



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.

September 2014

In This Edition:

- John Francis Mills, Terrance Allen — Region 2
- Mark Pullyblank, William Clements, Crane-Hogan Structural Systems, Inc. — Region 2
- Patrick Brightwell — Region 3
- Joseph L. Capano, Riverbend Community LLC — Region 3
- Zong Geng Chen — Region 4
- David Wayne Luther — Region 4
- Calumite Company LLC — Region 5
- Kelly Plating Company — Region 5
- Roger J. Dies — Region 6
- Xplor Energy SPV-1, Inc. — Region 6
- Nathan R. Garber — Region 8
- Raul Antonio Gonzalez Lopez — Region 9
- Marcelina Botello Charles, aka, Marcelina Botello Arias — Region 9

Quick Links

[Defendant Summary](#)

[Sentencing](#)

[Plea Agreements](#)

[Indictments/
Informations](#)

Defendant Summary

Region	Defendants	Case Type/Status
Region 2	John Francis Mills, Terrance Allen	CAA & CERCLA/Failure to notify authorities in violation of CAA's asbestos work practice standards
Region 2	Mark Pullyblank, William Clements, Crane-Hogan Structural Systems, Inc.	CWA/Illegal unpermitted discharge of concrete slurry into river and POTW
Region 3	Patrick Brightwell	CWA/Knowingly discharging a pollutant into river without a permit and making false claims to U.S. government
Region 3	Joseph L. Capano, Riverbend Community LLC	CWA/False statements and environmental violations
Region 4	Zong Geng Chen	FIFRA/Illegally repackaging pesticides and making false statement to federal agents
Region 4	David Wayne Luther	CWA & Rivers and Harbors Act/Illegal dredging of U.S. waters

Defendant Summary

Region	Defendants	Case Type/Status
Region 5	Calumite Company LLC	CAA/Making false statements
Region 5	Kelly Plating Company	CWA/Illegally discharged high concentrations of metals into sewer system
Region 6	Roger J. Dies	CWA/Failure to report third party wastewater discharges and obstruction of justice
Region 6	Xplor Energy SPV-1, Inc.	CWA/Illegally discharged water containing oil into U.S. waters without a permit
Region 8	Nathan R. Garber	SDWA/Conspiracy to violate SDWA, false statements, falsification of records, concealment or cover up of a tangible object
Region 9	Raul Antonio Gonzalez Lopez	FIFRA/Illegal disposal of trash containing potentially fatal brew of acids
Region 9	Marcelina Botello Charles, aka, Marcelina Botello Arias	FIFRA/Conspiracy to manufacture, distribute and possess with intent to distribute marijuana plants into the Sequoia National Forest

New York Property Owner and Manager Sentenced to 21 Months in Federal Prison for Conspiring to Violate CAA -- On September 8, 2014, **JOHN FRANCIS MILLS**, the owner of more than a dozen properties in Malone, New York, and **TERRANCE ALLEN**, the maintenance manager of Mills' properties, were sentenced in federal district court for the Northern District of New York to serve 21 months each in prison for conspiring to

violate the Clean Air Act standards for the safe removal of asbestos during renovations of three of Mills' properties, for releasing asbestos into the environment and failing to notify the authorities, all in violation of the Clean Air Act's asbestos work practice standards, and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Mills' and Allen's prison sentences will be followed by two years of supervised release. In addition, Mills must also pay a \$25,000 fine and a \$300 crime victim special assessment fee.

On Jan. 21, 2014, Mills and Allen, both of Malone, New York, pleaded guilty to one count of conspiracy to violate CERCLA. Mills also pleaded guilty to two counts of knowingly violating CERCLA for failing to immediately report the release of more than a pound of asbestos from properties owned by Mills. In addition to the conspiracy, Allen pleaded guilty to one count of knowingly violating CERCLA. Mills owned the buildings from which more than 260 linear feet of pipe wrap containing asbestos had been removed by one of Mills' employees. Mills and Allen directed that employee to remove the asbestos pipe wrap from three properties owned by Mills, and managed by Allen, who oversaw the asbestos removal work.

