



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.

October—November 2018

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Explo officials sentenced for roles in conspiracy that led to illegal dumping of munitions and explosion at Camp Minden

On November 29, 2018, EPA joined law enforcement partners from the U.S. Attorney's Office for the Western District of Louisiana, the Department of Defense, the U. S. Army, the Department of Transportation, the FBI, and the Louisiana State Police in announcing the sentencing of five defendants for their role in a case involving Explo Systems, Inc., a private company involved in the demilitarization of military munitions. Explo Systems' mismanagement of military munitions resulted in a large detonation at a storage facility in Camp Minden, Louisiana, on October 15, 2012. The explosion damaged buildings in a four-mile radius, derailed 11 rail cars, and was felt up to thirty-five miles away. In addition, an investigation revealed that Explo Systems had illegally disposed of hazardous waste resulting in over \$38 million dollars of cleanup costs to tax payers.

"Through their reckless mismanagement of waste explosives, the defendants put the safety of an entire town at risk," said EPA Office of Enforcement and Compliance Assurance Assistant Administrator Susan Bodine. "Today's sentencing should send a clear message that EPA and our law enforcement partners will hold corporate officials responsible for violating laws designed to protect our communities and the environment."

Explo Systems, Inc. is an explosives demilitarization and recycling company, which operated several facilities at Camp Minden, Louisiana, leased from the Louisiana Military Department (LMD). The U.S. Army awarded Explo Systems a contract on March 24,



2010 to dispose of 450,000 155mm artillery propelling charges designated as M119A2 for \$2,902,500. The Army and Explo Systems officials later amended the contract on March 6, 2012 to dispose of 1,350,000 M6 propellant charges for \$8,617,500. The contract required Explo Systems to properly store and dispose of the demilitarized propellant, which is a solid, granular, explosive material. The contract also required Explo Systems to document the sale of the demilitarized propellant by completing an End User Certificate (EUC). On the EUC, the purchaser of the demilitarized propellant certified the purchase and compliance with applicable federal laws, including the Resource Conservation and Recovery Act.

The defendants, all employed by Explo Systems, conspired from January 2010 to November 2012 to defraud the United States by submitting false EUCs to the U.S. Army Joint Munitions Center (JMC). Instead of selling the explosive material as indicated by the false EUCs, the hazardous waste was disposed of in unpermitted facilities, including public landfills, and improperly stored, which resulted in a large explosion and the evacuation of the Town of Doyline. Explo Systems illegally disposed of approximately forty-seven truckloads of reactive hazardous waste containing explosives to public landfills across Louisiana and Arkansas. Not only did

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officials at Explo Systems defraud the government about the disposal of the explosive material but they also moved and improperly stored propellant to hide the improper storage from government officials. Lower-level employees were instructed to hide and conceal improperly stored demilitarized propellant and reactive hazardous waste from government officials during inspections. The total costs paid by the taxpayers to ensure the proper destruction and remediation of the propellant and hazardous waste which EXPLO illegally stored on site exceeded \$38 million.

For their role in a criminal conspiracy that led to the October 2012 explosion at Camp Minden, United States District Judge Elizabeth E. Foote presided over hearings and sentenced these five Explo Systems defendants: Co-owner David Alan Smith of Winchester, Kentucky; Vice President of Operations William Terry Wright of Bossier City, Louisiana; Director of Support Technology Charles Ferris Callihan, of Shreveport, Louisiana; Demilitarization Program Manager Kenneth Wayne Lampkin of Haughton, Louisiana; and Traffic and Inventory Control Manager Lionel Wayne Koons of Haughton, Louisiana.

Through the diligent work of EPA's Criminal Investigation Division and their state and federal law enforcement partners, including the Defense Criminal Investigative Service (DCIS), the U.S. Army Criminal Investigation Command – Major Procurement Fraud Unit (USACID-MPFU), the U.S. Department of Transportation – Office of Inspector General, the Louisiana Department of Environmental Quality – Criminal Investigations Section, and Troopers from the Louisiana State Police Emergency Services Unit, the defendants were held accountable for their actions which endangered communities, defrauded tax payers, and resulted in multi-million dollar hazardous waste cleanup sites across Louisiana and Arkansas,

For more information on the sentencing, please see the [press release from the U.S. Attorney's Office](#) for the Western District of Louisiana.

Former Central Kentucky Businessman Sentenced to 36 Months for The Illegal Transportation and Storage of Hazardous Waste

Kenneth Gravitt, a former Central Kentucky Businessman, was sentenced in U.S. District Court on November 9, 2018 to 36 months imprisonment on convictions relating to the illegal storage, transportation and disposal of hazardous waste.

In May of 2018, Gravitt pleaded guilty to one count of conspiracy to commit crimes related to the handling of hazardous waste and one count of illegal storage of hazardous waste. The hazardous waste in this case consisted of old television and computer monitors that contained Cathode Ray Tubes (CRTs), which have large amounts of toxic lead. For a number of years, Gravitt operated Global Environmental Services (GES), in Georgetown, Kentucky, which was in the business of recycling electronic waste. The facts established that beginning around 2013, GES contracted with various businesses and entities to collect and recycle large numbers of devices containing CRTs. Over time, as GES took in far more of these electronic devices than it could process, it began to send crushed CRTs for disposal, to a Central Kentucky landfill that did not have a license to handle such materials. On a separate occasion in October 2015, GES illegally buried large quantities of CRT bearing devices behind its Georgetown facility. Investigators also found large numbers of CRTs in GES managed warehouses in Cynthiana and Winchester. The estimated costs to clean all the sites was several million dollars.



