

Environmental Crimes Case Bulletin



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

May 2013

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

Defendants in this edition:

- **Henry Papuga — Region 1**
- **Mark Pullyblank, William Clements, Crane-Hogan Structural Systems, Inc. — Region 2**
- **Tennie White — Region 4**
- **Hancock County Land, LLC — Region 4**
- **John Mayer, Timothy Bayes — Region 5**
- **Franklin A. (Al) Bieri — Region 5**
- **Temple Inland — Region 6**
- **Matthew Lawrence Bowman — Region 6**
- **Connie M. Knight — Region 6**
- **Michael J. Vaughn — Region 6**
- **Wal-Mart Stores, Inc. — Regions 7 and 9**

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 1	<u>Henry Papuga</u>	SDWA/Tampering with drinking water samples and making false statements
Region 2	<u>Mark Pullyblank, William Clements, Crane-Hogan Structural Systems, Inc.</u>	CWA/Discharging untreated industrial waste water into river
Region 4	<u>Tennie White</u>	CWA/Falsifying records and obstructing a federal criminal investigation
Region 4	<u>Hancock County Land, LLC</u>	CWA/Unauthorized excavating and filling of wetlands
Region 5	<u>John Mayer, Timothy Bayes</u>	CAA/Illegally disposing of asbestos-containing material

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 5	<u>Franklin A. (Al) Bieri</u>	CAA/Failure to follow proper asbestos removal procedures
Region 6	<u>Temple Inland</u>	CWA & Refuge Act/Negligent pollutant discharge leading to fish kill
Region 6	<u>Matthew Lawrence Bowman</u>	OSHA/Violating OSHA and making false statements that led to deaths of two men
Region 6	<u>Connie M. Knight</u>	CWA/ID fraud and impersonating federal official
Region 6	<u>Michael J. Vaughn</u>	SDWA/Conspiracy to violate SDWA, making false statements, forfeiture
Regions 7 and 9	<u>Wal-Mart Stores, Inc.</u>	CWA, FIFRA, RCRA/Illegally handling and disposing of hazardous materials, improperly handling pesticides

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Illinois Construction Company Owner Gets Jail Term for Clean Air Act Violation -- On May 9, 2013, **FRANKLIN A. (AL) BIERI**, of Lebanon, IL, was sentenced in federal district court for the Southern District of Illinois for violating the Clean Air Act. Bieri was ordered to serve an eight-month sentence with five months' imprisonment and three months' home confinement, all to be followed by three years' supervised release, pay a \$3,000 fine and a special assessment of \$100.



Emerson Electric Facility in Washington Park, Illinois

The charges stem from Bieri's activities at the Emerson Electric Facility, a seven-acre site in Washington Park, which Bieri purchased in order to demolish and salvage the buildings on the site. Bieri knew that the buildings on the site contained asbestos, but in April 2010, he used untrained workers who failed to use proper removal and disposal procedures, such as wetting asbestos to limit airborne emissions and proper labeling of asbestos waste to alert others to the danger and ensure the waste went to an appropriate section of the landfill. Bieri admitted that he failed to provide written notification to the Illinois Environmental Protection Agency at least ten working days prior to beginning asbestos stripping and removal work, an offense punishable under the Clean Air Act. Asbestos is a

declared hazardous air pollutant by the United States Environmental Protection Agency.

The investigation was conducted by EPA's Criminal Investigation Division and the Illinois Environmental Protection Agency. The prosecution of the case is being handled by Assistant United States Attorneys Kevin F. Burke and William E. Coonan.

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Louisiana Woman Sentenced to Prison for ID Fraud and Impersonating an OSHA Office in Wake of Gulf Oil Spill

-- On May 16, 2013, **CONNIE M. KNIGHT**, previously of Belle Chasse, Louisiana, was sentenced in federal district court for the Eastern District of Louisiana to serve 57 months in prison for providing fraudulent hazardous waste safety training in the wake of the Deepwater Horizon explosion and spill. She was also ordered to pay victim restitution in the amount of \$25,300.

