

Environmental Crimes Case Bulletin



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

August 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:

- **Kaara Doolin-Smith — Region 4**
- **Mari Leigh Childs — Region 4**
- **Jose Manuel Cabrera — Region 4**
- **Milton Smith — Region 4**
- **Timothy and Denise Smither — Region 4**
- **Prastana Taohim — Region 4**
- **Guiseppe Bottiglieri Shipping Company, Vito La Forgia — Region 4**
- **House of Raeford Farms, Inc. — Region 4**
- **Arville “Buddy” Thomas — Region 4**
- **William Morgan and Kendrick Covington — Region 5**
- **William Zirkle — Region 5**
- **Daniel Evanoff — Region 5**
- **Jeffrey David Gunselman — Region 6**
- **Cedyco Corporation — Region 6**
- **Ngan Tien Tran, Nghiem Van Tran, Nghi Cong Tran, Dahn Cong Tran, Bich Dong Ngo, and Huy Ngoc Nguyen — Region 6**
- **Thomas K. Tienda — Region 8**
- **William Duran Vizzerra, Jr. — Region 10**
- **Kenny Champ — Region 10**

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 4	<u>Kaara Doolin-Smith</u>	RCRA/Illegally storing hazardous waste
Region 4	<u>Mari Leigh Childs</u>	CWA/Failing to maintain records and falsifying lab reports
Region 4	<u>Jose Manuel Cabrera</u>	CAA/Falsifying vehicle inspections
Region 4	<u>Milton Smith</u>	CAA/Falsifying vehicle inspections
Region 4	<u>Timothy Smither and Denise Smither</u>	FIFRA/Misuse of pesticides
Region 4	<u>Prastana Taohim</u>	Obstructing Coast Guard inspection, not recording illegal discharge of plastic pipes, providing false record book

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 4	<u>Guiseppe Bottiglieri Shipping Company and Vito La Forgia</u>	APPS/Deliberately falsifying records to conceal oily waste discharges
Region 4	<u>House of Raeford Farms, Inc.</u>	CWA/Disposing untreated waste water into city treatment system without notifying city officials
Region 4	<u>Arville “Buddy” Thomas</u>	RCRA/Illegal Storage and disposal of hazardous waste
Region 5	<u>William Morgan and Kendrick Covington</u>	CAA/Asbestos requirement violation and bribery
Region 5	<u>William Zirkle</u>	CWA/Negligently discharging wastewater into sewer system
Region 5	<u>Daniel Evanoff</u>	CAA/Tampering with EPA monitoring devices

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 6	<u>Jeffrey David Gunselman</u>	CAA/False renewable fuel credits, wire fraud, money laundering, false statements
Region 6	<u>Cedyco Corporation</u>	CWA/Negligent discharge of oil into U.S. waters
Region 6	<u>Ngan Tien Tran, Nghiem Van Tran, Nghi Cong Tran, Dahn Cong Tran, Bich Dong Ngo, and Huy Ngoc Nguyen</u>	CAA/Falsifying vehicle inspections
Region 8	<u>Thomas K. Tienda</u>	CAA/Improper asbestos removal and improper land use
Region 10	<u>William Duran Vizzerra, Jr.</u>	RCRA/Illegally disposing of hazardous waste
Region 10	<u>Kenny Champ</u>	State Case/Illegal discharge of sewage into stream

Quick Links:

- [Sentencings](#) p. 5 - 13
- [Trials](#) p. 14
- [Plea Agreements](#) p. 15 - 17
- [Indictments/Informations](#) p. 18

Sentencings [\(Back to Quick Links\)](#)

Mississippi Wastewater Operator Sentenced for Failing to Maintain Records and Falsifying Lab Reports

— On August 1, 2012, **MARI LEIGH CHILDS**, former operator of several waste water and drinking water systems in North Mississippi, was sentenced following her previous guilty plea to one count of submitting false material statements specific to Childs' operation of publicly owned waste water treatment facilities and public drinking water systems, and to one count of failing to establish and maintain records, make reports, and sample effluents as required by the Clean Water Act. Childs admitted that she falsified lab reports and log books to try and cover up her errors when Mississippi Department of Environmental Quality and the Mississippi Department of Health began asking questions about her failure to produce the required records and reports. Childs was sentenced to probation for a period of five years, including six months of home confinement with electronic monitoring. She was also ordered to pay restitution in the amount of \$34,900. The case was investigated by EPA's Criminal Investigation Division, along with the Mississippi Department of Health and the Mississippi Department of Environmental Quality and was prosecuted by the United States Attorney's Office for the Northern District of Mississippi.

[Back to Top](#)



Wastewater lagoon at Chapman Subdivision Publicly Owned Treatment Works (POTW). Childs falsified lab results and monitoring reports for multiple POTWs.