"The illegal disposal of hazardous waste endangers us all," said Robert M. Duncan, Jr., United States Attorney for the Eastern District of Kentucky. "We have these prohibitions for a reason: they protect the environment, public health, public funds, and the safety of people in our community. When people endanger the community merely to serve their own interests, that conduct simply has to be prosecuted."

"The defendant in this case put human health and the environment at risk by improperly storing and disposing of hazardous wastes," said Special Agent in Charge Andy Castro of EPA's criminal enforcement program in Kentucky. "This case shows that companies and their top executives who knowingly violate hazardous waste laws will be prosecuted."

Robert M. Duncan, Jr., United States Attorney for the Eastern District of Kentucky; Andy Castro, Special Agent in Charge, Environmental Protection Agency's Criminal Enforcement Program for Kentucky; and Jon Maybriar, Director, Kentucky Department of Environmental Protection, Division of Waste Management, jointly made the announcement.

The investigation was conducted by EPA's Office of Inspector General and the Kentucky Department of Environmental Protection, Division of Waste Management. The case was prosecuted by DOJ.

Hyundai Construction Equipment Americas Inc. Sentenced to \$1.9 Million Criminal Fine for Violating the Clean Air Act

On Wednesday, November 14, 2018, Hyundai Construction Equipment Americas Inc. (Hyundai), then a subsidiary of Hyundai Heavy Industries Co. Ltd, pleaded guilty and was sentenced in federal court in Atlanta, Georgia, to pay a \$1.95 million dollar criminal fine for conspiring to defraud the United States government and to violate the Clean Air Act, the Justice Department announced. The charges relate to construction equipment Hyundai imported for sale into the United States from the Republic of Korea that contained engines that did not comply with air emissions standards under the Clean Air Act.

Hyundai imports construction and other equipment into the United States, which it sells to its dealer network. During a phase-in period for new air emissions standards, Hyundai opted to participate in a transition program that allowed it to import limited numbers of engines not in compliance with the new standards. As part of the program, Hyundai had to report the number of imported noncompliant engines to the U.S. Environmental Protection Agency. Hyundai's imports of noncompliant engines substantially exceeded its allowance. A consultant retained by Hyundai to provide advice about complying with the requirements warned the company that it was out of compliance and that it risked a substantial penalty. The consultant advised Hyundai to stop importing and notify the EPA. Nonetheless, Hyundai continued to import the noncompliant engines, and its employees conspired to lie to the EPA and to impede EPA's ability to enforce emissions standards. Ultimately, Hyundai submitted a report that intentionally understated the number of noncompliant engines it had imported from Korea.

"This case underscores the necessity for foreign companies that opt to do business in the United States to comply with our Nation's laws developed to protect human health and the environment," said Assistant Attorney General Jeffrey Bossert Clark for the Environment and Natural Resources Division. "A self-reporting regime, such as the one here, depends upon the honesty and integrity of the regulated parties. We hope that this case will chart a new course for Hyundai, and serve as a lesson for all companies that interact with our regulatory agencies."

"Hyundai Construction Equipment Americas tried to increase its profits by illegally importing diesel engines that did not comply with U.S. Clean Air Act regulations," said EPA Office of Enforcement and Compliance Assurance Assistant Administrator Susan Bodine. "This case shows that EPA and our law enforcement partners will not allow importers to gain a competitive advantage or risk the health and safety of our communities by evading U.S. environmental laws."

The case was investigated by EPA's Criminal Investigation and is being prosecuted by a DOJ litigation team.

Baker man and trucking company ordered to pay \$1.29 million, face prison for fraud and violating laws regulating transporting hazardous materials

The U.S. Attorney's Office announced on November 9, 2018 that Donald E. Wood, Jr., of Baker, and his trucking company, Woody's Trucking LLC, were sentenced in U.S. District Court for convictions on multiple charges stemming from a 2012 explosion at an oil and gas processing facility in Wibaux, Montana.

U.S. District Judge Susan Watters sentenced Wood, 57, to 12 months and one day in prison and three years of supervised release. Watters sentenced Woody's Trucking to four years of probation.

Watters also ordered forfeiture of a personal money judgment of \$644,689.70 and ordered restitution of \$644,689.70. The monetary penalties total \$1,289,370.40 to be paid by Wood and Woody's Trucking.

A federal jury convicted Wood and his company on 13 of 14 counts after an eight day trial in May. Both defendants were convicted of conspiracy, wire fraud, mail fraud, obstruction of justice and hazardous materials shipping paper and placarding violations. The one count of acquittal related to a placarding violation.

In a sentencing memo, Assistant U.S. Attorney Bryan Dake said the case was about Wood "engaging in deceitful, fraudulent and dangerous conduct, manipulating his otherwise legitimate business practices, in order to line his own pockets."