On January 24, 2013, Knight pleaded guilty to three felony criminal charges and one misdemeanor criminal charge for creating false identification documents and impersonating a federal official. Court documents explained how, in the wake of the Deepwater Horizon oil spill, Knight impersonated a high-ranking Occupational Safety and Health Administration hazardous waste safety instructor and inspector in order to collect money from individuals who hoped to work on the cleanup effort that followed the spill. Knight created and used multiple false federal identi-



Federal agents seizing evidence in connection with Knight's crimes.

fications to bolster her credibility as an OSHA employee and to convince attendees, who were primarily from the Southeast Asian fishing community, that she could ensure them lucrative employment cleaning the spill. In reality, Knight did not have any connection to OSHA, to the cleanup effort, nor did she have training in hazardous waste safety.

Knight claimed her classes satisfied the various safety requirements that all individuals were to complete in order to be employed at a Deepwater Horizon hazardous waste cleanup site. Her fraudulent classes, however, lasted as little as two hours, while the legitimate certifications would take at least six days of classroom training followed by three days of on-site training. At least some attendees later gained access to hazardous waste cleanup sites based on the fraudulent certifications created by Knight.

At the sentencing, the judge considered statements from victims who recounted how Knight targeted the Southeast Asian fishing communities in southern Louisiana, many of whom did not speak or read English. Court documents explained that because many shrimp grounds were closed from the time of the spill through late 2010, Gulf fishermen had to seek other means of employment. To gain access to these fishermen and their families, Knight convinced young bilingual individuals from Southern Louisiana, who believed her to be an OSHA trainer, that she could be a source of employment for their struggling communities. She then used those individuals to publicize her trainings throughout the Vietnamese, Cambodian and Laotian neighborhoods.

According to court documents, Knight required each attendee to pay between \$150 and \$300 cash to enter a class, and there were at least 950 victims in the Eastern District of Louisiana. After a short presentation in English, Knight would provide false completion certifications and tell attendees to ready their vessels for BP cleanup work, which she claimed would be coming any day.

This case was investigated by EPA's Criminal Investigation Division and the U.S. Department of Labor's Office of Inspector General with assistance from the Occupational Safety and Health Administration, the FBI, investigators from the Florida Fish and Wildlife Conservation Commission and the Plaquemines Parish, La., sheriff's office. It was prosecuted by Patrick M. Duggan of the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division and Emily K. Greenfield of the U.S. Attorney's Office for the Eastern District of Louisiana.

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Former Massachusetts Water Company Manager Sentenced for Tampering With Drinking Water

Samples -- On May 17, 2013, **HENRY PAPUGA**, of Milford, Massachusetts, former manager of the Milford Water Company, was found guilty of tampering with drinking water samples during a boil-water order and for making false statement about the samples. He was sentenced to 1 year in the House of Correction, given a suspended five-year probationary period, during which time he is prohibited from having any involvement in the drinking water industry in any way, and must complete 250 hours of community service.

The Milford Water Company is a privately owned community public water system in the town of Milford that serves approximately 27,000 persons. In January 2010, the state's attorney general's office began an investigation after the matter was initially investigated and referred by the Massachusetts Department of Environmental Protection. The indictments stem from an incident in August 2009, when the water supply in Milford tested positive for E. Coli bacteria. A subsequent order by MassDEP required residents to boil the water before consuming or using it. According to MassDEP's requirements, the boil-water order could not be lifted until the MWC's testing showed two consecutive rounds of water samples that were free from bacterial contamination. Investigators found that Papuga, who was the manager in charge of the water system, was under enormous pressure to get the boil-water order lifted as soon as possible. In his effort to get the boil-water order lifted, Papuga tampered with six drinking water samples by adding a form of chlorine to the samples. Papuga submitted these tampered samples to a local lab for testing. On two of the forms submitted with the water samples, also known as "chain of custody" forms, Papuga falsely certified the integrity of the samples.

An analyst at the lab began testing the samples for bacteria and the samples immediately turned a range of unexpected colors, making it impossible to complete the test. To determine what was in the samples producing this highly unusual result, the lab tested for chlorine. The lab found that the chlorine level was so high that it exceeded the limits of the test. The lab then informed MassDEP that the samples could not be properly analyzed for bacteria because of their unusually high chlorine content. MassDEP and the Environmental Strike Force conducted their own investigation, tested the suspicious water samples, and found levels of chlorine in some samples 700 times the acceptable level for drinking water. As a result, the matter was referred to the attorney general's office for prosecution.