Wastewater influent pipe at Rising Sun Subdivision POTW



Wastewater lagoon at Rising Sun Subdivision POTW

Alaskan Septic Pumper Sentenced to Jail for Dumping Wastes and Theft — On August 29, 2012,



Picture taken by a concerned neighbor of Kenny Champ believed to be discharging sewage

Houston, Alaska resident **KENNY CHAMP**, 49, pled guilty in Palmer Superior Court to one count of Theft in the Second Degree, a Class C felony, and one count of Pollution of Land/Air/Water, a Class A misdemeanor. Champ admitted that he dumped human waste into a stream that flowed onto his neighbor's property and into the Little Susitna River. As part of his plea agreement, Kenny Champ was sentenced to serve 305 days in jail, including 5 days for the pollution charge, and he will be on probation for three years. Kenny Champ must pay full restitution to the City of Houston to restore the City's land after blockading its roadway, constructing a well, storing sewage trucks, tires, and barrels. In addition, he must pay full restitution to the State of Alaska's

Department of Environmental Conservation for any clean-up costs associated polluting the land and waters of the state from dumping tires and raw sewage. Champ is also required to pay the State a \$10,000 fine for polluting the land and waters of the State. The convictions are the result of concerned neighbors coming forward to report the sewage dumping that threatened a salmon-bearing stream and waters from which residents frequently obtain drinking water. Those complaints led to a lengthy investigation conducted by the Alaska Department of Environmental Conservation's Environmental Crimes Unit (ECU) with the assistance of the U.S. EPA's Criminal Investigation Division.

[Back to Top](#)

Ohio Man Sentenced for Negligently Discharging Untreated Wastewater into Sewer System — On

August 3, 2012, **WILLIAM ZIRLKE** was sentenced in federal court in the Northern District of Ohio to 200 hours community service and six months probation after he admitted to negligently failing to ensure that wastewater was pretreated prior to its discharge into the City of Defiance sewer system. This is a misdemeanor in violation of the Clean Water Act. Zirkle worked at the former SK Hand Tool Corporation manufacturing facility in Defiance, Ohio. That facility discharged wastewater into the city of Defiance sewer system and was considered an industrial user. Prior to discharging wastewater from the facility into the sewer system, the wastewater was processed using a pretreatment system. On April 21, 2008, there was an accident and approximately 210 gallons of chrome plating solution spilled into a cement pit near the pretreatment system. Once becoming aware of the spill, Zirkle took steps to address the spill by adding chemicals and attempting to treat it in the pretreatment system instead of pumping the spilled chrome solution from the pit into a holding tank for proper disposal. As a result of Zirkle's negligence, improperly treated wastewater was discharged into the sewer system. The high concentration chrome wastewater caused damage to the treatment processes at the City of Defiance sewage treatment plant. This case was prosecuted by the U.S. Attorney's Office for the Northern District of Ohio following an investigation by the U.S. EPA's Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, and the Ohio Environmental Protection Agency Office of Special Investigations, all are members of the Northwest Ohio Environmental Crimes Task Force.



Flow entering the Defiance WWTP Grit Building. This is the location where fluorescent yellow wastewater was first observed entering the plant.

[Back to Top](#)

Former Owner of North Carolina Hazardous Waste Transportation Company Sentenced for Hazardous Waste Crimes

— From July to November 2010, Brian K. Smith and Kaara Doolin-Smith were the owner-employees of Dove Environmental Management (“Dove”), a licensed hazardous waste transporter. During that time, they unlawfully stored more than 90 containers of regulated hazardous waste in public rental storage units. The containers were discovered during an inspection in October 2010 by the rental facility, after Dove failed to make numerous monthly payments. North Carolina’s Department of Environment and Natural Resources, Hazardous Waste Section, was notified and the investigation prompted an emergency response by EPA Superfund’s Emergency Response and Removal Branch. Several generators listed on the hazardous waste containers advised that they had contracted with Dove to remove and dispose of the waste as far back as 2007. Both Doolin-Smith and Smith pled guilty to one count of illegally storing hazardous waste. On August 28, 2012, **KAARA DOOLIN-SMITH** was sentenced to 2 years probation, 6 months home detention, 80 hours community service, \$150 court fee, restitution to the victim (Waters/ABR Storage) in the amount of \$17,643.36 for compliance and disposal of RCRA materials as well as \$14,500 in legal fees (75%) incurred by the victim in the matter. Both Kaara Doolin-Smith and Brian Smith were held jointly and severally liable for the restitution. Brian Smith has not been sentenced and no sentencing date has been set. EPA’s Emergency Response and Removal Division provided a great deal of support to the investigation.

[Back to Top](#)



Containers of hazardous waste left at a storage facility by the defendants. Their discovery prompted an emergency response by EPA Superfund’s Emergency Response and Removal Branch.

Husband and Wife Sentenced in North Carolina to Federal Prison for Misuse of Pesticides — On August 8, 2012, a husband and wife were sentenced in federal court for the Eastern District of North Carolina for their involvement in the misuse of pesticides. **TIMONTY TERRELL SMITHER**, former manager of a North Carolina pesticide company, was sentenced to 12 months and one day imprisonment followed by three years supervised release. His wife, **DENISE SMITHER**, former office assistant at the pesticide company, received two years probation with five months of home confinement. On March 14, 2012, Timothy Smither pled guilty to conspiracy to commit mail fraud and wire fraud and to violating the FIFRA. That same day, Denise Smither pled guilty to violating FIFRA.



