

Environmental Crimes Case Bulletin



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

September/October 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:

- **Maracle Industrial Finishing, Jon Maltese — Region 2**
- **Martin S. Kimber — Region 2**
- **William L. Huntress, Acquest Development, LLC, Acquest Transit, LLC — Region 2**
- **Lambros Katsipis — Region 3**
- **Billy J. Avery — Region 3**
- **Patrick Henry Procino — Region 3**
- **Steven A. Murray, Bio Tech Management, Inc. — Region 4**
- **Jerome Clarence Barnes, Jr., Jared F. Walker — Region 4**
- **Jose Manuel Cabrera — Region 4**
- **Scott William Farmer — Region 4**
- **E Biofuels, Caravan Trading Company, CIMA Green, Craig Ducey, Chad Ducey, Chris Ducey, Brian Carmichael, Jeffrey Wilson, Joseph Furando, Evelyn Kitirina Pattison — Region 5**
- **James L. Hidey — Region 5**
- **Halliburton Energy Services, Inc., Anthony Badalamenti — Region 6**
- **Michael J. Vaughn — Region 6**
- **Matthew Lawrence Bowman — Region 6**
- **Thomas Villirillo, Jaime Grimsley — Region 7**

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 2	<u>Maracle Industrial Finishing, Jon Maltese</u>	CWA/Discharging process wastewater into village sewer system
Region 2	<u>Martin S. Kimber</u>	TSCA/Use of toxic chemical as a weapon, tampering with consumer products
Region 2	<u>William L. Huntress, Acquest Development, LLC, Acquest Transit, LLC</u>	CWA/Conspiracy, obstruction of justice, false statement, concealing material facts, criminal contempt
Region 3	<u>Lambros Katsipis</u>	APPS/Illegal discharges, falsification of records, obstruction of justice
Region 3	<u>Billy J. Avery</u>	CAA/Violating the asbestos National Emission Standards for Hazardous Air Pollution (NESHAP)

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 3	Patrick Henry Procino	RCRA & CWA/Illegal discharge of hazardous waste without a permit and illegal discharge industrial wastewater
Region 4	Steven A. Murray, Bio Tech Management, Inc.	FIFRA/Unlawful use of a pesticide, conspiracy, falsifying records, false statements, mail fraud
Region 4	Jerome Clarence Barnes, Jr., Jared F. Walker	CAA/Fraudulent issuance of auto emission certificates
Region 4	Jose Manuel Cabrera	CAA/Conduction of false vehicle emission inspections
Region 4	Scott William Farmer	CAA/Knowing violation of work practices governing hazardous air pollutants and knowing endangerment by release of hazardous air pollutants
Region 5	James L. Hidey	CWA/Illegal discharge of well-drilling waste into river tributary

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 5	<u>E Biofuels, Caravan Trading Company, CIMA Green, Craig Ducey, Chad Ducey, Chris Ducey, Brian Carmichael, Jeffrey Wilson, Joseph Furando, Evelyn Katirina Pattison</u>	CAA/Conspiracy, wire fraud, false tax claims, false statements, obstruction of justice, money laundering, securities fraud
Region 6	<u>Halliburton Energy Services, Inc., Anthony Badalamenti</u>	CWA/Destruction of evidence
Region 6	<u>Michael J. Vaughn</u>	SDWA/Making false statements, conspiring to defraud EPA, illegally disposing of industrial wastewater
Region 6	<u>Matthew Lawrence Bowman</u>	OSHA/Violating OSHA, making false statement, falsifying transportation document
Region 7	<u>Thomas Villirillo, Jaime Grimsley</u>	Bid rigging kick back scheme

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New York Plating Company and Its General Manager Sentenced for Violating the Clean Air Act --



On September 11, 2013, **MARACLE INDUSTRIAL FINISHING**, located in Webster, New York, and General Manager **JON MALTESE**, of Canandaigua, New York, were sentenced in federal district court for the Western District of New York for violating the Clean Water Act. The corporation was sentenced to three years probation and was ordered to pay a \$10,000 fine, while Maltese was also placed on probation for three years, ordered to pay a \$4,000 fine, and ordered to complete 80 hours of community service. In addition, Thomas Maracle, president of Maracle Finishing, was ordered to establish a company-wide environmental compliance program, which includes training employees about the Clean Water Act. Maracle and his successors will be responsible for ensuring and certifying that the company remains in compliance with that plan.



Maracle Industrial Finishing worked with phosphorus and chromium products used in the metal and powder production industry. The company operates out of an industrial building in Webster which has an area with dipping tanks and a painting area. The dipping tanks are filled with various chemical solutions and parts are dipped into each one in sequence. The parts are then rinsed with other cleaning agents over the tanks. The tanks sit atop a drain system which empties into a holding pit where the material is stored for later disposal. The pit contains a sump pump which is connected directly to the outside sewer line, and this sewer connects directly to the Webster Publically Owned Treatment Works (POTW), which in turn connects to Lake Ontario, a navigable waterway of the United States.



Inside Maracle Industrial Finishing showing the process lines and rinse tanks

Maracle operated under a Zero Discharge Permit that was issued by the town of Webster beginning in January 2010. Under the permit, Maracle Finishing was not allowed to discharge any process wastewater,

only sanitary waste (for example - water coming from sinks, toilets, and showers). Maracle Finishing and John Maltese violated this Zero Discharge Permit by repeatedly discharging process wastewater into the sewer system from the facility.

