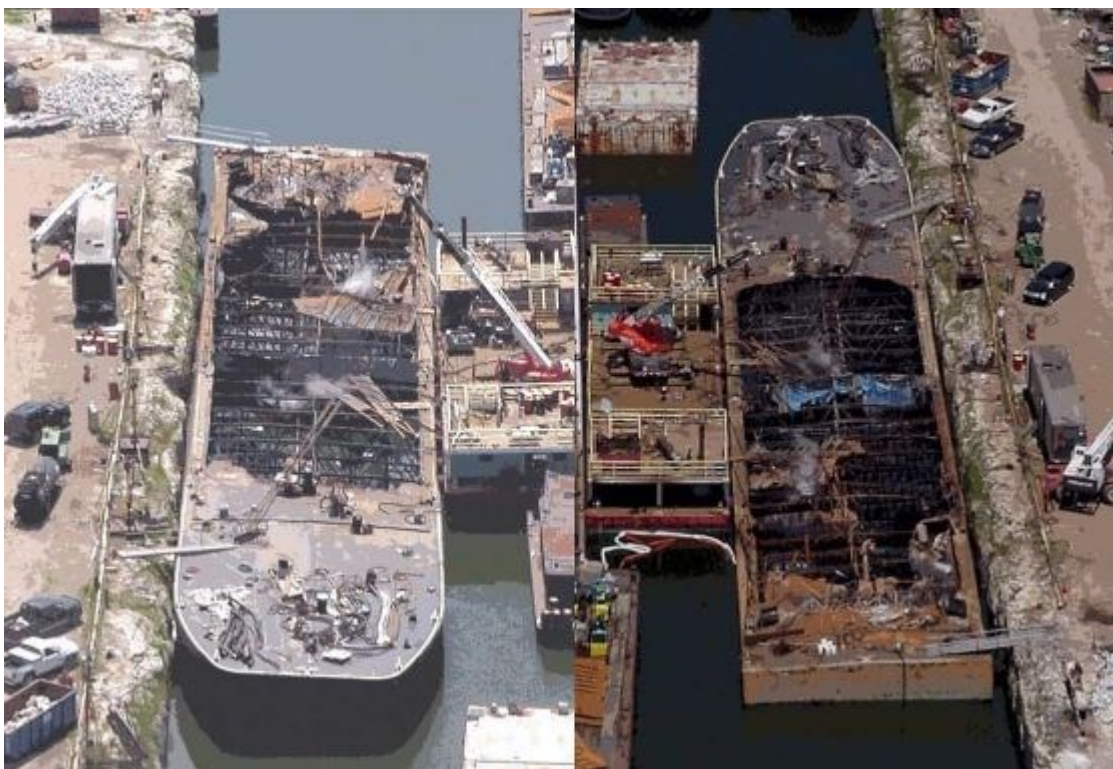
## Plea Agreements

flame to heat the pump near the vented vapors caused the explosion and, ultimately, Oliva's death, the destruction of the barge, and the oil pollution of the canal.

Dennis Egan was the captain and pilot of the Lisa E and the EMC-423 barge, which had no crew, self-propulsion or navigation system of its own. Dennis Egan was negligent and inattentive to his duties on the vessels by allowing an open flame to be used on the deck of the EMC-423, which was loaded with 599,424 gallons of the slurry oil. Egan Marine, which owned both vessels, was negligent in allowing the use of the open flame aboard the barge, resulting in the explosion and Oliva's death. Both Dennis Egan and Egan Marine violated the oil pollution provisions of the federal Clean Water Act by negligently causing the discharge of thousands of gallons of oil into the canal, which is a navigable U.S. waterway.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Coast Guard Investigative Service, Central Region in Cleveland. The government is being represented by Assistant U.S. Attorneys Timothy Chapman and Matthew Hiller and Special Assistant U.S. Attorney Crissy Pellegrin, of the U.S. EPA's Office of Regional Counsel for Region 5 in Chicago.

