

Environmental Crimes Case Bulletin



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

October 2012

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

Defendants in this edition:

- **John Tetreault — Region 1**
- **Cross Nicastro, Dominick Mazza, Mazza & Sons, Inc. — Region 2**
- **Edward K. Durst — Region 3**
- **Chesapeake Appalachia, LLC — Region 3**
- **Clinton J. Matthews — Region 4**
- **Donald Fillers, James Mathis, David Wood, Watkins Street Project, LLC — Region 4**
- **Norberto Guada — Region 4**
- **Erick Alexander Chicas, Tanveer Anwar — Region 4**
- **Linda Knox — Region 4**
- **Long Nguyen, Jin Sung Chang — Region 4**
- **Renato Mortorsi, Teresina Mortorsi, Kennedy Mint, Inc. — Region 5**
- **Sheila R. Kendrick — Region 5**
- **David Overdorf — Region 6**
- **Kent Phillips — Region 7**
- **William M. Threatt, Jr., Anthony Crompton — Region 7**
- **Michael Terry — Region 7**
- **Bryan Stowe, Stowe Construction Inc. — Region 10**
- **Daniel Desler — Region 10**

DEFENDANT SUMMARY:

| REGION | DEFENDANTS | CASE TYPE/STATUTES |
|----------|--|--|
| Region 1 | <u>John Tetreault</u> | SDWA/Falsifying required disinfectant-level reports |
| Region 2 | <u>Cross Nicastro, Dominick Mazza, Mazza & Sons, Inc.</u> | CWA/Illegal dumping of asbestos-contaminated debris into wetlands, obstructing justice, and false statements |
| Region 3 | <u>Edward K. Durst</u> | CAA/Illegal handling, transportation, disposal of asbestos, and making false statement |
| Region 3 | <u>Chesapeake Appalachia, LLC</u> | CWA/Unauthorized discharge of stone and gravel into U.S. waters for natural gas drilling purposes without a permit |
| Region 4 | <u>Clinton J. Matthews</u> | CAA/Falsely passing vehicle inspections |
| Region 4 | <u>Donald Fillers, James Mathis, David Wood, Watkins Street Project, LLC</u> | CAA/Conspiracy and obstruction of justice in relation to asbestos salvage and demolition activities |

DEFENDANT SUMMARY:

| REGION | DEFENDANTS | CASE TYPE/STATUTES |
|----------|--|---|
| Region 4 | Norberto Guada | CAA/Illegal importation and sale of illegal HCFC-22 into U.S. |
| Region 4 | Erick Alexander Chicas, Tanveer Anwar | CAA/False vehicle emission inspections |
| Region 4 | Linda Knox | SDWA/Mail fraud |
| Region 4 | Long Nguyen, Jin Sung Chang | CAA/Use of illegal device to bypass state emissions inspections |
| Region 5 | Renato Mortorsi, Teresina Mortorsi, Kennedy Mint, Inc. | CWA/Conspiracy related to dumping of liquid cyanide into a river |
| Region 5 | Sheila R. Kendrick | FIFRA/Making false statements and fabricating pesticide documents |

DEFENDANT SUMMARY:

| REGION | DEFENDANTS | CASE TYPE/STATUTES |
|-----------|--|--|
| Region 6 | <u>David Overdorf</u> | RCRA/Disposing of hazardous waste without a permit |
| Region 7 | <u>Kent Phillips</u> | CWA/Negligent discharge of oil into a creek |
| Region 7 | <u>William M. Threatt, Jr., Anthony Crompton</u> | CAA/Improper handling of asbestos |
| Region 7 | <u>Michael Terry</u> | CAA/Falsifying auto emission test documents |
| Region 10 | <u>Bryan Stowe, Stowe Construction Inc.</u> | CWA/Knowing violation of a national pollution discharge elimination permit |
| Region 10 | <u>Daniel Desler</u> | CAA/Negligent release of asbestos during a building demolition |

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Three Men and One Company Sentenced in Tennessee for Environmental Crimes – On October 1, 2012, **DONALD FILLERS**, **JAMES MATHIS**, and **DAVID WOOD**, and the **WATKINS STREET PROJECT, LLC** who conspired to violate Clean Air Act workplace safety standards when they demolished a Chattanooga, Tenn., factory containing large amounts of asbestos were sentenced in federal court for the Eastern District of Tennessee for their roles in the conspiracy.

