

Environmental Crimes Case Bulletin



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

September 2012

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

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- James A. Mikrut, — Region 5
- Scotts Miracle-Gro Company — Region 5
- Connie M. Knight — Region 6
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- Hernan Cortez-Villasenor, David Arreola, Homero Pacheco-Rivera, Alfonso Cornejo, Jose Luis Garcia-Villa, Marcelian botello Charles, Julio Cesar Villanueva-Cornejo — Region 9
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- James Barber — Region 10

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 1	John C. Scheerer	Falsifying lead inspection reports
Region 1	Donna Howe	RCRA/Falsifying records
Region 2	Sean P. Doctor, Raj Chopra, S.D. Specialty Services, LLC, Comprehensive Employee Management, Inc.	CAA & Mail Fraud/Improper transportation and storage of asbestos waste material and improper classification of asbestos workers
Region 2	Cheng Yan Huang	FIFRA/Distributing and selling unregistered and unauthorized pesticides
Region 3	Blue Marsh Laboratories, Inc.	CWA/Conspiracy that resulted in the false reporting of pollution test results and reporting a fake result in testing imported fruit for potential contamination
Region 3	Francis Zuspan	CWA/Illegally dumping sewage into U.S. waters
Region 5	James A. Mikrut	CAA/Illegal removal, handling and disposal of asbestos
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DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
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Region 6	<u>Cleopatra Shipping Agency, LTD</u>	APPS/Illegal discharge of bilge water and other oily waste directly into the ocean and false entries in the oil record book
Region 6	<u>Huy Ngoc Nguyen, Dahn Cong Tran, Bich Dogn Ngo, Nahi Cong Tran</u>	CAA/Making false statements
Region 7	<u>Alice H. Gregory</u>	CAA/Bribery in connection with vehicle registrations and titles
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Region 9	<u>Fernando Salazar, Juan Carlos Hernandez-Oceguera</u>	CWA/Discharge plating waste into sanitary sewers
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Pennsylvania Environmental Testing Lab Company and Owner Sentenced for Falsifying Test Results

— On September 10, 2012, **BLUE MARSH LABORATORIES, INC.**, located in Douglassville, PA, and its president, laboratory director, and owner Michael J. McKenna, of Kutztown, PA, were sentenced for conspiracy that resulted in the false reporting of pollution test results and reporting a fake result in testing imported fruit for potential contamination. McKenna was sentenced to nine months in prison; Blue Marsh Labs was sentenced to five years probation; both defendants were ordered to share the cost of restitution in the amount of \$14,114.50. The defendants pleaded guilty to devising a scheme to defraud customers and to obtain money and property from



Inside Blue Marsh Laboratories, Inc.

customers by means of false and fraudulent representations regarding test results. They also admitted to violating the Clean Water Act, and submitting a false test report to the Food and Drug Administration.

Blue Marsh and McKenna, primarily in the business of analytical testing of environmental samples of water and wastewater, caused environmental test reports to be prepared and mailed to customers which falsely stated that proper EPA methods were followed when they weren't. The test results then were false, inaccurate and unreliable. For example, from September 2005 through October 2005, the defendants prepared and mailed false and fraudulent test results for Hurricane Katrina flood water samples which were required by EPA to be tested for contamination by various pollutants, including, among others, cyanide, and herbicides MCPA and MCPP.

In addition, from approximately July 2007 through September 2007, the defendants prepared and sent false and fraudulent test results required by the U.S. Food and Drug Administration for the testing of certain fruit which had been imported from South America and which were required to be tested for pesticide contamination.

The case was investigated by EPA's Criminal Investigation Division, FDA's Office of Criminal Investigations, and the Defense Criminal Investigative Service. It was prosecuted by the United States Attorney's Office for the Eastern District of Pennsylvania.

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Photographic evidence taken at Blue Marsh Laboratories, Inc.

Scotts Miracle-Gro Ordered to Pay \$12.5 Million in Criminal Fines and Civil Penalties for Violations of Federal Pesticide Laws

— On September 7, 2012, the **SCOTTS MIRACLE-GRO COMPANY**, a producer of pesticides for commercial and consumer lawn and garden uses, was sentenced in federal district court in Columbus, Ohio, to pay a \$4 million fine and perform community service for eleven criminal violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which governs the manufacture, distribution, and sale of pesticides. Scotts pleaded guilty in February 2012 to illegally applying insecticides to its wild bird food products that are toxic to birds, falsifying pesticide registration documents, distributing pesticides with misleading and unapproved labels, and distributing unregistered pesticides. This is the largest criminal penalty under FIFRA to date.