MassDEP has been deeply involved with drinking water operations in Milford since the 2009 event. The follow up enforcement required the construction of a new treatment plant, which is about to go on line. MassDEP has also conducted bi-monthly inspections of the existing facility to ensure that operations meet state requirements. MassDEP vowed to continue these inspections until the new plant was operational.

The charges stem from an investigation by the Massachusetts Environmental Strike Force, an interagency unit overseen by the attorney general, the energy and environmental affairs secretary and a MassDEP commissioner. The strike force comprises prosecutors from the attorney general's office, environmental police officers assigned to the attorney general's office, and investigators and engineers from the MassDEP who investigate and prosecute crimes that harm or threaten the state's water, air, or land and that pose a significant threat to human health.

The case was investigated by EPA's Criminal Investigation Division and officers of the Massachusetts Environmental Police. It was prosecuted by Assistant Attorney Generals Daniel Licata and Sara Farnum, along with MassDEP investigators and staff from the Central Regional Office in Worcester, the Wall Experiment Station lab in Lawrence, and the Environmental Strike Force.

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Delaware Corporation Located in Texas Given \$3.3 Million Fine and Restitution for Discharging Pollutants into River -- On May 29, 2013, TIN, INC. , d/b/a/ **TEMPLE INLAND**, a Delaware Corporation located in Austin, Texas, was sentenced in federal district court for the Eastern District of Louisiana to two years probation and ordered to pay a total criminal penalty of \$3.3 million, for negligently causing the discharge of a pollutant from its Bogalusa Facility into the Pearl River and the taking of fish from the Bogue Chitto National Wildlife Refuge.



Fish kill as a result of Temple Inland's negligent discharge of pollutants into the Pearl River. Over 500,000 fish were killed.

Temple Inland was ordered to pay \$1.2 million in restitution and fined \$1.5 million for the harm caused by the negligent discharge to the Pearl River and its tributaries; the loss of Gulf sturgeon (a protected species); and the loss of other aquatic life. One million dollars in restitution will be paid as follows: \$900,000 to the Trust for Public Land, a non-profit non-governmental organization, and \$100,000 to The Nature Conservancy of Louisiana, also a non-profit non-governmental organization, to be utilized for the acquisition, protection and management of lands and waters within the Pearl River Basin south of the Temple Inland wastewater release site. The properties acquired by both non-profits will subsequently be conveyed to the United States Fish and Wildlife Service,

primarily for the application and administration of Federal perpetual management and protections for endangered species, native wildlife, and their habitats within the Pearl River drainage system. The remaining \$200,000 in restitution will be paid for a research study to evaluate the river features of the Pearl River and Bogue Chitto in order to determine the potential benefit for Gulf sturgeon recovery, as well as to forecast potential hydrodynamic and geomorphologic changes that will be of interest to the local communities and the state. The research study will provide to USFWS a complete assessment of river morphology, habitat composition, and hydrology. The assessment will include acoustic determination of benthic substrate, bathymetric surveys above and below the structures, hydrodynamic assessments to outline current conditions and to forecast future conditions, and biological monitoring.

From the fine amount of \$1.5 million, Temple Inland will pay community service payments of \$500,000 to the Louisiana Department of Environmental Quality to defray the costs of equipment and emergency vehicles to be used in connection with, or in support of, the detection, monitoring, testing, response and/or investigation of dumping, emissions, discharges, spills, or leaks involving violations of environmental regulations and laws; \$50,000 to the Louisiana State Police Emergency Services Unit; and \$50,000 to the Southern Environmental Enforcement Network for training. Because the community service payment is designated as community service by an organization, Temple Inland cannot seek any reduction in its tax obligations as a result of these payments. In addition, since the payment constitutes community service, Temple Inland cannot characterize, publicize, or refer to the payment as a voluntary donation or contribution.

In addition to the restitution, fine and community service payments, Temple Inland must implement an Environmental Compliance Plan approved by the Louisiana Department of Environmental Quality and remain in compliance with all permit requirements, rules and regulations of the Louisiana Department of Environmental Quality.