Termidor SC bottles re-labeled by Miller Trophy Room

Beginning in 1995, Steve Miller (now deceased), the owner and operator of the Miller Trophy Room, formerly known as Love Bug Pest Control, Inc, began to focus the business on treating animal trophy mounts. In 2001, the company began advertising on the Internet and claimed to engage in business in 48 states, including Mount Pleasant, North Carolina. In 2000, Miller decided to use Termidor SC to treat indoor mounts and began purchasing large quantities of the product. Termidor SC is a pesticide that is not authorized for indoor use except for applications into wall voids. As required by law, pesticides must be labeled. FIFRA makes it unlawful to detach, alter, deface, or destroy any labeling on pesticide

containers. The act also makes it unlawful to use any registered pesticide in a manner inconsistent with its labeling.

In 2002 and again in 2005, Miller and another co-conspirator purchased thousands of labels with the company's name and address printed on them. From the initial purchase through 2009, Smither and co-conspirators relabeled the containers of Termidor SC with the company labels. From 2004 to 2009, the conspirators shipped the relabeled Termidor SC to independent contract employees in other states for application and treatment of indoor trophy mounts.

As a consequence of the conspiracy, customers were unaware that the product sent to them contained Termidor SC, and proceeded to treat large trophy mounts indoors by mixing the pesticide with water, and saturating the mounts as they sat on tarps. The mounts would then be left to air dry. During the application process, some customers were directly exposed to Termidor. Several reported holding the mounts while they were being sprayed and that the chemical made contact with their arms and hands. One customer reported that his wife ran a day care center out of their home and that children played on and petted the mounts from time to time after the treatments. Customers were told that the chemical being applied was completely safe, would not hurt them, and was a Miller Trophy Room "secret" chemical. To conceal the use of Termidor SC, the conspirators created false Material Safety Data Sheets that stated in Section II – Hazardous Ingredients/Identity Information, "Ingredients are considered a 'TRADE SECRET'". A restitution hearing is set for November 7, 2012.



Animal trophy after Termidor SC was applied

Investigation of the case was conducted by the U.S. EPA's Criminal Investigation Division, the EPA Region 4 - Civil, the North Carolina Department of Agriculture Structural Pest Control and Pesticides Division, and the North Carolina State Bureau of Investigation. It was prosecuted by U.S. Attorney's Office for the Eastern District of North Carolina.

Investigation of the case was conducted by the U.S. EPA's Criminal Investigation Division, the EPA Region 4 - Civil, the North Carolina Department of Agriculture Structural Pest Control and Pesticides Division, and the North Carolina State Bureau of Investigation. It was prosecuted by U.S. Attorney's Office for the Eastern District of North Carolina.

[Back to Top](#)

Alabama Man is Sentenced for Improperly Storing and Disposing of Hazardous Waste —

On August 24, 2012, ARVILLE “BUDDY” THOMAS, 71, was sentenced to three years’ probation for storing and disposing of hazardous waste at his former company in Prattville, Alabama, without a permit. Thomas previously owned Deep South Plating, Inc. located in Prattville, Alabama. Deep South Plating was a metal plating company that used heavy metals in liquid form. These liquid metals created hazardous byproducts, including copper cyanide, nickel cyanide and sulfuric acid. These and other hazardous byproducts were improperly stored in open vats and unsecured metal drums on the property. Thomas abandoned the company in 2008 and moved to Tennessee. When federal agents located Thomas in Tennessee, he admitted that the hazardous materials at Deep South Plating were improperly handled and stored before he abandoned his company. Earlier this summer, Thomas pleaded guilty to a one-count felony information charging him with storing and disposing of hazardous waste without a permit. This case was investigated by the U.S. EPA’s Criminal Investigation Division and prosecuted by the U.S. Attorney’s Office for the Middle District of Alabama. EPA’s Emergency Response and Removal Division provided a great deal of support to the investigation.

[Back to Top](#)



Deep South Plating, abandoned by Thomas in 2008, and left unsecured with hazardous waste inside. Across the street from the facility was a youth gymnastics center.



Vats, caustics and precipitate. Note the “drag out” from years of electroplating. Hazardous waste from the business had never been properly disposed of by the defendant, despite operating the company for over 14 years.



There were numerous open top drums within the building that were either low or high pH.



These were the hazardous conditions left inside the unsecured facility. The entire building and foundation was ultimately removed and cost the federal government approximately \$770,000 to clean up.

