



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. Unless otherwise noted, all photos are provided by EPA-CID.

April—May 2018

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South Carolina couple sentenced to a total of 138 months in prison for trafficking counterfeit goods, including misbranded pet medicine

David Haisten, 51, and Judy Haisten, 51, both of Irmo, South Carolina, were sentenced on May 10, 2018, to 78 and 60 months of incarceration, respectively. A jury found the Haistens guilty in October 2017 of conspiracy as well as six counts of violating the Federal Insecticide, Fungicide, and Rodenticide Act, five counts of distributing misbranded animal drugs, and two counts of trafficking in counterfeit goods.

For about six years, and despite repeated warnings from numerous companies and government agencies, the defendants sold counterfeit DVDs, unregistered and misbranded pesticides, and misbranded animal drugs to customers online across the United States.

The defendants' products, including pesticides that are extremely toxic in the wrong dose, posed a serious risk to animals and humans. Further, as detailed at trial, the defendants' packaging and instructions for use increased the likelihood that an injury would occur.

"This joint venture generated millions of dollars in illegal income," said U.S. Attorney McSwain. "Despite multiple warnings and cease and desist letters, the defendants continued to reinvent themselves and flout the law. Ultimately, it took federal arrests to stop them. Given their disdain for the law, the defendants deserved a substantial prison term."

"To ensure that consumers know what they are purchasing and how to safely use these products, pesticides must be registered and properly labeled," said Susan Bodine, Assistant Administrator for the Environmental Protection Agency's Office of Enforcement and Compliance Assurance. "Today's sentencing sends a strong signal that EPA and its law enforcement partners will hold responsible those who put consumers at risk for competitive advantage."

"The FDA is committed to working with our federal partners to bring criminals to justice who endanger our pets by distributing unapproved and unsafe drugs," said Mark S. McCormack, Special Agent in Charge, Food and Drug Administration Office of Criminal Investigations' Metro Washington Field Office.

"The uncontrolled distribution of unregistered and misbranded pesticides, and misbranded animal drugs pose a serious threat to public safety," said Special Agent in Charge Marlon V. Miller, Homeland Security Investigations Philadelphia Field Office. "Let David and Judy Haisten's sentencing serve as a reminder that our



local, state and, federal partners will use all available means to investigate and prosecute individuals who disregard the rule of law.”

The case was investigated by EPA’s Criminal Investigative Division, FDA’s Office of Criminal Investigations, and the Department of Homeland Security. The case was prosecuted by DOJ.

Radiation Control Technician Supervisors Sentenced For Falsifying Former Hunter's Point Naval Shipyard Clean-Up Records:

Stephen C. Rolfe and Justin E. Hubbard were sentenced to eight months in prison for falsifying records in a federal investigation. Both defendants supervised a team of radiation control technicians retained to conduct radiological remediation at the former Hunter's Point Naval Shipyard. The defendants were sentenced after each pleaded guilty to falsifying documents in related criminal cases.

Defendants admit substituting "clean dirt" for legitimate soil samples in order to fake the results of radiological remediation efforts.

Hubbard and Rolfe were both sentenced to eight months in prison for falsifying documents. Hubbard pleaded guilty on May 10, 2017 and was sentenced on May 3, 2018. Rolfe pleaded guilty on March 15, 2017 and was sentenced on January 24, 2018.

"When our community's health and safety is in jeopardy, we must vigilantly respond with all of our law enforcement tools," said Acting United States Attorney Tse. "This sentence reflects our commitment to ensure that bogus reports intended to deceive the protectors of our environment will be investigated and prosecuted to

the fullest extent of the law. We could not have achieved this success without the coordinated efforts of the Justice Department and our partner agencies."

"Today's announcement by the U.S. Attorney's Office reaffirms the NRC's continuing commitment to protecting public health, safety and the environment. The collaborative work of all federal agencies involved in this case serves as a reminder that the NRC will hold accountable any individual who willfully provides inaccurate and incomplete information to a safety regulator," said NRC Executive Director for Operations Victor M. McCree.



"Accurate data is a critical component of EPA's efforts to protect communities and the environment at Superfund sites," said Assistant Administrator Susan Bodine. "Yesterday's sentence demonstrates that those who place communities at risk by deliberately falsifying information will be held accountable."

"Rolfe and Hubbard's lies and shortcuts in the soil-testing process potentially put the community at risk and

frustrated the contracting efforts of the U.S. Navy to test and remediate soil at the former Hunter's Point Naval Shipyard," said Special Agent in Charge Hendrickson. "These results demonstrate that DCIS and its law enforcement partners are committed to holding accountable those who cheat the Department of Defense procurement process and U.S. taxpayers."

According to their plea agreements, the defendants were employed by government contractors performing nuclear remediation work at the former Hunter's Point Naval Shipyard located in the Bayview District of San Francisco. Contractors at the site were expected to take soil from certain marked sampling locations, referred to as survey units, have the samples bagged and labeled, and then send them to a laboratory for analysis to determine, among other things, whether they contained certain radionuclides above an acceptable level. If a laboratory analysis determined a collected sample to contain a higher-than-allowable level of radionuclides of concern, then additional remediation of the survey area was to be conducted until all samples passed laboratory analysis. The defendants admitted that, rather than take samples from the intended survey units undergoing analysis, they participated in the substitution of dirt that was "clean" (containing acceptable levels of radionuclides) fraudulently taken from other areas within the former naval base.