Fillers was sentenced to serve 48 months in federal prison, pay a \$20,000 fine and serve three years of supervised release; Mathis was sentenced to serve 18 months in federal prison and three years of supervised release; Wood was sentenced to serve 20 months in federal prison and three years of supervised release; and Watkins Street Project was ordered to pay a \$30,000 fine. In addition, the defendants were ordered to pay \$27,899 in restitution to EPA, the Chattanooga Department of Public Works, and the Chattanooga Hamilton County Air Pollution Control Board for expenditures associated with the emergency response and clean-up of the former Standard Coosa Thatcher plant in Chattanooga.



The former Standard Coosa Thatcher plant site where asbestos was improperly removed during its demolition.

They were convicted by a jury on January 27, 2012, of conspiracy and criminal violations of the Clean Air Act, as well as obstruction of justice in relation to salvage and demolition activities at the former Standard Coosa Thatcher plant. More specifically, the evidence proved that the defendants entered into a year-long scheme in which the plant was illegally demolished while still containing extensive amounts of asbestos. Additionally, the defendants hired day laborers and paid them low wages to improperly remove asbestos-containing materials without following federal regulations that were intended to keep the asbestos, a known carcinogen, from becoming airborne where it could be inhaled.

Witness testimony established that dust from the salvage and demolition activities frequently wafted onto neighboring properties. The evidence also showed the defendants attempted to cover up their illegal activities by falsifying documents and Wood lied to federal authorities investigating the case.

The case was investigated by EPA's Criminal Investigation Division and investigators with Chattanooga-Hamilton County Air Pollution Control Bureau. It was prosecuted by Assistant U.S. Attorney Matthew T. Morris and Todd W. Gleason, trial attorney with the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division.

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Former Massachusetts Town Water Department Superintendent Sentenced for Falsifying Reports --

On October 4, 2012, **JOHN TETREAU**, former superintendent of the Avon, Mass., water department, was sentenced in federal court for the District of Massachusetts to one year of probation on charges that he made false representations in federally required reports regarding the disinfectant levels in the water at two water treatment facilities. Tetreault was also ordered to pay a \$15,000 fine and he must issue letters of apology to the town of Avon and pay to publish it in the Boston Globe as well as in publications of the Massachusetts Waterworks Association and the New England Waterworks Association.

Tetreault plead guilty on July 10, 2012, to knowingly and willfully submitting to the Massachusetts Department of Environmental Protection federally required reports that included materially false representations. On four different dates in 2010, Tetreault reported that residual disinfectant levels at two water treatment facilities in Avon met or exceeded minimum required disinfectant levels, when, in fact, the residual disinfectant levels for each of the dates was below the required level for more than four hours at each of the facilities.

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Missouri Developer Sentenced for Improperly Handling Asbestos --

On October 15, 2012, **WILLIAM M. THREATT, JR.**, of Kansas City, Missouri, was sentenced in federal district court for the Western District of Missouri for improperly removing and disposing of asbestos-containing materials in connection with work at The Citadel Plaza Redevelopment Site. He was ordered to pay a \$10,000 fine and serve five years of probation, including up to 120 days at a halfway house and 250 hours of community service.



Front loader operated by untrained/unlicensed contractor during demolition of asbestos containing structures in the Citadel Plaza Development.

Threatt, who pleaded guilty on Feb. 1, 2012, was the president and owner of The Citadel Plaza Redevelopment Site located in midtown Kansas City. Co-defendant **ANTHONY CROMPTON** also of Kansas City, has also pleaded guilty and was sentenced to three years of probation. Crompton was an operator for The Citadel Plaza Redevelopment Site and a real estate director for Community Development Corporation of Kansas City. He directed the workers who performed demolition work at the Citadel Plaza site.

Threatt and Crompton admitted they violated the Clean Air Act in the process of removing and disposing of regulated asbestos-containing materials from numerous structures during the demolition and renovation of the Citadel Plaza site from April 2001 to July 2006. The Clean Air Act's asbestos work practice standards describe the appropriate procedures for the notification and safe handling, stripping, removal and disposal of asbestos-containing materials during renovation or demolition to prevent emissions of particulate asbestos material into the air.

Threatt and Crompton failed to properly inspect the site for asbestos, remove asbestos materials prior to commencing work that could disturb the materials, ensure that asbestos materials were adequately wetted or otherwise captured in a ventilation system to reduce dust prior to disposal, ensure that asbestos materials were placed in leak-tight containers bearing warning labels, ensure that proper shipment records were maintained, ensure that a properly trained person in asbestos removal procedures was present at all times, ensure that asbestos waste was transported off-site in properly labeled containers, and ensure that asbestos waste was disposed of at approved disposal sites.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Acting U.S. Attorney David M. Ketchmark.

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Turbid water from Stowe Construction site entering upstream tributary.