Ship's Captain Sentenced for Obstructing A Coast Guard Boarding — On August 15, 2012, **PRAS-TANA TAOHIM**, the captain of the *M/V Gaurav Prem*, was sentenced in federal court for the Southern District of Alabama to one year and one day incarceration, followed by three years of probation if not immediately repatriated to Thailand after his custody sentence. He was found guilty of obstructing a U.S. Coast Guard inspection of his Panama-flagged cargo ship that discharged hundreds of plastic pipes into the ocean. The discharges of plastic were not recorded in the ship's garbage record book, a required log regularly inspected by the U.S. Coast Guard. It was shown during trial that the Captain Taohim ordered the chief officer to throw the plastic into the sea and not record the discharge in the ship's garbage record book. It was also shown at trial that the captain then knowingly made the garbage record book available for the September 2011 inspection. The investigation was conducted by the U.S. Coast Guard Investigative Service and the EPA 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 Justice Department's Environmental Crimes Section of the Environment and Natural Resources Division and the U.S. Attorney's Office for the Southern District of Alabama.



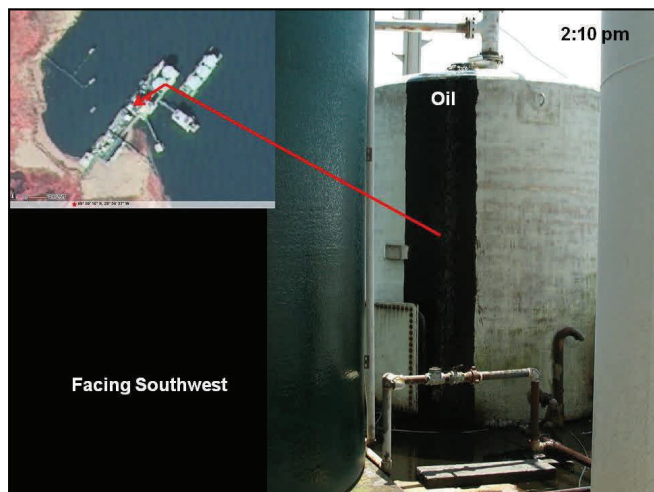
M/V Gaurav Prem crew members carrying out their orders from Captain Taohim to dispose of the plastic piping at sea.

[Back to Top](#)

Italian Ship Owner and Chief Engineer Sentenced for Crimes Related to Illegal Discharges from Cargo Ship — On August 15, 2012, **GUISSEPPE BOTTIGLIERI SHIPPING COMPANY S.P.A.**, a shipping company headquartered in Italy, was sentenced in federal court for the Southern District of Alabama to pay a \$1 million criminal fine, serve four years of probation, and make a \$300,000 community service payment to the National Fish and Wildlife Foundation for deliberately falsifying records to conceal discharges of oily wastewater from the *M/V Bottiglieri Challenger* directly into the sea. The company must also fund and implement a comprehensive environmental compliance plan during the term of probation. Chief Engineer **VITO LA FORGIA** was sentenced to one month in jail. The company had plead guilty to violating the Act to Prevent Pollution from Ships (APPS) for failing to properly maintain an oil record book as required by federal and international law. La Forgia plead guilty to violating the same act. Between December 19, 2011, and January 25, 2012, La Forgia and other senior Bottiglieri Shipping Company employees discharged oily bilge waste from the *M/V Bottiglieri Challenger* on multiple occasions as the vessel sailed from Singapore to Brazil and then from Brazil to Mobile. The vessel arrived in the Port of Mobile on January 25, 2012, and underwent a Coast Guard inspection. Based on information provided to the Coast Guard by engine department crewmembers and evidence discovered during the Coast Guard's inspection, it was evident that there were internal transfers and discharges of oily waste into the ocean that were not recorded in the vessel's oil record book as required. The deliberate overboard discharges of oily waste were accomplished through the use of a "magic pipe" that connected the ship's purifier sludge tank with the ship's bilge holding tank, the contents of which were then pumped overboard without first being processed through required pollution prevention control equipment designed to detect and prevent discharges containing more than 15 parts per million oil. This investigation was conducted by the U.S. Coast Guard Investigative Service in Mobile and the U.S. EPA's Criminal Investigation Division. Additional assistance was provided by U.S. Coast Guard Sector Mobile. The case was prosecuted by the U.S. Attorney's Office for the Southern District of Alabama and the Justice Department's Environmental Crimes Section of the Environment and Natural Resources Division.

[Back to Top](#)

Delaware Company Criminally Fined for Unlawful Discharges of Oil in Louisiana Waters — On

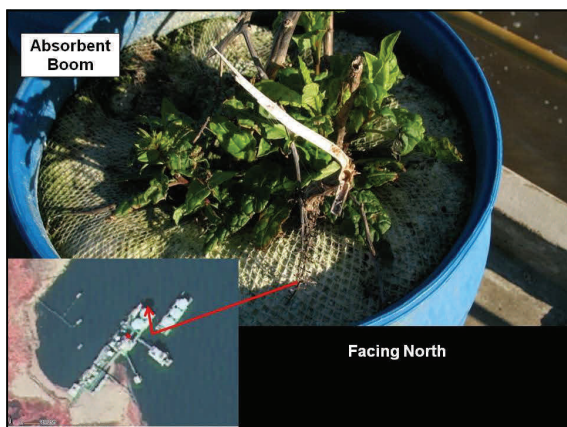


May 18, 2008 Inspection photo showing spill from slop oil tank. Cedyco Bayou Dupont Facility

Cedyco owned and operated several hydrocarbon facilities, including fixed barges, platforms and wells, in the brackish bayous of South Louisiana. As a general matter, Cedyco's facilities were poorly maintained and operated without plans and permits required by regulations issued by the Louisiana Department of Environmental Quality (LDEQ), state administrator of the federal Clean Water Act. Cedyco's negligent operation and poor maintenance of three of its facilities in Jefferson Parish led to harmful discharges of oil into the navigable waters of the United States. The three facilities are the tank battery known as the "Bayou St. Denis facility," the production and storage facility known as the "Bayou Dupont facility," and the production well adjacent to the Bayou Dupont facility known as "Well #10."