As part of his plea agreement, Hubbard admitted that during 2012, he drove his company truck to an area outside the marked survey unit that he was tasked with remediating, and filled a bucket with clean dirt that he then substituted for legitimate soil samples. He then placed bar code stickers on the bags of dirt that misidentified the locations from where the samples were obtained. Hubbard acknowledged that he knew he was falsifying data that would ultimately be submitted to the U.S. Navy to demonstrate the area had been successfully remediated. Hubbard specifically admitted that on May 31, 2012, he fraudulently switched soil samples for four survey units at the former naval shipyard.

Rolfe admitted that he directed employees on his team to get clean dirt from outside the appropriate marked survey units and to substitute this clean dirt for legitimately collected samples. Rolfe estimated that he told his subordinates to obtain clean dirt in this manner on approximately twenty occasions in 2012. Rolfe further admitted that during this period, he observed forms containing this false information being filled out on between ten and twenty occasions. Rolfe admitted that on one occasion in August 2012, he personally falsified data on a tracking sheet to suggest that a sample of soil came from an area that he knew it did not. Rolfe acknowledged that he knew his conduct would impede the proper investigation and administration of the U.S. Navy's radiological remediation efforts at the former naval shipyard.

Hubbard and Rolfe both were charged by information, each with one count of destruction, alteration, or falsification of records in federal investigations and bankruptcy.

In addition to their prison terms, Hubbard and Rolfe were ordered to pay fines of \$10,000 and \$2,000, respectively. Both will be placed on a three-year period of supervised release following their prison sentences. Counsel for the defendants informed the Court that both defendants no longer work in the remediation industry. Judge Donato ordered Hubbard to self-surrender on or before July 9, 2018, to begin serving his sentence. Rolfe is currently serving his sentence.

Fraudster Sentenced to 51 Months in Federal Prison

Jin Chul “Jacob” Cha, age 41, of Tustin, California, who pleaded guilty on January 11, 2018 to Conspiracy to Defraud the Government and Conspiracy to Commit Wire Fraud, was sentenced on April 20, 2018 to a 51-month term of imprisonment, to be followed by a three-year term of court supervision after he is released from Federal prison.

According to information disclosed during the court proceedings, Cha was a member of a conspiracy involving Gen-X Energy Group, Inc. (Gen-X), a renewable energy company formerly located in Pasco and Moses Lake, Washington. Between October of 2012 and March of 2015, Cha and his co-conspirators falsely claimed the production of more than 9,400,000 marketable renewable energy credits, which they then sold for more than \$6,000,000, and filed false claims with the IRS for \$2,506,094 in excise credit refunds. Throughout this period, much of the renewable fuel claimed to be produced at the Gen-X facilities was either not produced or re-processed multiple times.

“The defendant, Mr. Cha, has been sentenced to spend years in prison for his role in a multi-million dollar conspiracy to defraud the renewable fuels program,” said Acting Assistant Attorney General Jeffrey H. Wood of the Justice Department’s Environment and Natural Resources Division. “This prosecution, which is part of a broader effort involving the Gen-X Energy Group, shows there are serious consequences for this kind of fraudulent conduct. I applaud the work of the federal, state, and local law enforcement personnel involved in bringing down this criminal enterprise.”

Joseph H. Harrington said, “I commend the tenacious and thorough efforts of investigators from IRS-Criminal Investigation and the Environmental Protection Agency’s Criminal Investigation Division. The United States Attorney’s Office will continue to work closely with our law enforcement partners to aggressively prosecute fraud and other white collar crimes in the Eastern District of Washington.”

“Today Mr. Cha and the Gen-X Energy Group are being held accountable for their massive and complex \$65 million fraud,” said Darrell Waldon, Special Agent in Charge of IRS Criminal Investigation. “Along with our law enforcement partners IRS Criminal Investigation will continue to vigorously investigate and prosecute white collar criminals who pursue illegal schemes to steal from the U.S. taxpayer.”

“The defendant defrauded taxpayers and biofuels companies out of millions of dollars,” said Susan Bodine, assistant administrator for EPA’s Office of Enforcement and Compliance Assurance. “This case shows that EPA and its law enforcement partners will prosecute those who seek to profit by breaking the law.”

This investigation was conducted by IRS’ Criminal Investigations, EPA’s Criminal Investigation Division, and the US Secret Service, with assistance from the Washington State Patrol and the Los Angeles Port Police Department Hazardous Materials Investigations Unit. The case was prosecuted by a DOJ litigation team.

Carl Zeiss Vision, Inc. Fined \$750,000 for Repeatedly Discharging Hazardous Waste into Public Sewer System

On April 23, 2018, Carl Zeiss Vision, Inc. was ordered to pay \$750,000 in criminal fines for repeatedly discharging untreated wastewater from its lens-manufacturing facility in Clackamas, Oregon to the Kellogg Creek Wastewater Treatment Plant.

“The Justice Department will not tolerate any business, corporation, or individual that bypasses federal environmental laws to seek a competitive advantage or to maximize profits,” said Billy J. Williams, U.S. Attorney for the District of Oregon. “We will continue to aggressively prosecute individuals and corporations whose illegal conduct threatens our region’s natural resources and public health.”

“Our laws are designed to keep communities safe and protect our natural resources by requiring companies to take appropriate steps in managing hazardous chemicals,” said Susan Bodine, Assistant Administrator for the Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance. “Companies that fail to comply with the law out of negligence or that seek economic advantage will be held responsible for their actions.”

