



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. To subscribe to this monthly bulletin you may [sign up for email alerts](#) on our publications page.

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Western Massachusetts Power Plant Owner and Management Companies Sentenced for Tampering and False Reporting - Settlement Requires Companies to Pay Fines and Payments Totaling Over \$7 Million

BOSTON – Berkshire Power Company (BPC) and Power Plant Management Services, Inc. (PPMS) were sentenced in U.S. District Court in Springfield for tampering with air pollution emissions equipment, and PPMS was also sentenced for submitting false information to both environmental and energy regulators relating to the Berkshire Power Plant (“the Plant”) in Agawam, Mass.

BPC was sentenced to pay \$2.75 million in criminal fines for violations of the Clean Air Act, and to make a \$750,000 community service payment to the American Lung Association to fund a program for the replacement of polluting wood burning stoves in western Massachusetts. PPMS was sentenced to pay \$500,000 in criminal fines for violations of the Clean Air Act and Federal Power Act and to make a \$250,000 community service payment to the American Lung Association’s wood stove change-out program.

In addition to the criminal fines outlined above, BPC and PPMS have agreed to pay \$3,042,563 plus interest to the Federal Energy Regulatory Commission in civil penalties and disgorgement for their misrepresentations to ISO-New England regarding the Plant’s availability to produce power.

In May 2016, BPC (owner of Berkshire Power Plant) and PPMS (the Plant manager) pleaded guilty to felony charges that they violated and conspired to violate the federal Clean Air Act. These charges arose from air pollution monitoring equipment tampering and related false emissions reporting between 2009 and 2011. PPMS also pleaded guilty to violating the Federal Power Act, the first-



ever criminal charges under this statute, for making false statements to the regional power grid administrator, ISO-New England, regarding the Plant’s availability to produce power.

According to documents filed in federal court, between January 2009 and March 2011, BPC engaged PPMS to manage the Plant, including overseeing day-to-day operations and maintenance and to act as the owner’s representative for the Plant. A PPMS employee served as the Plant General Manager and as BPC’s on-site representative.

PPMS and BPC caused staff at the Plant to tamper with the Plant’s air pollution monitoring equipment to conceal the fact that the Plant was emitting air pollutants in excess of permitted levels. This tampering was accomplished by intentionally biasing the Plant’s Continuous Emissions Monitoring System so it would show lower emissions levels than were actually being produced by the Plant. BPC and PPMS then used this inaccu-

rate data in filing required emissions reports with the U.S. Environmental Protection Agency (USEPA) and the Massachusetts Department of Environmental Protection (MassDEP). The purpose of the tampering was to avoid lost revenues that would have resulted from reducing power production to stay within the Plant's air pollution emissions limits, or by taking the Plant out of service to implement needed repairs of the Plant's pollution control and other equipment.

Excess nitrogen oxide (NO_x) emitted from fossil-fuel-burning power plants and mobile sources, like cars and trucks, combines in the atmosphere with volatile organic compounds emitted from industrial and residential sources to form ground-level ozone. At ground level, ozone is a respiratory pollutant that can cause many human respiratory effects, and even premature mortality, especially in vulnerable elderly persons and young children. NO_x emissions also cause environmental damage to coastal waters, aquatic life, and other property, and contribute to the formation in the atmosphere of fine particulates that also harm humans, aquatic life, and vegetation.

During the course of the tampering investigation, criminal investigators also learned that PPMS made and caused staff at the Plant to make false statements to the ISO-New England, about the Plant's availability to produce power for the New England grid. They also caused staff at the Plant to falsely claim to the ISO that the Plant was available to produce power when it was not. PPMS did this to maximize the Plant's revenues and to minimize repair expenditures.

This case was investigated by EPA's Criminal Investigation Division in Boston, Massachusetts Department of Environmental Protection, Massachusetts Environmental Crimes Strike Force (an interagency investigative team dedicated to developing the most significant environmental enforcement cases) and the Massachusetts Environmental Police. The Assistant U.S. Attorney is prosecuting the federal case with the assistance of EPA's Criminal Enforcement Counsel.

Mahoney's Auto Mall And Employee Andrew Fuller Plead Guilty To Environmental Law Crimes — Paid \$187K In Fines

On February 15, 2017, in St. Lawrence County, New York court, Mahoney's pleaded guilty to one count of Endangering Public Health, Safety or the Environment in the Third Degree. Andrew Fuller pleaded guilty to one count of Endangering Public Health, Safety or the Environment, in the Fourth Degree.

According to court filings and statements made by the prosecutor, DEC's investigation revealed that in June 2014, Fuller buried drums of used oil, containers of used oil filters, and tires on Mahoney's property. On July 21, 2014, DEC police and regulators executed a search warrant which authorized them to excavate the buried waste at Mahoney's. During the excavation, DEC investigators discovered four 55-gallon drums containing approximately 142 gallons of liquid, several containers of used oil filters, and approximately 20 tires. Subsequent laboratory analysis showed that liquid samples from each of the four drums contained the hazardous substance benzene at levels in excess of .5 milligrams per liter. In addition to benzene, the analysis detected the presence of the hazardous substances toluene, ethyl-benzene, and xylene. Releases of hazardous substances that may enter the environment are illegal.