As part of the plea, Mills and Allen admitted that that they knowingly failed to report to the National Response Center the release of asbestos, in the form of thermal system insulation, or "pipe wrap," that had been removed from the basement of buildings owned and operated by John Mills, as soon as they knew of the release. They also admitted to illegally removing and disposing of more than 260 linear feet of pipe wrap containing asbestos. Mills and Allen directed an employee to remove the pipe wrap containing asbestos without warning him or giving him adequate personal protective equipment. They transported and caused others to transport that pipe wrap, which was in open bags, in the open bed of a pickup truck. They further admitted that they conspired together



The asbestos containing materials found in the back of a U-Haul truck parked on property owned by John Mills. The truck was locked and EPA Special Agents got a warrant to search it.

to violate CERCLA. The asbestos pipe wrap was deposited by the defendants in a UHaul-style box truck owned by Mills and a shed maintained by the Malone Department of Public Works in an effort to conceal the material from authorities.

The Clean Air Act requires that owners of public buildings that contain asbestos follow federally established work practice standards to ensure the safe removal of the asbestos. The required standards include providing notice to the U.S. EPA before starting asbestos removal, adequately wetting the asbestos during the removal and before disposal, and properly disposing of the asbestos at an EPA-approved disposal site.

The case was investigated by EPA's Criminal Investigation Division and the New York State Department of Labor Asbestos Control Bureau with assistance from the New York State Department of Environmental Conservation, the Malone Police Department and the Malone Department of Public Works. The case was prosecuted by Trial Attorneys Lana N. Pettus and Gary N. Donner, paralegal Puja Moozhikkattu and litigation support specialist Elga Ozols of the Environmental Crimes Section of the U.S. Department of Justice's Environment and Natural Resources Division.

[Back to Defendant Summary](#)

Georgia Man Sentenced for Repackaging Pesticide and Making False Statement to Federal Agents --On September 17, 2014, **ZONG GENG CHEN**, of Augusta, Georgia, was sentenced in federal district court for the Southern District of Georgia to five months in prison followed by five months of home confinement and three years of supervised release for illegally repackaging pesticides to distribute to restaurants across the country and for making a false statement to federal agents.

According to the evidence presented during the guilty plea and sentencing hearings, EPA was referred to investigate Chen and his company, Chen and Friends Pest Solutions, later renamed C&Z Pest Solutions, after state investigators discovered repackaged pesticide inside a restaurant in Missouri that Chen had distributed. In December, 2012, after an EPA investigation, Chen entered into a Consent Order and Final Agreement with EPA where he agreed to cease repackaging pesticide and pay a fine of \$9,433.01 for previous violations. In late 2013, investigators with EPA received information that additional repackaged insecticide was recovered in restaurants in Indiana and Missouri. An investigation showed that these bottles of repackaged pesticide could be traced back to Chen and were distributed after Chen agreed to cease repackaging. As part of the labeling on his repackaged pesticide, Chen warned not to show the pesticide to the "health department."

Thereafter, special agents with EPA conducted a covert conversation with Chen, during which the agents posed as perspective customers and Chen stated that he was allowed to sell pesticide. A few days later, EPA special agents held another conversation where they identified themselves and questioned Chen about his repackaging pesticides and his compliance with the Consent Order and Final Agreement. At that time, Chen falsely assured agents that he was not repackaging pesticides again because he knew it was wrong.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant United States Attorney C. Troy Clark.

[Back to Defendant Summary](#)

Georgia Man Sentenced to 10 Months in Prison for Discharging Waste into Potomac River -- On September 23, 2014, **PATRICK BRIGHTWELL**, of Bogart, Georgia, was sentenced in U.S. District Court for the District of Columbia to 10 months in prison on 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.

Brightwell pled guilty in June 2014 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. Upon completion of his prison term, Brightwell will be placed on three years of supervised release. He also was ordered to pay \$270,667 in restitution to the National Park Service, representing the losses for the work that



was not properly performed. Brightwell also must pay a forfeiture money judgment totaling \$230,899. An eight-count indictment of Brightwell was unsealed following his arrest in Georgia on December 5, 2013. The remaining charges were dismissed as part of the guilty plea. 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 National Mall. The contract required that waste removed from the Mall's storm drains and oil-water separators be disposed of

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.

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 contract. 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, Md., about one-third of the time.

The subcontractor, B&P Environmental LLC, and a B&P employee working on June 6, 2011, both pled 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 and supported by environmental protection specialists. It was 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. Assistant U.S. Attorneys Anthony Saler and Catherine Connolly of the Asset Forfeiture and Money Laundering Section assisted with the case. Further 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.