Concerning the investigation, water samples taken from Maracle Finishing in late 2011 tested positive for a wide array of process waste-water, including volatile and semi-volatile organics. Officials obtained samples taken from a sewer directly outside Maracle which connected the building to the POTW. These showed that not only was Maracle discharging process wastewater, which violated its Zero Discharge Permit, but also that some of the wastewater itself posed an explosive hazard due to its low flashpoint. Lab analysis of the wastewater showed a 40.3 degree Celsius flashpoint in violation of POTW limits. The village of Webster's POTW doesn't take any wastewater discharges below a 60 degree Celsius flashpoint because the lower flashpoint has an increased risk of explosion or fire at lower temperatures and is more dangerous.



Metal finishing process waste water and pollutants were directly discharged into the sewer system/drains from overflows and direct discharges from the pit area shown above.

Webster officials and investigators with the Environmental Protection Agency Criminal Investigation Division and the New York State Department of Environmental Conservation went to Maracle on several occasions to check for discharges at the sewer outside the company. A manhole directly outside Maracle permitted easy inspection of water leaving the facility and entering the POTW system. At virtually every visit, officials were able to see process wastewater leaving Maracle's building and flowing into the POTW in violation of the Zero Discharge Permit. They confronted General Manager John Maltese, who always denied discharging anything other than bathroom water. However, during several of these visits they saw a sump pump running in plain sight which was discharging process wastewater from the holding pit area. Workers interviewed during the investigation confirmed that Maltese would order them to turn the discharge pumps on to drain the chemicals in the holding pit.

EPA executed a federal search warrant in March 2012 and conducted extensive testing and analysis. Dye testing was performed to confirm that the material from the holding pit was the same material as that being discharged into the POTW line outside. Samples from the dipping tanks, holding pit, and paint area were also obtained and tested.

The case was investigated by EPA's Criminal Investigation Division, the New York State Department of Environmental Conservation Police, BECI, and the village of Webster Department of Public Works.

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Kansas Men Sentenced in Bid-Rigging Kickback Scheme -- On September 9, 2013, **THOMAS VILLIRILLO**, of Olathe, Kansas, and **JAIME GRIMSLEY**, of Overland Park, Kansas, were each sentenced in federal district court for the Western District of Missouri to five years of probation. Villirillo was also ordered to pay \$105,560 in restitution and Grimsley to pay \$79,167 in restitution. Villirillo pleaded guilty on January 3, 2013, to participating in a conspiracy to commit mail fraud. Villirillo was the owner of Reliable Construction, which fulfilled construction contracts for CRES Management. Between June 2008 and May 2009, Villirillo conspired to pay approximately \$105,560 in kickbacks to co-conspirators Christopher Grimsley, of Overland Park (Jaime Grimsley's husband), and Jo Den Napper, of Lenexa, Kansas.

Christopher Grimsley and Napper were directors of construction for Aimco (and, later, CRES Management) and in charge of procuring bids for renovating apartment complexes. In exchange for these kickbacks, Christopher Grimsley and Napper agreed to rig bids in Villirillo's favor without the knowledge of Aimco or CRES Management. Among other things, Villirillo used his credit card to pay for hotel accommodations in Las Vegas for Grimsley and his wife, Jaime Grimsley, in exchange for granting his bids to complete construction work.

On May 2, 2013, Jaime Grimsley pleaded guilty to filing false tax returns. Jaime Grimsley formed Geronimo Consultants in 2004, which she admitted was used to deposit kickback payments to her husband, Christopher Grimsley, from various building contractors. Between 2005 and 2008, the Grimsleys filed false tax returns omitting kickback income of \$217,981, for a tax loss of \$79,167. Christopher Grimsley was sentenced on March 28, 2011, to 41 months in federal prison without parole and ordered to pay \$538,340 in restitution after pleading guilty to mail fraud. Between May 2003 and May 2009, Christopher Grimsley accepted approximately \$538,340 in kickbacks from various contractors in the Kansas City area. In exchange for these kickbacks, he agreed to rig bids in favor of the contractors without the knowledge of Aimco.

Napper, who pleaded guilty to mail fraud, was sentenced on August 28, 2013, to one year and one day in federal prison without parole. Between August 2004 and May 2009, Napper accepted approximately \$355,749 in kickbacks from various contractors. In exchange for these kickbacks, Napper agreed to rig bids in favor of the contractors without the knowledge of CRES Management.

Tim Rowland, of Platte City, pleaded guilty to his role in the mail fraud conspiracy and was sentenced on March 30, 2013, to five years of probation and ordered to pay \$298,765 in restitution. Rowland was the owner of ATNJ, a construction company that fulfilled contracts for Aimco Apartment Management. Between November 2004 and May 2009, Rowland conspired to pay approximately \$298,765 in kickbacks to Christopher Grimsley and Napper.

Chris Childers, of Olathe, pleaded guilty to his role in the mail fraud conspiracy and was sentenced on July 23, 2013, to one year of probation and ordered to pay \$179,570 in restitution. Childers was the owner of All State Renovations, which fulfilled construction contracts for CRES Management. Between May 2004 and April 2009, Childers conspired to pay approximately \$179,570 in kickbacks to Grimsley and Napper. In exchange for these kickbacks, they agreed to rig bids in Childers's favor without the knowledge of CRES Management.

Bernie Belcher, of Olathe, pleaded guilty to his role in the mail fraud conspiracy and was sentenced on July 30, 2013, to five years of probation and ordered to pay \$201,223 in restitution. Belcher was the owner of All State Roofing, which fulfilled construction contracts for Aimco Apartment Management. Between May 2003 and May 2009, Belcher conspired to pay approximately \$201,224 in kickbacks to Grimsley and Napper. In exchange for these kickbacks, they agreed to rig bids in Belcher's favor without the knowledge of Aimco.