Additionally, adjacent to the excavated waste area, DEC investigators found an open, unprotected pile of solid waste which measured 33 feet in width by 25 feet in length. The pile of solid waste contained construction and demolition debris, roofing material, household trash, clothing, furniture and bedding. The disposal of solid waste at the site constitutes the operation of a solid waste management facility. The DEC subjects solid waste management facilities to strict operational and closure requirements to avoid potential adverse impacts to public health and the environment, and it is illegal to construct or operate such a facility without first obtaining a permit from the DEC. According to DEC records, Mahoney's neither applied for nor received the necessary permit.

Inside the auto shop, DEC investigators also discovered a concrete channel dug into the floor which transported spilled automotive fluids into a pit. Once in the pit, the spilled fluids were discharged onto the ground outside the auto shop through a pump attached to a garden hose. DEC investigators collected a soil sample from the area onto which the garden hose discharged the automotive fluids. Laboratory testing revealed that this soil was contaminated with petroleum. DEC officials also discovered petroleum-contaminated Speedy Dry which had been disposed of outside on the ground adjacent to the auto shop.



Drums, Used Oil Containers, and Tires from Excavated Waste Area on Mahoney's Property

"When business owners fail to properly dispose of hazardous material, it jeopardizes the health of New Yorkers and our natural resources," said Attorney General Schneiderman. "We will continue to ensure that those

who disregard our environmental laws are brought to justice.”

"The long list of egregious waste violations in this case is alarming and shows blatant disregard for the laws that are in place to protect our environment and the public's health and safety," DEC Commissioner Basil Seggos said. "In some instances, these chemicals can be deadly, and I applaud the work of our Environmental Conservation Officers (ECOs) and the Attorney General's office in bringing this case to fruition."

In December 2016, a St. Lawrence County Grand Jury charged Mahoney's and Fuller, in a 13-count indictment, with violations of the ECL. The indictment charged both Mahoney's and Fuller with one count of Endangering Public Health, Safety or the Environment in the Third Degree and eight counts of Endangering Public Health, Safety or the Environment in the Fourth Degree for crimes pertaining to the burial of the hazardous material. Mahoney's was also charged with two additional counts of Endangering Public Health, Safety or the Environment in the Fourth Degree (for the release of automotive fluids through the garden hose and the disposal of petroleum-contaminated Speedy Dry) and one misdemeanor count of violating ECL §71-2703 (2)(b)(i), a Class B misdemeanor (for operating an unpermitted solid waste management facility).

Mahoney's paid \$150,000 in fines and \$7,449.49 in restitution to the DEC for reimbursement of costs for excavation and laboratory testing, and was sentenced to an unconditional discharge. Fuller paid a \$37,500 fine and is scheduled to be sentenced to three years' probation on April 10, 2017.

The investigation was conducted by the New York State Department of Environmental Conservation (DEC), and EPA's Criminal Investigation Division.

International Petroleum Corporation of Delaware (IPC) Sentenced for Environmental Crimes

International Petroleum Corporation of Delaware (IPC) was sentenced on February 2, 2017 to pay a \$1,300,000 fine and \$2,200,000 in restitution to the City of Wilmington for environmental crimes, including Conspiracy to Violate the Clean Water Act.

According to court documents and statements made in court, from 1992 through 2012, IPC operated a facility located at 505 South Market Street in Wilmington, Delaware, which processed used oil and hydrocarbon-containing waste water and then sold the reprocessed petroleum to various companies for reuse. The facility had two components: oil recovery and waste water treatment. The facility's petroleum processing activities generated waste water, which the company treated at its waste water portion of the facility prior to discharge into a sewer along Market Street owned by the City. It issued IPC a federally-enforceable Clean Water Act pretreatment permit which governed the types and concentrations of pollutants which IPC could discharge into the City's sewer system. The pretreatment permit required IPC to take "representative" samples of its waste water on a monthly basis, to determine if it was complying with its permit limitations, and report its sampling results the City every six months.

IPC admitted that its monthly samples were not representative, as it tampered with, and rendered inaccurate, monitoring methods and a monitoring device required by the Clean Water Act and IPC's federally-enforceable pretreatment permit.

IPC further admitted to violating the Resource Recovery and Conservation Act ("RCRA") by transporting hazardous waste without a "cradle to grave" hazardous waste manifest. In June and July, 2012, April and May of 2012, IPC trucked to South Carolina for disposal sludge ("tank bottoms") which IPC had removed from its storage tanks. The tank bottoms were ignitable and contained concentrations of benzene, barium, chromium, cadmium, lead, tetrachloroethene (also known as "PCE"), and trichloroethene (also known as "TCE"), which each served to classify the material as RCRA regulated hazardous waste.



"Industrial wastewater can pose serious threats to public health and the environment, so it's imperative that companies honestly treat and dispose of it properly and sample and report pollutant concentrations honestly," said U.S. Attorney for the District of Delaware Charles M. Oberly III. "Likewise, companies must handle hazardous waste properly to ensure its proper treatment and disposal. The Department of Justice and EPA are committed to protecting human health and the environment for all Americans through strong enforcement of environmental laws, especially in environmental justice areas. This conviction and sentence ensures that the defendant is held accountable with a criminal fine, and pays substantial restitution to the City of Wilmington."

This case was investigated by EPA's Criminal Investigation Division. The City of Wilmington Department of Public Works and the DNREC Solid & Hazardous Waste Management Section assisted in the investigation.

Chemical Company and Its Owner Sentenced for Rebate Scheme, False Statements to U.S. Customs

On March 2, 2017, Alden Leeds, Inc., a New Jersey swimming pool and spa chemicals company, and its president, Mark Epstein, were sentenced in U.S. District Court for convictions related to customs and import violations. Epstein was sentenced to serve eight months in prison and four months of home confinement for his role in an elaborate rebate scheme which involved false statements to U.S. Customs, followed by inflated payments for imported chemicals and then rebates paid back to Alden Leeds, Inc. The company was also sentenced, receiving three years of probation and ordered to pay restitution to Customs in the amount of \$2.25 million.