This case was investigated by EPA's Criminal Investigative Division, the United States Fish and Wildlife Service, and the Louisiana Department of Environmental Quality, Criminal Investigative Division. It was prosecuted by Assistant United States Attorneys Dorothy Manning Taylor and Spiro Latsis.

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Former Louisiana Environmental Services Operations Manager Convicted in Kickback Scheme Involving Illegal Disposal of Industrial Wastewater

-- On May 29, 2013, **MICHAEL J. VAUGHN**, of Addis, Louisiana, pled guilty in federal district court for the Middle District of Louisiana to conspiracy to defraud EPA and to violate the Safe Drinking Water Act, making false statements within the jurisdiction of the federal government, and forfeiture. As a result of his convictions, he faces up to ten years imprisonment, a \$500,000 fine, forfeiture of the proceeds of the offenses, restitution to victims, and a three-year term of supervised release following imprisonment. A sentencing date has not yet been set.

The convictions stem from actions Vaughn took while serving as the operations manager of FAS Environmental Services, a transportation and disposal company based in Belle River, Louisiana. In that role, the defendant oversaw all operations and employees at the company.

At his hearing, Vaughn admitted that, while working as the FAS operations manager, he took over \$22,000 in kickbacks during 2011 and 2012 from a wastewater brokerage firm in exchange for illegally using an FAS injection well in Belle River to dispose of over 380,000 gallons of industrial wastewater in violation of the federal Safe Water Drinking Act. As part of the scheme, Vaughn further admitted that he and his fellow conspirators created and used over 100 false documents, including manifests and work orders, in addition to submitting false reports to regulators in Baton Rouge. Such false and fraudulent documents were designed to conceal the scheme from federal and state government officials and the brokerage firm's unsuspecting clients.



Aerial photograph of the overall well site at FAS with living quarters and a barge parked at the dock. Barges ferried wastewater from the FAS transfer station to the well site for disposal into the injection well.



The underground injection well operated by FAS. This is a Class II well, permitted by Louisiana Department of Natural Resources.

FAS ownership was unaware of the defendant's scheme, which resulted in the misuse of FAS resources to the sole benefit of the defendant personally and his fellow conspirators. FAS has cooperated fully throughout the investigation and terminated the defendant's employment with the company upon learning of the scheme.

This ongoing investigation is being conducted by EPA's Criminal Investigation Division, the U.S. Attorney's Office for the Middle District of Louisiana, and the Criminal Investigation Division of the Louisiana Department of Environmental Quality. The case is being prosecuted by Assistant United States Attorney Corey R. Amundson who serves as the Senior Deputy Chief of the Criminal Division.

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Former President of Texas Company Pleads Guilty of Federal Crimes Related to Employee Deaths --

On May 9, 2013, **MATTHEW LAWRENCE BOWMAN**, of Houston, former president of Port Arthur Chemical and Environmental Services, LLC (PACES), pleaded guilty in federal district court for the Eastern District of Texas to violating the Occupational Safety and Health Act and making a false statement.



Port Arthur Chemical and Environmental Services

Bowman admitted to not properly protecting PACES employees from exposure to hydrogen sulfide, a poisonous gas resulting in the death of truck driver Joey Sutter on Dec. 18, 2008. In addition, Bowman admitted to directing employees to falsify transportation documents to conceal that the wastewater was coming from PACES after a disposal facility put a moratorium on all wastewater shipments from PACES after received loads containing hydrogen sulfide.

According to information presented in court, Bowman was president and owner of PACES, located in Port Arthur, Texas, and CES Environmental Services (CES) located in Houston. PACES was in operation from November 2008 to November 2010, and was in the business of producing and selling caustic materials to paper mills. The production of caustic materials involved hydrogen sulfide, a poisonous gas. According to the National Institute for Occupational Safety and Health, hydrogen sulfide is an acute toxic substance that is the leading cause of sudden death in the workplace. Employers are required by OSHA to implement engineering and safety controls to prevent employees from exposure above harmful limits of hydrogen sulfide.