In a separate civil agreement with EPA, Scotts agreed to pay more than \$6 million in penalties and spend \$2 million on environmental projects to resolve additional civil pesticide violations. The violations include distributing or selling unregistered, canceled, or misbranded pesticides, including products with inadequate warnings or cautions. This is the largest civil settlement under FIFRA to date.

In the plea agreement, Scotts admitted that it applied the pesticides Actellic 5E and Storcide II to its bird food products even though EPA had prohibited this use. Scotts had done so to protect its bird foods from insect infestation during storage. Scotts admitted that it used these pesticides contrary to EPA directives and in spite of the warning label appearing on all Storcide II containers stating, “Storcide II is extremely toxic to fish and toxic to birds and other wildlife.” Scotts sold this illegally treated bird food for two years after it began marketing its bird food line and for six months after employees specifically warned Scotts management of the dangers of these pesticides. By the time it voluntarily recalled these products in March 2008, Scotts had sold more than 70 million units of bird food illegally treated with pesticide that is toxic to birds.

Scotts also pleaded guilty to submitting false documents to EPA and to state regulatory agencies in an effort to deceive them into believing that numerous pesticides were registered with EPA when in fact they were not. The company also pleaded guilty to having illegally sold the unregistered pesticides and to marketing pesticides bearing labels containing false and misleading claims not approved by EPA. The falsified documents submitted to EPA and states were attributed to a federal product manager at Scotts.

In addition to the \$4 million criminal fine, Scotts will contribute \$500,000 to organizations that protect bird habitat, including \$100,000 each to the Ohio Audubon’s Important Bird Area Program, the Ohio Department of Natural Resources’ Urban Forestry Program, the Columbus Metro-Parks Bird Habitat Enhancement Program, the Cornell University Ornithology Laboratory, and The Nature Conservancy of Ohio to support the protection of bird populations and habitats through conservation, research, and education.

At the time the criminal violations were discovered, EPA also began a civil investigation that uncovered numerous civil violations spanning five years. Scotts’ FIFRA civil violations included the nationwide distribution or sale of unregistered, canceled, or misbranded pesticides, including products with inadequate warnings or cautions. As a result, EPA issued more than 40 Stop Sale, Use or Removal Orders to Scotts to address more than 100 pesticide products. In addition to the \$6 million civil penalty, Scotts will complete environmental projects, valued at \$2 million, to acquire, restore and protect 300 acres of land to prevent run-off of agricultural chemicals into nearby waterways.

The criminal case was investigated by EPA’s Criminal Investigation Division and the Environmental Enforcement Unit of the Ohio Attorney General’s Office, Bureau of Criminal Identification & Investigation. It was prosecuted by the Justice Department’s Environmental Crimes Section of the Environment and Natural Resources Division, by EPA’s Criminal Enforcement Counsel and by the United States Attorney’s Office for the Southern District of Ohio. The civil case was investigated by U.S. EPA Region 5’s Land and Chemicals Division and Office of Regional Counsel, and the U.S. EPA Headquarters Office of Civil Enforcement, assisted by the Office of Pesticides Program.

Connecticut Contractor Who Falsified Lead Inspection Reports is Sentenced — On September 10, 2012, **JOHN C. SCHEERER** was sentenced in federal court in New Haven to two years of probation, the first six months of which must be spent in home confinement, for falsifying lead inspection reports in connection with home improvement projects funded by the U.S. Department of Housing and Urban Development (HUD). Scheerer also was ordered to pay a \$1,000 fine and \$11,160 in restitution. Scheerer was hired to perform home improvement and lead abatement work on several residential properties throughout Connecticut. His work was funded in part by the HUD as part of a revitalization program that provides federal funds to various cities and towns in the state of Connecticut to be used to assist homeowners in repairing and updating residential homes. Upon completing his work at each property, Scheerer was required to hire an independent lead inspector to test for lead hazards and to obtain and submit a final lead clearance report stating that the testing was in compliance with HUD standards.