[Back to Defendant Summary](#)

California Waste Disposer Gets Jail Term for Dumping Toxic Mix of Chemicals in Public Landfill --On September 2, 2014, **RAUL ANTONIO GONZALEZ LOPEZ** was sentenced to seven months in custody in federal district court for the Southern District of California for illegally disposing of trash containing a potentially fatal brew of acids and potassium cyanide.



In pleading guilty, Gonzalez Lopez admitted that on March 12, 2011, he picked up trash at We Lend More, a business located in National City, California. As he was aware, this trash included containers of acid and potassium cyanide. The following day, Gonzalez Lopez dumped the chemicals (which included federally regulated hazardous wastes such as nitric acid and potassium cyanide) in the Miramar Landfill. Due to the dangerous nature of these chemicals, they are prohibited from being disposed at the Miramar Landfill. Gonzalez Lopez was arrested on January 14, 2014, in Mexico and extradited to the United States to face these charges.

According to Joe Lowry, chief scientist for EPA, when potassium cyanide and acids are combined they produce a deadly hydrogen cyanide gas. One breath of pure hydrogen cyanide gas would be enough to kill a person, and 50 ppm of hydrogen cyanide is the level that has been determined to be immediately dangerous to life or health. Lowry viewed the evidence from the case and prepared a dispersion model showing the threat area where the concentration of hydrogen cyanide is greater than or equal to 50 ppm, assuming a wind of 3 mph. This zone extends approximately 71 yards from the initial point of combination,

The emergency response, including the Hazardous Incident Response Team, the day they found the hazardous waste at the Miramar Landfill.

and anyone within 30 yards when the chemicals combined would have been killed instantly.

In February of 2011, We Lend More and its owner, Marc Vogel, were convicted by a jury of aiding and abetting the illegal transportation and disposal of hazardous waste. The trial evidence indicated that the acid (in a breakable glass bottle) and cyanide (in aged plastic containers) were disposed of together in the same cardboard box, which was dumped at the landfill. Because the landfill operators use heavy equipment on a regular basis to compact the face of the landfill, such activity would be expected to cause the containers to break and the chemicals (in the same box) to combine, causing instant death to the landfill operator and anyone else within 30 yards (such as other landfill personnel or customers).

The case was investigated by EPA's Criminal Investigation Division and the FBI.

[Back to Defendant Summary](#)



Some of the hazardous waste recovered at the Miramar Landfill, including Nitric Acid and Potassium Cyanide.

California Woman Sentenced for Growing Marijuana in Sequoia National Forest and Damaging Public Lands

-- On September 15, 2014, **MARCELINA BOTELLO CHARLES**, aka **MARCELINA BOTELLO ARIAS (BOTELLO)**, of Hemet, California, was sentenced in federal district court for the Eastern District of California to four years and two months in prison for her involvement in a marijuana cultivation operation that had adverse environmental impacts on public lands.

On May 19, 2014, Botello pleaded guilty to conspiring to manufacture, distribute and possess with intent to distribute 9,746 marijuana plants grown in the Lilly Canyon area of the Sequoia National Forest and distributing Ratone: Fosfuro de Zinc, an illegal rodenticide, and QúFuran, an illegal insecticide, in violation of the Federal Insecticide, Fungicide, and Rodenticide Act.

According to court documents, Botello and a companion delivered the illegal pesticides and other materials to the forest cultivation site. The cultivation operation caused extensive environmental damage. Native oak trees and other vegetation were killed or cut down to make room for the marijuana plants. The soil was tilled and fertilizers, pesticides, and rodenticides were spread throughout the site. Cans of rat poison and insecticide were found at both the cultivation site and a residence Botello rented in Bakersfield. During the execution of a search warrant, agents also found marijuana seeds, other items associated with the cultivation operation, and \$2,634 in cash.

Ratone: Forsfuro de Zinc contains zinc phosphide, an inorganic rodenticide that is highly toxic to mammals and fish. A single swallow of zinc phosphide could be fatal to a small child. Zinc phosphide can be expected to persist in soil for approximately two weeks. When it breaks down in soil it can release phosphine gas. QúFuran contains carbofuran, a highly toxic insecticide. In granular form, a single grain will kill a bird; for humans, one quarter of a teaspoon is a sufficient dose to be fatal. It is also a powerful endocrine disrupter. Effective December 31, 2009, EPA cancelled all food tolerances for carbofuran.