These cases were investigated by EPA's Criminal Investigation Division and the U.S. Department of Housing and Urban Development, Office of Inspector General. They were prosecuted by Assistant U.S. Attorneys Linda Parker Marshall and William L. Meiners.

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Halliburton Pleads Guilty to Destruction of Evidence in Connection with Deepwater Horizon Disaster and is Sentenced to Statutory Maximum Fine -- On September 19, 2013, **HALLIBURTON ENERGY SERVICES, INC.**, (Halliburton) pleaded guilty in federal district court for the Eastern District of Louisiana to destroying evidence pertaining to the 2010 Deepwater Horizon disaster and was sentenced to the statutory maximum fine. In addition, a criminal information was also filed charging a former Halliburton manager, **ANTHONY BADALAMENTI**, of Katy, Texas, with one count of destruction of evidence.

During the guilty plea and sentencing proceeding, the judge found, among other things, that the sentence appropriately reflects Halliburton's offense conduct. The judge also noted that the statutory maximum fine and three year probationary period provide just punishment and appropriate deterrence, and noted Halliburton's self-reporting of the misconduct, substantial and valuable cooperation in the government's investigation, and substantial efforts to recover the deleted data.



According to court documents, on April 20, 2010, while stationed at the Macondo well site in the Gulf of Mexico, the Deepwater Horizon rig experienced an uncontrolled blowout and related explosions and fire, which resulted in the deaths of 11 rig workers and the largest oil spill in U.S. history. Following the blowout, Halliburton conducted its own review of various technical aspects of the well's design and construction. On or about May 3, 2010, Halliburton established an internal working group to examine the Macondo well blowout, including whether the number of centralizers used on the final production casing could have contributed to the blowout. A production casing is a long, heavy metal pipe set across the area of the oil and natural gas reservoir. Centralizers are metal devices that protrude from various intervals of the casing strings of a well, which can help keep the casing centered in the wellbore away from the surrounding walls as it is lowered and placed in the well. Centralization can be significant to the quality of subsequent cementing around the bottom of the casing. Prior to the blowout, Halliburton had recommended to BP the use of 21 centralizers in the Macondo well. BP opted to use six centralizers instead.

As detailed variously in the charging instruments filed against Halliburton and against Badalamenti, during the relevant time period Badalamenti was Halliburton's cementing technology director. In May 2010, in connection with Halliburton's internal post-incident examination of the Macondo well, Badalamenti directed a senior program manager for Halliburton's Cement Product Line (Program Manager) to run two computer simulations of the Macondo well final cementing job using Halliburton's Displace 3D simulation program. Displace 3D was a next-generation simulation program that was being developed to model fluid interfaces and their movement through the wellbore and annulus of a well. The modeling sought to compare the 21 centralizers Halliburton had recommended to BP versus the six centralizers BP ultimately used. As detailed in the charging documents, the simulations indicated to those present that there was little difference between using six and 21 centralizers on the Macondo well. Badalamenti directed Program Manager to destroy these results, and Program Manager did so.

On or about June 2010, similar evidence was also destroyed in a later incident. Badalamenti asked another, more experienced, employee ("Employee 1") to run simulations again comparing six versus 21 centralizers. Employee 1 reached the same conclusion. Badalamenti then directed Employee 1 to "get rid of" the simulations, and, after a period of delay, Employee 1 deleted them from his computer. Efforts to forensically recover the original destroyed Displace 3D computer simulations during ensuing civil litigation and federal criminal investigation by the Deepwater Horizon Task Force were unsuccessful.

Halliburton's guilty plea and sentence, and the criminal charge announced against Badalamenti, are part of the ongoing criminal investigation by the Deepwater Horizon Task Force into matters related to the April 2010 Gulf oil spill. The Deepwater Horizon Task Force, based in New Orleans, is supervised by

Acting Assistant Attorney General Mythili Raman and led by John D. Buretta, who serves as the director of the task force. The task force includes prosecutors from the Criminal Division and the Environment and Natural Resources Division of the Department of Justice; the U.S. Attorney's Office for the Eastern District of Louisiana and other U.S. Attorney's Offices; and investigating agents from EPA's Criminal Investigation Division; the FBI; Department of the Interior, Office of Inspector General; EPA's Office of Inspector General; National Oceanic and Atmospheric Administration, Office of Law Enforcement; U.S. Coast Guard; U.S. Fish and Wildlife Service; and the Louisiana Department of Environmental Quality.

The case is being prosecuted by Deepwater Horizon Task Force Director Buretta, Deputy Director William Pericak, and Task Force prosecutors Richard R. Pickens II, Scott M. Cullen, Colin Black and Rohan Virginkar.

An information is merely a charge and a defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt.

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New York Man Sentenced to 14 Years in Prison for Chemical Weapon Attack at Medical Center --

On September 19, 2013, **MARTIN S. KIMBER**, of Ruby, New York, was sentenced in federal district court for the Northern District of New York to 14 years in prison, five years supervised release thereafter,



forfeiture of his home and car which were used to store mercury, and ordered to pay \$200,450.48 in restitution to the Albany Medical Center following his guilty plea to using a toxic chemical, mercury, as a weapon, and tampering with consumer products at the Albany Medical Center, in Albany, New York. Kimber admitted that on four occasions he spread mercury, a potentially fatal neurotoxin, throughout various areas of the Albany Medical Center in ways which could lead to inhalation or absorption of the mercury, to retaliate

for what he thought were unfair hospital bills.