According to court documents, over a multi-year period, Zeiss knowingly discharged a variety of hazardous substances to the Clackamas County sewer system.

In May 2012, Clackamas Water Environmental Services sent Zeiss a “Non-Residential Questionnaire” or industrial user survey as required by the Clean Water Act. In response, the company falsely described its wastewater as being 200 gallons per day of “green lens cleaner” that required no pretreatment. In reality, Zeiss regularly discharged cadmium-and-lead alloys, acidic lens polish, and potassium hydroxide the company attempted to neutralize with hydrochloric and muriatic acids.

In March and June 2015, EPA’s Criminal Investigation Division installed pH probes in the sewer line coming from the Zeiss manufacturing facility. These probes detected regular unlawful discharges. Investigators recorded unlawful waste discharges (with excessively high or low pH levels) on two-thirds of the days monitored. The government estimates Zeiss avoided \$382,000 in proper disposal costs over the period of the offense. By failing to disclose its discharges to Clackamas County, the company operated completely outside pretreatment regulations for years.

Carl Zeiss Vision, Inc. is a subsidiary of the Zeiss International based in Oberkochen, Germany. The company



previously pleaded guilty on January 4, 2018 to one count of violating wastewater pretreatment requirements of the Clean Water Act.

This case was investigated by EPA's Criminal Investigation Division and prosecuted by DOJ.

Delta Sonic Employee Pleads Guilty In Connection With Oil Discharge Into Cayuga Creek

On Wednesday, April 18, 2018, Michael Yount, 46, of Lancaster, NY, pleaded guilty to making a materially false statement. The charge carries a maximum penalty of five years in prison and a \$250,000 fine. Sentencing is scheduled for August 23, 2018.

On July 18, 2016, the New York State Department of Environmental Conservation responded to an alleged oil spill in Cayuga Creek in Niagara Falls, NY. The NYS-DEC Spills Unit found a significant amount of suspected waste oil in the creek along Niagara Falls Boulevard near Tuscarora Road and in a large storm sewer water pipe along Niagara Falls Boulevard.

As part of a subsequent investigation, a DEC Environmental Programs Technician began looking into potential sources of the oil discharge—which the Technician estimated to be between 300 and 500 gallon oil spill—and whether a violation of the Clean Water Act had occurred. The Technician contacted the defendant, who was the Environmental Compliance Officer for Delta Sonic Car Wash Systems, Inc., which has a location on Niagara Falls Boulevard, approximately a half a mile from Cayuga Creek. During a meeting at the Delta Sonic location on Niagara Falls Boulevard, the Technician learned that Delta Sonic was renovating the oil change and lube shop garage, which involved the removal of concrete floors by a subcontractor. At that time, Yount stated that there had not been any problems except for a minor spill of approximately two gallons of oil which was immediately cleaned up.



The Technician returned to Delta Sonic the following day and observed an absorbent boom with oil on it in a storm sewer receiver located in the parking lot outside of the oil change garage. While the Technician was looking into the storm sewer receiver with the defendant, Yount, sought to mislead the Technician by stating that booms were often left in sewers and that the boom in question may have been in there for some time. However, the defendant knew that booms were not often left in the sewers at Delta Sonic and that this boom had been placed in the storm sewer receiver approximately six days earlier. Such boom had been placed in the storm sewer receiver as a result of a complaint by another Delta Sonic employee that oily wastewater was being pumped into it as a result of the renovation of the Delta Sonic oil change and lube shop garage.



“The Great Lakes, the Niagara River, and its tributaries are among the most precious natural resources in our community,” stated U.S. Attorney Kennedy. “We will continue to work vigilantly with our federal, state, and local partners to preserve and protect those valuable resources and to prosecute those whose actions bring them harm.”

“The failure of this defendant to supply accurate and timely information on this spill delayed a speedy response to rectify this environmental threat,” said NYS-DEC Commissioner Basil Seggos. “DEC’s spill response experts are on the frontlines every day protecting New Yorkers when incidents happen and need correct information to guide on-the-ground remediation efforts. I applaud the work of our DEC Investigators, the United States Attorney’s Office for the Western District of New York and the Environmental Protection Agency for bringing this case to fruition.”

The plea is the result of an investigation by the Environmental Protection Agency –Criminal Investigation Division, under the direction of Special Agent-In-Charge Tyler Amon; the New York State Department of Environmental Conservation Police, BECI, under the direction of Captain John Burke; and the Niagara Falls Police Department, under the direction of Chief Bryan DalPorto.

Carlisle Construction Company Pleads Guilty To Violations Of The Toxic Substances Control Act

Charles H. Bitner, Jr., age 45, of Carlisle, Pennsylvania, President and Owner of Bitner Brothers Construction Company, Inc. (Bitner Brothers), located in Carlisle, entered a plea of guilty on May 22, 2018, on behalf of Bitner Brothers before United States Magistrate Judge Martin C. Carlson to violations of the Toxic Substances Control Act.

According to United States Attorney David J. Freed, Bitner Brothers was an experienced construction contractor certified by the U.S. Environmental Protection Agency as a lead renovator since October 2010. Charles H. Bitner, Jr. was certified as a lead renovator by the U.S. Environmental Protection Agency since October 2010. The company pled guilty to violating applicable work practices enacted pursuant to the Toxic Substances Control Act governing the reduction of lead exposure during renovations at a residential facility, by conducting power grinding without a shroud or containment system equipped with HEPA vacuum of lead-based painted surfaces.