From March 2006 to March 2010, Scheerer falsified and fraudulently submitted approximately 30 lead abatement clearance reports for properties where he performed work funded by HUD. Instead of hiring an independent lead inspector to perform final lead clearance testing upon completion of his work, Scheerer fraudulently prepared and submitted false reports of compliance using the letterhead of a third-party lead inspection company. The reports falsely stated that the lead inspection company had conducted a post lead abatement visual assessment and lead dust wipe sampling at each property, that the visual assessment and dust wipe samples were conducted in accordance with HUD regulations, that the visual assessment confirmed that no residual dust and/or paint chips were present at the completion of the work, and that the dust wipe analysis met HUD clearance standards. Scheerer fraudulently added a signature purporting to be that of the president of the lead inspection company at the end of each report. As a result of Scheerer's fraud and false statements, the affected cities and towns had to expend additional funds to test the homes to ensure they were clear of lead hazards. The testing revealed that no significant lead hazards remained. On May 3, 2012, Scheerer pleaded guilty to one count of making and using a false document.

The case was investigated by EPA's Criminal Investigation Division. The case was prosecuted by the United States Attorney's Office for the District of Connecticut and EPA's Regional Counsel's Office.

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Vessel Company Sentenced in Louisiana for Pollution Crimes — On September 11, 2012, **CLEOPATRA SHIPPING AGENCY, LTD.**, a Greek vessel management company, pled guilty to violating the Act to Prevent Pollution from Ships and was sentenced to pay a \$300,000 fine and serve a three-year term of probation requiring implementation of an environmental compliance program. \$150,000 of the fine will be awarded to the Cleopatra employee who reported the violation to the United States Coast Guard. Cleopatra managed and operated the *M/V Stellar Wind*, an ocean-going bulk carrier. From on or about August 13, 2011, through on or about August 26, 2011, during the vessel's voyage from Spain to the United States, the chief engineer of the vessel caused discharges of bilge water and other oily waste directly into the ocean without using an oily water separator as required by federal and international law. The chief engineer, who was required to record all discharges in an Oil Record Book (ORB), did not record the illegal discharges in the ORB. In addition, he made three false entries in the ORB indicating that the oily water separator was used to discharge when in fact it was not. The falsified ORB was later presented to the United States Coast Guard during an inspection of the vessel, while the vessel was moored in the Mississippi River in Ascension Parish. During the inspection, a low-level engine department crew member reported the discharges and the record falsification to a Coast Guard officer. The investigation was conducted by the United States Coast Guard and EPA. It was prosecuted by the United States Attorney's Office for the Middle District of Louisiana.



The M/V Stellar Wind

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Manhattan Man Sentenced In Federal Court For Selling And Distributing Illegal Pesticides — On September 12, 2012, **CHENG YAN HUANG**, the owner of a store in the Chinatown section of Manhattan, was sentenced in Manhattan federal court to time served for distributing and selling at least 2,010 packages of unregistered and unauthorized pesticides. He was also ordered to pay \$1,200 toward the cost of disposal of the unregistered and unauthorized pesticides he sold and that were seized from his store. On August 8, 2012, Huang's co-defendant, delivery driver Jai Ping Chen, was sentenced to 200 hours of community service and a \$3,000 fine for distributing and selling at least 4,510 packages of unregistered and unauthorized pesticides.

Huang and Chen were arrested and charged in September 2011 as part of a multi-agency illegal pesticides crackdown that resulted in 12 arrests, and the seizure of thousands of packages of unregistered and misbranded pesticides that were sold out of multiple locations in Manhattan. The pesticides were particularly dangerous because their packaging and appearance could lead them to be mistaken for cookies or cough medicine. They were not registered by the EPA and were missing required label warnings, so consumers had no way of knowing how dangerous the products were, or how best to protect themselves from harmful exposure. In December 2010, an individual became gravely ill after ingesting a pesticide she mistook for medicine. Later investigation revealed that the pesticide, a small vial of blue-green liquid labeled primarily in Chinese with the words "The Cat Be Unemployed," was being sold illegally in the Chinatown section of Manhattan. The pesticide was not registered by the EPA nor was it properly labeled, as required by both state and federal law. The investigation further revealed that the product contained almost 61 times the EPA authorized amount of brodifacoum – a rodenticide that is not approved for direct consumer use, and may only be used by licensed professionals. In response to the poisoning, various law enforcement agencies began a joint undercover investigation of the illegal sale of toxic pesticides in and around New York City. The multi-agency criminal investigation revealed at least one dozen unregistered and misbranded pesticide products – some with extremely high levels of toxicity – being sold by more than a dozen vendors in and around Manhattan's Chinatown.