When Kimber entered his guilty plea on November 29, 2012, he admitted that: On December 10, 2010 and December 23, 2010, he received medical treatment at the Albany Medical Center. On various dates thereafter, including on January 24, 2011, he wrote to express concern about having to pay for his medical care. On February 22, 2011, the Albany Medical Center Associate Medical Director wrote back and explained why the bills were appropriate, and discussed the outcome associated with Kimber having provided inaccurate information about his injury, and his decision not to complete the care prescribed by his treating physician.

On March 28, 2011, April 11, 2011, June 23, 2011, and March 2, 2012, patients, visitors, and hospital personnel discovered liquid mercury deposited in sundry locations throughout the Albany Medical Center. On March 28, 2011, mercury was found in the level D basement, the hallway outside the Post-Operative Care Unit, the triage window in the emergency room, and in the tracks to the door of the center elevator for Building D Hospital; emergency response units identified and collected several pounds of mercury. On April 11, 2011, mercury was found in the men's bathroom on the AI level and in the main hallway in Building E, extending from the M doors to the elevator lobby. Approximately one to two pounds of mercury was collected by emergency response personnel. On June 23, 2011, mercury was found on the pe-

destrian ramp leading from the main lobby up to the pedestrian parking garage bridge and in the E-1 corridor exiting the Choice Cafe and the center elevator of Building A elevator triplex. Approximately two pounds of mercury was collected. On March 2, 2012, mercury was found in the cafeteria at Albany Medical Center, in the salad bar, in an apple bowl, in a banana basket, in a toaster, on a table by the coffee station, in the cooler for the packaged salad dressing, in the ice cream freezer, and in a container of chicken tenders that were being warmed under heating lamps and were available for purchase and consumption by cafeteria customers.

Kimber admitted he was responsible for each of these mercury disposals, and for tampering with the described products, including the mercury, each item of food, and the restaurant equipment, to include salad, fruit, toaster, table, cooler, freezer, and heating lamps. The food products and food containers into and near which the defendant deposited mercury affected interstate commerce. Kimber further admitted his purpose in disposing of the mercury throughout the Albany Medical Center on multiple occasions was to cause panic at the hospital leading to the closing down of the facility by causing a loss of business when people became fearful of gaining treatment and eating there.

On March 29, 2012, a search by law enforcement officers revealed that Kimber possessed two canisters of mercury, one stored in his car and the other stored in his house. Both canisters of mercury were seized by the officers. An FBI search of his computer showed that he engaged in searches at sites where more mercury could be purchased.

Mercury is a well-documented hazardous substance. Among other things, mercury is a neurotoxin that can kill human nerve cells. Mercury is readily absorbed through unbroken skin. Inhalation and other forms of absorption can lead to death, brain and lung damage, impairment of speech, constriction of the visual field, hearing loss and somatosensory change, and other serious bodily injuries. Having been a licensed pharmacist for 36 years, Kimber well understood these dangers, and that the heating of mercury, including the placing of mercury on or in toasters, and on or around heated food, greatly increased the likelihood that mercury would vaporize into the air and be inhaled by individuals consuming such food or using or near such heating devices.

As part of his sentence, Kimber was ordered to abandon his computer in which child pornography was found and further ordered to: Pay restitution to the Albany Medical Center in the amount of \$200,451.48; pay restitution in full to the United States for any expenses incurred incident to the seizure, storage, handling, transportation, and destruction of any property seized in connection with an investigation of his use of mercury as a chemical weapon; forfeit his residence at 8 Lena Lane, Ruby, New York; and forfeit his 2007 Pontiac Solstice.

Kimber was arrested on April 25, 2012, by EPA Special Agents. On March 2, 2012, following a hearing, Kimber was detained as a danger to the community. He was ordered to remain in jail following imposition of sentence.

The case was investigated by EPA's Criminal Investigation Division, the Federal Bureau of Investigation, and the Food & Drug Administration Office of Criminal Investigations. Assistance has been provided by the towns of Albany and Ulster police departments. The case was prosecuted by Assistant U.S. Attorney Craig Bene.

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Former Operations Manager in Louisiana Sentenced for Corporate Fraud and SDWA Violations --

On October 24, 2013, **MICHAEL J. VAUGHN**, of Addis, Louisiana, was sentenced in federal district court for the Middle District of Louisiana to 12 months incarceration at a federal half-way house, a five year term of probation, forfeiture of approximately \$23,000, and restitution to the victims in an amount to be determined.

The sentence is the result of Vaughn's pleading guilty to making false statements within the jurisdiction of the federal government, conspiring to defraud the U.S. Environmental Protection Agency and to violate the Safe Drinking Water Act. Such convictions stem from actions he 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.

While working as the FAS Operations Manager, the defendant 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, the defendant 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 Vaughn'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 Middle District of Louisiana's District Attorney's Office, and the Criminal Investigation Division of the Louisiana Department of Environmental Quality. The case is being prosecuted by Assistant U.S. Attorney Corey R. Amundson who serves as the Senior Deputy Chief of the Criminal Division.

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Former President of Texas Chemical Company Sentenced for Federal Crimes Related to Employee

Deaths -- On October 28, 2013, **MATTHEW LAWRENCE BOWMAN**, of Houston, Texas, the former president of Port Arthur Chemical and Environmental Services, LLC (PACES), was sentenced in federal district court for the Eastern District of Texas for occupational safety crimes which resulted in the death of an employee. He pleaded guilty on May 9, 2013, to violating the Occupational Safety and Health Act and making a false statement and was sentenced to serve 12 months in federal prison. He was also ordered to pay fines in the amount of \$5,000.