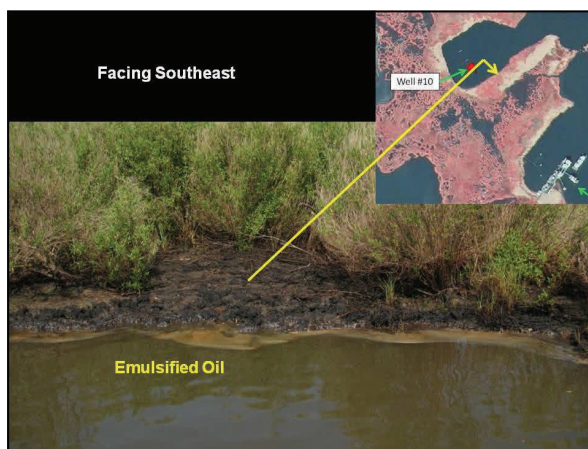
The case was investigated by agents of the Coast Guard Inspection Service and U.S. EPA's Criminal Investigation Division and by USCG and LDEQ inspectors. The case is being prosecuted by the Justice Department's Environmental Crimes Section and the U.S. Attorney's Office for the Eastern District of Louisiana.

[Back to Top](#)

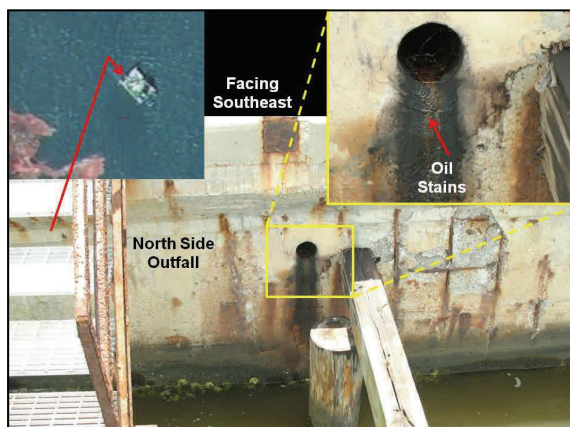


February 19, 2008 Inspection photo showing absorbent boom with vegetation. Cedyco Bayou Dupont Facility

August 15, 2012, **CEDYCO CORPORATION**, a Delaware company headquartered in Houston, was sentenced in federal court for the Eastern District of Louisiana for negligently discharging oil into the bayous of Jefferson Parish, Louisiana. The company was fined \$557,000. Cedyco had plead guilty of violating the Clean Water Act, which makes it a misdemeanor to negligently discharge harmful quantities of oil into navigable waters of the United States. All of the fine money will be directed to the Oil Spill Liability Trust Fund to aid the U.S. Coast Guard in responding to future oil spills. Additionally, Cedyco also agreed to cease operations and divest itself of all hydrocarbon business interests in the state of Louisiana.



May 18, 2008 Inspection photo showing emulsified oil in the marsh. Cedyco Well #10



May 29, 2008 Inspection photo showing oiled outfall. Cedyco Bayou St. Denis Facility

Property Owner Jailed for Improper Asbestos Removal and Use

— On August 17, 2012, **THOMAS K. TIENDA** was sentenced in Pueblo County District Court to four years in jail for releasing asbestos into the air after demolishing a Pueblo house. Instead of hiring properly licensed contractors to safely demolish a multi-family house, Tienda hired homeless individuals and handymen to do the work in order to save money. He hid the fact that his building contained asbestos from all of the workers. The demolition work, which also lacked the proper permit from the city, resulted in the release of asbestos into the air. In addition to intentionally exposing his workers to asbestos, Tienda also reused some the materials to fill potholes at his other properties.