2012, **BRYAN STOWE** was sentenced in federal district court for the Western District of Washington to six months in prison, one year of supervised release, and a \$300,000 fine for knowingly violating a national pollution discharge elimination permit. In addition, Stowe will make a \$100,000 payment to the National Fish and Wildlife Foundation for environmental projects targeting resources impacted by the illegal discharges. Stowe, as president and co-owner of **STOWE CONSTRUCTION, INC.**, admitted knowingly violating the Construction General Storm Water Permit for the Rainier Park of Industry project, located on West Valley Highway in Sumner, Wash. Permit violations contributed to two major

landslides at the site in 2010 and 2011. Both slides forced closure of the West Valley Highway.

Last month Stowe Construction, Inc. was sentenced to a \$350,000 criminal fine. Both Stowe and the company will be subject to a court imposed storm water compliance plan for all current and future development sites. Stormwater has been recognized as one of the biggest threats to the health of Puget Sound. Rainwater runoff from developed properties and construction sites contribute a significant amount of pollutants to the wetlands, streams, and rivers that comprise watersheds feeding into Puget Sound. Runoff from construction sites in particular can compromise the essential filtering functions of wetlands if developers fail to implement and maintain required measures to minimize and prevent pollutants from leaving the site.

According to various records filed in the case, Stowe, acting on behalf of Stowe Construction, obtained coverage under the Construction Storm Water General Permit for the West Valley Highway site in October 2006. The permit required Stowe Construction to prepare and implement a plan to prevent the discharge of pollutants through use site improvements and practices designed to minimize and eliminate the migration of pollutants from the site to nearby waters. Stowe admits in the plea agreement to failing to install



Landslide caused by Stowe which forced the closure of the West Valley Highway

adequate improvements and practices between 2007 and 2011. These failures led to significant discharges of pollutants from the site to adjacent wetlands and streams. In addition, the plea agreements acknowledge that weekly site inspection reports and discharge sampling reports intended to assist regulators in assessing the adequacy of site improvement and practices were falsified. State and federal regulators monitoring the West Valley Highway site issued several administrative compliance orders in an unsuccessful effort to bring Stowe and the company into compliance. In their request for a prison sentence prosecutors wrote to the court that the crimes did significant environmental damage.

The case was investigated by EPA's Criminal Investigations Division with assistance from the Washington State Department of Ecology and the City of Sumner, Washington. It was prosecuted by Assistant U.S. Attorneys Matthew Diggs and Jim Oesterle.

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Missouri Man Sentenced for Falsifying Documents for Vehicle Owners --On October 11, 2012, **MICHAEL TERRY**, of St. Louis, Missouri, was sentenced in federal court for the Eastern District of Missouri to 13 months in prison for falsifying documentation regarding auto emissions tests and sales tax documentation during his employment at Sure Start Battery & Tire Company in St. Louis.



According to court documents, the legitimate business of Sure Start was general vehicle repair, including safety and auto emissions testing. Terry conducted false safety and auto emissions tests and provided false safety documentation to vehicle owners for compensation to bypass Missouri state laws associated with vehicle safety and EPA regulations. He also created false documents showing vehicle insurance; false bill of sale documents on motor vehicles reducing the actual sales price to lower the amount of state sales tax due; and paid personal property tax receipts of vehicle owners to register their vehicles, all of which they personally delivered to the Missouri Department of Revenue office in St. Louis. Terry received illegal payments from the vehicle owners for these services. The documents were processed by fee/contract clerks as true and correct and sent to the Missouri Department of Revenue, depriving Missouri of fees and taxes.

The case was investigated by EPA's Criminal Investigation Division, the Missouri Department of Revenue, Missouri Highway Patrol, Missouri Department of Natural Resources, Internal Revenue Service Criminal Investigation, and the St. Louis County Police Department. First Assistant U.S. Attorney Michael W. Reap handled the case for the U.S. Attorney's Office.

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Two North Carolina Men Receive Jail Terms for Conducting False Vehicle Emission Inspections –

On October 19, 2012, **ERICK ALEXANDER CHICAS** and **TANVEER ANWAR**, both of Charlotte, North Carolina, were sentenced in federal district court for the Western District of North Carolina for conducting false vehicle emission inspections. Chicas was fined \$7,500, given three months in prison to be followed by three months of home confinement, and was ordered to serve 50 hours of community service. Anwar was sentenced to four months in prison to be followed by four months of home confinement, and was ordered to serve 50 hours of community. Both men are prohibited from conducting vehicle inspections in the future.