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 December 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 shipments from PACES after it 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 were in operation from November 2008 to November 2010, and were 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 December 18, 2008 and April 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

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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North Carolina Man Sentenced to 12 Months in Prison for Vehicle Emissions Fraud -- On September 25, 2013, **JOSE MANUEL CABRERA**, of Charlotte, North Carolina, was sentenced in federal district court for the Western District of North Carolina to 12 months in prison for conducting false vehicle emission inspections. He was also ordered to serve three years under court supervision following the prison term with the condition that he will not obtain a license to or actually conduct any vehicle emissions testing. Cabrera was also ordered to pay a \$10,000 fine and to complete 100 hours of community service.

According to court records, Cabrera worked at Carolina Tire & Auto service center in Pineville, as a mechanic and a vehicle emissions inspector licensed by the state of North Carolina. As a state-licensed emissions inspector, Cabrera tested vehicles to ensure they met federally-mandated emissions requirements. Court records show that from February 2011 to May 2012, and while employed at Carolina Tire, Cabrera conducted 164 illegal vehicle emissions inspections using surrogate vehicles to falsely pass vehicles that would have failed emissions inspection. According to court records, Cabrera performed these fraudulent emissions tests at Carolina Tire by entering into the state database the information of the vehicle that needed to be tested but then connected the testing equipment to a vehicle that was either being worked on at Carolina Tire or had already been repaired and had not been picked up by the owner. The illegal practice of utilizing substitute vehicles for emissions testing is referred to in the industry as “clean scanning.” Court records indicate that Cabrera charged \$60 to clean scan a vehicle. Carolina Tire’s Pineville service center was suspended from conducting emissions testing for ten years by the North Carolina Department of Motor Vehicle’s License and Theft Bureau.

Cabrera’s sentence was enhanced because of his criminal history, including membership in the MS-13 gang. Cabrera was ordered to self-report to the Federal Bureau of Prisons upon designation of a federal facility. Federal sentences are served without the possibility of parole.

Investigation of the case was conducted by the EPA’s Criminal Investigation Division, the North Carolina State Bureau of Investigation’s Division and Environmental Crimes Unit and the North Carolina Department of Motor Vehicle’s License and Theft Bureau, with assistance from the North Carolina Division of Air Quality, Mobile Sources Compliance Branch. The prosecution was handled by Assistant U.S. Attorney Steven R. Kaufman of the U.S. Attorney’s Office in Charlotte.

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Ship Chief Engineer Found Guilty of Violating APPS and Other Charges -- On September 15, 2013, **LAMBROS KATSIPIIS**, chief engineer of the *M/V Antonis G. Pappadakis*, was found guilty in federal district court in Norfolk, Virginia, of violating the Act to Prevent Pollution from Ships, falsification of records, and obstruction of justice violations. Ship operator Kassian Maritime Navigation Agency, Ltd. and ship owner Angelex Ltd. were acquitted of the charges against them.

The charges stem from illegal overboard discharges of bilge waste from the *M/V Antonis G. Pappadakis* bypassing pollution prevention equipment. These discharges were not recorded in the oil record book (ORB). A falsified ORB was used onboard between July 2012 and April 2013 and was presented to Coast Guard inspectors during boardings. The defendants were further alleged to have obstructed justice by instructing crew members not to speak to Coast Guard personnel during the April 2013 boarding. Sentencing is set for Dec. 16, 2013. The maximum penalty is a fine of \$250,000 per count and a maximum sentence of 20 years in prison.

The case was prosecuted by Kenneth Nelson of the Environment and Department of Justice's Natural Resources Division's Environmental Crimes Section.

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Virginia Businessman Pleads Guilty to Mishandling of Asbestos-Containing Materials -- On October 22, 2013, **BILLY J. AVERY**, of Virginia Beach, Virginia, pleaded guilty to violating the asbestos National Emission Standards for Hazardous Air Pollution (NESHAP), in violation of the Clean Air Act. Avery faces a maximum penalty of five years imprisonment when he is sentenced on January 28, 2014.



In a statement of facts filed with the plea agreement, Avery served as the secretary and treasurer of EC&C Environmental (EC&C), an environmental services company. Avery operated EC&C out of his residence located on Gulls Quay, Virginia Beach, Virginia. In July 2012, a contractor was retained to demolish the Wayside Motor Inn in Virginia Beach. Prior to the demolition, the contractor subcontracted EC&C and Avery to conduct an asbestos inspection of the hotel building to identify the presence and location of asbestos-containing materials (ACM). During the inspection, Avery took samples of suspected ACM and provided the samples to a chemical laboratory in Richmond, Virginia, for analysis. The laboratory testing results confirmed the presence of asbestos-containing materials. The Virginia Department of Labor and Industry issued an asbestos removal permit to EC&C to remove the 1,450 linear feet of regulated asbestos-containing material from the Wayside Motor Inn.

While removing and disposing the regulated asbestos-containing materials from the Wayside Motor Inn, EC&C and Avery did not follow the asbestos work practice standards and procedure required under the NESHAPs. During a meeting with the Chesapeake Deputy Fire Marshal and a Virginia Department of Labor and Industry inspector on February 6, 2013, regarding dumpsters Avery used in the Wayside Motel and other projects, Avery admitted that at least one of the dumpsters contained friable asbestos waste from various projects, including the waste from the Wayside Motor Inn.



The case was investigated by EPA's Criminal Investigation Division, the Chesapeake, Virginia, Fire Marshal's Office, and the Virginia Department of Environmental Quality. Assistant U.S. Attorney Joseph L. Kosky and Special Assistant U.S. Attorney David Lastra are prosecuting the case on behalf of the United States.