The case arose after a December 29, 2012 explosion at Custom Carbon Processing, Inc.'s facility in Wibaux, in which three employees were seriously injured. A driver for Woody's Trucking had loaded natural gas condensate, or "drip gas," from a pipeline station in Watford City, N.D., and hauled it to Custom Carbon Processing, a facility that processes and recycles slop oil.

Previous bills of lading that accompanied Woody's shipments falsely identified the product as "slop oil and water," which is a non-hazardous substance. On the date of the explosion, the driver was pumping from the truck's front tank into the CCP facility, when flammable vapors from the drip gas ignited and caused an explosion, injuring three employees. The tanks on the truck burned for eight days. It was determined later that the truck contained drip gas and not slop oil and water. Drip gas is a hazardous material and the truck was not placarded to indicate it held a flammable liquid.

Witnesses at trial testified that Wood, the CEO of the trucking company, 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. The false bill of lading also was submitted to the company's insurance company and to the Occupational Safety and Health Administration. In addition, the company had no insurance coverage for hauling drip gas.

Later, 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 its 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 Woody's Trucking failed to disclose that it was transporting hazardous materials.

The insurance company made coverage related payments after the explosion on behalf of Woody's Trucking. The company paid \$644,689.70 for costs and fees associated with the explosion.

U.S. Attorney Kurt Alme said, "The defendants in this case cut corners to get ahead, and in doing so, endangered lives. For the safety of our citizens, this conduct cannot be permitted. I want to thank the prosecution team and the representatives from the Department of Transportation, Environmental Protection Agency and Department of Labor that coordinated on this important investigation."

"We believe today's sentencing sends a strong message to those responsible for properly handling and transporting hazardous material," said Jeffrey Dubsick, Regional Special Agent in Charge for the U.S. Department of Transportation Office of Inspector General. "Working with our law enforcement and prosecutorial partners, we will continue our vigorous efforts to protect against those who would risk the safety of the public and the environment for personal gain."

Susan Bodine, assistant administrator of EPA's Office of Enforcement and Compliance Assurance, said, "The defendants in this case not only violated federal transportation regulations, but also tried to cover up their actions by providing first responders with falsified documents. Companies managing hazardous chemicals should take notice that EPA and our law enforcement partners will enforce laws designed to protect our communities and the environment from chemical accidents."

Rita Lucero, regional administrator for OSHA's Region VIII, said, "OSHA is very appreciative of the prosecution brought by the U.S. Attorney's office in this case. OSHA, the Department of Justice and the Environmental Protection Agency will continue working together to bring employers to justice when they jeopardize the health and safety of their employees."

Assistant U.S. Attorney Bryan Dake represented the U.S. Attorney's Office at sentencing. Assistant U. S. Attorney Adam Duerk and Special Assistant U.S. Attorney Eric Nelson of the EPA tried the case.

The case was investigated by the U.S. Attorney's Office, EPA's Criminal Investigation Division, Department of Transportation's Office of Inspector General and the Department of Labor's Occupational Safety and Health Administration.

Two Bozeman men sentenced for discharging lead contaminated wastewater into public sewer system

Two operators of USA Brass, Inc., a former Bozeman company that cleaned and recycled spent ammunition casings, were sentenced on November 16, 2018, in U.S. District Court after they admitted to illegal discharges of lead contaminated water into a public sewer system.

Zachary Daniel Flanagan and Nolan Michael Schimpf were each sentenced to five years of probation and a \$50,000 fine.

Flanagan, the chief executive officer, pleaded guilty on Aug. 9, 2018 to making a false statement, a felony, while Schimpf, the company's chief production officer, pleaded guilty the same day to negligent discharge of pollutants, a misdemeanor.

"The defendants violated the city's wastewater pretreatment program when they discharged lead contaminated wastewater into the public sewer system," said Jeffrey Martinez, special agent in charge of the Environmental Protection Agency's Criminal Investigative Division in Montana.

"Defendant Flanagan falsified information to obtain permission for the discharges, and in doing so jeopardized the public's health and safety. Today's sentencing demonstrates that violators can expect to face prosecution," Martinez said.

An investigation found illegal discharges into the City of Bozeman's public wastewater treatment system occurred in the fall of 2013. USA Brass brought in spent ammunition casings from military bases, shooting ranges and recycling centers, cleaned and polished the brass casings and then sold them for reuse. The casings were placed in cement mixers where they were cleaned in a water and vinegar solution. After cleaning, the wastewater was drained from the cement mixers and collected in blue totes, which held about 300 gallons each. During the cleaning process, the wastewater became contaminated with lead, which is a toxic metal. The lead in the wastewater was high enough to be considered a pollutant under the Clean Water Act.

In November 2013, Flanagan contacted by email Dustin Johnson, the pretreatment coordinator of the Bozeman wastewater facility, to try to get permission for USA Brass to discharge lead wastewater into the city sewer system. Johnson told Flanagan he would have to get the wastewater analyzed and submit test results. Flanagan submitted lab test results and a signed wastewater survey in which he maintained the information about the cleaning process was true and accurate. Flanagan asked to dispose of the wastewater through the sewer saying it met all city standards.

Flanagan followed up the request in December with another email to Johnson seeking approval to dispose the wastewater through the sewer and told him that an environmental analyst who reviewed the lab results said it would be fine to send the wastewater down the sewer. However, Flanagan's statements to Johnson were false because he knew that an environmental consultant had not reviewed the lab results and concluded the wastewater would be fine for discharge to the public system.