Eagle Auto Repair

At the time of their criminal conduct, Chicas and Anwar were employed by two different Charlotte vehicle repair shops and each was licensed by the state of North Carolina to conduct onboard diagnostic (OBD) inspections. Court documents indicate that from November 2010 through May 2011, Chicas conducted 236 false vehicle inspections by connecting his person vehicle to the state OBD emissions analyser, an activity known as "clean scanning," thus providing false passing scores for vehicles that would have failed because they required emissions related repairs. In exchange for the false passing results, Chicas typically charged more than the standard inspection fee, sometimes as high as \$120 per vehicle.

Anwar was a licensed OBD inspector and owner-operator of Eagle Auto Repair in Charlotte. From January 2010 through May 2011, Anwar conducted 1,008 vehicles at Eagle Auto. He used his person vehicles or the vehicle of a friend as the surrogate vehicle to falsely pass cars that would have otherwise failed emissions inspections. Anwar illegally profited in excess of \$50 per vehicle in exchange for the false passing result.

The case was investigated by EPA's Criminal Investigation Division, the North Carolina State Bureau of Investigation, the North Carolina Department of Motor Vehicles' 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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North Carolina Woman Sentenced to Prison for Mail Fraud -- On October 23, 2012, **LINDA KNOX**, of Marshall, North Carolina, was sentenced in federal district court for the Western District of North Carolina to 33 months in prison to be followed by three years of supervised release, and was ordered to pay \$22,056 in restitution for committing mail fraud.



According to court documents and related proceedings, Knox is the owner and manager of “If It’s Water and More,” a company that, among other things, samples and analyzes water systems across western North Carolina. Clients included public parks, churches, restaurants, campgrounds, mobile home parks, apartment buildings, a child development center, a medical center, a community club, a school, and a fire department, among others. From 2005 through 2010, Knox, through her company, claimed to have provided water sampling services to her clients, when, in fact, she did not. According to court records, for almost five years Knox either failed to properly conduct or did not conduct at all required tests related to the safety of her customers’ water supplies. In fact, Knox sometimes used tap water instead of the actual source’s water samples, court records show. For example, a private lab that was sub-contracted to test Knox’s company’s 2007 end of year samples for more than 100 customers indicted that all of the water samples were fake. Knox pleaded guilty to one count of mail fraud in December 2010. She is required to self-report to the Federal Bureau of Prisons, upon designation of a federal facility. Federal sentences are served without the possibility of parole.



If It's Water & More, LLC

The case was investigated by EPA’s Criminal Investigation Division, the North Carolina State Bureau of Investigation’s Diversion and Environmental Crimes Unit, and the North Carolina Department of Environment and Natural Resources Public Water Supply Section. Prosecution was handled by Assistant U.S. Attorney Steven R. Kaufman of the U.S. Attorney’s office in Charlotte.

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North Carolina Men Sentenced for Criminal Violations of the Clean Air Act — On October 19, 2012, **LONG NGUYEN** was sentenced to 24 months of probation which includes 60 days home detention, fined \$2000, and ordered to perform 50 hours of community service. On October 30, 2012, **JIN SUNG CHANG** was sentenced to 24 months of probation, 6 months of which must be served under home detention with electronic monitoring, and was ordered to perform 150 hours of community service. Nguyen and Chang are two of five defendants convicted in this case. Three of the defendants, Stephen Craig Dickinson, Alexander Christian Edwards, and Jin Sung Chang, were employed by a car dealership in Charlotte. In or about 2010, these defendants purchased a device used to bypass the ordinary onboard diagnostics system used in state emissions inspections. The defendants used the device to provide false passing results for vehicles that had their “check engine” light on, indicating they were discharging emissions at a higher rate than permitted by law, an illegal activity known as “clean scanning.” In exchange for the false passing results, the defendants charged more than the standard fee for the emissions inspections. The other two defendants, Thanh Long Quoc Nguyen and Chuck Yee Cheung were employed at a used car lot also in Charlotte, and communicated via text messages with one of the dealership employees asking him to “clean scan” vehicles for them. On March 26, 2012, Edwards was sentenced to 60 days in prison, four months home confinement, and two years supervised release. On March 30, 2012, Dickinson was sentenced to two years probation and a \$1000 fine. On April 25, 2012, Cheung was sentenced to 5 months prison, 5 months home confinement, and three years supervised release.

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Texas Man Sentenced for Hazardous Waste Crime - On October 23, 2012, **DAVID OVERDORF** was sentenced to six months home confinement, five years probation, fined \$50,000, and ordered to pay up to \$250,000 towards remediation of a contaminated site. On March 18, 2011, Overdorf pled guilty to disposing of hazardous waste without a permit. Overdorf was the former owner and president of H.O.T. Transport, Inc. (HOT), a Lufkin, Texas-based chemical transportation business which offered commercial transportation of industrial liquids such as caustics, ethanol, methanol, hot wax, cresol, and formaldehyde.