“By ignoring important rules regarding the presence of lead in older buildings, the defendant’s actions put children in the local community at risk for serious injury,” said Assistant Special Agent-in-Charge Jennifer Lynn of the U.S. Environmental Protection Agency’s Criminal Investigation Division in Pennsylvania. “Today’s plea should serve notice that anyone who fails to comply with critical environmental regulations that protect public health will be prosecuted to the fullest extent of the law.”

A sentence following a finding of guilt is imposed by the Judge after consideration of the applicable federal sentencing statutes and the Federal Sentencing Guidelines.

The maximum penalty under federal law for this offense is five years’ probation, and a \$200,000 fine. Bitner Brothers Construction agreed not to be involved in lead abatement projects for the period of probation. Under the Federal Sentencing Guidelines, the Judge is also required to consider and weigh a number of factors, including the nature, circumstances and seriousness of the offense; the history and characteristics of the defendant; and the need to punish the defendant, protect the public and provide for the defendant’s educational, vocational and medical needs. For these reasons, the statutory maximum penalty for the offense is not an accurate indicator of the potential sentence for a specific defendant.

The case was investigated by the U.S. Environmental Protection Agency’s Criminal Investigation Division. A DOJ Assistant US Attorney is prosecuting the case.

Hanover Man Found Guilty of Dumping Sewage into West Virginia Stream—Defendant was dumping truckloads of sewage into Little Huff Creek in Wyoming County

On April 18, 2018, after a two day jury trial, Mike Blankenship, 54, of Hanover, West Virginia was found guilty and convicted on two felony Clean Water Act violations. Blankenship faces a total sentence of up to six years of incarceration, a \$500,000 fine, supervised release for three years, and a special assessment of \$200 when he is sentenced on August 1, 2018. United States Attorney Mike Stuart praised the work of the Environmental Protection Agency and the West Virginia Department of Environmental Protection, who were also assisted by the Federal Bureau of Investigation and the West Virginia State Police.

Neighbors provided photographic evidence that... showed Blankenship's trucks dumping sewage and porta-john waste into the creek

"Environmental crimes are serious, serious matters," said United States Attorney Mike Stuart. "After presentation of the evidence and in front of a jury of his peers, Mr. Blankenship was convicted for a serious environmental crime. Great work by my team and by the EPA and West Virginia Department of Environmental Protection."

"The defendant in this case showed reckless disregard for the environment and public health," said Susan Bodine, assistant administrator of EPA's Office of Enforcement and Compliance Assurance. "Working together, EPA, FBI and the State of West Virginia are sending a clear message that those who violate laws designed to protect our communities will be held responsible."

On September 29, 2015, a sewage truck owned by Blankenship was seen dumping untreated sewage into Little Huff Creek, a tributary of the Guyandotte River in Southwestern West Virginia. Inspectors with the West Virginia Department of Environmental Protection (WVDEP) responded to the truck's location in Hanover, West Virginia. They saw the sewage truck with a hose placed in the creek, observed sewage in the water and on the ground, and quickly requested the assistance of the West Virginia State Police. Returning to the truck, WVDEP agents were able to take samples from the truck and pad. Lab tests confirmed the presence of fecal coliform, an indicator of raw or untreated sewage. Later, agents with the FBI, EPA, and WVDEP spoke to Blankenship. Blankenship owns a porta-john and sewage business under the name Hanover Contracting Company. Blankenship admitted that it was his sewage truck dumping sewage into the water on the day the WVDEP inspectors observed it. Blankenship also admitted to dumping sewage into Little Huff Creek on other occasions. Neighbors provided photographic evidence that they testified showed Blankenship's trucks dumping sewage and porta-john waste into the creek on various dates in 2015 and 2016. The jury also heard testimony from the law enforcement agents and experts in water quality assessment.

The case was investigated by EPA's Criminal Investigation Division, the FBI and the West Virginia Department of Environmental Protection. The case was prosecuted by DOJ.

Charleston Man and Airport Service Business Plead Guilty to Hazardous Waste Charge

Brian Scott Miller, President of Executive Air Terminal, Inc., and Executive Air Terminal, Inc. each pled guilty on May 3, 2018 to the felony offense of Storage of Hazardous Waste without a Permit. Executive Air provides fueling and other services for private and commercial airplanes at Yeager Airport in Charleston, West Virginia. Miller is the owner and president of Executive Air. Miller, 56, of Charleston, faces up to 5 years of imprisonment, a \$250,000 fine, supervised release for three years, and a special assessment. Sentencing is scheduled for July 19, 2018. Executive Air faces a corporate fine of up to \$500,000.

Executive Air's business of fueling and servicing planes generated hazardous waste. The waste was stored in unlabeled 55 gallon drums that were kept on site. By September of 2015, Executive Air had accumulated 37 drums of waste fluid, of which 27 drums were hazardous under federal law. The 27 drums of hazardous waste included a mix of oil, aviation gas, and jet fuel, and each drum was hazardous because it was either ignitable, toxic, or both. Executive Air did not have the federally required permit to store such a large quantity of hazardous waste. Miller admitted that he knew about the drums of waste material at Executive Air. In his plea agreement, Miller admitted that he directed that employees of Executive Air to dispose of the waste drums in September of 2015. Instead of hiring a licensed hazardous waste hauler, the employees moved the drums in the middle of the night to a farm outside Charleston, West Virginia. The drums were further moved to a building in Charleston where they were discovered by the U.S. Environmental Protection Agency Criminal Investigation Division in November 2015. Once discovered, the drums were then sent to a licensed hazardous waste disposal facility for proper disposal.