On the same day in December, Johnson responded to Flanagan's email and, based on Flanagan's false statements, authorized the discharge of the lead wastewater into the sewer system.

When Johnson learned that Flanagan had provided him false information, he told investigators he would never have granted the company permission to discharge the wastewater.

The investigation also found that in September 2013, USA Brass installed a sink in the facility to dispose of the lead wastewater into the city sewer system. Employees reported that the blue totes containing the wastewater were moved to the sink on a forklift and the contents were pumped into the sink until the totes were empty. A filtration system was abandoned after a few days because it got clogged.

Flanagan and Schimpf were present on more than one occasion as the wastewater was being pumped down the sink but neither stopped the discharge or sought permission for the discharge. By being present and doing nothing to stop the unauthorized discharges, Schimpf negligently causing the wastewater to be discharged.

The case was prosecuted by a joint EPA-DOJ litigation team and investigated by the EPA's Criminal Investigation Division.

Charleston Man and Airport Service Business Sentenced for Hazardous Waste Charge

Brian Scott Miller, the President of Executive Air Terminal, Inc., was sentenced on October 12, 2018, to sixty days of incarceration and was fined \$5000, and Executive Air Terminal, Inc. was fined \$20,000 and placed on corporate probation for three years, announced United States Attorney Mike Stuart. Executive Air provided fueling and other services for private and commercial airplanes at Yeager Airport in Charleston. Miller was the owner and president of Executive Air. On May 3, 2018, both Mr. Miller individually and Executive Air as a corporation pled guilty to the felony offense of Aiding and Abetting the Storage of Hazardous Waste without a Permit. After the guilty pleas, Yeager Airport terminated the lease with Executive Air as the fixed base operator for Yeager Airport. Stuart praised the work of the Environmental Protection Agency (EPA), West Virginia Department of Environmental Protection, and the Yeager Airport Police Department.

“We will protect the environment by enforcing federal environmental laws,” said United States Attorney Mike Stuart. “Proper disposal of hazardous waste ensures our environment and the public are protected. Business owners have a responsibility to comply with environmental laws and regulations governing hazardous waste disposal. Violators will be held accountable.”

“By refusing to comply with laws that ensure the safe handling and storage of hazardous waste, the defendant put the unsuspecting public at serious risk,” said Special Agent in Charge Jennifer Lynn of EPA’s criminal enforcement program in West Virginia. “Special agents found numerous containers filled with hazardous waste materials including oil, aviation gas and jet fuel. EPA and its law enforcement partners are committed to protecting local communities by holding accountable those who disregard the harm they pose to public health and the environment.”



Midnight removal of hazardous waste from airport.

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 previously 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’s Criminal Investigation Division in November 2015. Once discovered, the drums were then sent to a licensed hazardous waste disposal facility for proper disposal.

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

Former Forest City Investment Adviser Sentenced to Nearly Fifteen Years in Federal Prison for Fraud and Identity Theft

Prison Term Imposed for His Second Federal Fraud Conviction Since 2016

A North Iowa former investment adviser who stole over \$2.4 million from his clients was sentenced on October 5, 2018, to 175 months in federal prison.

Darrell Smith, age 62, from Forest City, Iowa, received the prison term after a July 2017 guilty plea to one count of wire fraud and one count of aggravated identity theft. Smith's nearly fifteen-year prison term follows a thirteen-month prison sentence that he received in 2016 for payroll tax fraud.

Smith's admissions at the plea hearing, as well as evidence presented in other court proceedings, established that Smith was a broker and adviser for several investment firms. From 2010 to 2013, Smith caused withdrawals of over \$2.4 million in funds from ten of his investment clients' accounts without those clients' knowledge or authorization. The funds were transferred to Energae, LP, a partnership Smith previously had formed with another individual to invest in different bio-energy companies. Smith then used those stolen funds to pay expenses related to the operation of Permeate Refining, LLC, which operated a now-defunct ethanol plant in Hopkinton, Iowa. In order to transfer funds from client accounts, Smith used authorizations purportedly signed by the client authorizing the withdrawal of funds from the investment account. He either forged his clients' signatures on the authorizations or used pre-signed, blank authorization forms without the clients' approval.

Smith was sentenced in Cedar Rapids by United States District Court Judge Linda R. Reade. Smith was sentenced to 175 months imprisonment. He was ordered to make \$1,056,909.68 in restitution to ten victims and ordered to pay costs of prosecution in the amount of \$2,947.35. He must also serve a three-year term of supervised release after the prison term. There is no parole in the federal system. Smith is being held in the United States Marshal's custody until he can be transported to a federal prison.

Smith was a skilled con man who used diversionary techniques, appeared to have an answer for everything, and picked on vulnerable investors, including the elderly.

-Judge Reade

"This sentence brought to justice a shameless con artist who preyed on the elderly and others," said U.S. Attorney Deegan. "Our office commends and thanks all of the outstanding investigators who worked on this very important case."

"Postal Inspectors are committed to protecting the U.S. Mail and postal customers from these types of fraudulent schemes," said Kevin Rho, Inspector in Charge of the Denver Division of the U.S. Postal Inspection Service, which includes Iowa. "The recent sentencing demonstrates the potential penalties for using the mail to further criminal activity, and it reflects the successful teamwork between the Postal Inspection Service

and its federal law enforcement partners who worked together to bring justice to the victims in this case," said Rho.

