

Environmental Crimes Case Bulletin



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

Case Bulletin July 2012

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:

- **Steven Avery, Billy Avery, Sea Solutions, Inc. — Region 3**
- **Nupro Industries Corporation — Region 3**
- **Payongyut Vongvichuankul & Pakpoom Hanprap — Region 4**
- **Duane “Butch” O’Malley — Region 5**
- **Team Industrial Services, Inc. — Region 6**
- **Port Arthur Chemical and Environmental Services LLC & Matthew L. Bowman — Region 6**
- **Odysea Carriers, S.A. — Region 6**
- **Jason Prejean & One Low Price Cleaners — Region 6**
- **Asgard Associates, LLC — Region 9**
- **Bret A. Simpson — Region 10**
- **Tammy Young — Region 10**

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 3	<u>Steven Avery, Billy Avery, Sea Solutions, Inc.</u>	CWA/Spilling oil, oily water and other pollutants into U.S. waters
Region 3	<u>Nupro Industries Corporation</u>	CWA/Criminally tampering with wastewater samples
Region 4	<u>Payongyut Vongvichuankul & Pakpoom Hanprap</u>	APPS/Discharged oily bilge waste into ocean and failed to maintain oil record book
Region 5	<u>Duane “Butch” O’Malley</u>	CAA/Illegal asbestos removal, handling, disposal
Region 6	<u>Team Industrial Services, Inc.</u>	CAA/Negligent release of hazardous pollutants
Region 6	<u>Port Arthur Chemical and Environmental Services, LLC & Matthew L. Bowman</u>	Hazardous Materials Transportation Uniform Safety Act & RCRA/Illegal transportation of hazardous waste and false statements

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 6	<u>Odysea Carriers, S.A.</u>	CWA/Illegal dumping of oily waste into the ocean
Region 6	<u>Jason Prejean & One Low Price Cleaners</u>	CWA/Negligent discharge of hazardous waste into POTW
Region 9	<u>Asgard Associates, LLC</u>	RCRA/Unlawful hazardous waste storage
Region 10	<u>Bret A. Simpson</u>	CWA/Failure to report unlawful oil spill and unlawfully discharging oil
Region 10	<u>Tammy Young</u>	SDWA/Falsifying Test Results

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Ship Scrapping Company and Owners Sentenced for Environmental Crimes – On July 12, 2012, STE-



*Boom is placed around the M/V Snowbird after an oil leak is discovered on the south branch of the Elizabeth River on October 6, 2010
Photograph: U.S. Coast Guard*

VEN E. AVERY, of Bohannon, Va., BILLY J. AVERY, of Virginia Beach, Va., and the corporation SEA SOLUTIONS, INC., were sentenced in federal district court for the Eastern District of Virginia for various environmental crimes stemming from their activities in the ship scrapping business. Steven Avery was sentenced to one year in prison and a \$25,000 fine, Billy Avery was sentenced to five years probation, nine months home confinement, and a \$25,000 fine, and Sea Solutions, Inc. was sentenced to one year probation and is barred from working in the ship scrapping business. The three defendants were also collectively ordered to pay \$66,402.41 in restitution.

Steven and Billy Avery operated Sea Solutions, Inc. In February 2010, Sea Solutions, Inc. purchased a vessel known as *M/V Snow Bird* for the purpose of scrapping, with the knowledge that it contained a quantity of petroleum products and other pollutants. The defendants knew these waste products were onboard the *M/V Snow Bird* and needed to be removed prior to scrapping, but they knowingly commenced scrapping operations with the pollutants onboard. Over the course of several months, witnesses complained of pollutants emanating from the *M/V Snow Bird*. In October of 2010, the defendants caused a major spill of oil, oily water, and other pollutants from the *M/V Snow Bird* into the Elizabeth River. The cleanup operation removed several thousand gallons of oily waste from the Elizabeth River and the shoreline at the cost to the United States of over \$66,000.