Benjamin C. Glassman, United States Attorney for the Southern District of Ohio, the Environmental and Natural Resources Division of the Department of Justice, Steve Francis, Acting Special Agent in Charge, U.S. Department of Homeland Security Investigations (HSI), Troy N. Stemen, Acting Special Agent in Charge, Internal Revenue Service (IRS) Criminal Investigation, Angela L. Byers, Special Agent in Charge, Federal Bureau of Investigation (FBI) and John K. Gauthier, Acting Special Agent in Charge, U.S. Environmental Protection Agency (EPA) criminal enforcement program announced the sentences handed down on February 1 by Senior U.S. District Judge James L. Graham.

Epstein and Alden Leeds, Inc. had an agreement with a middleman to establish two prices for the imported chlorine – an “actual price” that the company was paying and a higher “invoice price” that would be used for documentation at U.S. Customs to avoid suspicions of dumping.

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Dumping occurs when foreign merchandise is sold in the United States for less than fair market value, which prevents fair competition between United States companies and foreign industry.

According to court documents, from 1998 through at least June 2012, various businesses in Columbus, Ohio served as the American representative for domestic companies seeking to import swimming pool sanitizing agents from China.

As the middleman, Caiwei Sheng operated the Columbus businesses and engaged in a scheme that involved using a shell corporation in Vietnam to make it appear that the chlorine was manufactured there instead of China. This was done to avoid a 286 percent anti-dumping duty or tax that was ordered by the Department of Commerce beginning in 2005. No such anti-dumping duty existed for Vietnam as it did China.

As part of the rebate scheme, the price of the chlorine was deliberately overstated at Customs when the chlorine was imported. Sheng would receive payment for the inflated, invoice price and he would then wire the lesser actual price for the chlorine to the originating companies in Vietnam and China before wiring a rebate to Alden Leeds, Inc.

At the request of Alden Leeds, Inc., the rebate was labeled a “consulting fee” and sent to one of the company’s sister corporations in another state.

Sentencings

“The Alden Leeds company and its president, Mark Epstein, conspired with others to make false statements to Customs about the price of the chlorine they were buying from China and Vietnam, in order to avoid potentially higher duties aimed at ensuring fair competition between United States companies and foreign industry,” U.S. Attorney Glassman said. “Now, not only do they have to pay Customs \$2.5 million and fines and forfeiture of \$500,000, but Epstein must serve time in federal prison and Alden Leeds will spend three years on probation. Those who import goods from overseas must tell the truth to Customs and play fair with American companies.”

Epstein pleaded guilty on February 1 to one count of conspiracy to make false statements and violate United States’ customs and importation laws and one count of entry of goods by means of false statement. As part of the plea agreements, Epstein is paying \$500,000 in restitution and forfeiture and Alden Leeds, Inc. is paying \$2.25 million in restitution. Alden Leeds, Inc. also agreed to donate 2,765 gallons of hospital grade disinfectant to the Ministry of Public Health and Population of Haiti.

Sheng pleaded guilty to violating Customs laws as well as USEPA laws requiring truthful statements concerning the importation of chemicals into the United States, and on August 21, 2015, was sentenced to a prison term of 12 months and one day in prison and ordered to pay restitution of \$100,000.

U.S. Attorney Glassman commended the investigation of this case by HSI, IRS Criminal Investigation, FBI and U.S.EPA, as well as Assistant United States Attorneys J. Michael Marous and Jessica W. Knight and Department of Justice Senior Trial Attorney Christopher J. Costantini who are representing the United States in this case.

Seward Man Sentenced for Clean Air Act Violations

Patrick Keough, 59, of Seward, Nebraska, was sentenced on March 14, 2017 in federal court in Omaha on two counts of violating the Clean Air Act. Keough was sentenced to six months' imprisonment; after his release from prison, he will begin a one-year term of supervised release.

Keough is the owner of America's Fiberglass Animals (AFA). AFA uses gel coats and Hazardous Air Pollutant (HAP) paints to manufacture fiberglass animals. The Nebraska Department of Environmental Quality (NDEQ) determined that AFA required a construction permit and fabric filters in the manufacturing area to operate its business. Keough continued to operate his business in Shelton, Nebraska, without securing a permit or installing fabric filters. He then moved the business to Minden, Nebraska, without advising NDEQ and without securing the required permit. The business continued to operate without fabric filters.



This case was investigated by United States Environmental Protection Agency Region VII. The Nebraska Department of Environmental Quality assisted with the investigation.

Company to Pay \$9.5 Million for False Reporting of Safety Inspections and Clean Water Act Violations that Led to Explosion in Gulf of Mexico

WASHINGTON – Wood Group PSN Inc., a Nevada corporation headquartered in Houston, Texas, was ordered to pay \$9.5 million in two separate cases involving their conduct in the Gulf of Mexico. Specifically, Wood Group PSN was ordered to pay \$7 million for falsely reporting over several years that personnel had performed safety inspections on offshore facilities in the Gulf of Mexico in the Western District of Louisiana, and \$1.8 million for negligently discharging oil into the Gulf of Mexico in violation of the Clean Water Act after an explosion on an offshore facility in the Eastern District of Louisiana. Wood Group PSN was also ordered to pay \$700,000 in community service to projects in the areas where the criminal conduct took place.