Between July and August 2011, Huang and Chen distributed and sold more than 4,500 individual packages of unregistered and misbranded pesticide products to undercover agents. Many of the pesticide packages they sold misrepresented the amount of the chemical the pesticide contained, none contained the required ingredient statement, and none had been approved by the EPA for commercial sale. The products provided to undercover agents by Huang and Chen contained high levels of Bromadiolone (similar in content and use restrictions to Brodifacoum), and nearly five times the EPA authorized percentage of Fipronil, another active ingredient in insecticides. The products were sold under various names, including "Fuzhou Control Termite Company – Cockroachkiller Bait." Huang sold the pesticides at his store in Chinatown, and Chen made multiple deliveries of pesticides to at least two locations in Manhattan, including Huang's store. During one meeting, Huang told undercover agents he could provide as many packages of pesticides as they wanted. During a search of Huang's store on September 14, 2011, agents found over 800 packages of unregistered pesticides. That same day, agents also found thousands of packages of pesticides in Chen's home. Ten defendants charged at the state level – all owners or workers at small stores or stalls in and around the East Broadway Mall – have also pled guilty. They were all sentenced to conditional discharges and ordered to pay restitution or fines ranging from \$1,500 to \$5,000.

The case was investigated by the District Attorney's Office for New York County, EPA's Criminal Investigation Division, the New York State Department of Environmental Conservation, Immigration and Customs Enforcement's Homeland Security Investigations, and the United States Postal Inspection Service. It is being prosecuted by the United States Attorney's Office for the Southern District of New York.

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Label of "The Cat Be Unemployed," a toxic rodenticide being sold in local Chinatown stores. Photograph: Manhattan District Attorney's Office.

Illinois Man Sentenced to Prison for Asbestos Crimes — On September 20, 2012, **JAMES A. MIKRUT** was sentenced to 12 months and one day incarceration to be followed by one year of supervised release after he pled guilty to five Clean Air Act counts for asbestos violations. Special conditions of Mikrut's sentence include one year home detention. Mikrut was also ordered to pay restitution of \$47,085 to EPA related to the clean-up of illegally disposed asbestos. Mikrut recruited and oversaw untrained workers to illegally remove asbestos from a five-story Kankakee, Illinois, building in August 2009. Mikrut's co-defendant, Duane 'Butch' O'Malley, arranged for Mikrut to recruit the untrained workers. O'Malley, owner and operator of Origin Fire Protection, was hired by Michael J. Pinski in August 2009 to remove asbestos-containing insulation from pipes in the building that was owned by Pinski through his company, Dearborn Management, Inc. Neither O'Malley nor his company was trained to perform the asbestos removal work and agreed to remove the asbestos insulation for an amount that was substantially less than a trained asbestos abatement contractor would have charged to perform the work. O'Malley was convicted by a federal jury for the illegal removal, handling and disposal of asbestos from the building. He was sentenced to 10 years in prison. O'Malley was also ordered to pay restitution of \$47,086 to the EPA and ordered to pay a fine of \$15,000. Michael Pinski pled guilty to one CAA violation. Pinski's sentencing has not yet been scheduled.

The government's evidence showed that various provisions of the Clean Air Act (CAA) and EPA regulations were violated, including, failure to properly notify the EPA, failure to have trained on-site representatives present, failure to ensure the asbestos insulation was adequately wetted while it was being stripped and removed, failure to mark vehicles used to transport the asbestos containing waste material and failure to deposit the asbestos in a waste disposal site for asbestos.



Bags filled with asbestos-containing insulation dumped in an open field by workers recruited by James Mikrut

Instead, the asbestos insulation was stripped from the pipes while dry, and then placed in more than 100 large, unlabeled plastic garbage bags. The bags were then dumped in an open field in Hopkins Park, resulting in soil contamination and exposing the workers recruited by Mikrut and hired by O'Malley to dangerous asbestos-laden dust.

The charges were investigated by EPA's Criminal Investigation Division, with assistance from the Illinois Environmental Protection Agency and EPA's Superfund Division. Assistant United States Attorney Eugene L. Miller and Special Assistant U.S. Attorney James Cha are prosecuting the case.