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*EMC-423 post explosion*

**Georgia Man Pleads Guilty to Federal Charges for Discharging Waste into Potomac River** -- On June 5, 2014, **PATRICK BRIGHTWELL**, of Bogart, Georgia, pleaded guilty in federal district court for the District of Columbia to federal charges that he orchestrated the discharge of waste into the Potomac River at East Potomac Park from 2009 through 2011, during the same period he managed the company hired by the National Park Service to clean out the storm water sewer system on the National Mall. An eight-count indictment of Brightwell was unsealed following his arrest in Georgia on December 5, 2013. The remaining charges will be dismissed as part of the guilty plea.

Brightwell pleaded guilty to one count of violating the Clean Water Act by knowingly discharging a pollutant without a permit and one count of presenting false claims to the United States. Sentencing is



scheduled for September 3, 2014. Under federal sentencing guidelines, Brightwell faces a likely range of 46 to 57 months in prison and a fine of up to \$75,000. Brightwell also has agreed to pay \$270,667 in restitution to the National Park Service, representing the losses for the work that was not properly performed. He also must pay a forfeiture money judgment totaling \$230,899.

According to a statement of offense signed by the government and defendant, from in or about 2007 through 2011, Brightwell was a manager of a company that had a contract with the National Park Service to clean the storm water sewer system on the Na-

***Brightwell directed his employees and subcontractors to discharge waste from this vacuum truck into storm drains or manholes which ultimately led to the Potomac River.***

tional Mall. The contract required that waste removed from the Mall's storm drains and oil-water separators be disposed of at a proper disposal facility in compliance with District of Columbia regulations and federal law.

Brightwell hired employees and subcontractors to perform work under the contract and oversaw their work from 2008 to 2011. To clean the structures, Brightwell and his company used a vacuum truck, a vehicle designed to gather, store, and transport such waste. When the storage compartment in the vacuum truck became full, workers would have to discharge waste from the truck prior to continuing the cleaning.

In 2009, 2010 and 2011, according to the statement of offense, Brightwell directed his employees and subcontractors to discharge waste from the vacuum truck at a storm drain near a parking lot in East Potomac Park, across Ohio Drive from the Potomac River. Brightwell concealed these discharges from the National Park Service and police. Workers also discharged waste at a manhole near Fort McNair in the District of Columbia.

During this period, Brightwell continued to invoice the National Park Service for cleaning services, but concealed and did not disclose that the waste was not being properly disposed, as required by the con-

tract. From 2009 through 2011, Brightwell's company received approximately \$406,000 in payments from the National Park Service related to the contract.

According to the statement of offense, the employees and subcontractors illegally dumped waste at the parking lot approximately two-thirds of the time, and dumped the waste at a proper disposal facility in Fort Washington, Maryland, about one-third of the time.

The subcontractor, B&P Environmental LLC, and a B&P employee working on June 6, 2011, both pleaded guilty in November 2014 to violations of the Clean Water Act before the U.S. District Court. As part of their pleas, both the company and employee agreed to cooperate with the government's investigation. Both the company and employee are awaiting sentencing.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Park Police. It is being prosecuted by Senior Trial Attorney Lana Pettus of the Department of Justice's Environmental Crimes Section and Assistant U.S. Attorney Jonathan P. Hooks of the U.S. Attorney's Office for the District of Columbia. Assistance was provided by Paralegal Specialist Ashleigh Nye of DOJ's Environmental Crimes Section and Paralegal Specialists Krishawn Graham and Donna Galindo of the U.S. Attorney's Office.

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**Texas Man Charged with Biofuels Fraud Scheme** -- On June 19, 2014, **PHIL JOSEPH RIVKIN, a/k/a FELIPE POITAN ARRIAGA**, was indicted by a federal grand jury in Houston, Texas, for offenses involving a federal renewable fuel program that allegedly netted him more than \$29 million. The 68-count indictment against Rivkin, of Houston and most recently, Guatemala City, Guatemala, includes allegations of wire fraud, mail fraud, Clean Air Act false statements, and money laundering.