“The events of November 2012 at West Delta 32 were tragic, and since then federal prosecutors have worked diligently to investigate and understand the full scope of criminal conduct,” said Acting Assistant Attorney General Wood. “Today’s plea agreement demonstrates the Department of Justice’s commitment to the integrity of federal safety programs and accountability for those who falsify federal safety inspection reports. In addition, the plea agreement ensures that Wood Group is held responsible for its wrongful pollution of the Gulf of Mexico, and it will bring community service projects to benefit the Gulf of Mexico and Gulf Coast communities.”

“Ensuring that public resources are developed in a professional and responsible manner is among the highest priorities for this department, and the OIG is committed to work with its Federal partners to hold violators accountable when they choose to ignore their professional and legal responsibilities and place the public and



environment at risk,” said Ronald Gonzales, Special Agent in Charge of the Department of the Interior OIG’s Energy Investigations Unit stated, “Developing domestic sources of energy is of vital importance to our nation. This development must be done responsibly and safely to protect public health and the environment,” said Christopher R. Brooks, Special Agent in Charge of EPA’s criminal enforcement program in Louisiana. “This

case is an example of federal law enforcement partners holding individuals accountable for their illegal conduct, and ensuring that the hard work invested in restoring the Gulf of Mexico is not jeopardized.”

According to the factual basis of the company’s plea agreement in the false reporting case, from April of 2011 to July of 2014, employees at Wood Group PSN’s Cameron, La., office failed to inspect and maintain facilities they had contracts with on the Outer Continental Shelf’s Creole Loop, and also falsely indicated that the facilities had been properly inspected and maintained according to federal safety and environmental regulations. The company operators at the Cameron office had trouble keeping up with inspections and maintenance on facilities they serviced. The office did not have sufficient labor and transportation, and the work

was not always completed on time. The employees, from operators to clerks, then falsified reports to the Bureau of Safety and Environmental Enforcement. The company admitted to 87 violations on offshore platforms.

Wood Group PSN's Clean Water Act conviction stems from an explosion on Black Elk Energy Offshore Operations, L.L.C.'s (BEE) offshore oil production facility located at area West Delta 32 in the Gulf of Mexico. According to court documents, BEE had contracted with Wood Group PSN for individuals to man and conduct production operations at the West Delta 32 facility. Beginning on November 3, 2012 and continuing through November 16, 2012, construction was being conducted at the West Delta 32 facility. Wood Group PSN supported the construction by issuing hot work permits for welding.

However, starting on or about Nov. 10, 2012, the Wood Group PSN Person-in-Charge, Christopher Srubar, stopped issuing hot work permits and conducting all-hands safety meetings, and instead delegated the hot work permitting to a less experienced operator. On Nov. 16, 2012, Grand Isle Shipyards, Inc. (GIS) construction superintendent, Curtis Dantin, assigned workers to perform welding in three different areas of the "E" platform, including sump line piping that had previously contained hydrocarbons but had not been made safe for hot work, or identified in a permit as an area safe for hot work. The sump line piping led to an oil storage tank that contained hydrocarbons contaminated with water, also known as the wet oil tank.

After the construction workers had cut and grinded the sump line piping the morning of Nov. 16, they attempted to weld on the cut piping with an arc welder. At that time, hydrocarbon vapors that had escaped from the wet oil tank ignited. The ignition caused an explosion setting off a series of additional explosions in the three oil tanks on the "E" platform. One of the dry oil tanks and the wet oil tank were blown into the Gulf of Mexico. The other dry oil tank was blown off its base and destroyed the platform crane. Oil spilled into the Gulf of Mexico causing a sheen on the water. Oil rained down to the lower deck of the platform where workers had been performing other construction activity. The fire and explosions that occurred resulted in the deaths of construction workers, Avelino Tajonera, Elroy Corporal, and Jerome Malagapo. Other workers were seriously burned and physically injured.

Wood Group PSN admitted that its employees were negligent in the way they authorized hot work on West Delta 32, and that a lack of communication between personnel on the platform, including Wood Group PSN's Person-in-Charge, Christopher Srubar, contributed to the events that caused oil to be discharged into the Gulf of Mexico in a harmful quantity.

Co-defendants, BEE and GIS face manslaughter charges, and Curtis Dantin, Christopher Srubar, and Don Moss face criminal violations of the Clean Water Act in the Eastern District of Louisiana before the Honorable Judge Jane Triche Milazzo, in case no. 15-cr-197 "H." BEE also faces eight felony counts of regulatory violations under the Outer Continental Shelf Lands Act.

Charges against Don Moss, Christopher Srubar, Curtis Dantin, and GIS under the Outer Continental Shelf Lands Act that were dismissed by the district court are pending an interlocutory appeal by the government to the U.S. Fifth Circuit Court of Appeals, case no. 16-30561.

Sentencings

The U.S. Department of the Interior-Office of Inspector General and the EPA's Criminal Investigation Division conducted the investigations. Assistant U.S. Attorneys prosecuted the case for the Western District of Louisiana. Assistant U.S. Attorneys and the Department of Justice Senior Trial Attorney prosecuted the case for the Eastern District of Louisiana.