Upon completion of her prison sentence, Botello will be on supervised release for five years. She was also ordered to pay \$4,294 in restitution to the U.S. Forest Service to cover the cost of cleaning up the grow site. Earlier this year, Botello's co-defendant, Julio Cesar Villanueva Cornejo was sentenced to six years in prison for his involvement in the conspiracy.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Forest Service, U.S. Drug Enforcement Administration, U.S. Immigration and Customs Enforcement's Homeland Security Investigations, and the Kern County Sheriff's Office. It was prosecuted by Assistant United States Attorney Karen Escobar.

[Back to Defendant Summary](#)



Smuggled Mexican pesticides involved in this investigation

Indiana Manufacturer Pleads Guilty to CAA False Statement Violations – On September 18, 2014, **CALUMITE COMPANY LLC** (Calumite), a manufacturer of an additive used in the production of glass, entered a plea of guilty in federal district court for the Northern District of Indiana for Clean Air Act false statement violations. The company has agreed to pay a \$325,000 fine, serve a two-year term of probation, and implement an environmental compliance plan that includes an annual environmental compliance training program.

Calumite, located near the shores of Lake Michigan in Portage, Indiana, manufactures and sells a powdery substance of the same name to various glass manufacturers. The company collects slag, a waste product of the steel industry, dries it in a hot gas oven, crushes it into a fine powder, and then ships it off-site to glass manufacturers, who use it as an additive to lower the temperature at which glass can be produced.

Calumite's Portage facility was subject to a Title V Clean Air Act Operating Permit issued by the Indiana Department of Environmental Management (IDEM). Among other things, the permit required that Calumite operate, maintain, and monitor several “baghouses” on-site that are used to control and minimize emissions of a fine particulate. One of the baghouses, known as the loadout baghouse, was used to collect emissions of particulate that occurred during the loading of product onto tractor trailers and rail cars for shipment to customers.

A differential pressure gauge (DP gauge) attached to each baghouse continuously monitored and measured the efficiency and effectiveness of the baghouses and helped to determine whether they were operating properly. Calumite's permit required that DP gauges on the baghouses be read daily, while the baghouses were operating, and that the results be recorded on daily maintenance log sheets. The company also was required to submit quarterly reports to IDEM that stated whether the company was in compliance with permit requirements.

From Dec. 5, 2008, through late July 2009, the company did not maintain the loadout baghouse in operating condition and the DP gauge was broken. Nevertheless, during this same time period, employees continued to load tractor trailers and rail cars with product for shipment off-site. Calumite employees knowingly continued to routinely fill out daily logs that falsely reflected DP gauge monitoring readings that were within the range allowed by the permit, and caused false information to be submitted to IDEM in the company's quarterly reports.

The Clean Air Act makes it a crime to knowingly make a material false statement or omit material information from a document that is required to be filed or maintained under the statute. Both the daily maintenance logs and the quarterly reports were required by Calumite's permit and the Clean Air Act.

The case was investigated by EPA's Criminal Investigation Division, a member of the Northern District of Indiana Environmental Crimes Task Force. It was prosecuted by the U.S. Attorney's Office for the Northern District of Indiana and the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division.

[Back to Defendant Summary](#)



Calumite Company LLC

North Carolina Man Pleads Guilty to CWA and Rivers and Harbors Act Violation -- On September 29, 2014, **DAVID WAYNE LUTHER**, of Surf City, North Carolina, entered a guilty plea in federal district court for the Eastern District of North Carolina to violating the Clean Water Act and the Rivers and Harbors Act. According to information in the public record, on July 29, 2012, officers with the North Carolina Marine Patrol responded to a complaint of dredging in waters near Surf City, North Carolina.

North Carolina Marine Patrol officers determined that Luther was "prop washing" with the *M/V The Raven*. The officers ordered Luther to cease and desist dredging activities. Approximately three hours later, on July 29, 2012, North Carolina Marine Patrol received another complaint of dredging activity by Luther. On July 30, 2012, a Coastal Area Management Act (CAMA) representative took measurements at the violation site and confirmed unauthorized dredging activity. On August 10, 2012, CAMA issued a Notice of Violation and Request to Cease Unauthorized Development to Luther. A copy of the Notice was hand delivered to him on August 14, 2012.

During the morning of August 14, 2012, CAMA received an anonymous complaint alleging dredging activity during the night time hours involving the *M/V The Raven* at the violation site. During the afternoon of August 14, 2012, a multi-agency site visit confirmed additional dredging activity at the original violation site. The violation site was determined to be a Primary Nursery Area for oysters.