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Former Coos Bay/North Bend Water Treatment Supervisor Pleads Guilty to and Sentenced for Falsifying Water Testing Results

— On July 24, 2012, **TAMMY YOUNG**, of Coos Bay, Oregon, pleaded guilty to making a false statement to a government agency. Young was sentenced to three years of probation and 100 hours of community service. Young was charged with making a false statement on monthly monitoring reports to the Oregon Health Authority (OHA), a felony charge. While serving as the Water Treatment Plant Supervisor and Water Quality Technician, Young submitted monthly monitoring reports for drinking water which contained false test results for coliform bacteria. She was fired as a result of this conduct. The OHA relies on the accuracy of information



Coos Bay - North Bend Water Board

from water treatment plant supervisors to ensure that the water supplied by the Coos Bay/North Bend Public Water Board is in compliance with the Safe Drinking Water Act and is safe for the public to drink. Under the federal Safe Drinking Water Act, which is administered and enforced by the OHA, along with EPA, the Coos Bay/North Bend Public Water Board must provide drinking water that meets standards to ensure that the water is safe for human consumption. Drinking water is tested for coliform bacteria, a bacteria naturally present in the environment, which at certain levels, may indicate the presence of other, more harmful bacteria. EPA establishes levels of coliform bacteria permitted in drinking water. Regular testing allows public water systems to monitor these levels and ensure that there are no safety concerns with the water supply and no health risks. There is no indication that Young's actions caused any actual harm to individuals who consumed drinking water from the plant. This investigation was conducted by the EPA Criminal Investigation Division with assistance from the Oregon Health Authority Center for Health Protection. The case was prosecuted by the United States Attorney's Office for the District of Oregon.

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Philadelphia Plant Sentenced for Criminally Tampering its Wastewater Samples

— On July 27, 2012, **NUPRO INDUSTRIES CORPORATION**, located in Philadelphia, was sentenced to three years probation and a \$200,000 fine for criminally tampering with samples of the wastewater it was discharging into Philadelphia's sewer system. Nupro Industries Corporation, which manufactures oils and esters at its plant at East Ontario and Bath Streets in Philadelphia, pleaded guilty on March 2, 2012, to criminally tampering with a required monitoring method. Nupro's pretreatment permits with the city required Nupro to monitor the pollutants in its industrial wastewater by taking representative samples of its wastewater and submitting the samples for testing of specified pollutants, such as pH and ethylbenzene. From 2006 to June 2007, Nupro watered down the samples, making the samples non-representative, in order to dilute the pollutants and appear to be in compliance with the pollutant limits under the permits. In addition to probation and the fine, the court ordered Nupro to undertake a \$25,000 community service project as designated by the Philadelphia Water Department, and they were ordered to implement an Environmental Compliance and Ethics Plan as a condition of probation. Under the Plan, Nupro agreed to address and correct its environmental problems, to designate employees to be responsible for environmental issues and compliance at Nupro, and to annually train all of its employees on environmental compliance. Nupro was further ordered to publish, in an appropriate trade journal and a local newspaper, advertisements describing Nupro's conduct, conviction, and sentence, remedial steps taken to prevent reoccurrence, and to provide information to other regulated entities about how to avoid similar prosecution.



Nupro Industries Corporation

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Illinois Man Sentenced to 10 years in Federal Prison for Clean Air Act Violations involving Asbestos