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Kansas City Company Sentenced for Clean Water Act Violation — On September 11, 2012, **A-1 BARREL COMPANY** was sentenced in the U.S. District Court for the District of Kansas in Kansas City, Kan. The company was sentenced to pay a \$15,000 fine for a negligent Clean Water Act violation of effluent treatment standards contained in the company's waste water discharge permit. A-1 Barrel Company, LLC, is a used drum washing and refurbishing company in Kansas City, Kan. EPA's Criminal Investigation Division initiated an investigation after receiving allegations that the company was receiving partially full drums containing solvents and other hazardous wastes. Suspecting the company was dumping the contents of the used drums down a floor drain, a sampler was placed in the sanitary sewer line coming from A-1 Barrel. Analysis of the samples collected confirmed the facility was discharging low pH in violation of the company's waste water discharge permit.

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Hose used to discharge hazardous waste into illicit tank and drain.

Clerk at St. Louis Vehicle Registration Office Sentenced for Taking Bribes — On September 5, 2012, **ALICE H. GREGORY**, a clerk at a privately run Department of Revenue office in St. Louis, was sentenced to three years probation and to perform 40 hours community service. In May 2012, Gregory pleaded guilty to a federal mail fraud charge and admitted taking bribes to process false or fraudulent paperwork at least 37 times. Gregory admitted taking cash in exchange for processing vehicle registrations and titles where the required paperwork was missing, including safety and emissions certificates, insurance documents and personal property tax receipts. Motor vehicles are a leading source of air pollution in the St. Louis area due to the large number of vehicles on the road and amount of miles traveled daily. EPA has designated the counties of St. Charles, St. Louis, Franklin, Jefferson and St. Louis City as an ozone nonattainment area. The area does not meet the federal health-based air quality standards for ground-level ozone, a strong lung irritant.

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Emissions Inspectors at Texas Vehicle Inspection Stations Sentenced for Falsifying Emissions Test Results; Two Others Awaiting Sentencing

— On September 5, 2012, **HUY NGOC NGUYEN** was sentenced to 12 months probation and **DAH N CONG TRAN** was sentenced to eight months home confinement followed by 12 months probation after pleading guilty to one count of making a Clean Air Act false statement. Additionally, on September 21, 2012, **BICH DOGN NGO** was sentenced to 12 months probation. The judge did not impose any fines or restitution.

A total of six individuals pled guilty to Clean Air Act violations. Specifically, Nghiem Van Tran, and **NGHI CONG TRAN** each pleaded guilty to one count of conspiracy to violate the Clean Air Act. Ngan Tien Tran, Dahn Cong Tran, Bich Dong Ngo, and Huy Ngoc Nguyen each pleaded guilty to one count of making a Clean Air Act false statement.

Nguyen, Tran, and Ngo were emissions inspector technicians in Arlington, Texas, and admitted that they 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. 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.

On August 13, 2012, Ngan Tien Tran was sentenced to serve 12 months and one day of incarceration followed by one year of supervised release. Nghiem Van Tran and Nghi Cong Tran are scheduled for sentencing on November 16, 2012.

The investigation was conducted by 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.

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California Man Sentenced to Two Years in Prison for Pumping Corrosive and Toxic Waste Down the Toilet

-- On September 24, 2012, **FERNANDO SALAZAR**, was sentenced to two years in prison and ordered to pay a \$30,000 fine after pleading guilty to violating the federal Clean Water Act. Salazar admitted in court that he repeatedly discharged, or caused his employees to discharge, corrosive and toxic industrial wastes from his electroplating business, Technical Anodize, into the sanitary sewers. On September 28, 2012, co-defendant and former employee of Technical Anodize, **JUAN CARLOS HERNANDEZ-OCEGUERA**, was sentenced to 30 days jail to be followed by seven months home confinement. Mr. Hernandez had also previously pled guilty to criminal violations of the federal Clean Water Act.

According to the criminal complaints filed in this case, Fernando Salazar had operated Technical Anodize in Pomona, California since approximately 1997. Between February 2011 and January 2012, undercover sampling and analysis of the sewer discharges from Technical Anodize revealed that the business was routinely discharging corrosive and toxic industrial wastes contaminated with poisonous heavy metals, including zinc, nickel, chromium, and copper. Following a search warrant on January 31, 2012, employees admitted that Fernando Salazar had discharged the pollutants himself, and trained and directed other employees to do so as well, by secretly using a hose to pump the toxic wastes down the facility's toilet on a daily basis. The investigation revealed that the corrosive and toxic wastes then flowed through the sewers to a sewage treatment plant operated by the County Sanitation Districts of Los Angeles County.