The maximum penalty that Luther faces at sentencing for both counts is a total of two years imprisonment, and a maximum total fine of \$200,000. Pursuant to his plea agreement, Luther has also agreed to purchase .21 acres of coastal wetland restoration in order to compensate for impacts to wetlands and other jurisdictional waters impacted from his criminal conduct prior to sentencing hearing. If he fails to make the purchase, Luther has agreed not to contest a \$50,000 additional fine.

The case was investigated by EPA's Criminal Investigation Division, the North Carolina State Bureau of Investigation, the U.S. Army Corps of Engineers, and North Carolina Marine Patrol. It is being prosecuted by Assistant United States Attorney Banumathi Rangarajan.

[Back to Defendant Summary](#)

Montana Saltwater Disposal Well Operator Pleads Guilty to Multiple Felony Charges in Connection with Operation of Well

-- On September 26, 2014, **NATHAN R. GARBER**, of Kalispell, Montana, pleaded guilty in federal court for the District of North Dakota to eleven felony charges stemming from the operation of a salt-



Garber would inject saltwater into this well without first having performed a well integrity test .

water disposal well near Dickinson, in Stark County, North Dakota. Garber pleaded guilty to one count of conspiracy to violate the Safe Drinking Water Act and defraud the United States. He also pleaded guilty to five counts of violating the Safe Drinking Water Act, two counts of making false statements, two counts of falsification of records and one count of concealment or cover up of a tangible object. The well, named the Halek 5-22, received “produced water” constituting “brine and other wastes” commonly and generically referred to as “saltwater.” “Saltwater” in this context covers a wide array of drilling waste fluids, including hydraulic fracturing fluid, which is water combined with chemical additives such as biocides, polymers and “weak

acids.” The EPA has stressed that this water is often saltier than seawater and can “contain toxic metals and radioactive substances.”

According to an agreed-upon factual statement filed in court, Garber admitted to conspiring with others in a number of coordinated and illegal acts. For instance, Garber injected saltwater into the well without first having the state of North Dakota witness a test of the well’s integrity, causing a regulator to determine that there was no assurance as to the integrity of the well and that “the fluid could be going anywhere.” Garber also violated a February 2012 order from the state to stop injecting until a well integrity test was done. When questioned by the state about these injections, Garber made false statements in a March 6, 2012 email where he denied that these injections occurred.

The well failed a pressure test on Feb. 2, 2012, and Garber continued to inject saltwater even though he knew that the well did not have integrity and thus posed an increased risk of contaminating ground water.

Further, Garber moved a device called a “packer” up the wellbore in violation of the well’s permit, without first getting approval from the state. A properly placed packer is an essential device to maintaining integrity of the well and ensuring wastewater does not escape into surrounding soil and groundwater. Then, Garber gave false information to a state inspector regarding the depth of the packer.

A search warrant was executed at the well on November 20, 2013, and it was confirmed that the packer had been moved up in the wellbore and was significantly higher than the depth that had been initially represented by Garber. Despite illegally moving the packer on February 14, 2012, Garber continued to inject saltwater into the well until on or about March 5, 2012, when a state employee shut the well in.

The case was investigated by EPA’s Criminal Investigation Division. Significant cooperation was provided by the North Dakota Industrial Commission. The case is being prosecuted by the United States Attorney’s Office for the District of North Dakota and the Environmental Crimes Section of the Justice Department’s Environment and Natural Resources Division.

[Back to Defendant Summary](#)

Louisiana Businessman Pleads Guilty to Environmental Crime and Obstruction of Justice -- On September 2, 2014, **ROGER J. DIES**, of Zachary, Louisiana, pled guilty in federal district court for the Middle District of Louisiana for failing to report third party wastewater discharges in violation of the Clean Water Act and obstruction of justice. Dies also admitted to the forfeiture allegations contained in the indictment, which was previously returned by a federal grand jury in December of 2013. Dies faces a maximum sentence up to 13 years in prison and substantial fines.