In sentencing Smith, Judge Reade noted that Smith was a skilled "con man" who used diversionary techniques, appeared to have an answer for everything, and "picked on" vulnerable investors, including the el-

derly. Judge Reade stressed that Smith's sentence "brought on himself" Judge Reade increased Smith's sentence on account of the fact that he obstructed justice while the case was pending. For example, Smith obstructed justice by enlisting the help of a relative in an attempt to dissuade one of his victims from seeking restitution and cooperating with the government in the case. While in jail awaiting sentencing, Smith also convinced a Dubuque man to loan him \$25,000.

Pennsylvania Man Pleads Guilty to Biodiesel Tax Conspiracy

David Tielle of Harrisburg, Pennsylvania pleaded guilty on October 4, 2018 in federal court to one count of conspiring to defraud the Internal Revenue Service (IRS), announced Principal Deputy Assistant Attorney General Richard E. Zuckerman of the Justice Department's Tax Division, Acting Assistant Attorney General Jeffrey H. Wood of the Justice Department's Environmental and Natural Resources Division, EPA Criminal Investigation Division Director Jessica Taylor, and U.S. Attorney David J. Freed for the Middle District of Pennsylvania.

According to documents and information provided to the court, David Tielle served as Director Business Development at Keystone Biofuels Inc. (Keystone), located in Shiremanstown, Pennsylvania, and later in Camp Hill, Pennsylvania. Keystone purported to be a producer and seller of biodiesel, a type of renewable fuel. Between 2009 and 2012, Tielle participated in a conspiracy to fraudulently claim tax refunds based on the Biodiesel Mixture Tax Credit – a federal excise tax credit for persons or businesses who mix biodiesel with petroleum and use or sell the mixture as a fuel.

"Fraud committed against the United States Government, making all of us victims, is always disappointing," said U.S. Attorney David J. Freed. "It is particularly so when the fraud is connected to a program with the laudable aim of encouraging renewable fuel production. The defendant in this case nefariously turned a program meant to benefit our community into a scheme to enrich himself and his partners, at our expense. I commend the tireless work of all of our partners in this case, especially the investigators with IRS-Criminal Investigation and the Environmental Protection Agency Criminal Investigation."

"A strong enforcement program is essential to maintaining the integrity of the renewable fuel program," said EPA Special Agent in Charge Jennifer Lynn. "Yesterday's guilty plea should send a clear message that EPA and our law enforcement partners are committed to vigorously pursuing these criminal cases."

As part of the conspiracy, Tielle caused inflated fuel amounts to be reported to the IRS in order to fraudulently claim tax refunds on fuel Keystone was not producing. To account for the inflated fuel amounts, Tielle created false books and records and engaged in a series of sham financial transactions intended to mirror the false books and records. Tielle also caused Keystone to fraudulently claim tax refunds on fuel that did not meet the quality standards needed to qualify for the Biodiesel Mixture Tax Credit and on fuel Keystone had not mixed with petroleum. The total loss resulting from Tielle's conduct is approximately \$4,149,983.41.

Tielle faces a statutory maximum sentence of five years in prison, as well as a period of supervised release, restitution, and monetary penalties.

The case was investigated by IRS-Criminal Investigation and EPA's Criminal Investigation Division. The prosecution is being handled by a DOJ litigation team.

Owners of Northwest's Largest Electronics Recycling Firm Plead Guilty to Wire Fraud Conspiracy

The owners and Chief Executive Officers of Total Reclaim, the Northwest's largest recycler of electronic waste, pleaded guilty in U.S. District Court in Seattle on November 16, 2018, to conspiracy to commit wire fraud, announced U.S. Attorney Annette L. Hayes.

Craig Lorch, of Seattle, Washington, and Jeff Zirkle of Bonney Lake, Washington, admitted that they collected millions of dollars from public agencies and other organizations by falsely telling them that Total Reclaim would recycle used electronics products domestically in an environmentally-safe manner. In fact, the defendants secretly shipped millions of pounds of mercury-containing flat screen monitors to Hong Kong, where the monitors were dismantled in a manner that risked serious health consequences to workers, and damage to the environment. The two men face up to five years in prison when sentenced by U.S. District Judge Richard A. Jones on February 1, 2019. Lorch and Zirkle have also agreed to pay restitution of up to \$1.1 million.

"These defendants held their company out as one of the good guys, signing agreements promising they would keep hazardous materials out of the environment. But even as they made that pledge, they secretly shipped millions of flat screen monitors to Hong Kong where disposal practices endangered workers and the environment," said U.S. Attorney Annette L. Hayes. "Their actions were driven by greed and a total disregard for the promises they had made. As a result customers unknowingly ended up harming the environment rather than protecting it as they intended."

"Total Reclaim is the largest e-waste recycler in the northwestern United States," said Special Agent in Charge Jeanne M. Proctor of EPA's Criminal Investigation Division. "During an eight-year period, the company exported to Hong Kong millions of pounds of electronic products containing mercury, while fraudulently reporting to customers and state agencies that they were being appropriately recycled."