“Business owners have a responsibility to legally and safely dispose of hazardous waste, and everyone will be held accountable for violating these responsibilities.”

—US Attorney Mike Stuart

The case is being investigated by EPA's Criminal Investigation Division, West Virginia Dept. of Environmental Protection and the Yeager Airport Police Dept. The case is being prosecuted by DOJ.

Man Pleads Guilty to Falsifying Water Testing in Branchville

Caleb Elias Hartzog, Jr., age 59, of Orangeburg, South Carolina, pled guilty on May 23, 2018 to Making a False Statement to a Government Agency, and is scheduled to be sentenced on September 11, 2018.

Evidence presented at the hearing established that Caleb Hartzog, a former drinking water operator for the town of Branchville, South Carolina, forged forms certifying that residents had collected drinking water samples from within their homes. Hartzog falsified forms for at least ten residential homes. Several residents claimed no one had been taking water samples from their homes for some time, and, in certain cases, ever. The samples were to be analyzed for potential lead and copper contamination. None of the ten residents had signed the forms in 2014, the year that is the basis for the criminal charges.

Testing performed after Hartzog was no longer the drinking water operator revealed no contamination of the Branchville water supply.

The maximum penalty faced by Hartzog is imprisonment for five years, with a potential fine up to \$250,000.

EPA's Criminal Investigation Division and the South Carolina Department of Health and Environmental Control (DHEC) investigated the case. DOJ is prosecuting the case.

Baker Man and Trucking Company Found Guilty for Mislabeling and Falsifying Records Related to Transporting Explosive Materials

On May 22, 2018, after an 8 day jury trial in Billings, Montana, Woody's Trucking, LLC and Donald E. Wood, Jr. were found guilty of multiple before the Honorable Susan P. Watters. Both Defendants were charged with conspiracy, wire fraud, mail fraud, placarding violations and obstruction of justice stemming from an explosion at an oil and gas processing facility in Wibaux, Montana. The defendants were convicted of 13 of 14 counts. The one count of acquittal related to one of the placarding violations. Forfeiture in the case amounts to \$644,689.70.

On December 29, 2012, a driver for Woody's Trucking, loaded natural gas condensate, or "drip gas," from a pipeline station that transports products from the Bakken oil fields in Montana and North Dakota. The drip gas was hauled from Watford City, North Dakota, to Custom Carbon Processing, Inc. (CCP). CCP is a slop-oil processing/recycling company based near Wibaux, Montana. The bill of lading that accompanied the shipment identified the product as "slop oil and water," which is a non-hazardous substance. However, while the driver was pumping from the truck's front tank into the CCP facility, a fire ignited, injuring three employees. The tanks on the truck burned for eight days until the local fire department could determine that they held drip gas and not slop oil and water, as indicated on the bill of lading. Drip gas is a hazardous material and the truck was not placarded to indicate it held a flammable liquid. Three employees were seriously injured in the explosion.



Witnesses at trial testified that the CEO of the company, Donald Wood, Jr., directed the driver to place a falsified Bill of Lading in the burned out truck several days after the explosion. The reason was to cover up the fact that the company was hauling drip gas without placards. Furthermore, the company had no insurance coverage for hauling drip gas.

Sometime after the explosion, the employees of the burned facility sued Woody's Trucking, the owners of the CCP facility and others for negligence in a civil action. Woody's submitted the lawsuit to their insurance company for payment of costs, attorney fees and payment of the eventual settlements to the injured workers. The insurance company agreed to settle the claims, but always maintained that there was no coverage for hauling drip gas.

U.S. Attorney Kurt Alme stated, "I want to thank the prosecution team and the representatives from the Department of Transportation and Environmental Protection Agency that coordinated on this important investigation. Mislabeling and submitting false documents to conceal the presence of explosive material on public highways are serious criminal matters that will be prosecuted to the fullest extent of the law. As this case demonstrates, the failure to properly disclose and label hazardous materials can endanger lives."

"The defendants in this case tried to cover up safety violations by providing falsified documents to first re-

sponders, showing little regard for the safety of first responders, public health, or environmental damage,” said Susan Bodine, assistant administrator for EPA’s Office of Enforcement and Compliance Assurance. “Today’s guilty verdict shows that EPA, our law enforcement partners, and the jury agree that those who choose to disregard laws designed to keep our communities safe from chemical accidents should be held accountable for their actions.”

The jury deliberated for 3 hours before finding both defendants guilty of 13 of 14 counts.

The case was tried by AUSA Adam Duerk and SAUSA Eric Nelson of the EPA. The United States’ Attorney’s Office conducted this investigation with the Environmental Protection Agency - Criminal Investigation Division as well as the Department of Transportation.

Terminix Employee Illegally Applied Pesticides Containing Methyl Bromide to Residences in St. John, St. Croix, and St. Thomas, U.S.V.I.

Jose Rivera, 59, was indicted on April 13, 2018, by a federal grand jury for violating the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). According to the indictment, Rivera illegally applied fumigants containing methyl bromide in multiple residential locations in the U.S. Virgin Islands, including the condominium resort complex in St. John, where a family of four fell seriously ill in March 2015, announced Assistant Attorney General Jeffrey H. Wood of the Environment and Natural Resources Division and United States Attorney Gretchen C.F. Shappert for the District of the Virgin Islands.