According to the written plea agreement entered into between Dies and the United States, Dies owned and operated Baton Rouge Tank Wash (BRTW), a business focused on washing the interior of tanks that hauled chemical and food-grade loads aboard trucks. BRTW was permitted to discharge wastewater resulting from the tank washes into the municipal sewer system, subject to certain requirements and limitations. From in or about March of 2009, however, through September of 2012, Dies failed to notify DPW that he had begun discharging third party wastewater, despite knowing that notification was required by his permit. Dies also failed to submit monthly and daily logs reflecting all wastewater discharged from the facility. Dies was asked about the nature of his business, on numerous occasions, and he routinely misled and/or made false representations, intended to conceal the fact that BRTW was accepting substantial quantities of third party wastewater. Then, in late 2012, as a federal grand jury investigation into the matter was underway, Dies provided the grand jury with false documents that had been created with the goal of disguising BRTW's third party wastewater business. As the investigation continued, in February of



Tanker being washed out at BRTW



Waste from a tanker wash out



Aerial view of BRTW showing how close it was to a substation of the Baton Rouge Police Dept who made several complaints of strong odors from BRTW, one of which resulted in evacuation of the substation in 2008.

2013, Dies provided the grand jury with false testimony in which he represented that he had produced all documents that were responsive to the subpoenas, when, in fact, he knew that numerous responsive documents had not been produced.

The investigation is being conducted by EPA's Criminal Investigation Division, the U.S. Attorney's Office, and the Criminal Investigation Division of the Louisiana Department of Environmental Quality. It is being prosecuted by Assistant United States Attorneys Corey R. Amundson, who serves as Chief of the Criminal Division, and Alan A. Stevens, who serves as a Deputy Chief.

[Back to Defendant Summary](#)

Ohio Company Pleads Guilty to Making Illegal Discharges into Sewer System -- On September 3, 2014, Cleveland, Ohio-based **KELLY PLATING COMPANY** pleaded guilty in federal district court for the Northern District of Ohio to making illegal discharges with high concentrations of metals such as chrome and zinc into the sewer system, which in turn, after treatment, discharges to Lake Erie. The company pleaded guilty to one count of conspiracy to violate the Clean Water Act and one count of violating an approved pretreatment program.

An employee at Kelly Plating bypassed the pollution control equipment and discharged partially treated wastewater and sludge directly into the sewer system. These discharges contained high concentrations of chrome and zinc. This happened at least 14 times between March and May, 2012, according to court documents.

Under the terms of the plea agreement, both parties agree to recommend to the court that Kelly Plating pay a \$50,000 fine as well as a \$25,000 community service payment. The community service payment will be made to a charitable organization to be presented to the court prior to sentencing. The charitable organization will use the payment to improve water quality in Northeast Ohio, according to the plea agreement. Sentencing is scheduled for Dec. 11. Criminal charges remain pending against a Kelly Plating employee who was indicted earlier this year.

The case was investigated by EPA's Criminal Investigation Division, the Ohio EPA, the Ohio Bureau of Criminal Investigation, and Northeast Ohio Regional Sewer District. It is being prosecuted by Special Assistant U.S. Attorney Brad Beeson.

[Back to Defendant Summary](#)



The picture to the left shows the discharge point (crock) to the sewer. The piping sections that form the crock had been installed to inhibit spills from flowing into the discharge manhole. This picture was taken upon entry into the facility on the date of the search warrant. The "permitted" discharge is the hard-piped line going into the bottom of the crock. The source is the pretreatment system behind and to the right of it. The hoses going into the top of the crock are unpermitted discharge sources. The small hose going into the crock led to the pump depicted in the picture on the right, which was pumping from the pit (sludge holding tank) in the background of the photo.

Two New York Men and Company That Employed Them Plead Guilty to CWA Violations -- On September 15, 2014, **MARK PULLYBLANK**, of Caledonia, New York, **WILLIAM CLEMENTS**, of Victor, New York, and **CRANE-HOGAN STRUCTURAL SYSTEMS, INC.**, based in Spencerport, New York, pled guilty in federal district court for the Northern District of New York to violations of the Clean Water Act. Sentencing will take place on January 23, 2014.

Crane-Hogan is a company that uses hydro-demolition to renovate concrete structures. Hydro-demolition uses high pressure water to remove concrete from buildings such as parking garages, dams, bridges, and highways prior to resurfacing. The waste-water from the hydro-demolition process contains a slurry of industrial waste including concrete residue which has a highly caustic pH and total suspended solids, both of which are pollutants under the Clean Water Act. Pullyblank was Crane-Hogan's project manager in charge of renovation projects at the Binghamton Governmental Center Parking Garage and Johnson City Wil-

son Hospital Parking Garage throughout 2008 and 2009. He directed workers to discharge concrete slurry into the Susquehanna River for portions of two years, and into the Binghamton-Johnson City Publically Owned Treatment Works (POTW) during the summer 2009, both without Clean Water Act permits and without treatment for the high pH. Clements was also a project manager in charge of the Johnson City Wil-son Hospital Parking Garage renovation who participated in the unpermitted POTW discharges in 2009.