According to records filed in the case, Total Reclaim promoted itself as a responsible electronics recycler. Total Reclaim's website stated that "our commitment to environmental responsibility is at the core of everything Total Reclaim does." Total Reclaim signed a public pledge in which it promised not to "allow the export of hazardous E-waste we handle to be exported" to developing countries, where workers are known to disassemble electronics, which contain dangerous materials such as mercury, without safety precautions. Total Reclaim signed agreements with customers, such as the City of Seattle, in which the customers agreed to pay Total Reclaim to recycle electronics in accordance with these standards. Total Reclaim was also the biggest participant in the "E-Cycle Washington" program. E-Cycle Washington allows consumers to drop off used electronics at stations such as Goodwill Industries, and pays companies like Total Reclaim to recycle to those electronics according to Washington Department of Ecology standards.

In 2008, contrary to its promises to the public, Total Reclaim began secretly exporting flat screen monitors to Hong Kong to avoid the cost of safely recycling the monitors in the United States. Flat screen monitors are known to contain mercury, which can cause organ damage, mental impairment, and other serious health consequences to people exposed to the material. LORCH and ZIRKLE caused at least 8.3 million pounds of monitors to be shipped to Hong Kong between 2008 and 2015. To prevent customers and auditors from

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learning of the practice, LORCH and ZIRKLE falsified documents, made false statements to customers, and stored the monitors at an undisclosed facility while they awaited shipping.

Defendants' fraud was discovered in 2014 by a non-governmental organization known as the Basel Action Network ("BAN"). BAN, which studies the export of electronic waste, placed electronic trackers on flat screen monitors and deposited them for recycling. The trackers showed that the monitors were collected by Total Reclaim and then exported to Hong Kong. When BAN representatives followed the tracking devices to Hong Kong, they discovered that the monitors were being dismantled by laborers who smashed the monitors apart without any precautions to protect the workers or the environment. After BAN notified Lorch and Zirkle of its findings, the two tried to cover up their fraud by altering hundreds of shipping records.

Conspiracy to commit wire fraud is punishable by up to 5 years in prison and a \$250,000 fine.

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

APC Paper Group Pleads Guilty to Violating Clean Water Act

APC Paper Group of New York, Inc., which operates a paper mill in Norfolk, New York, pled guilty on November 29, 2018 in federal court in Syracuse to negligently discharging wastewater into the Raquette River between 2013 and 2015, in violation of the Clean Water Act, and was sentenced to a fine of \$125,000, announced United States Attorney Grant C. Jaquith; Tyler Amon, Special Agent in Charge of the U.S. Environmental Protection Agency's Criminal Investigation Division (EPA-CID) in New York; and Bernard Rivers, Director of Law Enforcement, New York State Department of Environmental Conservation (DEC).

In pleading guilty, APC Paper Group admitted that between January 2013 and September 2015, its paper mill in Norfolk repeatedly violated the daily maximum and monthly average limits of biochemical oxygen demand ("BOD") in its wastewater discharges into the Raquette River. BOD is the amount of dissolved oxygen necessary for microorganisms in the water to break down organic material. BOD levels also provide an index for measuring the effect discharged wastewater will have on a body of fresh water receiving it. In this case, the paper mill's Clean Water Act permit restricted the amount of BOD the paper mill could discharge through its wastewater on a daily and monthly basis. As part of the guilty plea, APC Paper Group admitted in court that a former employee, Michael Ward, who previously pled guilty to similar criminal charges in federal court, was aware of the BOD exceedances, failed to report them to his superiors at APC Paper Group, and prepared false and fraudulent monthly reports that were submitted to DEC. APC Paper Group further admitted that it failed to meaningfully supervise Ward and failed to verify the accuracy of the discharge reports the company sent to DEC and that its negligence led to the illegal discharges of wastewater containing excessive amounts of BOD.



Dissolved Air Flotation Device/a.k.a. "Save All" at APC. This unit reclaims fibers and reuses water during the process. Illegal discharges came from the this unit in the process.

United States Attorney Jaquith said, "In pleading guilty today, APC Paper Group accepted responsibility for its paper mill's negligent discharges of polluted wastewater into the Raquette River, and for its failure to supervise adequately the responsible employee. Securing environmental compliance and appropriate corporate and individual accountability for illegal pollution are the key components of our continuing commitment to work with the U.S. Environmental Protection Agency and the New York State Department of Environmental Conservation to enforce vigorously the laws that protect our air, water, and land for the benefit of all."

"New Yorkers expect their waterways to be clean and safe from excessive industrial discharges," said Special Agent in Charge Tyler Amon of EPA's Criminal Investigation Division. "APC violated their wastewater permit when they discharged above their approved limits, and then falsified their reports to cover up the violation. EPA, along with its state and local partners, is committed to protecting the health and safety of our citizens and our environment."

Plea Agreements

“By submitting falsified reports to DEC and negligently allowing contaminated water to be introduced into the environment, the company was risking the health and safety of the Raquette,” said DEC Commissioner Basil Seggos. “I commend the work of DEC’s Bureau of Environmental Conservation Investigations Unit (BECI), as well as the U.S. Environmental Protection Agency and the U.S. Attorney’s Office for their work in bringing this case to justice.”