During the normal course of business, Overdorf directed HOT employees to wash out the interiors of trailer mounted tanks at HOT's place of business knowing that the tanks contained hazardous wastes. Overdorf also directed HOT employees to pump the wash wastewater containing hazardous wastes from a catch basin into a trailer mounted tank labeled "wastewater" at the business. On March 10, 2006, Overdorf directed a HOT employee to transport approximately 45,000 tons of tank wash wastewater containing hazardous wastes in



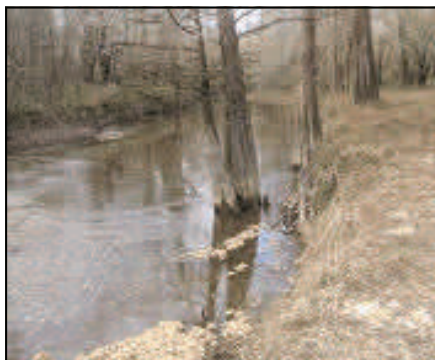
Trailer mounted tank at H.O.T. Transport, Inc.

a trailer mounted tank from the business to Quala Wash in Houston for disposal and authorized payment of \$450 to Clinton Promise for the disposal. These wastes possessed the hazardous characteristic of Ignitability. This action was a direct violation of the Resource Conservation and Recovery Act (RCRA). The RCRA criminalizes the storage, transportation, or disposal of hazardous wastes without a permit. This case is being investigated by the EPA's Criminal Investigation Division and the Texas Commission on Environmental Quality's Tyler and Beaumont offices. This case is being prosecuted by the U.S. Attorney's Office for the Eastern District of Texas.

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Former Oil Well Owner and Operator Sentenced for Negligent Discharge into Creek — On October 25, 2012, **KENT PHILLIPS**, owner of KEPCO Operating Inc., was sentenced in federal district court for the Western District of Louisiana to one year probation and a fine of \$2500. Phillips pled guilty on June 21, 2012 to negligently discharging oil without a permit into Devil's Creek in violation of the Clean Water Act. Phillips was a corporate officer and owner of Kepco Operating, Inc, an oil production company operating and leasing oil field sites near Jena, Louisiana, including the Hailey #2 well site.

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Oregon Man Sentenced for Negligent Asbestos Release -- On October 31, 2012, **DANIEL DESLER**, managing trustee of Western States Reliance Trust, which was gifted the site of the former Willamette Industries saw mill and multiple outbuildings located in Sweet Home, Oregon, pleaded guilty in federal



district court for the District of Oregon to negligently releasing a hazardous air pollutant into the air. Desler was sentenced to three years of probation. In addition, he will have five months of home confinement and complete 300 hours of community service. He was also ordered to pay full restitution to EPA, which declared the area a Superfund site and spent \$1,589,752 to clean it up.

Desler was charged by information with negligent endangerment under the Clean Air Act by negligently releasing or causing to be released a hazardous air pollutant, asbestos, into the air during the demolition of a certain building at the facility.

Desler admitted he should have known that there was asbestos in many of the buildings at the facility but allowed an unlicensed contractor to conduct demolition and renovation work. The demolition and renovation work was done without following the work practice standards contained in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos, including but not limited to the following work practice standards: proper removal of any asbestos containing material, wetting any asbestos containing material prior to removal, and proper storage and disposal of any asbestos containing material. The asbestos NESHAP regulations are designed to prevent the release of asbestos into the air during asbestos demolition and renovation activities.

As a result of the way the demolition and renovation was conducted at the facility, asbestos, a hazardous air pollutant, was released into the ambient air and affected the surrounding community, putting the workers and the people in the surrounding areas at risk for serious bodily harm due to asbestos exposure. Desler negligently caused this release and the potential harm by failing to abate or cause others to abate the asbestos at the facility.



The investigation was conducted by the Oregon State Police, the Oregon Department of Environmental Quality, and the EPA-Criminal Investigation Division. The case was prosecuted by Assistant U.S. Attorney Amy E. Potter and Special Assistant U.S. Attorney Patrick Flanagan of the Oregon Department of Justice.