Plant Manager for Willapa Bay Oyster Processor Sentenced for Violating Clean Water Act — Knowingly Submitted Fraudulent Test Data of Fecal Coliform Levels in Wastewater

The manager of an Ocean Park, Washington oyster processing company who falsified important tests of the plant's wastewater discharge and lied to state regulators about those readings was sentenced on March 3, 2017 in U.S. District Court in Tacoma for a felony violation of the Clean Water Act. Lonny Howard, 56, was employed as the plant manager of Wiegardt Brothers, Inc. (WBI). Howard admitted that, for 12 years, he falsified data to understate the amount of fecal coliform the plant was discharging into Willapa Bay. Howard was sentenced to one year of probation.

“Over a dozen years, this defendant consistently falsified readings intended to protect the health and safety of people using and enjoying Willapa Bay,” said U.S. Attorney Annette L. Hayes. “Fecal Coliform contamination can have particularly serious consequences for children, the elderly, and people with compromised immune systems. The felony conviction in this case is an appropriate sanction for this defendant whose callous disregard for his legal obligations harmed the environment we Northwesterners hold dear.”

According to records filed in the case, Howard was the General Manager of Wiegardt Brothers between 2002 to 2014. During that period, the company was required to perform monthly tests of the wastewater by taking samples of the wastewater at the point it was discharged into Willapa Bay. Howard admitted that instead of doing so, he tested diluted water from a source known as “bubbler,” causing the tests to understate the amount of fecal coliform in the wastewater. On some occasions, the level of fecal coliform in the bubbler was still higher than the permit allowed. In those instances, Howard falsified the data submitted to the state to make it appear the plant was in compliance. When asked by inspectors whether he was taking tests from the location specified in the permit, Howard falsely told the inspectors that he was doing so.

On August 22, 2014, the company reported the violations to the Department of Ecology and has been working with environmental regulators on a remediation plan. Regulators were unable to assess whether the violations resulted in any environmental harm.

The company and its President pleaded guilty to misdemeanor violations of the Clean Water Act in June 2015. Wiegardt Brothers, Inc. agreed to pay a \$100,000 fine, make a \$75,000 community service payment, implement an EPA approved environmental management system to insure future compliance, and publish a public apology in the Pacific Coast Shellfish Growers Association's quarterly newsletter. Company President Frederic “Fritz” Weigardt was jointly responsible for payment of the \$100,000 criminal fine was required to complete 75 hours of community service.

Howard is no longer employed in the food industry or other industry with environmental compliance issues.

The case was investigated by EPA's Criminal Investigation Division and was prosecuted by Assistant US Attorneys, with assistance from EPA Regional Enforcement Counsel.

Arizona Man Sentenced to Prison for Trafficking in Pet Products with Counterfeit Labels

On February 6, 2017, an Arizona man was sentenced to serve 37 months in prison for trafficking in pet products with counterfeit labels into the United States.

Allen Smith, 50, of Phoenix, Arizona, was sentenced by U.S. District Judge David Hittner of the Southern District of Texas. In addition to his prison term, Smith was ordered to pay \$867,150 in restitution and to forfeit \$42,269 worth of illicit proceeds.



According to admissions made in connection with his plea, Smith was responsible for aiding and abetting the trafficking of over \$1 million worth of veterinary products that were not manufactured for the U.S. market into the United States for distribution under false labels, including Frontline and Frontline Plus products manufactured by Merial Pharmaceutical Company (Merial) and Advantage and K9 Advatix products manufactured by Bayer. Smith intentionally trafficked in the products to deceive retail stores and consumers into believing that the products had received necessary Environmental Protection Agency (EPA) authorization to be manufactured for and approved for sale in the United States.

The FDA-OCI, HSI and EPA investigated the case. US Attorneys are prosecuting the case.

Florida Man Pleads Guilty in Wire Fraud Case Related to Falsified Water Testing in Dale County, Alabama

On February 16, 2017, Darin Lewis, 46, of Crestview, Florida, pleaded guilty to one count of conspiring to commit wire fraud, the US Attorney's conviction stemmed from his involvement in a scheme to falsify water samples during the testing of new water lines installed in Dale County, Alabama.

According to court documents, in 2014, the Dale County Water Authority hired a Florida company, Roberson Excavation, Inc. (Roberson Excavation), to replace water lines in the Marley Mill area of Dale County. Lewis's co-defendant, Billy Ray Roberson, was the owner and president of Roberson Excavation. Lewis began working on the project around February of 2015. By that time, Roberson Excavation was three months behind schedule on the job and paying penalties of \$500 for each day that the project went incomplete. At that time, Roberson instructed his site supervisor, Lewis, to falsify the testing required before the lines went into operation. Among the tests falsified were the tests used to determine whether harmful bacteria were present in the water.

A sentencing hearing will be scheduled in the upcoming months where Lewis will face a maximum sentence of 5 years' imprisonment. The other defendants charged in the case, Billy Ray Roberson and Roberson Excavation, will proceed to trial on June 5, 2017 in Dothan, Alabama.

This case was investigated by EPA's Criminal Investigations Division and the Office of Inspector General.

Texas Man Pleads Guilty to Poisoning Protected Migratory Birds and Unlawful Use of Pesticide

John Purviance, age 46, of Bowie County, TX pled guilty to killing protected migratory birds and the unlawful use of pesticides on his property in violation of federal law. Purviance entered pleas of guilty on both misdemeanor charges at a hearing on March 21, 2017.

According to court documents, the U.S. Fish and Wildlife Service's Office of Law Enforcement was notified by Texas Parks and Wildlife Department on April 26, 2016 that a private farm near Bowie, TX was suspected of having corn laced with poison spread over a large area. In days following, wildlife agents documented suspected poisoned bait sites and collected deceased bird carcasses as evidence at the Folsie Ranch in DeKalb, TX. The U. S. Department of Agriculture's Wildlife Services division also removed deceased wild hogs from the property. Purviance claims he was intending to poison feral hogs on his property by lacing feed corn with a highly toxic pesticide.