Pullyblank directed employees to discharge concrete slurry into the Susquehanna River.

Pullyblank and Crane-Hogan both plead guilty to felony violations of the Clean Water Act. Clements pled guilty to a misdemeanor Clean Water Act violation. Pully-

blank faces a maximum possible penalty of three years in prison and a \$700,000 fine, plus supervised release thereafter. Crane-Hogan faces a maximum fine of \$750,000 and five years of probation. If the plea agreement is accepted by the court, Crane-Hogan will be required to prepare and implement an environmental compliance plan to alter its policies and practices so as to reduce the likelihood of future criminal environmental conduct. Clements faces a maximum possible term of incarceration of one year and a fine of \$350,000 plus a term of supervised release.

The case was investigated by EPA's Criminal Investigation Division and the New York State Department of Environmental Conservation, Bureau of Environmental Crimes Investigations, Assistance was provided by the New York State Office of General Services, the Binghamton City Engineer, and the Binghamton-Johnson City Publically Owned Treatment Works. The case is being prosecuted by Assistant United States Attorney Craig Benedict.

[Back to Defendant Summary](#)

Delaware Real Estate Developer Indicted for False Statements and Environmental Violations --On September 23, 2014, **JOSEPH L. CAPANO**, of Middletown, Delaware, and **RIVERBEND COMMUNITY LLC**, a Delaware Corporation, were indicted by a grand jury in federal district court for the District of Delaware on three counts of making false statements to federal authorities and conspiracy to violate the Clean Water Act. Capano faces up to five years of imprisonment for the false statement charges, three years of imprisonment on the Clean Water Act conspiracy, and a maximum of \$250,000 fine for each offense. Riverbend faces a fine of up to \$500,000 for the Clean Water Act conspiracy.

The indictment alleges that Capano and Riverbend Community LLC conspired with others to discharge pollutants into wetlands subject to federal jurisdiction without a permit, during development of Riverbend at Old New Castle, a residential development located in New Castle, Delaware. The indictment focuses on earthmoving, construction and excavation activities that Capano, on behalf of Riverbend Community LLC, directed employees and contractors to perform on the entrance road to the development, known as the causeway. Specifically, the defendants directed contractors and employees to expand the causeway into wetlands subject to federal jurisdiction. The defendants also directed contractors and employees to place a water main pipe through the causeway wetlands area, even after the Army Corps of Engineers instructed the defendants to stop performing construction in wetland areas.

In addition, the indictment alleges that Capano knowingly and willfully made multiple false statements to the Army Corps of Engineers regarding when the water main pipe was installed in the causeway wetland areas, including executing a false affidavit, and that he withheld material information from the Army Corps of Engineers.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by United States Attorney Jennifer K. Welsh, District of Delaware. The charges in the indictment are only allegations. The defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

[Back to Defendant Summary](#)

Oklahoma Corporation Charged With Felony CWA Violation -- On September 15, 2014, **XPLOR ENERGY SPV-1, INC. (XPLOR)**, an Oklahoma corporation located in Southlake, Texas, was charged in federal district court for the Eastern District of Louisiana in a one-count bill of information with knowingly violating the Clean Water Act in connection with their oil and gas production activities in the Breton Sound Area of the Gulf of Mexico.

According to the bill of information, from on or about October 1, 2009, and continuing through November 18, 2011, in the navigable waters of the United States and within the Eastern District of Louisiana, Xplor, by and through its agents and employees acting within the scope of their agency and employment and for the intended benefit of the defendant, did knowingly discharge and cause to be knowingly discharged a pollutant, namely, produced water containing oil, from a point source (injection lines and disposal wells attached to the MP 35 Platform) into a water of the United States without a permit.

The case was investigated by EPA's Criminal Investigation Division and the Criminal Investigation Division of the Louisiana Department of Environmental Quality. It is being prosecuted by Assistant United States Attorney Matthew Coman.

The charges in the information are only allegations. The defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

[Back to Defendant Summary](#)