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Georgia Emissions Inspectors Plead Guilty to Fraudulently Issuing Emissions Certificates -- On September 6, 2013, **JEROME CLARENCE BARNES, JR.**, and **JARED F. WALKER** pleaded guilty for their roles in a scheme to fraudulently issue emissions certificates for cars that would have failed the emissions inspection required by law.

According to the charges and other information presented in court, Barnes, of Lithia Springs, Georgia, was responsible for issuing over 4,000 fraudulent emissions certificates to car owners in Georgia from September 2011 to September 2012, falsely stating that the owners' cars passed the required emissions test. Barnes worked with other individuals to open emissions inspection stations in their names that he would then use to issue fraudulent emissions certificates. Opening stations in others' names helped conceal Barnes' involvement in the fraudulent activity. He wanted to avoid detection because he previously owned two inspection stations that state authorities had shut down for fraud. When authorities would discover emissions fraud occurring at one of the inspection stations, Barnes continued the fraud at another station that was opened under the name of a different owner. During the scheme, Barnes used On Time Emissions in Fulton County, All Clean Emissions in Cobb County, BDH Emissions in Dekalb County, Elite Emissions in Fulton County, and Cleaner Atlanta Emissions in Cobb County, to conduct fraudulent emissions testing. Walker, of Austell, Georgia, owned All Clean Emissions.

Jared F. Walker and co-defendants Ieka N. Jones, of Winston, Georgia, and Seretha Franklin, of Acworth, Georgia, were licensed emissions inspectors who worked with Barnes to issue passing emissions certificates to car owners whose cars would have otherwise failed the emissions test. Instead of connecting the owners' real cars to the emissions equipment, the defendants connected different cars they knew would pass the test. During the tests, the computer system automatically transmitted emissions testing data to a state-wide database accessible by the Georgia Environmental Protection Division. The defendants manually entered other information into the system, such as the make, model, and vehicle identification number, to make it appear that they were testing the owners' real cars, many of which had already failed an emissions test or showed equipment malfunctions. The defendants charged \$100 to \$125 for a fraudulent emissions test, far more than the usual amount charged for a legitimate inspection. Georgia law prohibits inspection stations from charging more than \$25 for an emissions test.

Barnes pleaded guilty to one count of conspiring to commit wire fraud by depriving the state of Georgia and its citizens of their right to his honest services as a licensed emissions inspector. Walker pleaded guilty to one count of violating the Clean Air Act. The conspiracy charge against Barnes carries a maximum sentence of 5 years in prison. The Clean Air Act charge against Walker carries a maximum sentence of 2 years in prison. Each charge carries a fine of up to \$250,000. In determining the actual sentence, the Court will consider the United States Sentencing Guidelines, which are not binding but provide appropriate sentencing ranges for most offenders.

Sentencing is scheduled for November 22, 2013. The indictment charging Jones and Franklin with conspiracy and Clean Air Act violations remains pending.

The case is being investigated by EPA's Criminal Investigation Division and the Georgia Department of Natural Resources, Environmental Protection Division. It is being prosecuted by Assistant U.S. Attorney Stephen H. McClain.

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Delaware Man Enters Guilty Plea for RCRA and CWA Violations -- On October 15, 2013, **PATRICK HENRY PROCINO**, of Laurel, Delaware, pled guilty in federal district court for the District of Delaware to one count of illegal storage of hazardous waste without a permit in violation of the Resource Conservation and Recovery Act. The violation is punishable by five years incarceration, a \$250,000 fine, and three years supervised release. As the owner/operator of Procino Plating, Inc., Procino also entered a guilty plea on behalf of that corporation to one count of violating the Clean Water Act, which subjects the corporation to a maximum fine of \$500,000 and five years probation. Sentencing is scheduled for February 27, 2014.



Inside Procino Plating, Inc.

According to statements made at the plea hearing and documents filed in court, Procino owned and operated Procino Plating, Inc. in Blades, Delaware. Until the fall of 2007, the facility was utilized for plating and electroplating-related operations. From December 2007 through May 2010, Procino stored a tank containing approximately 450 gallons of liquid hazardous waste which originally had been used at the facility on its decorative chrome plating line. This chemical waste had a pH of 0.8 and, therefore, was a corrosive waste under RCRA.

Procino Plating, Inc. in the course of its operations, produced

wastewater and pursuant to a pretreatment industrial wastewater permit issued by Sussex County, was permitted to discharge its industrial wastewater to the Seaford, Delaware, treatment plant which, in turn, discharges into the Nanticoke River. Pursuant to the Clean Water Act, the permit set limits on the amount of various pollutants that Procino Plating could discharge in its industrial wastewater to the Seaford treatment plant, including limits on various metals.

On or about June 1, 2009, Sussex County modified Procino Plating's industrial user permit to specifically prohibit the discharge of wastewater generated as a result of electroplating operations, and any waste or by-products of the electroplating processes then in storage at the facility. This modification was made based upon statements and representations by Procino Plating to Sussex County officials, indicating that the business has ceased electroplating-related operations at the facility. However, from June 2009 through March 2010, Procino Plating processed, through its wastewater treatment plant, stored drums of chemicals which were leftover from its former electroplating operations and, in violation of its Clean Water Act mandated permit, discharged resulting wastewater to the Seaford treatment plant.

The case was investigated by EPA's Criminal Investigation Division and the Department of Natural Resources and Environmental Control, Criminal Investigations. It was prosecuted by Assistant U.S. Attorney Edmond Falgowski and Special Assistant U.S. Attorney Joseph Lisa.