The indictment alleges that Rivera knowingly applied restricted-use fumigants at the Sirenusa resort in St. John for the purpose of exterminating household pests on or about Oct. 20, 2014, and on or about March 18, 2015. The defendant was also charged with applying the restricted-use pesticide in eight residential units in St. Croix and one additional unit in St. Thomas between April 2013 and February 2015.

In 1984, EPA banned the indoor use of methyl bromide products. The few remaining uses are severely restricted. Pesticides containing methyl bromide in the U.S. are restricted-use due to their acute toxicity, meaning that they must only be applied by a certified applicator. Health effects of acute exposure to methyl bromide are serious and include central nervous system and respiratory system damage. Pesticides can be very toxic and it is critically important that they be used only as approved by EPA.

Earlier this year, TERMINIX LP and TERMINIX, USVI were sentenced to pay a total of \$9.2 million in criminal fines and restitution. The companies were also ordered to perform community service following an investigation and guilty pleas to their use and application of illegal fumigants in multiple residential locations in the Virgin Islands.

The case was investigated by EPA's Criminal Investigation Division, working cooperatively with the Virgins Islands government and the Agency for Toxic Substances and Disease Registry. A joint DOJ/EPA litigation team is prosecuting the case.

An indictment is merely a formal charging document and is not evidence of guilt. Every defendant is presumed innocent until, and unless, proven guilty.

Five Pennsylvania Men Charged With Conspiring To Defraud The United States And Violate The Clean Air Act

On May 30, 2018 Gavin Rexer, age 29, Dennis Paulhamus, age 39, Timothy Sweitzer, age 41, all of Jersey Shore, Pennsylvania, Joseph Powell, age 31, of Hickory, Pennsylvania, and John Joseph, age 38, of Canonsburg, Pennsylvania, were charged in a criminal information on May 25, 2018, with conspiring to impede the lawful functions of the Environmental Protection Agency (EPA) and Department of Transportation (DOT), and to violate the Clean Air Act.

According to United States Attorney, Powell and Joseph were employees of Rockwater Northeast LLC, a company that serviced the fracking industry. In the course of their employment, Rexer, Powell, and Joseph conspired to modify the emissions systems on approximately 30 Rockwater heavy-duty diesel trucks by using “defeat devices.” The defeat devices were obtained from Paulhamus and Sweitzer and their purchases were concealed in Rockwater’s books and records by mislabeling them as exhaust systems. The conspirators also are accused of taking the modified commercial motor vehicles to state approved inspection stations, including Sweitzer’s Garage, to pass federally regulated commercial motor vehicle inspections falsely.

“We take seriously our job of protecting the environment in Pennsylvania, and we won’t hesitate to prosecute individuals committing environmental crimes,” said United States Attorney Freed.

“For years, the defendants engaged in a broad-based criminal conspiracy to manipulate vehicle emission components as a cost savings measure,” said Assistant Special Agent in Charge Jennifer Lynn of EPA’s Criminal Investigation Division. “EPA and its law enforcement partners are committed to holding responsible those who violate environmental laws for competitive advantage.”

“This investigation demonstrates our commitment to ensuring the safe and efficient travel of commercial motor vehicles,” said Douglas Shoemaker, regional Special Agent-in-Charge of the DOT Office of Inspector General. “Working with our Federal, State, and local law enforcement and prosecutorial colleagues, we will continue to protect the public’s safety from those that would seek to circumvent DOT-related laws and regulations.”

The matter was investigated by the EPA’s Criminal Investigations Division and the DOT’s Office of the Inspector General, with the assistance of the Pennsylvania State Police and other law enforcement agencies. The case is being prosecuted by DOJ Assistant and Special Assistant US Attorneys.

Criminal Informations are only allegations. All persons charged are presumed to be innocent unless and until found guilty in court.

Former Fulton County Tannery Owner Charged with Illegally Storing Hazardous Waste

Robert James Carville, age 56, of West Palm Beach, Florida, was arrested on April 10, 2018 on charges that he illegally stored hazardous waste in an abandoned tannery building in Johnstown, New York, where Carville had owned and operated a tannery known as Carville National Leather.

The announcement was made by United States Attorney Grant C. Jaquith and Tyler Amon, Special Agent in Charge for the Environmental Protection Agency's Criminal Investigation Division (EPA-CID), Regions 1 and 2.

The indictment alleges that Carville knowingly stored hundreds of gallons of hazardous waste, including chromium, lead, and both ignitable and corrosive chemicals, without a permit for more than two years beginning in April 2014 at the abandoned Carville National Leather facility located at 10 Knox Avenue in Johnstown, New York, in violation of the Resource Conservation and Recovery Act (RCRA).

The indictment also alleges that Carville failed to report the release of these hazardous substances by failing to notify appropriate governmental agencies that he had abandoned these hazardous chemicals, in violation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the Superfund law.

The charges in the indictment are merely accusations. The defendant is presumed innocent unless and until proven guilty.

The charges filed against Carville carry a maximum sentence of 3 years in prison, a maximum fine of more than \$41 million (based on the number of days of violations alleged in the indictment), and a term of post-imprisonment supervised release of up to 1 year. A defendant's sentence is imposed by a judge based on the particular statute the defendant is charged with violating, the U.S. Sentencing Guidelines and other factors.

This case is being investigated by EPA's Criminal Investigation Division and is being prosecuted by DOJ.