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Former Scott's Miracle-Gro Company Employee Sentenced to Prison for Falsifying EPA Pesticide

Approvals -- On October 12, 2012, **SHEILA R. KENDRICK** was sentenced to 90 days incarceration after she pled guilty in May 2012 to fabricating EPA registration and other documents when she was employed as the Federal Registrations Manager for Scotts Miracle-Gro Company ("Scotts"). Kendrick made false statements as well as fabricated pesticide documents. Kendrick was responsible for obtaining and maintaining federal registrations for Scotts pesticide products and coordinating the labeling requirements with the company departments that created labels, marketed the products, and registered the products for sale in states. Between 2004 and 2007, EPA officials received inquiries about two Scotts pesticide products that did not appear in EPA's official public files as having been registered. EPA sought information from Kendrick about these products and Kendrick provided to EPA what she represented to be copies of EPA documents. Kendrick then told EPA officials that these files proved that EPA had properly reviewed and registered the Scotts products in question, though she knew full well that she had fabricated these documents, that they were not authentic EPA files, and that the products were not currently registered by EPA.

Further to conceal her fraud, Kendrick suggested to EPA that the agency must have lost its copies of the documents she had fabricated. Kendrick also provided false registration documents to other Scott's employees knowing that they would submit the false documents to state regulatory agencies which, under the mistaken belief that they were valid, would improperly issue state registrations for the pesticide products. According to Scott's sales data for five of the products, because of Kendrick's fraud, Scott's sold over \$39.5 million of products which were not properly registered by EPA at the time of their sale.

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New York Landowner and New Jersey Waste Management Company Owner Convicted of Dumping Asbestos into Wetlands in Upstate New York – On October 16, 2012, **CROSS NICASTRO**, owner

of a 28-acre piece of property on the Mohawk River in Frankfort, N.Y., along with **MAZZA & SONS,**

INC., and its owner **DOMINICK MAZZA** were found guilty in federal district court for the Northern District of New York of conspiracy to defraud the United States as well as to violate the Clean Water Act and Superfund laws by illegally dumping thousands of tons of asbestos-contaminated construction debris on the property in upstate New York. In addition, Nicastro, Mazza and Mazza & Sons, Inc. were convicted of violating the Superfund law's requirement to report the release of toxic materials and obstructing justice. Mazza was also convicted of making false statements to EPA special agents.



Property owned by Cross Nicastro where thousands of tons of asbestos-contaminated construction and demolition debris was illegally dumped.

According to evidence presented during the 10-day trial, the defendants engaged in the illegal dumping of thousands of tons of construction and demolition debris, much

of which was contaminated with asbestos, at Nicastro's property, which contained federally regulated wetlands. The dumping occurred without a permit.

Evidence demonstrated that the defendants, along with co-conspirators, concealed the illegal dumping by fabricating a New York State Department of Environmental Conservation permit and forging the name of a DEC official on the fraudulent permit. In addition, the evidence demonstrated that Mazza & Sons, Inc. obstructed justice by destroying and concealing documents responsive to a grand jury subpoena.

The conspiracy, substantive Superfund and false statement counts each carry a maximum penalty of five years in prison and a fine of either \$250,000, twice the gross gain to the defendants, or twice the gross loss to a victim, whichever is determined to be greater. The obstruction of justice count carries a maximum penalty of 20 years in prison and similar fines.

The case was investigated by special agents from the EPA's Criminal Investigation Division and the



Piles of illegally dumped asbestos-contaminated debris at the site.



Sample taken from a pile of debris at the site.

Internal Revenue Service Criminal Investigation; criminal investigators with the New York State Environmental Conservation Police, Bureau of Environmental Crimes; investigators from the New Jersey State Police, Office of Business Integrity Unit; the New Jersey Department of Environmental Protection; and the Ohio Department of Environmental Protection. The case was prosecuted by Todd W. Gleason and Gary N. Donner of the Environmental Crimes Section of the U.S. Justice Department's Environment and Natural Resources Division, and Assistant U.S. Attorney Craig A. Benedict, of the U.S. Attorney's Office for the Northern District of New York.

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Emissions Inspector Pleads Guilty to Falsely Passing Vehicle Inspections – On October 1, 2012, **CLINTON J. MATTHEWS**, of Durham, N.C., pled guilty in federal court for the Eastern District of North Carolina to conspiring to violate the Clean Air Act and making a material false statement.

Matthews worked at both Express Auto Sales and Car Care Express Auto Sales and Services, both located in Durham, as a licensed North Carolina emissions inspector. From March 2010 through July 2010, he conspired with others to pass vehicles that would normally have failed the emissions inspection in exchange for \$150 to \$225 per car.