Bowman was responsible for approving and directing PACES production operations, the disposal of hydrogen sulfide wastewater, and ensuring implementation of employee safety precautions. In some cases, Bowman personally handled the investigation of work-related employee injuries, directed the transportation of PACES wastewater, and determined what safety equipment could be purchased or maintained. In the cases at issue, hazardous materials were transported illegally with false documents and without the required placards. Most importantly, the workers were not properly protected from exposure to hazardous gases. The exposure resulted in the deaths of two employees, Joey Sutter and Charles Sittig, who were truck drivers, at the PACES facility on Dec. 18, 2008, and Apr. 14, 2009. Placarding is critical to ensure the safety of first responders in the event of an accident or other highway incident. Bowman and PACES were indicted by a federal grand jury on July 18, 2012.



CES Environmental Services

Bowman faces up to five years in federal prison and a fine of up to \$250,000 at sentencing. A sentencing date has not been set. Charges remain pending against PACES. The corporation faces a fine of up to \$500,000 per count.

This case was investigated by EPA's Criminal Investigation Division; the U.S. Department of Transportation Office of Inspector General; the Texas Commission on Environmental Quality - Environmental Crimes Unit, part of the Texas Environmental Enforcement Task Force; the Texas Parks & Wildlife Department - Environmental Crimes Unit; the Houston Police Department - Major Offenders, Environmental Investigations Unit; the Travis County, Texas - District Attorney's Office; the Harris County, Texas, District Attorney's Office - Environmental Crimes Division; the Houston Fire Department; OSHA; the U.S. Coast Guard; the Port Arthur Police Department; and the Port Arthur Fire Department. It was prosecuted by the U.S. Attorney's Office for the Eastern District of Texas and the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division.

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Mississippi Corporation Pleads Guilty and Agrees to \$1 Million Fine for Illegally Filling Protected Wetlands

-- On May 15, 2012, Mississippi-based **HANCOCK COUNTY LAND, LLC (HCL)** pleaded guilty in federal district court for the Southern District of Mississippi to the unpermitted filling of wetlands near Bay St. Louis, Miss., and agreed to pay a \$1 million fine and take remedial measures for two felony violations of the Clean Water Act. HCL admitted causing the unauthorized excavation and filling of wetlands on a 1,710 acre parcel of undeveloped property in Hancock County.

According to the charges, when HCL purchased the property, it had been informed by a wetland expert that as much as 80 percent of its land was federally protected wetland connected by streams and bayous to the Gulf of Mexico and, therefore, that the property could not be developed without a permit from the U.S. Army Corps of Engineers. Such permits typically require that developers protect and preserve other wetlands to compensate for those they are permitted to fill and destroy.



Aerial photograph of large fill area where approximately 25 acres of wetlands were filled and excavated.

The charges allege that in spite of additional notice of the prohibition against filling and draining wetlands without authorization, HCL, principally through its minority owner/general contractor, hired an excavation contractor to trench, drain and fill large portions of the property to lower the water table and thus



Close-up photograph of illegal fill into wetlands.

to destroy the wetland that would otherwise have been an impediment to commercial development. In pleading guilty, HCL admitted that it knowingly ditched, drained and filled wetlands at multiple locations on the Hancock County property without having obtained a permit from the Army Corps of Engineers as required under the Clean Water Act.

It is a felony under the Clean Water Act for any person knowingly to discharge pollutants into waters of the United States, including wetlands, without a permit. A corporation convicted of this offense is subject to a penalty of not more than \$500,000 per count.

HCL agreed and was ordered to pay to the federal government a total penalty of \$1 million (\$500,000 for each of the two counts). HCL also agreed and was ordered by the court to restore and preserve the damaged wetlands as provided in separate agreements HCL reached with EPA and a citizen group, the Gulf Restoration Network. The agreements require HCL to re-grade and then re-plant, with appropriate native vegetation, the wetland area it excavated and filled and donate approximately 272 acres of the southwest

quadrant of its property to the Land Trust for the Mississippi Coastal Plain to be preserved in perpetuity. HCL is also required to fund its management and maintenance, to pay \$100,000 toward the litigation costs of the Gulf Restoration Network, and to pay a civil penalty to the U.S. Treasury of \$95,000.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Senior Trial Attorney Jeremy F. Korzenik of the Justice Department's Environmental Crimes Section of the Environment and Natural Resources Division, and Assistant United States Attorney Gaines Cleveland.