On July 25, 2012, **DUANE “BUTCH” O’MALLEY**, was sentenced to 10 years in prison, the payment of approximately \$47,000 in restitution, and a \$15,000 fine. He was also sentenced to three years supervised release. O’Malley was convicted by a federal jury on September 26, 2011, for the illegal removal, handling and disposal of asbestos from a Kankakee building in August 2009. O’Malley was charged in June 2010 with five felony violations of the Clean Air Act, along with Michael J. Pinski, and James A. Mikrut. Pinski entered a plea of guilty on August 19, 2011, to one count of violation of the Clean Air Act; Mikrut pled guilty on August 24, 2011, to five counts of violating the Act. Sentencing for Pinski and Mikrut has not yet been scheduled. During O’Malley’s trial, which began on September 21, 2011, the government presented evidence that O’Malley, owner and operator of Origin Fire Protection, was hired by Pinski in August 2009 to remove asbestos-containing insulation from pipes in a five-story building that was owned by Pinski through his company, Dearborn Management, Inc. Neither O’Malley nor anyone in his company was trained to perform the asbestos removal work. O’Malley agreed to remove the asbestos insulation for an amount that was substantially less than a trained asbestos abatement contractor would have charged to perform the work. Furthermore, O’Malley arranged for Mikrut to recruit and oversee workers to remove the asbestos.



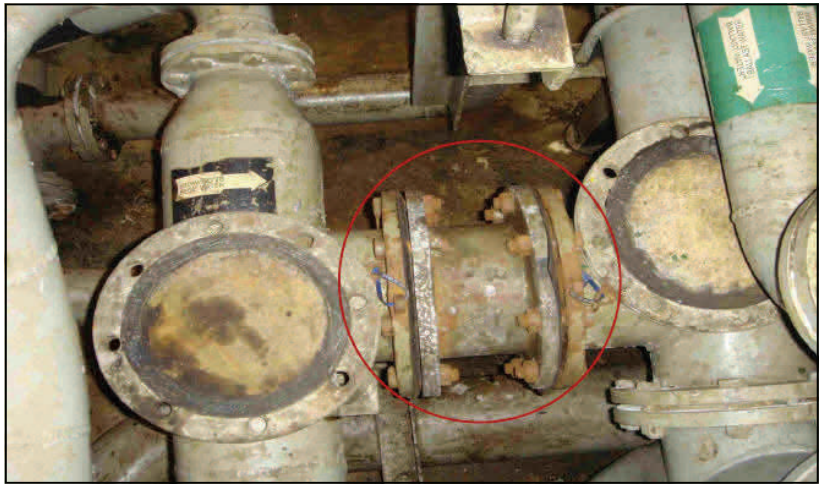
O’Malley and his workers filled these garbage bags with asbestos insulation they removed from pipes and dumped them in an open field, resulting in soil contamination.

The government’s evidence showed that various provisions of the Clean Air Act and EPA regulations were violated, including: failure to properly notify EPA; failure to have trained on-site representatives present; failure to ensure the asbestos insulation was adequately wetted while it was being stripped and removed; failure to mark vehicles used to transport the asbestos-containing waste material; and, failure to deposit the asbestos in a waste disposal site for asbestos. Instead, the asbestos insulation was stripped from the pipes while dry, and then placed in more than 100 large, unlabeled plastic garbage bags, which were dumped in an open field in Hopkins Park, resulting in asbestos contamination of the soil. At the sentencing hearing, the government presented evidence that the manner in which the asbestos had been removed from the building had exposed the workers hired by O’Malley to dangerous asbestos-laden dust, which endangered their health.

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Singapore Ship Engineers Sentenced to Crimes Related to Pollution From Cargo Ship Traveling to

Alabama— On July 26, 2012, two Singapore ship engineers were sentenced for violations of the Act to Prevent Pollution from Ships. Chief Engineer **PAYONGYUT VONGVI-CHUANKUL** was sentenced to six months home confinement, but was credited with time served for the 10 months he was detained in Mobile, Alabama. He was placed on probation for a term of a year and ordered to pay a \$100 special assessment. No fine was levied because he has no ability to pay. On the same day, Second Engineer **PAK-POOM HANPRAP** was sentenced to one year probation, a \$100 special assessment, and no fine. Both were ordered to leave the



Spool pipe used to connect the bilge system to the ballast system on the ship, which allowed the crew to bypass the Oil Water Separator and discharge oily waste overboard.

country in 14 days or less. They discharged and caused the overboard discharge of oily bilge waste from the *M/V Gaurav Prem* on multiple occasions as the vessel sailed from South Korea to Mobile in 2011. The discharges were not recorded in the vessel's oil record book as required. The deliberate overboard discharges of oily waste were accomplished through the ship's fixed bilge piping system and by using the ship's general service pump in a manner that intentionally bypassed required pollution prevention equipment.