This criminal investigation was conducted by the U.S. Environmental Protection Agency, Criminal Investigation Division, which received substantial assistance from the County Sanitation Districts of Los Angeles County and Los Angeles Fire Department, Health and Hazardous Materials Division. It was prosecuted by the U.S. Attorney's Office for the Central District of California.

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Massachusetts Office Company Manager Pleads Guilty to Falsifying Logs — On September 1, 2012, **DONNA HOWE**, of Billerica, Mass., pleaded guilty in U.S. District Court in Concord to falsifying weekly inspection logs required by the EPA to comply with hazardous waste disposal regulations in violation of the Resource Conservation and Recovery Act. The violations were discovered in a routine check of compliance paperwork by the EPA. Howe, the office manager of Central Metal Finishing, a metal finishing plant in Windham, Mass., faces a possible sentence of two years in prison and a fine of up to \$250,000. She was released on personal recognizance, pending sentencing scheduled for Dec. 20.

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West Virginia Man Pleads Guilty to Federal Water Pollution Crime — On September 24, 2012, **FRANCIS ZUSPAN**, also known as “Frank Zuspan,” 61, of Mason County, W.Va., pleaded guilty to dumping a pollutant into waters of the United States without a permit. Zuspan admitted that in or about December 2010, he took a 2400-gallon sewage hauling truck to property in Mason County, W.Va. and illegally dumped sewage onto the property. Zuspan further admitted that the sewage was dumped into a lake and stream watershed in Mason County that connected to the Ohio River. The defendant also admitted that he discharged untreated sewage onto the Mason County property on multiple occasions between November 2010 and February 2011. Zuspan is scheduled to be sentenced on January 14, 2013.



The sewage hauling truck Zuspan used to discharge untreated sewage

Operator of Wastewater Treatment Plant at Mt. Rainier National Park Pleads Guilty To Illegal Dumping Of Sewage — On September 28, 2012, **JAMES BARBER**, the operator of the wastewater treatment plant in Mount Rainier National Park pleaded guilty to violating the Clean Water Act. In August 2011, Barber allowed hundreds of thousands of gallons of sewage to run into the Nisqually River. Under the terms of the plea agreement, Barber is giving up his certification to operate a wastewater facility and is resigning from the Park Service. Barber is scheduled to be sentenced on December 14, 2012. In his plea agreement Barber admits that, during spring and summer 2011, he failed to stop the build-up of solid waste in the treatment plant, which caused the filters to become clogged and degraded the advanced treatment portion of the plant. Instead of fixing the problem, Barber used a by-pass around the advanced treatment and surge storage tank. As a result, some 200,000 gallons of minimally treated sewage was dumped directly into the drainage ditch and flowed into the waterfall and Nisqually River. Under the terms of the plea agreement, Barber is banned from entering Mount Rainier National Park for five years, agrees not to seek employment in any job related to wastewater treatment for five years, and will not seek certifications, licenses or permits related to wastewater or drinking water treatment for the remainder of his life.



Sewage that was illegally discharged into Nisqually River

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Louisiana Woman Indicted for Impersonating an OSHA Official in Fraudulent Hazardous Waste Safety Training During Deepwater Horizon Oil Spill Clean Up

— On September 26, 2012, a 22-count federal indictment was unsealed in U.S. District Court for the Eastern District of Louisiana charging **CONNIE M. KNIGHT** with impersonating a U.S. official in a scheme to lure people to fraudulent hazardous waste safety training by offering hopes of gaining employment cleaning up the Gulf of Mexico following the Deepwater Horizon oil spill. In addition to impersonating a U.S. official, Knight was charged with possessing false federal identification documents, creating false federal identification documents, and transferring false federal identification documents to her employees.