[Back to Top](#)



Pictures depicting demolition work that resulted in the release of asbestos

Supervisor of Michigan Town Sentenced to Three Years in Prison for Asbestos and Bribery Crimes

— On August 2, 2012, **WILLIAM MORGAN**, a former supervisor of Royal Oak Township, a suburb of Detroit, was sentenced in federal court to three years in prison after previously pleading guilty to charges that he conspired to defraud the U.S. Department of Housing and Urban Development (HUD), violate the Clean Air Act's asbestos requirements, and commit bribery. Morgan's criminal conduct involved the awarding of a contract and distribution of federal funds that were intended to be used by communities for the improvement of blighted areas by removing dilapidated buildings. The funding was received through HUD's Neighborhood Stabilization Program. Morgan, in addition to being Township supervisor, was also Royal Oak's coordinator for the stabilization program. Prior to the awarding of the contract, Morgan had received a \$10,000 bribe from Sureguard/PBM, one of the companies that submitted a bid for the demolition and asbestos removal of an abandoned theater on Eight Mile road. In return for the bribe, Morgan attempted to steer the contract to Sureguard/PBM. Despite Morgan's efforts, Royal Oak's Board of Supervisors awarded the contract to another company, which had submitted a lower bid. During the demolition process, Morgan asked for and received cash payments of \$500 and \$1,000 from the owner of the company that had won the contract. Morgan received these payments under the belief that they were in return for his approval of a change order covering the asbestos abatement that fraudulently inflated the cost of the work.

One of Morgan's co-conspirators, Terrance Parker, received a sentence of 21 months. Another co-conspirator, **KENDRICK COVINGTON**, was sentenced on August 28, 2012 to 2 years probation. Co-conspirator, Marcus Brown is scheduled to be sentenced on September 11, 2012. The case was investigated by special agents of the Federal Bureau of Investigation, HUD's Office of the Inspector General and EPA's Criminal Investigation Division. It was prosecuted by the United States Attorney's Office for the Eastern District of Michigan.

[Back to Top](#)



Emissions Inspector at Texas Vehicle Inspection Stations Sentenced to Prison for Falsifying Emissions Test Results; Five Others Awaiting Sentencing

— On August 13, 2012, **NGAN TIEN TRAN**, 29, was sentenced to serve 12 months and 1 day of incarceration followed by one year of supervised release after pleading guilty to one count of making a Clean Air Act false statement. Tran was an emissions inspector technician in Arlington, Texas and admitted that he falsified Texas state emissions tests at two state-certified inspections stations. Vehicles in the North Texas Region, which includes Dallas and Tarrant counties, are required to pass annual inspections to ensure that their emissions do not exceed limits for hydrocarbons, nitrogen oxide and other compounds. Five other individuals also pled guilty to Clean Air Act violations. Specifically, **NGHIEM VAN TRAN**, 54, and **NGHI CONG TRAN**, 32, each pleaded guilty to one count of conspiracy to violate the Clean Air Act. **DAH N CONG TRAN**, 26, **BICH DONG NGO**, 26, and **HUY NGOC NGUYEN**, 26, each pleaded guilty to one count of making a Clean Air Act false statement. All of the defendants are residents of Arlington, Texas, and remain on bond pending sentencing hearings.

According to documents filed in the case, the inspection stations, Mike's Autocare and Tommy Tech, performed approximately 7,656 fraudulent emissions tests between August 2009 and March 2011. The defendants circumvented the required emissions testing procedures by substituting vehicles that would pass the emissions test in place of vehicles that had previously failed or showed equipment malfunctions. In most instances, the vehicle needing an emissions test was not present at Mike's or Tommy Tech when the emissions tests were conducted, and the defendants who conducted the fraudulent tests received the necessary identifying vehicle information from Nghiem Van Tran and Nghi Cong Tran via a text message or a handwritten slip of paper. The defendants generated fraudulent emissions certificates and transmitted fraudulent testing results to the Texas Information Management System (TIMS) database managed by the Texas Department of Public Safety. The defendants demanded up to \$80 for each fraudulent test, well above the state-mandated maximum charge of \$39.75. Proceeds from the fraudulent emissions tests were deposited into a bank account for "Upland Investment," which was controlled by Nghiem Van Tran.

The investigation was conducted by the U.S. EPA's Criminal Investigation Division; the Texas Department of Public Safety; and the Texas Commission on Environmental Quality. It is being prosecuted by the U.S. Attorney's Office for the Northern District of Texas.

[Back to Top](#)

North Carolina Poultry Processing Plant Convicted for Knowing Violations of Clean Water Act —

On August 20, 2012, a federal jury found **HOUSE OF RAEFORD FARMS, INC.**, the owner and operator of a poultry slaughtering and processing facility located in Raeford, North Carolina, guilty of 10 counts of knowing violations of the Clean Water Act. House of Raeford allowed plant employees to bypass the facility's pretreatment system and send its untreated wastewater directly to the city of Raeford's wastewater treatment plant, without notifying city officials. In addition, House of Raeford failed to prevent employees from sending thousands of gallons of wastewater into a pretreatment system that did not have the capacity to adequately treat the wastewater before it was discharged to the city plant. The untreated waste-

water that was discharged directly to the city plant was contaminated with waste from processing operations, including blood, grease and body parts from slaughtered turkeys. A House of Raeford former employee admitted that the facility would continue to "kill turkeys" despite being warned that the unauthorized bypasses had an adverse impact on the city's wastewater treatment plant. The city plant was responsible for treating industrial, commercial and residential wastewater before it was discharged to Rockfish Creek in Hoke County. The bypasses and failure to report them violated House of Raeford's pretreatment permit as well as the city's sewer use ordinance. Many of the bypasses took place while House of Raeford was subject to a consent order with the city that required it to construct a new pretreatment system and comply with all requirements of its pretreatment permit. A number of the bypasses were recorded in log books kept by House of Raeford Inc. wastewater operators, and were never revealed to the city. House of Raeford Inc. faces a maximum fine of \$500,000 or twice the gain or loss resulting from the offenses, whichever is greater, per count. Sentencing is scheduled for November 28, 2012.