Target Ship Management Pte. Ltd., operator of the *M/V Gaurav Prem*, pleaded guilty on May 30, 2012, to a violation of the Act to Prevent Pollution from Ships for failing to properly maintain an oil record book as required by federal and international law, and for making material false statements during a U.S. Coast Guard inspection of the ship at the port of Mobile in September 2011. The company was sentenced to pay a \$1 million criminal fine along with a \$200,000 community service payment to the National Fish & Wildlife Foundation. Target was also sentenced to three years probation. As a condition of the probation, ships operated or managed by Target that will or may call on the United States, are required to submit an environmental compliance plan supervised by outside auditors and the court.

The ship's captain, Prastana Taohim, was convicted at a jury trial on May 17, 2012, for obstructing the Coast Guard's inspection for similar but unrelated charges. At trial, it was found that Taohim ordered the ship's chief officer to throw hundreds of plastic pipes into the ocean and not record the discharge in the ship's garbage record book as required. Taohim then knowingly made the garbage record book with the deliberate omissions available during the Coast Guard inspection on September 21, 2011. The plastic pipes had previously contained insecticide and were used to fumigate a grain shipment. The jury also found him guilty

of obstruction of justice related to covering up the pollution by creating a false and fictitious garbage log. He is scheduled to be sentenced on August 15, 2012. This investigation was conducted by the U.S. Coast Guard Investigative Service and the U.S. Environmental Protection Agency Criminal Investigation Division. Additional assistance was provided by the Coast Guard Sector Mobile and U.S. Coast Guard Eighth District Legal Office. The case was prosecuted by the Department of Justice's Environmental Crimes Section and the U.S. Attorney's Office for the Southern District of Alabama.



The M/V Gaurav Prem

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Greek Shipowners to Pay \$1.2 Million Fine for Dumping Oil Wastes — On July 25, 2012, ODYSEA



The M/V Polyneos

CARRIERS, S.A., an Athens, Greece-based shipping firm, was sentenced in federal court in the Eastern District of Louisiana to pay a \$1.2 million fine and be placed on three years probation after pleading guilty on March 8, 2012 to illegally discharging oily waste into the ocean and covering up the illegal actions. The charges stem from an investigation into the actions of the *M/V Polyneos*, a 37,623 gross ton ocean-going bulk carrier owned by Odysea, which docked at the Port of New Orleans on October 12, 2011. According to court records, engine room crew members used a hose to pump the contents of

the ship's bilge tank, bilge oil tank and sludge tank directly overboard from at least June 8, 2011.

PEDRO GUERRERRO, chief engineer of the *Polyneos*, covered up the discharges by falsifying the vessel's oil record book, where all such discharges are supposed to be accurately recorded. Guererro also made false entries indicating an incinerator was used to burn the oil waste and sludge "with the intent to conceal from Coast Guard authorities that dumping had occurred." On February 15, 2012, Guererro pled guilty to making and using a false document, the oil record book. He was sentenced on May 2, 2012 to three years supervised probations and ordered to pay a \$2,000 criminal fine.

The \$1.2 million fine includes a \$100,000 community service payment to the National Fish and Wildlife Foundation, which will be used in Louisiana. Odysea also is required to implement an Environmental Compliance Plan to ensure all of its ships comply with maritime environmental rules, and that the company's employees, including ship crews, are properly trained in preventing maritime pollution. An independent monitor will submit reports to the court detailing Odysea's compliance with its environmental obligations during the three year probation period.