The indictment describes a scheme in which Knight impersonated a high ranking OSHA official by using false OSHA credentials, a false OSHA email address, and various other means. Knight thereby enticed individuals to pay for fraudulent hazardous waste safety and awareness training under the pretense that they would get work helping to clean the Gulf. From August to December of 2010, it is estimated that Knight defrauded more than 1,000 individuals throughout the Eastern District of Louisiana. In the wake of the Deepwater Horizon oil spill, many fisheries were closed, causing fishermen in the gulf region to be financially dependent on employment as oil spill cleanup personnel. All cleanup personnel were required to receive hazardous waste safety training before working in contaminated areas due to dangers from the oil itself and cleanup materials. According to the indictment, Knight created and used fraudulent OSHA credentials, along with numerous false diplomas and certifications, to convince individuals that she was an authorized trainer and that they would be able to procure lucrative cleanup work if they attended and paid for her hazardous waste training. Knight targeted the Southeast Asian communities in Southern Louisiana, primarily those who neither read nor spoke English proficiently.

According to the indictment, in October of 2010, Knight duped at least four residents of Southern Louisiana fishing communities into believing that she had authority from OSHA to hire them as employees. Knight created false federal OSHA identification badges for those individuals, then used the individuals to leverage their relationship with members of the community to bring in more people for her fraudulent trainings.

The charges of producing and transferring fraudulent federal identification documents each carry a maximum sentence of 15 years in prison and a fine of \$250,000. The charge of possessing a fraudulent federal identification document carries a maximum sentence of one year in prison and a fine of \$5,000. The nineteen counts of falsely impersonating a federal employee each carry a maximum sentence of three years in prison and a fine of \$250,000.

The case is being investigated by the United States Department of Labor - Office of Inspector General and EPA's Criminal Investigation Division; with assistance from the Occupational Safety and Health Administration, the Federal Bureau of Investigation, investigators from the Florida Fish and Wildlife Conservation Commission, and the Louisiana Plaquemines Parish Sheriff's Office. The case is being prosecuted by the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division and the U.S. Attorney's Office for the Eastern District of Louisiana.

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

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Superseding Indictments Brought in Two Drug Cases Related to Illegal Insecticides — On September 27, 2012, a federal grand jury returned superseding indictments in two drug cases charging alleged marijuana cultivators with bringing illegal insecticides and rat poisons to marijuana cultivation operations in Sequoia National Forest.

In one case, **HERNAN CORTEZ-VILLASENOR, DAVID ARREOLA, HOMERO PACHECO-RIVERA, ALFONSO CORNEJO, and JOSE LUIS GARCIA-VILLA**, all of Michoacan, Mexico, were previously charged with drug crimes relating to the cultivation of approximately 8,876 marijuana plants in the Greenhorn Creek area of the Sequoia National Forest. The new indictment now charges CORTEZ-VILLASENOR with the unlawful distribution of Fosfuro de Zinc, in violation of FIFRA. The Greenhorn Creek site sustained extensive damage as a result of the cultivation activities. Native oak trees and other vegetation were cut down or otherwise killed to make room for the 8,876 marijuana plants. The soil was tilled, and fertilizers and pesticides, including Fosfuro de Zinc, were spread throughout the site. A case of Fosfuro de Zinc was also found at Cortez-Villasenor's residence in Arvin, California, after he was found delivering supplies to the cultivation operation.

In the second case, **MARCELINA BOTELLO CHARLES**, of Murrieta, California, and **JULIO CESAR VILLANUEVA-CORNEJO**, of Michoacan, Mexico, were both previously charged with drug crimes and now face additional environmental violations. Both were charged with distributing Fosfuro de Zinc and QuFuran, in violation of FIFRA. According to court documents, the Lilly Canyon area of the Sequoia National Forest also sustained extensive damage as a result of the marijuana cultivation activities there. Native oak trees and other vegetation were killed or cut down to make room for the 9,746 marijuana plants planted there. The soil was tilled, and fertilizers, pesticides, and rodenticides were spread throughout the site. Cans, of Fosfuro de Zinc, "Ratone: fosfuro de zinc," and QuFuran were found at both the cultivation site and the residence where Charles and Villanueva-Cornejo lived in Bakersfield after they were found delivering supplies to the marijuana cultivation operation.

Fosfuro de Zinc and Ratone are common rat poisons found in marijuana growing sites. The active ingredient, zinc phosphide, is highly toxic to humans. QuFuran is also a highly toxic insecticide. Its active ingredient is carbofuran, a quarter teaspoon of which can be fatal to humans. Fosfuro de Zinc and Ratone are manufactured in India and China and distributed by a Mexican company, and QuFuran is manufactured and distributed by a Mexican company. All are illegal for use, sale, and distribution in the United States.