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Alabama Pest Control Company and Its Owner Charge with Unlawful Application of Pesticides and Falsification -- On September 11, 2013, **STEVEN A. MURRAY**, of Pelham, Alabama, and his company, **BIO-TECH MANAGEMENT, INC.**, a pest control services company, were charged in federal district court for the Middle District of Georgia in a felony indictment with one count of conspiracy, 10 counts of making false statements, 20 counts of falsifying records, 10 counts of mail fraud and 10 counts of unlawful use of a pesticide.

The indictment alleges that from October 2005 to June 2009, Murray and Bio-Tech repeatedly misapplied the registered pesticide Termidor SC in nursing homes in the state of Georgia and falsified documents to conceal the unlawful use. The indictment further alleges that Murray and Bio-Tech sent invoices through the U.S. Mail to their nursing home clients to solicit payment for the unlawful pesticide applications.

According to the indictment, Murray and Bio-Tech provided monthly pest control services to nursing homes in Georgia by spraying pesticides in and around their clients' facilities. The indictment alleges that, at the direction of Murray, Bio-Tech employees routinely applied the pesticide Termidor indoors more than twice a year, contrary to the manufacturer's label instructions. The indictment further alleges that after the Georgia Department of Agriculture made inquiries regarding Bio-Tech's misuse of Termidor and other pesticides, Murray directed several of his Bio-Tech employees to alter company service reports with the intent to obstruct an investigation.

A criminal indictment is not a finding of guilt. An individual or company charged by criminal indictment is presumed innocent unless and until proven guilty in a court of law. The falsifying records and mail fraud charge carry a maximum sentence of 20 years in prison and \$250,000 fine per count. The false statements charges each carry a maximum sentence of five years in prison and a \$250,000 fine.

The case is being investigated by EPA's Criminal Investigations Division in Atlanta and prosecuted by Trial Attorneys Richard J. Powers and Adam C. Cullman of the Justice Department's Environment and Natural Resources Division, Environmental Crimes Section.

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South Carolina Man Indicted on Hazardous Air Pollution Violations -- On October 17, 2013, **SCOTT WILLIAM FARMER**, of Anderson, South Carolina, was charged in federal district court for the District of South Carolina with knowing violation of work practices governing hazardous air pollutants and knowing endangerment by release of hazardous air pollutants. The maximum penalty he could receive is 15 years imprisonment and a maximum fine of \$250,000.

The case was investigated by EPA's Criminal Enforcement Division and the Department of Health and Environmental Control of South Carolina. It is being prosecuted by Assistant U.S. Attorney Jamie Lea Nabors Schoen of the Greenville, South Carolina, office. All charges in this indictment are merely accusations and defendants are presumed innocent until and unless proven guilty.

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Ohio Man Charged with Discharging Well-Drilling Waste into River Tributary– On October 17, 2013, **JAMES L. HIDEY**, of Dover, Ohio, was charged in federal district court for the Northern District of Ohio with discharging well drilling waste into Beecher Brook, a tributary of the Chagrin River.

In 2008 Hidey worked for Great Plains Exploration, an oil and gas well drilling company based in Northeast Ohio. On two separate occasions in 2008, Hidey directed the discharge of brine into a stormwater sewer after the completion of gas wells in Mayfield Heights and Highland Heights. The brine flowed from the stormwater sewers into Beecher Brook and eventually into the Chagrin River. Brine is water with a high quantity of salt dissolved into it and is used during the drilling phase of the well installation. It must be handled and disposed of properly because of the toxicity of brine.

The case was investigated by EPA's Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, and the Ohio Environmental Protection Agency, all members of the Northeast Ohio Environmental Crimes Task Force. It is being prosecuted by Special Assistant U.S. Attorney Brad J. Beeson. An information is only a charge and is not evidence of guilt. A defendant is entitled to a fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt.

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New York Developer Indicted for Obstruction of Justice -- On September 20, 2013, it was announced that a federal grand jury in the Western District of New York returned a five count indictment charging **WILLIAM L. HUNTRESS**, of Buffalo, New York, and two companies he controlled, **ACQUEST DEVELOPMENT, LLC**, and **ACQUEST TRANSIT, LLC**, with conspiracy to defraud the United States and obstruction of justice. In addition, Huntress and the companies are charged with making a false statement and concealing material facts, and criminal contempt. The charges carry a maximum penalty of 20 years in prison, a fine of \$250,000, or both.

According to the indictment, in January 2006, the defendants purchased a 97-acre piece of property in Amherst, New York. Prior to the purchase, the defendants obtained a wetland delineation for the site which concluded that 76.3 acres or 79 percent of the site qualified as federally jurisdictional wetlands. After the purchase, EPA began an investigation to determine whether the site contained federal wetlands and was within the jurisdiction of the Clean Water Act. As part of that investigation, the EPA sought information from the defendants, including a request for any prior wetland delineations conducted.

Also according to the indictment, the defendants failed to disclose the existence of their prior wetland delineation, and made false statements regarding activity that was occurring on the site. The indictment further states that in a civil lawsuit involving defendant Acquest Transit, LLC, the United States District Court for the Western District of New York enjoined that company and its officers, agents and employees from performing any further earthmoving activity. However, in May 2010, defendant Huntress hired a local farmer to conduct agricultural and earthmoving activity on the site. The same defendants were charged in an indictment on November 9, 2011. That indictment was dismissed by the District Court in an order dated March 25, 2013.

The indictment is the culmination of an investigation on the part of EPA special agents. The evidence was presented to the grand jury by Assistant U.S. Attorney Mango and Trial Attorney Gleason, who will handle the trial of the case. The fact that a defendant has been charged with a crime is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

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Seven Individuals, Three Corporations Charged in Indiana-Based Biofuels Fraud Scheme -- On September 18, 2013, the return of two indictments against six individuals and three companies for offenses involving federal renewable fuel programs was announced. The offenses allegedly created losses to victims totaling more than \$100 million. The 88 counts included in the three charging documents include allegations of conspiracy, wire fraud, false tax claims, false statements under the Clean Air Act, obstruction of justice, money laundering and securities fraud.