"Using a restricted-use pesticide in a manner inconsistent with its labeling can have disastrous effects on the environment and wildlife," said Nicholas E. Chavez, Special Agent in Charge for the U.S. Fish and Wildlife Service. "The protection of our Nation's wildlife, including migratory birds, is a priority for the U. S. Fish and Wildlife Service/Office of Law Enforcement (USFWS/OLE).

This investigation is an excellent example of the cooperative investigative efforts between the Texas Parks and Wildlife Department, Environmental Protection Agency, U. S. Department of Agriculture/Wildlife Services, and USFWS/OLE."

Purviance faces up to six months in federal prison, a fine up to \$25,000, or both. A sentencing hearing has not been scheduled yet by the court.

East Bay Chemical Company And Owner Indicted For Illegal Transportation And Smuggling Of Hazardous Materials

OAKLAND – A Union City man and the corporation he owns were charged with conspiracy to defraud the United States, smuggling, and multiple violations of the Toxic Substances Control Act and the Hazardous Materials Transportation Act, announced U.S. Attorney Brian J. Stretch; Environmental Protection Agency Criminal Investigation Division Special Agent in Charge Jay Green; U.S. Department of Transportation Office of the Inspector General Regional Special Agent in Charge William Swallow; and U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) Special Agent in Charge Ryan Spradlin. The indictment alleges that Peiwen Zhou and his company, AK Scientific, conspired to defraud the United States, smuggled materials into the United States, and illegally transported chemicals within the United States by mislabeling and improperly packaging hazardous chemicals.

According to the indictment, Zhou, 53, of Palo Alto, was the founder, owner, and chief executive officer of AK Scientific. Zhou and AK Scientific were in the business of purchasing and then selling research and specialty chemicals to customers that included universities, research laboratories, and other entities. AK Scientific purchased chemicals from chemical supply companies in, among other places, South Korea, Poland, India, and New Zealand.

The indictment alleges the defendants defrauded the United States and smuggled hazardous chemicals into the United States by mislabeling the contents of containers. Further, defendants allegedly transported chemicals in violation of the Toxic Substances Control Act (TSCA) by failing to complete required import certifications and by failing to properly label packages containing hazardous materials. In addition, according to the indictment, the defendants also arranged to transport hazardous materials on several occasions without labeling the packages as required by the Hazardous Materials Transportation Act (HMTA).

Zhou and AK Scientific are charged with one count of conspiracy to defraud the United States; one count of smuggling; two counts of violating TSCA; and seven counts of HMTA. For Zhou, if convicted, the maximum statutory penalties are as follows:

- Conspiracy- 5 years in prison term and a \$250,000 fine
- Smuggling- 20 years in prison and a \$250,000 fine
- Each count of violating TSCA- 1 year in prison term and a \$50,000 fine
- Each count of violating HMTA- 5 years in prison term and a \$250,000 fine
- For defendant AK Scientific, if convicted, the corporation faces the following maximum statutory penalties:
 - Conspiracy- 5 years of probation and a \$500,000 fine
 - Smuggling- 5 years of probation and a \$500,000 fine

Plea Agreements

- Each count of violating the TSCA- 5 years of probation and a \$200,000 fine
- Each count of violating the HMTA- 5 years of probation and a \$500,000 fine

Further, additional special assessments may be imposed on either defendant and Zhou may be subject to additional terms of supervised release. However, any sentence following conviction would be imposed by the court after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence.

The case is being prosecuted by the Special Prosecutions and National Security Unit of the United States Attorney's office in San Francisco. The prosecution is the result of an investigation by the U.S. Environmental Protection Agency's Criminal Investigation Division, the U.S. Department of Transportation's Office of Inspector General, and the U.S. Department of Homeland Security's Homeland Security Investigations.

Plea Agreements

Man Pleads Guilty to Crime Involving the Renovation of the Former Kossuth County Home and Asbestos

On February 16, 2017, a North Central Iowa man pled guilty to failing to make proper report and notification during the renovation of the former Kossuth County Home, which contained asbestos. Gary Christianson, 57, from Algona, Iowa, was convicted of one count of failing to notify and report that he was renovating a building containing asbestos to the Environmental Protection Agency or Iowa Department of Natural Resources.

At the plea hearing, Christianson admitted he was the operator of a renovation of the former Kossuth County Home in Algona, Iowa. The building contained asbestos both on pipes and in floor tiles. Christianson admitted that, from about November 2014 through about January 2015, he failed to notify the EPA and IDNR of his intention to renovate the building as he was required to do.



Asbestos-containing pipes in building

Sentencing before United States District Court Chief Judge Leonard Strand will be set after a presentence report is prepared. Christianson remains free on bond previously set pending sentencing. Christianson faces a possible maximum sentence of two years' imprisonment, a \$250,000 fine, \$100 in special assessments, and a year of supervised release following any imprisonment.

The case was investigated by the EPA's Criminal Investigation Division and is being prosecuted by Assistant US Attorneys.

Owner of Lawrence, Massachusetts Auto Shop Indicted in Connection With Illegally Dumping Oil and Putting Merrimack River at Risk

The owner of a Lawrence auto shop has been indicted in connection with illegally dumping over a thousand gallons of hazardous waste oil down a drain that could discharge into the Merrimack River.