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Wal-Mart Pleads Guilty to Federal Environmental Crimes and Civil Violations and Will Pay More than \$81 Million -- On May 28, 2013, **WAL-MART STORES, INC.** pleaded guilty in cases filed by

federal prosecutors in Los Angeles and San Francisco to six counts of violating the Clean Water Act by illegally handling and disposing of hazardous materials at its retail stores across the United States. The Bentonville, Ark.-based company also pleaded guilty in Kansas City, Mo., to violating the Federal Insecticide, Fungicide and Rodenticide Act by failing to properly handle pesticides that had been returned by customers at its stores across the country.

As a result of the three criminal cases brought by the Justice Department, as well as a related civil case filed by EPA, Wal-Mart will pay approximately \$81.6 million for its unlawful conduct. Coupled with previous actions brought by the states of California and Missouri for the same conduct, Wal-Mart will pay a combined total of more than \$110 million to resolve cases alleging violations of federal and state environmental laws.



According to documents filed in U.S. District Court in San Francisco, from a date unknown until January 2006, Wal-Mart did not have a program in place and failed to train its employees on proper hazardous waste management and disposal practices at the store level. As a result, hazardous wastes were either discarded improperly at the store level – including being put into municipal trash bins or, if a liquid, poured into the local sewer system – or they were improperly transported without proper safety documentation to one of six product return centers located throughout the United States.

Wal-Mart owns more than 4,000 stores nationwide that sell thousands of products which are flammable, corrosive, reactive, toxic or otherwise hazardous under federal law. The products that contain hazardous materials include pesticides, solvents, detergents, paints, aerosols and cleaners. Once discarded, these products are considered hazardous waste under federal law.

Wal-Mart pleaded guilty in San Francisco to six misdemeanor counts of negligently violating the Clean Water Act. The six criminal charges were filed by the U.S. Attorney's Office in Los Angeles and San Francisco (each office filed three charges), and the two cases were consolidated in the Northern District of California, where the guilty pleas were formally entered before U.S. Magistrate Judge Joseph C. Spero. As part of a plea agreement filed in California, Wal-Mart was sentenced to pay a \$40 million criminal fine and an additional \$20 million that will fund various community service projects, including opening a \$6 million Retail Compliance Assistance Center that will help retail stores across the nation learn how to properly handle hazardous waste.

In the third criminal case resolved on May 28, Wal-Mart pleaded guilty in the Western District of Missouri to violating FIFRA. According to a plea agreement filed in Kansas City, beginning in 2006, Wal-Mart began sending certain damaged household products, including regulated solid and liquid pesticides, from its six return centers to Greenleaf LLC, a recycling facility located in Neosho, Mo., where the products were processed for reuse and resale. Because Wal-Mart employees failed to provide adequate oversight of the pesticides sent to Greenleaf, regulated pesticides were mixed together and offered for sale to customers without the required registration, ingredients, or use information, which constitutes a violation of FIFRA. Between July 2006 and February 2008, Wal-Mart trucked more than 2 million pounds of regu-

lated pesticides and additional household products from its various return centers to Greenleaf. In November 2008, Greenleaf was also convicted of a FIFRA violation and paid a criminal penalty of \$200,000 in 2009.

Pursuant to the plea agreement filed in Missouri, Wal-Mart agreed to pay a criminal fine of \$11 million and to pay another \$3 million to the Missouri Department of Natural Resources, which will go to that agency's Hazardous Waste Program and will be used to fund further inspections and education on pesticide regulations for regulators, the regulated community and the public. In addition, Wal-Mart has already spent more than \$3.4 million to properly remove and dispose of all hazardous material from Greenleaf's facility.

In conjunction with the guilty pleas in the three criminal cases, Wal-Mart has agreed to pay a \$7.628 million civil penalty that will resolve civil violations of FIFRA and Resource Conservation and Recovery Act. In addition to the civil penalties, Wal-Mart is required to implement a comprehensive, nationwide environmental compliance agreement to manage hazardous waste generated at its stores. The agreement includes requirements to ensure adequate environmental personnel and training at all levels of the company, proper identification and management of hazardous wastes, and the development and implementation of Environmental Management Systems at its stores and return centers. Compliance with this agreement is a condition of probation imposed in the criminal cases.