The cases are the product of investigations by EPA's Criminal Investigation Division, the U.S. Forest Service, the U.S. Drug Enforcement Administration, the U.S. Immigration and Customs Enforcement's Homeland Security Investigations, and the Kern County Sheriff's Department. Assistant U.S. Attorney Karen Escobar is prosecuting.

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

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Two Individuals and Two Corporations Indicted on Clean Air Act and Mail Fraud Charges — On September 27, 2012, **SEAN P. DOCTOR** and **RAJ CHOPRA**, both of Grand Island, N.Y., and companies they own and operate, **S.D. SPECIALTY SERVICES, LLC**, and **COMPREHENSIVE EMPLOYEE MANAGEMENT, INC.**, were indicted by a federal grand jury with conspiracy to defraud the United States and violate the Clean Air Act, conspiracy to commit mail fraud, and substantive mail fraud counts. Doctor and S.D. Contracting are additionally charged with substantive violations of the Clean Air Act relating to three asbestos abatement projects conducted in Buffalo, N.Y. The charges carry a maximum penalty of 20 years in prison, a fine of \$250,000, or both

The indictment alleges that between July 28, 2009, and May 16, 2011, the defendants conspired to defraud EPA and violate the Clean Air Act by using a 40-yard-closed-box container, located in Grand Island at the business addresses for the defendants' companies, to improperly transport and store asbestos waste material. Specifically, the defendants allowed asbestos waste to be transported to the waste container without being properly manifested pursuant to the Clean Air Act, and then stored in the waste container and consolidated with other asbestos waste prior to disposal.

In a separate conspiracy, the defendants are charged with conspiring to defraud the New York State Insurance Fund ("NYSIF") by failing to properly classify employees of S.D. Specialty as asbestos workers for calculation of workers' compensation premiums. Instead, the defendants classified the employees as clerical workers so that a lower premium was owed to the NYSIF, defrauding the fund out of approximately \$195,000 in premiums. Other counts relate to individual mail fraud charges for each check that was mailed to the NYSIF and was payment for S.D. Specialty's workers' compensation coverage with the improperly classified workers.

Doctor and his company are also accused of violating the Clean Air Act during an asbestos abatement project at the Roosevelt Park Shelter owned by the city of Buffalo in December of 2009 to January of 2010. Other counts relate to an asbestos abatement project Doctor and his company completed at the Graystone Building in Buffalo in February and March of 2011, and at several vacant houses on Grant Street in Buffalo.

The indictment is the culmination of an investigation on the part of EPA's Criminal Investigation Division and Investigators of the New York State Department of Environmental Conservation Police. Additional assistance was provided by the New York State Department of Labor, Asbestos Control Bureau.

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Two Hawaii Men Charged with Hazardous Waste Treatment Violations that Led to Five Deaths –

On September 27, 2012, a federal grand jury in Honolulu returned a 21-count indictment against **CHARLES DONALDSON**, of Kaneohe, Hawaii, **CARLTON FINLEY**, of Honolulu, and **DONALDSON ENTERPRISES, INC. (DEI)** a Hawaii corporation, with conspiring to treat hazardous wastes without a permit.

According to the indictment, DEI entered into a contract with another company and rented a storage bunker at Waikele to store commercial grade fireworks that had been seized by federal law enforcement. Upon notification that commercial grade fireworks, which were initially stored as evidence, but were no longer needed as evidence, DEI was required to manage and dispose of these “now discarded” commercial grade fireworks as hazardous wastes. DEI initially obtained a temporary emergency permit from the Hawaii Department of Health which allowed DEI to transport the discarded fireworks to the Koko Head Firing Range in Honolulu for burning. DEI’s temporary emergency permit expired on September 5, 2010.

The indictment further alleges that between September 8, 2010, and April 8, 2011, Donaldson, Finley, and DEI caused DEI employees to treat hazardous wastes at the Waikele bunker, through the dismantling of the discarded commercial grade fireworks by breaking apart or cutting open the fireworks and/or soaking them in diesel fuel. According to the indictment, breaking apart and/or soaking the discarded fireworks in diesel fuel constituted “treatment” of a hazardous waste – an activity that must first be permitted by the Department of Health. The indictment alleges that on April 8, 2011, while DEI employees were engaged in the unpermitted treatment of hazardous wastes, an explosion occurred at DEI’s Waikele bunker killing five DEI employees, Bryan Cabalce, Robert Freeman, Robert Leahey, Justin Kelii, and Neil Sprankle.

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

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