Andres Pichardo, age 44, of Lawrence, was indicted on March 21, 2017 by an Essex County Grand Jury on three counts of disposing of hazardous waste in a manner endangering the environment and without a license from the Massachusetts Department of Environmental Protection (MassDEP).

“People that illegally dump waste oil in a way that could pollute our rivers will be held accountable,” said AG Healey. “We will continue to work with our state and federal partners to go after those who evade important laws put in place to keep our water clean.”

In February 2016, the Attorney General’s Office began an investigation after the matter was initially referred by EPA’s Criminal Investigation Division (CID).

“This case was referred to our Environmental Strike force by EPA’s Criminal Investigation Division, and it is a good example of government agencies working together to protect the environment and the public health,” said MassDEP Commissioner Martin Suuberg. “We will continue our partnerships to identify and appropriately prosecute significant cases that have an adverse impact on the public interest.”

Authorities allege that, in September 2015, rather than pay for proper disposal of his hazardous waste, Pichardo instructed an employee and a contractor to illegally dump more than 30 55-gallon barrels of used automotive waste oil down the drain, which ultimately can discharge to the Merrimack River in wet weather events.

The Massachusetts hazardous waste statute and accompanying regulations require certain licensing and procedures for the proper disposal of waste oil. It is a felony to improperly dispose of waste oil in a manner that could endanger the environment.

This case stems from an investigation by EPA’s Criminal Investigation Division and the Massachusetts Environmental Strike Force. The Strike Force includes prosecutors from the Attorney General’s Office, Environmental Police Officers assigned to the AG’s Office, and investigators and engineers from Massachusetts DEP who investigate and prosecute crimes that harm or threaten the state’s water, air, or land and pose a significant threat to human health.

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

Former Owner of Environmental Services Company Indicted for Illegally Disposing of Hazardous Waste— Company had work sites in Georgetown, Winchester and Cynthiana

On February 3, 2017, a federal grand jury in Lexington, Kentucky returned an indictment against a former central Kentucky businessman on one count of conspiracy and seven counts of environmental law crimes under the Resource Conservation and Recovery Act (RCRA).

The indictment specifically charges Kenneth Gravitt with illegal storage, transportation and disposal of a hazardous waste.

Kenneth Gravitt was the owner and operator of Global Environmental Services (GES), which operated at sites in Georgetown, Cynthiana, and Winchester. In 2013, GES began recycling Cathode Ray Tubes (CRTs), which are the vacuum video tubes inside older box televisions and computer monitors. Because CRTs contain large amounts of lead, their disposal presents a potential environmental hazard and is regulated by RCRA. Lead is extremely toxic and can cause serious health problems upon exposure, and therefore must be disposed in a particular way that is safe for the community.

According to the indictment, GES received for recycling many more loads of CRTs than it could process and disposed of numerous CRTs illegally. Specifically, Gravitt, aided and abetted by others, allegedly transported the CRTs to a Georgetown landfill that did not have a permit to handle hazardous waste; stored ground-up CRT glass containing excessive amounts of lead in large, open, outdoor piles; and put thousands of CRTs and glass in a large hole that had been dug behind the Georgetown facility, all in violation of federal environmental laws.

Carlton S. Shier IV, Acting United States Attorney for the Eastern District of Kentucky made the announcement.

If Gravitt is convicted, the maximum punishment on each count is 5 years imprisonment and a \$250,000 fine. The investigation was conducted by the United States Environmental Protection Agency, Criminal Investigation Division.

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

Stark County man charged with violating Clean Water Act for dumping wastewater in Tuscarawas River tributaries

On February 14, 2017, a grand jury returned a four-count indictment charging a North Lawrence man with violating the Clean Water Act by dumping wastewater into tributaries of the Tuscarawas River, said Carole S. Rendon, U.S. Attorney for the Northern District of Ohio.

Adam D. Boylen, 45, was indicted on four counts of violating the Clean Water Act by making unpermitted discharges.

“This defendant willingly dumped wastewater into streams, fouling the water and killing aquatic life,” Rendon said. “He put his convenience ahead of the public’s welfare. We remain committed to protecting our environment, and this defendant will now be held accountable for his actions.”

“Protecting our water is critical, both for the health and safety of our citizens and our wildlife,” Ohio Attorney General Mike DeWine said. “We will continue to assist in this case and others like it to protect Ohio.”

“Our environmental laws help keep illegal waste out of local waterways and protect clean water and public health,” said John Gauthier, Acting Special Agent in Charge of the U.S. EPA’s criminal enforcement program in Ohio. “The illegal discharge in this case killed a substantial number of fish and caused serious damage to critical wildlife habitat. Today’s indictment is the direct result of the strong working relationship that EPA has built with our law enforcement partners at the federal, state, and local levels.”

Boylen was a driver employed by an Ohio-based trucking company. Boylen’s job was to load wastewater generated from corporate facilities into a tanker truck and to drive the wastewater to a designated facility located in Pennsylvania for proper disposal. The wastewater contained surfactants capable of killing vegetation and fish, according to court documents.

Instead of delivering the wastewater to Pennsylvania, Boylen drove the tanker truck to remote locations in Tuscarawas County and central-eastern Ohio and emptied the wastewater containing surfactants into waters of the United States, according to court documents.

Boylen is charged with dumping the wastewater into two different tributaries of the Tuscarawas River, a wetland adjacent to the Tuscarawas River, and the Beach City Reservoir, on numerous occasions between April 18 and May 4, 2016.