Former CEO of Volkswagen AG Charged with Conspiracy and Wire Fraud in Diesel Emissions Scandal

An indictment was unsealed on May 3, 2018, charging Martin Winterkorn, 70, the former chairman of the management board of Volkswagen AG (VW), with conspiracy and wire fraud in connection with VW's long-running scheme to cheat U.S. diesel vehicle emissions requirements.

The superseding indictment was issued by a federal grand jury sitting in the Eastern District of Michigan and charges Winterkorn with four counts of violating federal law. The first count charges that Winterkorn conspired with other senior VW executives and employees to defraud the United States, defraud VW's U.S. customers and violate the Clean Air Act by making false representations to regulators and the public about the ability of VW's supposedly "clean diesel" vehicles to comply with U.S. emissions requirements. The remaining three counts charge Winterkorn with wire fraud in connection with the scheme.

"If you try to deceive the United States, then you will pay a heavy price," said Attorney General Sessions. "The indictment unsealed today alleges that Volkswagen's scheme to cheat its legal requirements went all the way to the top of the company. These are serious allegations, and we will prosecute this case to the fullest extent of the law. I want to thank the Criminal Division's Fraud Section, the Department's Environment and Natural Resources Division and the U.S. Attorney's Office for the Eastern District of Michigan as well as our partners at the EPA, FBI and in Germany for their hard work on this important case."

"Volkswagen deceived American regulators and defrauded American consumers for years," said U.S. Attorney Schneider. "The fact that this criminal conduct was allegedly blessed at Volkswagen's highest levels is appalling. The U.S. Attorney's Office is committed to pursuing accountability for corporate crimes, and the Winterkorn prosecution is a reflection of that commitment."

"The indictment of former VW CEO Martin Winterkorn should send a clear message that EPA and its law enforcement partners will seek to hold corporate officers accountable for alleged criminal activities at their company," said EPA Administrator Pruitt.

"Today's indictment of Volkswagen AG's former CEO, Martin Winterkorn, sends a clear message that businesses both here in the United States and abroad are expected to conduct their business honestly," said FBI Special Agent in Charge Slater. "Accountability will be sought for any individuals or corporations that cheat American consumers or harm the environment by circumventing the standards set by our legal system."

The indictment of Winterkorn represents the most recent charges in an ongoing investigation by U.S. criminal authorities into unprecedented emissions cheating by VW. In March 2017, VW pleaded guilty to criminal charges that it deceived U.S. regulatory agencies, including the Environmental Protection Agency (EPA) and the California Air Resources Board (CARB), by installing so-called defeat devices in diesel vehicles emissions control systems that were designed to cheat emissions tests. The defeat devices consisted of software designed to recognize whether a vehicle was undergoing standard U.S. emissions testing on a dynamometer or being driven on the road under normal driving conditions, in which case harmful nitrogen oxide (NOx) emissions increased significantly.

As part of its plea agreement with the Department, VW paid a criminal penalty of \$2.8 billion. VW also agreed to the imposition of an independent corporate compliance monitor for the duration of its probation, which is at least three years. Subsequently, Larry Thompson was appointed as VW's monitor.

Winterkorn, who served as VW's management board chairman and thus VW's highest ranking executive from January 2007 until September 2015, is the ninth individual against whom U.S. criminal authorities have announced charges in connection with this matter. Two former VW engineers, Oliver Schmidt, 48, and James Liang, 63, both German citizens, pleaded guilty to participating in the conspiracy alleged in the indictment and are currently serving sentences of 84 months and 40 months in prison, respectively, imposed by U.S. District Judge Sean F. Cox of the Eastern District of Michigan. Five additional defendants, including former VW executives and senior managers, were indicted in January 2017, but have not been apprehended. Similar to Winterkorn, each of them is believed to be a German citizen and to reside in Germany. Finally, one former manager of VW's subsidiary Audi AG, Giovanni Pamio, 61, an Italian citizen, has been charged by complaint and currently remains in Germany pending extradition.

The indictment of Winterkorn alleges that he was informed of VW's diesel emissions cheating in May 2014 and again in July 2015. The indictment further alleges that Winterkorn, after having been clearly informed of the emissions cheating, agreed with other senior VW executives to continue to perpetrate the fraud and deceive U.S. regulators.

As the indictment sets forth, in the spring of 2014 a study commissioned by the International Council on Clean Transportation (the ICCT study) tested road emissions of two VW diesel vehicles sold in the United States. The results of the study showed significantly elevated NOx levels of the two VW vehicles, with one emitting up to 35 times above the allowable legal limit. VW management quickly learned of the results of the study and discussed potential consequences flowing from the revelations. Specifically, the indictment alleges that Bernd Gottweis, a senior manager then responsible for product safety issues, met with employees of the engine development department to discuss the ICCT study. Upon learning of the facts revealed by the study and the risks facing the company, Gottweis remarked that he needed to speak with Winterkorn immediately. Shortly thereafter, on May 22, 2014, Gottweis wrote a one-page memorandum describing the results of the ICCT study and warning that VW could not give a well-grounded explanation for the dramatically increased NOx emissions and that it could be assumed that the authorities would investigate whether the vehicles contained test-recognition software. Gottweis's memorandum was then attached to a cover note authored by a then-senior VW executive, and addressed to Winterkorn.

As alleged in the indictment, following publication of the ICCT study in the spring of 2014 the company knowingly continued to deny the existence of emissions cheating in its vehicles until late summer 2015. Instead, VW sought to deceive U.S. regulators about the causes for the significant discrepancies between emissions tests and emissions values measured on the road.