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Barge Owner Pleads Guilty to Water Crimes – On July 12, 2012, **BRET A. SIMPSON**, owner of Principle Metals, LLC, pled guilty in federal district court for the Western District of Washington to two criminal violations of the Clean Water Act, specifically, failing to report a discharge of oil, and unlawfully discharging oil into the Columbia River. Simpson admitted he was informed about oil that was left inside the *Davy Crockett* barge while he was conducting salvage operations, but he did not have the oil removed before workers started cutting up the metal barge. Failure to report the offense is punishable by up to five years in prison; the unlawful discharge is punishable by up to one year in prison. Sentencing is scheduled for October 12.

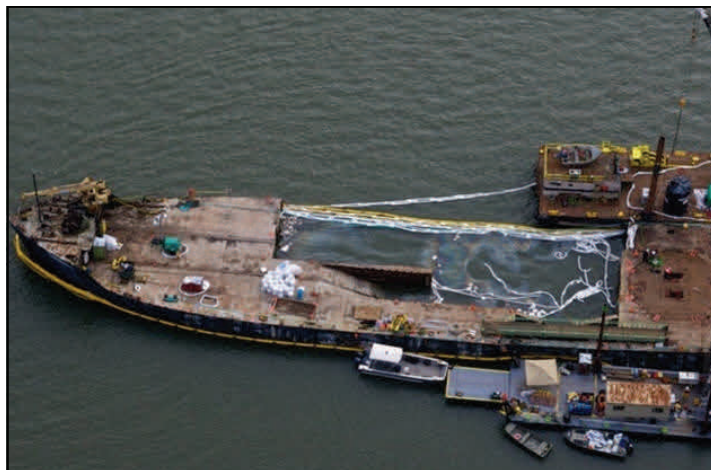


The Davy Crockett, shown in an aerial view last March, was surrounded by a cofferdam and dismantled in place.

When the first oil spill occurred in December 2010, Simpson failed to notify authorities and he failed to take any affirmative steps to monitor the vessel or to protect it from natural forces that could exacerbate the spill and potentially cause additional structural damage. Subsequent spills in January 2011 led U.S. Coast Guard investigators to identify the *Davy Crockett* as the source and to initiate a federally funded cleanup effort. The Coast Guard ultimately spent eight months and approximately \$20 million working with environmental authorities to clean up the oil spill and remove the derelict barge from the river.

The *Davy Crockett* is a former U.S. Navy ship that was converted to a flat deck barge. Simpson's company planned to cut it apart and sell the metal for scrap. He assembled a crew to do the job but made no arrangements to remove the fuel oil and diesel fuel from the vessel before the scrapping operation began. In December 2010, a member of the scrapping crew cut into a structural beam of the barge and the ship began breaking apart and leaking oil. Neither Simpson nor anyone with his company notified authorities about the leak.

Simpson initially addressed the oil release by ceasing all scrapping operations, procuring a boom to limit the release, and directing an employee to monitor vessel conditions. The employee did so for about a week before being relieved of his employment. Simpson took no further steps to monitor the ship or to protect it from further structural damage. In January 2011, an accumulation of debris next to the barge forced it to move and additional oil was released. The Coast Guard issued an administrative order to remove any remaining visible oil from machinery spaces and deck tubes together with other salvage debris from the vessel. Simpson complied and authorities believed the barge no longer posed an environmental danger. However, on January 27, 2011, additional oil was released and state and federal authorities immediately responded in an effort to limit environmental damage.



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Louisiana Dry Cleaning Business Owner Pleads Guilty to Negligent Waste Water Discharge – On July 31, 2012, **JASON PREJEAN**, of Lafayette, Louisiana, pleaded guilty in federal court on behalf of himself and **ONE LOW PRICE CLEANERS (OLPC)** to violating a local pre-treatment program by negligently causing and allowing the discharge of hazardous waste into a publicly owned treatment works or sewer system. Prejean violated an approved local pre-treatment program maintained by Lafayette Utility System, which requires all users of the sewer system to obtain a permit to discharge industrial wastes into the utility's publicly owned treatment works. OLPC was never issued a permit to discharge any amounts of PERC into the sewer system.