It is alleged that Matthews and his co-conspirators would enter a customer's car vehicle identification number either manually or by scanning. A surrogate vehicle, unusually one manufactured between 1996 and 1999 that would not generate a vehicle identification number when connected to the analyzer, would be selected. Using the surrogate vehicle, an emissions report would be generated for the customer's vehicle. During the course of the conspiracy, at least 817 vehicles were passed by false inspection. Matthews "clean scanned" 135 of those.

Each day emissions inspection reports are electronically transferred to the North Carolina Office of Information and Technology Services. EPA requires the state to conduct vehicle emissions testing in certain areas because the area exceeds national standards for carbon monoxide and ozone.

The case was investigated by EPA's Criminal Investigation Division, the North Carolina State Bureau of Investigations, and the North Carolina Division of Motor Vehicles' License and Theft Bureau. Assistant U.S. Attorney Banumathi Rangarajan is prosecuting the case.

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Miami Man Pleads Guilty in Illegal Refrigerant Smuggling Operation – On October 2, 2012, **NORBERTO GUADA**, of Hialeah, Fla., pled guilty in federal district court for the Southern District of Florida on charges of knowingly importing approximately 15,640 kilograms of illegal hydrochlorofluorocarbon-22 (HCFC-22), contrary to the provisions of the Clean Air Act. He faces a possible sentence of up to 20 years in prison, a fine of up to \$250,000, and 3 years of supervised release. Sentencing is scheduled for December 11.

According to court records and a factual statement filed in court, Guada was hired as a salesman in February 2007 by a company known as Lateral Investments, LLC (Lateral), a Florida corporation, engaged in, among other things, importing merchandise, including refrigerant gas. Between June and August 2007, Lateral illegally smuggled large quantities of HCFC-22 into the United States to sell on the black market. At no time did Lateral or its principals hold unexpended consumption allowances that would have allowed them to legally import the HCFC-22. In this way, during 2007, Lateral illegally imported approximately 278,256 kilograms or 20,460 cylinders of restricted HCFC-22, with a market value of \$1,438,270, which Guada was tasked with selling to businesses in the South Florida area. As part of his agreement in this matter, Guada specifically admitted to his knowing involvement in the importation and sale, contrary to law, of 15,640 kilograms of HCFC-22 on August 10, 2007.



The case was investigated by EPA's Criminal Investigation Division, ICE's Homeland Security Investigations, and the Florida Department of Environmental Protection, Criminal Investigation Bureau. It was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer and Assistant U.S. Attorney Thomas Watts-FitzGerald.

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Chesapeake Appalachia Pleads Guilty to Clean Water Act Violations – On October 5, 2012, CHESAPEAKE APPALACHIA, LLC, a wholly owned subsidiary of Chesapeake Energy Corporation, pled guilty federal district court for the Northern District of West Virginia to three violations of the Clean Water Act related to natural gas drilling activity in northern West Virginia. Chesapeake pled guilty to three counts of “Unauthorized Discharge into a Water of the United States” in that it discharged 60 tons of crushed stone and gravel into Blake Fork, a water of the United States, on at least three different occasions in December of 2008. Chesapeake also admitted that after discharging the stone and gravel that it then spread the material in the stream to create a roadway for the purpose of improving access to a site associated with Marcellus Shale drilling activity in Wetzel County, West Virginia.



Blake Fork before Chesapeake Appalachia filled in the stream to create a roadway.

The plea agreement calls for Chesapeake to pay a fine of \$200,000 for each conviction, for a total fine of \$600,000. It also requires that Chesapeake be placed onto probation for two years and be under the supervision of the court during that time period. Additionally, the parties have agreed that separate violations committed by Chesapeake and occurring in connection with impoundments constructed in Marshall and Wetzel counties would be addressed by civil penalties and not via criminal charges. Chesapeake violated the Clean Water Act when, in 2008, it selected the location for an access road to a site associated with its drilling activities hired construction contractors to discharge and spread rock and gravel in Blake Fork in order to develop access to the Hohman Pit, and supervised and directed the work of the construction contractors. These contractors hired by Chesapeake discharged gravel from dump trucks into Blake Fork, also known as Blake Run, on at least three separate and distinct occasions. Chesapeake’s contractors, under the supervision of a Chesapeake employee, subsequently used bulldozers to spread the 60 tons of gravel in Blake Fork to develop access to the Hohman Pit in order to facilitate Marcellus Shale gas drilling activities. Chesapeake failed to obtain a Clean Water Act permit prior to this discharge.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorney David Perri,.

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Blake Fork after having stone and gravel spread in the stream to create a roadway.