The criminal cases are a result of investigations conducted by EPA's Criminal Investigation Division and the FBI, with substantial assistance from the California Department of Substance and Toxics Control, and the Missouri Department of Natural Resources.

In Missouri, the case was prosecuted by Deputy United States Attorney Gene Porter and ENRD Senior Trial Attorney Jennifer Whitfield of the Environmental Crimes Section of the Environment and Natural Resources Division. In California, the cases were prosecuted in Los Angeles by Assistant United States Attorney Joseph O. Johns and in San Francisco by Assistant United States Attorney Stacey Geis.

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Mississippi Laboratory Operator Found Guilty of Falsifying Records on Industrial Wastewater --

On May 23, 2013, **TENNIE WHITE**, owner, operator and manager of Mississippi Environmental Analytical Laboratories, Inc., was found guilty in federal district court for the Southern District of Mississippi of a federal indictment charging falsification of records and obstructing a federal criminal investigation. Sentencing is scheduled for August 8.

White was hired to perform laboratory testing of a manufacturer's industrial process waste water samples and then to use those results to complete monthly discharge monitoring reports for submission to the Mississippi Department of Environmental Quality. The indictment alleged that from October to December 2008 White created three discharge monitoring reports that falsely represented that laboratory testing had been performed on samples when, in fact, such testing had not been done. The indictment further alleged that White created a fictitious laboratory report and presented it to her client for use in preparing another DMR for January 2009. The indictment also alleged that White made false statements to a federal agent during a subsequent criminal investigation.

For the false statements charges, White faces a maximum sentence of five years in prison and a \$250,000 fine per count. The obstructing proceedings charge carries a maximum sentence of 20 years in prison and a \$250,000 fine.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Trial Attorney Richard J. Powers of the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division, and Assistant United States Attorney Gaines Cleveland of the U.S. Attorney's Office for the Southern District of Mississippi.

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Two Ohio Men Indicted For Improperly Disposing of Insulation With Asbestos – On May 2, 2013, **JOHN MAYER** and **TIMOTHY BAYES**, both of Toledo, Ohio, were indicted for illegally dumping asbestos-containing insulation around the city of Toledo in violation of the Clean Air Act and regulations involving the removal and disposal of asbestos-containing material.

According to the indictment, between September 2010 and December 2010, Mayer directed individuals to remove insulation from boilers, duct work, and pipes in a former manufacturing plant in Toledo so that he could sell the scrap metal from those items. At Mayer's direction, Bayes allegedly dumped some 82 garbage bags containing the insulation at various locations throughout Toledo. By law, such material must be disposed of at a licensed facility. Asbestos-containing materials also must be wetted as they are removed; the city's Division of Environmental Services must be notified, and a person trained in federal asbestos regulations must be on site. None of those things happened in this case, prosecutors say.

The case was investigated by EPA's Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, and the Ohio EPA.

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New York Men and Company Indicted for Discharging Untreated Waste Water into River -- On May 9, 2013, **MARK PULLYBLAND**, of Caledonia, New York, **WILLIAM CLEMENTS**, of Victor, New York, and **CRANE-HOGAN STRUCTURAL SYSTEMS, INC.** located in Spencerport, New York, which employs Pullyblank and Clements, were indicted in federal district court for the Northern District of New York. The defendants are charged with discharging untreated industrial waste water from a hydro-demolition process without a permit in violation of the Clean Water Act. More specifically, they are charged with discharging untreated industrial waste water directly into the Susquehanna River.

Crane-Hogan is a company engaged in hydro-demolition in which high pressure water is used to remove concrete from buildings such as parking garages prior to resurfacing. The wastewater from the hydro-demolition process contains a slurry of industrial waste including remnants of concrete which has a very high pH. Pullyblank and Clements were project supervisors in charge of demolition projects at the Binghamton Governmental Center parking garage and the Johnson City Wilson Hospital parking garage. The allegations in the indictment are mere accusations and all parties are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

The case is being investigated by EPA's Criminal Investigation Division and the New York State Department of Environmental Conservation, Bureau of Environmental Crimes Investigations. Assistance has been provided the New York State Office of General Services, the Binghamton city engineer, and the Binghamton-Johnson City publically owned treatment works. It is being prosecuted by Assistant U.S. Attorney Craig Benedict.

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