Prejean, owner of OLPC, admitted that he acted negligently in failing to ensure the proper and lawful disposal of waste waters containing PERC and that he failed to train OLPC employees on the proper and lawful disposal of PERC waste. Dry cleaners are required by law to contract with a permitted hazardous waste company to dispose of the PERC lawfully. Prejean also admitted that he had not used a disposal company since February 2007. Investigations conducted by EPA's Criminal Investigation Division and Louisiana Department of Environmental Quality revealed that from December 2007 through May 2009, PERC was being improperly stored on-site and that OLPC and employees routinely poured PERC wastewaters down the toilet inside the store. Due to misrepresentations by an OLPC employee, agents did not discover that employees had been storing PERC in unapproved Rubbermaid containers until May 28, 2009, the second day of an emergency response to detect and determine the source of the hazardous fumes. During the emergency response and investigation on May 27 and 28, 2009, citizens and employees of adjacent businesses were evacuated, and some were medically treated due to reported symptoms from the exposure of PERC fumes. Responders from the Louisiana State Police Emergency Services Unit, Louisiana Department of Environmental Quality, Louisiana Department of Health and Hospitals, the Lafayette Utility Service, and the U.S. Army National Guard 62nd Weapons of Mass Destruction Civil Support Team, arrived on scene and remained there for three days. Traces of the hazardous substance, PERC, were located in adjacent businesses due to the fact that OLPC shared a common sewer system with these businesses. Test results also revealed the presence of PERC at the junction in which sewer waters from OLPC enters the city sewer system.

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Texas Refinery Admits of Negligently Releasing Hazardous Air Pollutants -- On July 17, 2012, **TEAM**



INDUSTRIAL SERVICES, INC. (Team), which provided leak detection and repair services at a refinery near Borger, Texas, admitted in federal district court for the Northern District of Texas that it negligently released hazardous pollutants into the ambient air, placing people in danger of death or serious bodily injury. According to plea documents, Team employees at the refinery knowingly failed to follow required

protocols while conducting emissions monitoring of certain refinery components. They also manipulated testing data to falsely represent emissions monitoring events that were not performed. A Team supervisor knew the emissions monitoring data was false yet, along with another employee, they altered the emissions monitoring database to falsely represent emissions monitoring events to EPA and the Texas Commission on Environmental Quality.

As part of its plea agreement, Team agreed to develop and implement an environmental compliance plan that specifically addresses its leak detection and reporting activities to achieve appropriate compliance with the Clean Air Act's leak detection and repair regulations. It also acknowledges that its facility in Borger will be placed on EPA's list of violating facilities and will, therefore, be ineligible for any federally funded contracts, grants, or loans, until it is removed from the list. No sentencing date has been set.

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Asgard Associates Pleads Guilty to Illegal Hazardous Waste Storage --

On July 18, 2012, **ASGARD ASSOCIATES, LLC**, a Delaware corporation, pleaded guilty in federal district court for the Southern District of California to unlawfully storing hazardous waste. Asgard admitted responsibility for maintaining chemicals and biological agents in a laboratory in San Diego that posed a threat of imminent and identifiable harm to the public health and safety.