Criminal Indictment Filed for Dumping Liquid Cyanide Into An Ohio River that Lead to Fish Kill –

On October 10, 2012, **RENATO MORTORSI**, and his company, **KENNEDY MINT, INC.**, located in Strongsville, Ohio, were both charged in federal district court for the Northern District of Ohio with four counts each of violating the Clean Water Act, conspiracy, and two counts of obstruction of justice. **TERESINA MORTORSI** was charged with three counts: conspiracy and two counts of obstruction of justice. Renato and Teresina Mortorsi are married and live in Grafton, Ohio. The couple was indicted for their roles in a conspiracy in which a drum of liquid cyanide was dumped into a storm drain that flowed into the Rocky River resulting in the death of more than 30,000 fish.

Renato Mortorsi operates Kennedy Mint, located in Strongsville. Kennedy Mint specializes in collectible coins, but previously conducted metal plating and printing operations. The East Branch of the Rocky River is near the Kennedy Mint facility and storm water from that location's parking lot flows into the East Branch of the Rocky River. On April 16, 2012, Mortorsi, with assistance from two individuals, put two drums into a dumpster outside Kennedy Mint. On April 17, the waste hauling company declined to dispose of the contents of the dumpster because of the two drums inside, according to the indictment. On April 18, Mortorsi moved the drums from the dumpster and placed them next to the storm drain in the Kennedy Mint parking lot, according to the indictment.

Mortorsi used a hammer and sharp metal tool to punch a hole near the bottom of a drum that included a poison label featuring a skull and cross bones. After punching the hole, liquid cyanide in the drum was discharged into the storm drain and eventually the East Branch of the Rocky River, according to the indictment. Around April 22, the Ohio Department of Natural Resources received reports of dead fish in the East Branch of the Rocky River. Ohio DNR officials found dead fish beginning near Bonnie Park. Downstream for the next three miles, nearly every fish was dead, according to the indictment. The Ohio DNR counted approximately 30,893 dead fish in that three-mile stretch of the river.

On April 25, personnel from the Ohio Environmental Protection Agency asked to enter the Kennedy Mint facility. Teresina Montorsi stalled the personnel from entering the facility and inspecting the drums while Renato Montorsi hid the punctured drum in the back of the warehouse, according to the indictment. That day, after Ohio EPA personnel left, the Montorsis moved the punctured drum and another drum containing cyanide to their home, according to the indictment. On April 27, both Renato and Teresina Montorsi denied knowledge of the location of the punctured drum, according to the indictment. On May 16, Renato Montorsi was again asked about the location of the punctured drum and again denied knowledge of its location, according to the indictment.

The case was investigated by EPA's Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation; the Ohio Environmental Protection Agency, Office of Special Investigations; the Ohio Department of Natural Resources, Division of Wildlife, and the Cleveland Metroparks Rangers, all members of the Northeast Ohio Environmental Crimes Task Force. It is being prosecuted by Special Assistant U.S. Attorney Brad J. Beeson and Assistant U.S. Attorney Arturo Hernandez.

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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Former Asbestos Abatement Company Foreman Indicted on Asbestos-Related Violations —On October 11, 2012, **EDWARD K. DURST**, of Richmond, Va., foreman of an asbestos abatement company, was indicted in federal district court for the Western District of Virginia on charges of conspiracy to violate the Clean Air Act, illegal handling of regulated asbestos-containing material, illegal transportation of regulated asbestos-containing material, illegal disposal of a regulated asbestos-containing material, for making a false statement to federal investigators.

According to the indictment, Durst's former employer, an asbestos abatement company, was hired in 2007 to oversee the removal and disposal of asbestos-containing materials, namely aluminum window frames with asbestos glazing, from Cowgill Hall on the campus of Virginia Tech. Instead of properly handling, transporting and disposing of those materials, in compliance with the Clean Air Act, Durst, instructed others to remove and dispose of the window frames from a designated asbestos waste container and load them into unlabeled vehicles. Durst later instructed others to transport those materials to a metal recycling facility and kept the cash payments for the scrap aluminum. In addition, Durst is charged with lying to investigators about his actions. Investigation of the case began when the president of the asbestos abatement company became aware of Durst's conduct and contacted the Virginia Tech Police Department. If convicted, the maximum possible penalty faced by Durst is up to five years in prison and/or a fine of up to \$250,000 for each count.

The federal investigation was conducted by the Blue Ridge Environmental Task Force, EPA, the Office of Inspector General of the U.S. Housing and Urban Development, the Virginia Tech Police Department, and the Christiansburg Police Department. Special Assistant U.S. Attorney David Lastra (EPA Regional Criminal Enforcement Counsel) and U.S. Attorney Jennie L.M. Waering will prosecute the case for the United States.

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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