In a signed plea agreement submitted to the Court prior to sentencing, the parties agreed to a recommended sentence of a fine of \$125,000 and to an environmental compliance plan requiring specific actions on the part of APC Paper Group until January 1, 2020. United States Magistrate Judge David E. Peebles, who presided over the proceedings, imposed the recommended sentence, including the \$125,000 fine.

This case was investigated by the EPA’s Criminal Investigation Division, the New York State DEC, Division of Law Enforcement and Bureau of Environmental Crimes Investigation Unit (BECI). The case was prosecuted by DOJ.

Former Utility Official Admits to False Statement

Dale Johansen of Rocky Mount, Missouri, pleaded guilty on October 23, 2018 to making a false statement during the course of an investigation of the Rogue Creek water and sewer system.

Johansen admitted in his plea agreement that Rogue Creek is a vacation community in Potosi, Missouri. Johansen's company, Johansen Consulting Services, LLC, became the receiver for the water and sewer provider and was responsible for overseeing the drinking and wastewater utilities beginning in 2012. Since 1994, drinking water in Rogue Creek had been treated for lead after high levels of lead were detected in the water supply. A treatment system was first used and later replaced with a lead reduction system under the supervision of the Missouri Department of Natural Resources.

Johansen's duties at Rogue Creek included the operation of the drinking water facilities and sampling and testing of the drinking water for lead. A routine inspection of Rogue Creek drinking water in March 2016 revealed that the lead reduction system was not operational. A subsequent investigation revealed that the Rogue Creek drinking water had not been treated for lead for approximately six months. The Missouri Department of Natural Resources imposed a DO NOT DRINK order for the Rogue Creek system which was not lifted until May 2017.

Johansen admitted making a false statement to investigators in March 2016 that the lead reduction system had only been offline for six to eight weeks when in truth it had been offline for nearly six months.

The maximum penalty for making a false statement is five years imprisonment, a fine of not more than \$250,000, or both. Johansen appeared before U.S. District Judge Audrey G. Fleissig, who accepted his plea and set his sentencing date of January 29, 2018.

The case was investigated by the Missouri Department of Natural Resources and EPA's Criminal Investigation Division. Assistant U.S. Attorney Dianna Collins is handling the case for the U.S. Attorney's Office.

"The defendant's actions exposed the residents of the Rogue Creek community to elevated levels of lead in their drinking water," said EPA Special Agent in Charge Jeffrey Martinez. " This case shows that EPA and our law enforcement partners are committed to taking action to protect the public from lead exposure."

Three New Jersey Men Plead Guilty to the Illegal Production and Distribution Of Pesticides

Three individuals who operated Flexabar Corporation, a paint and coating manufacturer in Lakewood, New Jersey, pleaded guilty on November 14, 2018, in federal court to the illegal production and distribution of pesticides. Assistant Attorney General Jeffrey Bossert Clark and EPA Office of Enforcement and Compliance Assurance Assistant Administrator Susan Bodine made the announcement.

Andrew Guglielmo, Flexabar's Chief Executive and Financial Officer; Richard Guglielmo Jr., Flexabar's President; and Hamdi Latif, the company's Technical Director, pleaded guilty in federal district court in Trenton, New Jersey, to felony charges of having conspired to violate federal pesticide laws and to evade EPA's ban on the use of the marine toxin tributyltin (TBT).

"Tributyltin, or TBT, is dangerous to marine life, which is why Congress limited its use in 1988. Despite this danger, and repeated notices by EPA, the defendants chose to illegally produce and distribute TBT," said Assistant Attorney General Clark. "Yesterday's guilty pleas shows that the Department of Justice will not tolerate such unlawful conduct."

"The defendants in this case produced and marketed a paint that contained a biocide that can cause significant harm to marine life. When questioned about the intended use of the paint, the defendants repeatedly misled EPA investigators," said EPA Office of Enforcement and Compliance Assurance Assistant Administrator Susan Bodine. "Yesterday's guilty pleas demonstrate that companies and their top executives who conspire to skirt federal pesticide control laws and place our natural resources at risk will be prosecuted."



During the 1970s, TBT was used on boats, docks, crab pots, and other fishing gear in antifouling paint that prevent the growth of barnacles, seaweed, and mollusks. By the 1980s, scientific studies showed TBT to be extremely toxic to marine life, causing shell deformation, reproductive aberrations, endocrine disruption, and bio-accumulation in predator species including marine mammals. In the early 1990s, EPA began to limit the use of TBT to reduce its impact on marine life. In 1991, EPA directed Flexabar to clarify the language on its registered TBT labels to assure that the product was not used as an antifouling treatment on surfaces in contact with water.

In spite of repeated notices from EPA, the defendants evaded restrictions on their company's TBT pesticides and continued to produce and sell TBT antifouling paints to the fishing industry. They manufactured and sold TBT for marine uses after such applications were restricted by an act of Congress in 1988, by EPA's labeling requirements in 1991, by an international treaty in 2001, by EPA's TBT product cancellation in 2005, and by EPA's subsequent notices. Even after February 2013, when EPA banned the sale of Flexabar's TBT pesticides for any application, the defendants continued to surreptitiously purchase TBT, to manufacture more TBT antifouling paint, and to illegally sell it for use as a marine pesticide.