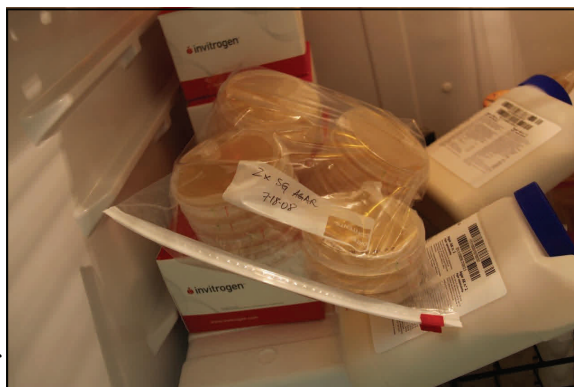
The company knew that between January 26, 2010 and March 18, 2010, numerous containers of chemicals were stored at its laboratory in lieu of disposal, and that some of the chemicals (stored without a permit) had the potential to pose a substantial risk to human health and the environment. Nevertheless, Asgard refused to provide funds for the disposal of these hazardous chemicals. Because of this failure, the San Diego County Department of Environmental Health Services (DEH) spent \$8,693 conducting inspections and sampling the chemicals on May 6, 2010, and June 10, 2010. On August 13, 2010, the U.S. EPA conducted a clean-up (under the authority of Superfund), that included over 2,500 containers of hazardous chemicals. These chemicals had to be “detonated” by the EPA and the San Diego Fire Department Bomb Squad as they were too unstable for safe transport. The direct costs of the clean-up to EPA were \$167,718.68.

In its felony plea, Asgard Associates agreed to repay the costs incurred by the EPA and DEH and further agreed that an employee, Michael Conrad, will perform 240 hours of community service. The plea is subject to final acceptance by the court at sentencing. Sentencing is scheduled for September 17, 2012.

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Abandoned chemicals found at Asgard laboratory



Abandoned petri dishes containing bacteria



Abandoned open chemicals and equipment

Correction for the June 2012 bulletin -- It was mistakenly reported in the June 2012 bulletin that **OHIO VALLEY COAL COMPANY (OVCC)** pleaded guilty on June 28, 2012 in federal district court for the Southern District of Ohio to criminal violations of the Clean Water Act arising from two coal slurry release incidents that polluted Captina Creek in Belmont County, Ohio. However this plea agreement actually occurred on July 13, 2012. We apologize for this error.

Former President of Texas Company Indicted for Employee Deaths and Environmental Violations –



Port Arthur Chemical and Environmental Services

On July 18, 2012, **PORT ARTHUR CHEMICAL AND ENVIRONMENTAL SERVICES, LLC (PACES)** and its former president **MATTHEW L. BOWMAN** were charged with conspiracy to illegally transport hazardous materials, resulting in the deaths of two employees, in an indictment handed down by a federal grand jury in Beaumont, Texas. The 13 count indictment describes a scheme in which hazardous materials were transported illegally with false documents and without placards, and where workers were not properly protected from exposure to hazardous gases. The exposure resulted in the deaths of two employees, who were truck drivers, at

the PACES facility on Dec. 18, 2008, and April 14, 2009. Both deaths are attributed to exposure to hydrogen sulfide.

The defendants were charged with a conspiracy to violate the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) and two counts of failure to implement appropriate controls to protect employees from exposure to hydrogen sulfide in violation of the Occupational Safety and Health Administration Act. They are also charged with transportation of hazardous materials without placards and with false documents in violation of HMTUSA, violations of the Resource Conservation and Recovery Act and making false statements.

According to the indictment, 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 approximately 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, which is classified as a poisonous gas by HMTUSA. 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 the Occupational Safety and Health Administration (OSHA) to implement engineering and safety controls to prevent employees from exposure above harmful limits.



CES Environmental Services

Bowman was responsible for, among other duties, approving and directing PACES production operations, the disposal of hydrogen sulfide wastewater, employee safety precautions, directing the transportation of PACES wastewater, and determining what safety equipment could be purchased or maintained. Both PACES and CES have filed for bankruptcy. The conspiracy and substantive counts of the indictment each carry a maximum possible sentence of five years in prison and a fine of \$250,000, and a \$500,000 maximum fine for the corporation.

The allegations in the indictment are mere accusations and all persons are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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