[Back to Top](#)



The bar screen at the City of Raeford's POTW contaminated with turkey parts / turkey solids

Executive of Wisconsin Aluminum Facility Pleads Guilty to Tampering With EPA Monitoring Devices Required Under Clean Air Act

— On August 7, 2012, **DANIEL EVANOFF** pled guilty in the Eastern District of Wisconsin to a federal charge of rendering inaccurate a monitoring device required under the Clean Air Act. Evanoff was employed by J.L. French in a managerial capacity, including serving as vice president of Allotech International LLC, a subsidiary of J.L. French, with responsibility for overseeing the Alloy Division at Gateway, Taylor, and a third facility in Glasgow, Kentucky. J.L. French is a secondary aluminum processing business headquartered in Sheboygan, Wisconsin, where it has two facilities, Gateway and Taylor. J.L. French manufactures products from mixed aluminum scrap. The facilities melt secondary aluminum in furnaces, a process which produces emissions of air contaminants from numerous sources. EPA has determined that these sources require regulation because they emit various hazardous air pollutants, including volatile organic compounds such as dioxin/furans, benzene, styrene, acrylonitrile, methylene chloride, naphthalene, and formaldehyde; hazardous inorganic “acid gas” compounds such as hydrogen chloride (HCl), hydrogen fluoride (HF), and chlorine (Cl₂); and hazardous metals such as antimony, arsenic, lead, manganese, beryllium, cadmium, chromium, cobalt, mercury, nickel, and selenium. As a result, the process requires the use of air pollution control equipment such as afterburners and baghouses. Vapors that are created during the extreme heat cleansing process pass through an afterburner and then to a baghouse. The emissions from the industrial furnaces used to melt the secondary aluminum are also captured in baghouses.



JL French baghouse stack



JL French Reverb Furnace

Evanoff admitted that he rendered inaccurate a monitoring device required under the CAA. Specifically, he admitted that he caused and directed the creation of false baghouse leak detection and temperature charts required to be maintained at the J.L. French Gateway facility. Evanoff is scheduled for sentencing on October 24, 2012. His sentencing guidelines are a maximum fine of \$250,000 and two years of imprisonment.

On April 3, 2012, Evanoff pled guilty in the Western District of Kentucky to conspiracy

to defraud the United States and rendering inaccurate a monitoring device required under the CAA. In this case, Evanoff and others agreed to create false records concealing that J.L. French's Glasgow, Kentucky facility improperly exceeded production and air emissions limits. Further, Evanoff directed others to install a temperature resistor on air pollution control equipment to create a false temperature reading and to make it appear as though the pollution control equipment was operating properly. Evanoff also instructed that the temperature resistor be removed to prevent its discovery by inspectors from the Kentucky Department of Air Quality. For these crimes, Evanoff faces a maximum potential penalty of seven years in prison, a \$500,000 fine, and supervised release for a period of no more than three years.

[Back to Top](#)

Owner of Pavement Painting Business Pleads Guilty in Alaska to Illegally Disposing Hazardous Waste

— On August 17, 2012, **WILLIAM DURAN VIZZERRA, JR.** pleaded guilty in federal district court for the District of Alaska to illegally disposing of hazardous waste at a storage lot in Anchorage. Vizzerra was the president, director and part-owner of Precision Pavement Markings Inc. (PPMI), a road and parking lot painting and striping business that operated from a storage lot in Anchorage from at least 2006 through 2009. He used the lot to store hazardous waste, including methyl methacrylate paint and toluene that was used to flush the paint lines, nozzles and sprayers used in his business. Having made no attempts to properly dispose of the waste, on approximately November 1, 2009, Vizzerra illegally abandoned approximately 321 55-gallon drums, 179 five-gallon pails and two 200-gallon totes of hazardous waste. The waste, totaling 204,750 pounds, was determined to be hazardous because it was extremely flammable.



Flat bed with drums abandoned by Vizzerra. Photograph was taken by EPA Special Agents during the execution of a search warrant at the property in December 2010.

In November 2010, a citizen reported the abandoned drums to EPA and EPA Criminal Investigation Division agents observed several hundred 55-gallon drums and smaller containers at the storage lot, some of which were stacked two-high on a trailer and some of which were stored directly on the ground. Many of the drums were marked “waste” or held hazardous markings, such as “flammable” or “flammable liquid.” Many were rusted and in decrepit condition or bulging. The investigation revealed that some of the drums were from a prior pavement business of Vizzerra’s that had dissolved several years earlier.



Photograph taken in April 2011 by EPA Special Agents during a helicopter surveillance overflight of the site prior to final removal by Superfund.