Each defendant is subject to a maximum of up to five years imprisonment and a fine of up to \$250,000, or

twice the financial gain they derived from the offense.

Sentencing for Richard Guglielmo Jr. is scheduled for February 25, 2019; sentencing for Andrew Guglielmo is scheduled for February 26, 2019; and sentencing for Hamdi Latif is scheduled for February 27, 2019.

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

New Madrid County Man and Farm Indicted on Illegally Applying Dicamba on Crops

Bobby David Lowrey, of Parma, MO, and Lowrey & Lowrey Inc. were indicted on November 13, 2018 for illegally applying Dicamba to crops.

According to the indictment, Bobby David Lowrey owned and operated Lowrey Farms. In the calendar year 2016, Lowrey Farms, under the management of Bobby David Lowrey, engaged in the cultivation of cotton and soybean crops on approximately 6,700 acres over numerous fields and plots located in the Eastern District of Missouri. The soybean and cotton crops planted on Lowrey Farms in 2016 were genetically modified to be resistant to the pesticide dicamba. Dicamba is a broadleaf herbicide used to kill unwanted weeds. The dicamba-based pesticide product was not approved for post-planting application to cotton crops and had limitations on its soybean application.

On multiple occasions in 2016, under the direction of Bobby David Lowrey, dicamba-based pesticides were applied at Lowrey Farms post-planting to cotton and to non-mature soybean crops prior to the approved pre-harvest application interval. Multiple farmers with crops growing in the vicinity of soybean and cotton fields or plots cultivated by Lowrey Farms reported damage to their crops in May and June of 2016 consistent with drift from the use of dicamba-based pesticides applied on Lowrey Farms. In response to numerous reports of crop damage in the vicinity of Lowrey Farms, Missouri Department of Agriculture responded to the area in late June 2016. Investigators with MDA requested to meet with Bobby David Lowrey and asked Lowrey Farms to provide current spray application records for cotton and soybean crops.

On several dates in 2016, Bobby David Lowrey made false statements to investigators and provided fraudulent documentation to investigators certifying that dicamba-based products had only been applied during burndown applications. In truth, Bobby David Lowrey knew he had provided altered documents to investigators to hide the fact that dicamba-based products had been used at Lowrey Farms outside of the application guidelines.

If convicted, Bobby David Lowrey faces up to 20 years' imprisonment and a fine up to \$250,000. In determining the actual sentences, a Judge is required to consider the U.S. Sentencing Guidelines, which provide recommended sentencing ranges. The Indictment alleges forty-nine instances of misapplication of a pesticide, a false statement and three acts of obstruction of justice.

"Although weed killers like Dicamba have been around for decades, it is critical that applicators follow manufacturer instructions when applying them," said EPA Special Agent in Charge Jeffrey Martinez. "The misuse of this product has resulted in significant crop damage at neighboring farms. Yesterday's indictment shows that EPA and its law enforcement partners will do what it takes to ensure the safe and legal use of herbicides."

The case was investigated by EPA's Criminal Investigation Division, the Missouri Department of Natural Resources and the Missouri Department of Agricultural. Assistant U.S. Attorney Dianna Collins is handling the case for the U.S. Attorney's Office.

Charges set forth in an indictment are merely accusations and do not constitute proof of guilt. Every defendant is presumed to be innocent unless and until proven guilty.



New Richmond Man Charged with Wire Fraud, Environmental Crimes & Obstruction of Justice

On October 10, 2018, Lloyd Robl, also known as Lloyd Schmotter, of New Richmond, Wisconsin, was charged in a 17-count indictment with wire fraud, environmental crimes, and obstruction of justice. The indictment alleges that Robl, who operated an asbestos abatement business under the name AAS Incorporated (AAS) in New Richmond, devised a scheme to defraud AAS customers beginning in 2011 and continuing until 2016. The indictment alleges that Robl falsely advertised that he was licensed to do asbestos abatement in Minnesota and Wisconsin, provided falsified insurance documents and asbestos abatement licenses to AAS clients, and failed to follow proper procedures for safely removing and disposing of asbestos.

The indictment charges Robl with 14 counts of wire fraud in relation to this alleged scheme. The indictment also charges that from 2013 to 2016, Robl knowingly released into the air a hazardous air pollutant by burning asbestos-containing material at his home in New Richmond, in violation of the Clean Air Act. The indictment also charges Robl with removing insulation containing asbestos from a building in St. Paul, Minnesota, without possessing proper certification from the State of Minnesota to do so, in violation of the Toxic Substances Control Act, and transporting the asbestos-containing material to his home in New Richmond where he burned it. Finally, the indictment charges him with concealing AAS business records during a federal grand jury investigation.

If convicted, Robl faces a maximum penalty of 20 years in federal prison on each of the 14 wire fraud charges, 15 years on the Clean Air Act violation, one year on the Toxic Substances Control Act violation, and 20 years on the obstruction of justice charge.

The charges against Robl are the result of an investigation by the Environmental Protection Agency, Criminal Investigation Division; Wisconsin Department of Natural Resources; St. Croix County Sheriff's Office; and New Richmond Police Department. The prosecution of this case is being handled by Assistant U.S. Attorney Daniel Graber.

Charges set forth in an indictment are merely accusations and do not constitute proof of guilt. Every defendant is presumed to be innocent unless and until proven guilty.