The indictment was unsealed following Rivkin's initial appearance in federal court in Houston. He was arrested when he arrived in Houston from Guatemala, which had deported him after learning that he had fraudulently secured Guatemalan citizenship.

The Energy Independence and Security Act of 2007 created or extended several federally-funded programs that created monetary incentives for the production of renewable fuels, including biodiesel, and to encourage the use of such fuels in the United States. Authorized biodiesel producers and importers could generate and attach credits—known as “renewable identification numbers” or “RINs”—to biodiesel they produced or imported. Because certain companies need RINs to comply with regulatory obligations, RINs have significant market value.

The indictment alleges that beginning around February of 2009, Rivkin operated and controlled several companies in the fuel and biodiesel industries, including Green Diesel LLC, Fuel Streamers Inc., and Petro Constructors LLC, all based in Houston. It is alleged that Rivkin claimed to produce millions of gallons of biodiesel at the Green Diesel's Houston facility and then generated and sold RINs based upon this claim. In reality, no biodiesel was ever produced at the Green Diesel facility. The indictment alleges that this scheme allowed the defendant to generate approximately 45 million RINs that were fraudulent, which were then sold to companies that needed to obtain them and resulted in millions of dollars in sales. Rivkin is also alleged to have caused fraudulent tax credit claims based on fictitious biodiesel production.

The indictment goes on to allege that the defendant created false records and made false statements to conceal his fraudulent claims of biodiesel production, importation and RIN generation. Finally, the indictment alleges that the defendant laundered the proceeds of his crimes, using banking institutions and complex financial transactions to benefit from the illegal funds he received, and to attempt to protect these funds from government enforcement. The indictment includes a notice of forfeiture to include: cash in excess of \$29 million; three vehicles including a Lamborghini, Maserati, and a Bentley; a Canadair LTD airplane; and millions of dollars worth of artwork that was previously seized from Rivkin in 2012 and is now included in a civil action for forfeiture.

An indictment is only a charge and is not evidence of guilt. All defendants are presumed innocent and are entitled to a fair trial at which the government must prove guilt beyond a reasonable doubt.

The case was investigated by EPA's Criminal Investigation Division, the United States Secret Service, Internal Revenue Service Criminal Investigation, and Homeland Security Investigations. The Guatemalan Special Investigations Unit worked with federal investigators to uncover the fraudulent nature of Rivkin's Guatemalan citizenship, which led to his deportation back to the United States.

The case is being prosecuted by Trial Attorney Leslie E. Lehnert of the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division.

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**New Jersey Man and Louisiana Man Arrested for Illegal Disposal of Harmful Substances** -- On June 26, 2014, **GEORGE L. RYALS, III**, of Newton, New Jersey, president of Stillwater Consultants, LLC, was arrested for felony illegal disposal of harmful substances by investigators with the Criminal Investigation; of the Louisiana Department of Environmental Quality. He is alleged to have abandoned a large number of compressed gas cylinders containing poisonous gases and other wastes at a warehouse leased by Stillwater Consultants located in Roanoke in Jefferson Davis Parish. A second suspect in the case, **MICHAEL ANAKER**, of Sulphur, was also arrested for identical charges on June 17.

The owner of the leased warehouse, Crop Production Services (CPS), evicted Stillwater Consultants, Ryals and Anaker in June 2009 for failure to pay rent. In July 2009, representatives of CPS visited the property and found that over 500 compressed gas cylinders and several drums of waste oil had been abandoned inside the warehouse. Under DEQ regulations, abandonment of wastes is considered disposal.

In August 2009, the Louisiana State Police, Emergency Services Unit, (LSP/ESU), made entry into the warehouse and found cylinders containing chlorine, cyanogen chloride, cyanogen, phosgene, arsenic pentafluoride, sodium cyanide, and hydrogen cyanide. Many of the cylinders were in poor, deteriorating condition and in danger of leaking. Phosgene, chlorine and hydrogen cyanide (HCN) are extremely hazardous chemicals that were used as chemical warfare agents, especially during World War I.