By the summer of 2015, however, the indictment alleges that U.S. regulators threatened to withhold authorization for VW to sell Model Year 2016 diesel vehicles in the United States until VW answered their questions about the discrepancies uncovered by the ICCT study. The diesel situation in the United States became increasingly alarming to VW senior management, culminating in a meeting on July 27, 2015 at VW's headquarters in Wolfsburg, Germany, internally referred to as the "damage table meeting." During that meeting,

which was chaired by Winterkorn and attended by several senior VW executives, engine development department employees, with the help of a PowerPoint presentation, described to the attendees, and Winterkorn specifically: (1) how VW was deceiving U.S. regulators, including precisely what information had been disclosed and what had not yet been disclosed; and (2) the potential consequences of VW being caught cheating.

The indictment alleges that upon being presented with those and other facts, Winterkorn did not order his subordinates to disclose the cheating but instead agreed to continue to deceive U.S. authorities. Part of that strategy, which Winterkorn allegedly approved at the July 27, 2015 meeting, and which informed VW's steps over the next several weeks, included sending Oliver Schmidt to meet with a senior CARB official on Aug. 5, 2015, in order to obtain the release of the Model Year 2016 vehicles without revealing the fundamental reason for the higher NOx measurements on the road: that software had been intentionally installed in VW vehicles so the vehicles could detect and evade emissions testing. Consistent with Winterkorn's alleged directive from the July 27 meeting, VW executives also approved a script for an Aug. 19, 2015 meeting with CARB that continued to conceal VW's cheating. At the meeting, however, in direct contravention of the instructions from his superiors, a VW employee, in answering a direct question from CARB, revealed that VW had been using software in its 2.0 liter diesel vehicles to cheat U.S. emissions tests. On Sept. 3, 2015, VW officially admitted that it had installed defeat devices in various 2.0 liter diesel vehicles sold in the United States.

An indictment is merely an allegation and all defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

The FBI and EPA's Criminal Investigation Division are investigating the case. A DOJ litigation team is handling the prosecution.

San Joaquin County Biodiesel Firm and Employees Charged with Clean Water Act Violations

A federal grand jury returned a 17-count indictment on April 6, 2018, against American Biodiesel Inc. and two employees at its biodiesel fuel manufacturing plant in Stockton for Clean Water Act violations, U.S. Attorney McGregor W. Scott announced.

American Biodiesel Inc., registered in San Joaquin County as Community Fuels, manufactured biodiesel fuel at 809-C Snedeker Avenue, Stockton, on property leased from the Port of Stockton. The company is charged with conspiracy, 12 counts of tampering with monitoring equipment, two counts of unlawful discharge of industrial wastewater, and one count of false statements.

According to the indictment, Christopher Young, 41, of El Dorado Hills, is charged with conspiracy, 12 counts of tampering with monitoring equipment, two counts of unlawful discharge of industrial wastewater, one count of false statements, and one count of witness tampering. The same indictment charges his brother Jeremiah Young, 38, of El Dorado, with conspiracy, eight counts of tampering with monitoring equipment, and two counts of unlawful discharge of industrial wastewater.

The indictment alleges that, from March 2009 through December 2016, Christopher Young was Director of Operations, which is the highest-ranking position at Community Fuels' manufacturing plant. In this capacity, he directed employees to tamper with pH, and flow and volume monitoring devices to allow Community Fuels to discharge hundreds of thousands of gallons of polluted industrial wastewater into the City of Stockton Municipal Utility District sewer in violation of the company's wastewater discharge permit and in violation of the Clean Water Act. Jeremiah Young, while working as an Assistant Operator for Community Fuels from 2014 to 2016, allegedly participated in the conspiracy and in certain Clean Water Act violations.

Community Fuels' unpermitted wastewater discharges into the Stockton sewer were allegedly polluted with methanol, glycerin, oils and fats, and acids. Instead of discharging the unpermitted wastewater into the sewer, Community Fuels had represented to the City of Stockton water regulators that it would employ tanker trucks to haul the wastewater to the East Bay Municipal Utility District wastewater treatment plant in Oakland.

The indictment alleges that Christopher Young and Community Fuels made false statements to the U.S. Environmental Protection Agency (EPA) in an attempt to cover up the long-term and recurring unlawful wastewater discharges.

The indictment further alleges that Christopher Young attempted to prevent a witness from communicating information relating to the commission of a federal offense to a law enforcement officer.

This case is the product of an investigation by the EPA, San Joaquin County District Attorney's Office, City of Stockton Municipal Utilities Department, San Joaquin County Environmental Health Department, Port of Stockton, and California Department of Toxic Substances Control.

If convicted, Christopher Young faces a maximum statutory penalty of 20 years in prison on the witness tampering count, five years in prison on the conspiracy and false statement counts, three years in prison on the unlawful discharge counts, two years in prison on the counts charging tampering with monitoring equipment,

and a maximum total fine of \$4,250,000. If convicted, Jeremiah Young faces a maximum statutory penalty of five years in prison on the conspiracy count, three years in prison on the unlawful discharge counts, two years in prison on the counts charging tampering with monitoring equipment, and a maximum total fine of \$2,500,000. If convicted, Community Fuels faces a maximum \$4 million fine. Any sentence, however, would be determined at the discretion of the court after consideration of any applicable statutory factors and the Federal Sentencing Guidelines, which take into account a number of variables.

The charges are only allegations; each defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