The Energy Independence and Security Act of 2007 created a number of federally-funded programs that provided monetary incentives for the production of biodiesel. A dollar-per-gallon tax credit was available only to the first person to blend the pure biodiesel (known as B100) with petroleum diesel. After the biodiesel was blended and the tax credit claimed, the resulting product was generally known in the industry as B99, meaning that it was approximately 99% biodiesel and 1% petroleum diesel. Additionally, biodiesel producers could generate and attach credits known as “renewable identification numbers” or RINs to biodiesel they produced. Because certain companies need RINs to comply with regulatory obligations, RINs have significant market value. These two incentives were available only once for any given volume of biodiesel. For these reasons, a gallon of B100 with RINs and an available tax credit was worth much more than a gallon of RIN-stripped B99. At times during the conspiracy, a gallon of B100 was worth up to \$2.50 more than an equivalent gallon of B99.

Four of the defendants—**CRAIG DUCEY, CHAD DUCEY, CHRIS DUCEY, and BRIAN CARMICHAEL** — operated **E BIOFUELS**, a Middletown, Indiana, company that held itself out as a producer of biodiesel from “feedstocks” such as animal fat and vegetable oils. The government alleges that these defendants conspired with **JOSEPH FURANDO** and **EVELYN KATIRINA PATTISON** — two executives with a pair of related New Jersey-based companies that operated under the names **CARAVAN TRADING COMPANY** and **CIMA GREEN** —to purchase RIN-stripped B99 from third parties, pretend that E-Biofuels had produced that fuel at its Middletown facility and fraudulently resell that fuel to customers as B100 with RINs and an available tax credit. While the E-Biofuels facility was capable of producing B100, at times during the conspiracy it was producing no fuel of its own, but instead was simply acting as a pass-through facility for fuel purchased elsewhere.

The indictment alleges that beginning in July 2009 and continuing until May 2012, these defendants fraudulently sold more than 35 million gallons of RIN-stripped B99 to unwitting customers who paid an inflated price, thinking they were purchasing B100 with RINs and an available tax credit. All told, the customers were allegedly defrauded of more than \$55 million as a result of these activities and the Internal Revenue Service was exposed to as much as \$35 million in false claims.

The government alleges that the defendants delivered the fraudulently mislabeled fuel to the victims in one of three ways. In some cases, the biodiesel was transported from fuel terminals to the E-Biofuels facility in Middletown where it was unloaded into a holding tank. A short time later, the biodiesel would be reloaded into tanker trucks and delivered to unsuspecting customers along with fraudulent paperwork that misidentified it as B100 with RINs produced by E-Biofuels. On other occasions, the truck drivers did not unload the fuel when they arrived at Middletown plant. Instead, they simply picked up paperwork falsely stating that the truck contained a load of B100 with RINs that originated at the E-Biofuels facility. The truck drivers referred to this procedure as “flipping a load.”

Finally, in the most egregious instances, the truck drivers hauled RIN-stripped B99 from fuel terminals directly to customers. Because these loads never went to the E-Biofuels facility they were known as “ghost loads” or “phantom loads.” In those cases, the defendants faxed or e-mailed the false paperwork to the truck drivers along their routes between the fuel terminals and the customer locations.

In May 2010, E-Biofuels was purchased by Imperial Petroleum, a publicly traded company based in Evansville. After the acquisition, E-Biofuels accounted for more than 97% of Imperial Petroleum’s operat-

ing income. Defendant Jeffrey Wilson was the president and chief executive officer of Imperial Petroleum.

The government alleges that **Jeffrey Wilson** and Craig Ducey knew that E-Biofuels was purchasing biodiesel from third parties instead of making its own biodiesel. They hid this fact from Imperial's investors, shareholders and outside auditors by falsely stating that E-Biofuels produced biodiesel from chicken fat and other feedstocks. They made these and other related false statements and omissions in Imperial Petroleum's annual and quarterly reports filed with the Securities and Exchange Commission and in written and oral communications with Imperial Petroleum's investors and outside auditors.

If found guilty, the six individuals charged by indictment face up to 20 years in federal prison on some counts, as well as significant fines. The three indicted companies also face significant fines and other regulatory action.

An additional defendant was also charged by federal information and has petitioned the court to enter a plea of guilty and cooperate with investigators. **Brian Carmichael** was charged with one count of conspiracy to defraud the United States. Carmichael has filed a petition with the court indicating his willingness to plead guilty to this charge. Carmichael faces up to five years in federal prison if convicted.

The collaborative investigation that led to the arrests was the result of work by the EPA's Criminal Investigation Division, the Internal Revenue Service Criminal Investigation, the FBI, the Securities and Exchange Commission, as well as the U.S. Department of Agriculture and the Indiana Department of Environmental Management.

The case is being prosecuted by Senior Litigation Counsel Steven D. DeBrotta of the U.S. Attorney's Office, along with Senior Counsel Thomas Ballantine of the Environmental Crimes Section in the Department of Justice's Environment and Natural Resources Division, and Jake Schmidt, a Special Assistant U.S. Attorney of the U.S. Attorney's Office and Senior Attorney for the Securities and Exchange Commission.

An indictment is only a charge and is not evidence of guilt. All defendants are presumed innocent and are entitled to a fair trial at which the government must prove guilt beyond a reasonable doubt.

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