Under RCRA, hazardous waste, due to its dangerous qualities, may only be disposed of at a licensed treatment, storage or disposal facility. The storage lot Vizzerra used was neither equipped nor permitted for the disposal of hazardous waste. Yet, knowing this, Vizzerra illegally abandoned and disposed of the waste at the lot, which cost his landlord \$380,877 to clean up and properly dispose. The maximum penalties for knowingly disposing of hazardous waste include five years of incarceration and a fine of \$50,000 per day of violation. Sentencing has been set for November 14, 2012.

The investigation was conducted by the U.S. EPA’s Criminal Investigation Division. The case was prosecuted by the Envi-

ronmental Crimes Section of the Justice Department, the U.S. Attorney’s Office for the District of Alaska, and the Regional Criminal Enforcement Counsel for the Environmental Protection Agency’s Region 10 in Seattle.

[Back to Top](#)

North Carolina Man Pleads Guilty to Conducting Illegal Vehicle Emission Inspections — Information provided to EPA's criminal enforcement program by the North Carolina Division of Air Quality ("DAQ") - Mobile Sources Compliance Section, indicated that Carolina Tire and Service ("Carolina Tire") located in Pineville, North Carolina, conducted numerous illegal OBDII emission inspections during May 2012. DMV records indicate Carolina Tire is authorized to conduct OBDII vehicle inspections pursuant to the



Example of an OBDII Simulator used by inspectors to bypass emission testing

Clean Air Act and North Carolina's SIP with EPA. The OBDII technician number linked to these illegal inspections belongs to **JOSE MANUEL CABRERA**. On August 29, 2012, Cabrera pled guilty to one count of conspiracy to violate the Clean Air Act. No sentencing date has been set. The fraudulent passing of vehicles subject to inspection pursuant to North Carolina's SIP results in increased pollution (NOX, Carbon Monoxide, Hydrocarbons). The Charlotte metropolitan area is ranked among the worst offenders in the nation for air pollution resulting from vehicles emissions.

[Back to Top](#)

North Carolina Emissions Inspector Pleads Guilty to Falsely Passing Vehicle Inspections — On August 6, 2012, **MILTON SMITH** pled guilty in the Eastern District of North Carolina to conspiring to violate the Clean Air Act and to making a material false statement, representation, or certification. Smith worked at Express Auto Sales and Services and Car Care Express Auto Sales and Services, both in Durham, North Carolina, as a licensed North Carolina emissions inspector. From May 2009 to July 2010, Smith conspired with others to pass vehicles that would normally have failed the emissions inspection in exchange for \$150 to \$225 per car. Smith and his co-conspirators would enter the vehicle identification number either manually or by scanning. A surrogate vehicle, usually one manufactured between 1996 and 1999 that would not generate a vehicle identification number when connected to the analyzer, would be selected. Using the surrogate vehicle, an emissions report would be generated for the customer's vehicle. During this period, 817 vehicles passed the false inspection. Each day emissions inspection reports are electronically transferred to the North Carolina Office of Information and Technology Services in Raleigh. EPA requires the state to conduct vehicle emissions testing in certain areas because the area exceed national standard for carbon monoxide and ozone. Sentencing has been set for December 3, 2012.

[Back to Top](#)

Federal Grand Jury in Charges Texas Man with 79-count Indictment Related to False Renewable Fuel Credits

— On August 8, 2012, a federal grand jury in the Northern District of Texas handed down a 79-count indictment against former Absolute Fuels chief executive officer **JEFFREY DAVID GUNSELMAN**, accusing him of wire fraud, money laundering, and making false statements under the federal Clean Air Act. The indictment also names four corporate defendants — all businesses Gunselman apparently controlled. It is alleged that Gunselman and his company sold federal renewable fuel credits to oil refiners and brokers without making the biodiesel to go with the credits. It is further alleged that Gunselman collected more than \$41.7 million on the sale of more than 48 million fuel credits — called Renewable Identification Numbers (RINS) — in 51 transactions between September 2010 and October 2011. Because those transactions were conducted through a federal computerized clearing house, each of those deals is treated as a separate wire fraud count. The 24 money laundering counts are based on a variety of purchases Gunselman allegedly made with money from the questioned transactions. Some of those purchases included the \$2.65 million house in Boerne, Texas, he bought from Boston Red Sox pitcher Josh Beckett; \$1.6 million for his Gulfstream G3 jet; \$1.4 million for a building at 3309 101st St.; \$166,720 for San Antonio Spurs season tickets and a corporate sponsorship; \$355,000 for a demilitarized M60 Patton tank and other military hardware; and \$50,000 in Las Vegas casino credit. The four counts of making false statements under the Clean Air Act include making three false reports to EPA's central data exchange claiming to have produced more than 1.3 million gallons of biodiesel when in fact his business had made none, and telling a site inspection contractor that he needed more time to assemble compliance documents when those documents didn't exist. In addition, the indictment includes a forfeiture notice detailing personal property, cars, bank accounts and real estate the government has already seized from Gunselman and his wife Criselda.

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.

[Back to Top](#)