Due to the hazards discovered onsite, the Louisiana Department of Environmental Quality made a Declaration of Emergency on August 14, 2009, which required CPS to mitigate and remove the substances that may threaten the health, safety and welfare of nearby citizens. CPS cooperated fully with the subsequent cleanup and investigation. The remediation of the CPS warehouse was completed on December 17, 2009, at a cost of over one million dollars to CPS. Agents from the Louisiana State Police, EPA's Criminal Investigation Division, and the New Jersey Attorney General's Office also participated in the investigation.

If convicted of the crime of knowingly disposing of a substance that endangers or that could endanger human life or health, Ryals and Anaker face possible imprisonment for not more than 10 years with or without hard labor, or a fine of not more than \$100,000, or both.

An arrest does not constitute guilt in a criminal case. All evidence compiled during the investigation is presented to the area prosecutors who determine if formal charges are warranted.

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## **California RV Storage Company Charged with Illegally Disposing of Over a Million Gallons of Raw Sewage**

-- On June 25, **GLAMIS DUNES STORAGE INC.**, and its owner, **MICHAEL MARNELLI, SR.**, were arraigned in federal district court for the Southern District of California on charges that they injected and disposed of potentially millions of gallons of sewage underground at the Glamis Dunes Storage site, in violation of the Safe Drinking Water Act.

According to the indictment, in August of 2007, Glamis Dunes Storage obtained a conditional use permit from Imperial County to install and operate a 20,000 gallon holding tank for RV waste (including sewage and grey water) at the facility. At that time, Glamis Dunes Storage represented that the wastewater would be pumped out by a licensed septage hauler and disposed of at the Holtville wastewater treatment plant, and estimated that at full occupancy, they would dispose of approximately 1.25 million gallons of RV sewage and grey water at a wastewater treatment plant per year.

The indictment alleges that on December 16, 2009, a Cease and Desist Order was issued to Michael Mamelli of Glamis Dunes Storage by the Imperial County Department of Environmental Health Services, after it was discovered that Glamis Dunes Storage and Mamelli were illegally disposing of sewage from the RV holding tank by pumping out the sewage and discharging it into an underground septic tank on the site. The Cease and Desist Order required them to immediately cease the discharge of sewage to the underground septic tank, remove the underground septic tank and to retain the services of a registered hauler to pump out the RV holding tank and provide evidence of disposal at a wastewater treatment plant.

The indictment further alleges that between February 16, 2010, and March 12, 2010, the defendants had a contractor build a leach field in the rear of the property, place a pump in the RV holding tank, and connect a pipe directly from the RV holding tank out to the leach field, concealing the power connection for the pump under gravel near the RV holding tank. Thereafter, it is alleged that defendant Mamelli and other employees of Glamis Dunes Storage illegally disposed of the sewage in the RV holding tank by activating the pump and discharging the sewage through the underground leach field.

Between August and October of 2012, the defendants had a contractor add a new pump and two 2,500-gallon septic tanks in series to the pipe connecting the RV holding tank to the leach field, and continued to illegally dispose of the sewage in the RV holding tank by discharging the sewage through the underground septic tanks and leach field without a permit or other authorization from the EPA.

The Safe Drinking Water Act, Section 300h-2(b) of Title 42 of the United States Code, prohibits the willful violation of any requirement of an applicable underground injection program. The underground injection program applicable to Class V injection wells in the State of California is the national underground injection control program, which is administered by the Environmental Protection Agency.

Under the federal regulations, injection wells are regulated according to the classification that the well is given. Class V injection wells include septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The regulations prohibit any underground injection of fluids, except into a well permitted or otherwise authorized under this program. The construction of any well required to have a permit is prohibited until the permit has been issued.

The indictment also seeks criminal forfeiture of the sum of \$125,000, alleged to be the proceeds of the offense. The charges and allegations contained in the indictment are merely accusations, and the de-

fendants are considered innocent unless and until proven guilty.

The case was investigated by EPA's Criminal Investigation Division and the Bureau of Land Management.

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