White foam flowed down tributaries and streams as a result of Boylen’s actions. In one instance, the foam traveled four miles downstream from the location where the tanker truck was emptied. Vegetation was killed at all the locations. Approximately 709 fish were killed in one of the tributaries, and collectively, approximately 3,231 minnows, crayfish, frogs, and tadpoles were killed, according to court documents.

If convicted, the sentence in this case will be determined by the court after consideration of the federal sentencing guidelines which depend upon a number of factors unique to each case, including the defendant’s prior criminal record, if any, the defendant’s role in the offenses and the unique characteristics of the viola-

tions. In all cases the sentence will not exceed the statutory maximum, and in most cases it will be less than the maximum.

The case was investigated by the United States and Ohio Environmental Protection Agencies, the Ohio Attorney General's Bureau of Criminal Investigation, the Stark County Sheriff's Offices, the Tuscarawas County Sheriff's Offices, the Ohio Department of Natural Resources, and the Ohio Department of Rehabilitation and Correction. Case prosecution is by Assistant U.S. Attorneys.

An indictment is only a charge and is not evidence of guilt. A defendant is entitled to a fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt.

Corporation and Three Individuals Charged with Environmental, Conspiracy, and Obstruction Crimes

United States Attorney Gregory J. Haanstad of the Eastern District of Wisconsin announced that on March 7, 2017, a federal grand jury returned an indictment against Grede, LLC, and Grede II, LLC (also known as Grede Wisconsin Subsidiaries, LLC), the corporate owners and operators of the former Grede Foundry in Berlin, Wisconsin. Also charged were Peter J. Mark (age: 53) of Ixonia, Wisconsin, the corporate safety and environmental director; and Steven G. O'Connell (age: 51) and Christy L. McNamee (age: 40), both of Zanesville, Ohio, who were formerly employed at the now shuttered facility.

The seven-count indictment alleges charges of conspiracy, obstruction of a federal investigation, the making of false statements, violations of the federal Clean Air Act and negligent endangerment.

According to the indictment, in January of 2012, workers at the foundry were ordered to assist in the refurbishment of a heat-treat oven which contained dangerous amounts of chrysotile asbestos. Proper asbestos abatement procedures were not implemented by the corporation or its managers. Workers were provided with inadequate safety equipment and were not told that the material they were removing contained asbestos. This contaminated material was then hauled away to a landfill by unsuspecting trash collectors.

The indictment further alleges that Mark, O'Connell, McNamee, and the corporate defendants conspired to obstruct state and federal investigators during subsequent inquiries into the presence of asbestos during the refurbishment of the oven.

If convicted of these offenses, Mark, O'Connell, and McNamee face maximum penalties ranging from 11 to 41 years imprisonment and hundreds of thousands of dollars in fines. The corporate defendants face millions of dollars in criminal penalties.

This case was investigated by the U.S. Environmental Protection Agency's Criminal Investigation Division, the U.S. Department of Labor's Office of Inspector General, and the Wisconsin Department of Natural Resources, Warden's Service.

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

Kansas City Area Laboratory Owner Charged for Illegally Storing Hazardous Waste and Obstructing Environmental Protection Agency — Lab Used Radioactive Material and Solvents

On March 16, 2017, Ahmed el-Sherif, the owner/operator and radiation safety officer for Beta Chem Laboratory in Lenexa, Kansas, was charged with illegally storing hazardous waste and obstructing an agency proceeding, announced Acting Assistant Attorney General Jeff Wood for the Justice Department's Environment and Natural Resources Division, U.S. Attorney Tom Beall for the District of Kansas, and Jessica Taylor, Director of the Criminal Investigation Division of the U.S. Environmental Protection Agency (EPA).

According to allegations contained in the two-count indictment:

El-Sherif, 61, a chemist, started Beta Chem in the mid-1990s, which he owned and operated. Beta Chem used radioactive Carbon-14 and solvents in the operation, under license by the Kansas Department of Health and Environment (KDHE). KDHE has assumed certain regulatory authority from the U.S. Nuclear Regulatory Commission under the Atomic Energy Act. In September 2005, KDHE performed an inspection of Beta Chem and discovered extensive radioactive contamination in the laboratory, and the next day issued an Emergency Order of Suspension of License. U.S. EPA conducted a hazardous waste inspection the same month, and subsequently notified el-Sherif of hazardous waste violations under the Resource Conservation and Recovery Act (RCRA). During the ensuing years, KDHE communicated with el-Sherif about the radioactive contamination at Beta Chem. On October 4, 2013, after issuing an Emergency Order to Seize and Secure Radioactive Materials, KDHE took control of Beta Chem and secured the facility.

The Criminal Investigation Division of EPA executed a search warrant at Beta Chem on January 22, 2014, where agents discovered numerous containers containing hazardous wastes contaminated with radiation. EPA's Superfund program subsequently engaged in a removal action and disposed of the hazardous waste at a cost of over \$760,000. In the process of assessing el-Sherif's ability to pay for cleanup costs, EPA requested financial information. El-Sherif submitted three Beta Chem tax returns to EPA that he falsely claimed had been filed and that contained fictitious and misleading information.

An indictment is an allegation based upon a grand jury finding of probable cause. A defendant is presumed innocent unless and until convicted. If convicted of both charges, el-Sherif faces up to ten years in prison, and also could be fined.

Acting Assistant Attorney General Wood and U.S. Attorney Beall thanked the U.S. EPA for its work in this investigation. This case is being prosecuted by the Environmental Crimes Section of the Department of Justice and the U.S. Attorney's Office.