

Environmental Crimes Case Bulletin



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

December 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:

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- **John Tuma — Region 6**
- **John David Gunselman — Region 6**
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- **Executive Recycling, Inc., Brandon Richter, Tor Olson — Region 8**
- **Asgard Associates, LLC, Michael Conrad — Region 9**
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DEFENDANT SUMMARY:

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Chesapeake Appalachia Sentenced for Clean Water Act Violations – On December 3, 2012, **CHESAPEAKE APPALACHIA, LLC**, a wholly-owned subsidiary of Chesapeake Energy Corporation, was sentenced in federal district court for the Northern District of West Virginia for three violations of the Clean Water Act related to natural gas drilling activity in northern West Virginia. The company was ordered to pay a fine of \$600,000 and was placed on supervised release for a period of two years as a result of its three criminal convictions.

Chesapeake pleaded guilty in October to three counts of “Unauthorized Discharge into a Water of the United States,” admitting 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 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. It was 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. Efforts to resolve the civil claims against Chesapeake are ongoing.

In response to citizen complaints and other information, EPA conducted a series of inspections at sites operated by Chesapeake Appalachia, LLC in northern West Virginia. As a result of those inspections, EPA issued 11 administrative compliance orders. At this time, Chesapeake has complied with and/or sought and received extensions for all requirements of the orders.

The case was investigated by EPA’s Criminal Investigation Division. It was prosecuted by Assistant U.S. Attorney David Perri.

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



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

Louisiana Wastewater General Manager and Former Owner Sentenced to Five Years in Prison for Discharging Pollutants into the Red River – On December 5, 2012, **JOHN TUMA**, of Centerville, Texas, was sentenced to a 60-month prison sentence, three years of supervised release, and was given a \$100,000 fine, following his March 21, 2012, trial conviction by a federal jury for discharging untreated



Piping that was removed from Arkla's river outfall pipeline. This was the only place where the otherwise underground pipeline was exposed. The section of piping was removed by a contractor at John Tuma's request as part of a cover story created by Tuma claiming that the facility was incapable to discharge to the river because the line was capped.

wastewater directly into the Red River without a permit, discharging untreated wastewater into the city of Shreveport sewer system in violation of its permit and obstructing an EPA inspection.

Tuma, who was both general manager and the former owner of Arkla Disposal Services Inc., was charged in a five-count indictment with violations of the Clean Water Act, conspiracy and obstruction of justice related to illegal discharges coming from the Arkla Disposal Services, Inc., a facility in Shreveport. The Arkla facility was a centralized wastewater treatment facility that received wastewater from industrial processes and oil-field exploration and production facilities. Arkla contracted to treat the wastewater through a multi-step treatment process and

then discharge the treated wastewater to either the city of Shreveport publicly owned treatment works or the Red River.

The case was investigated by EPA's Criminal Investigation Division and is being prosecuted by Assistant U.S. Attorney C. Mignonne Griffing and Trial Attorney Leslie E. Lehnert of the Environmental Crimes Section of the Department of Justice.

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This pipe is the first underwater extension of Arkla's river outfall. The underwater piping prevented the detection of the illegal river discharges.



This is the second underwater extension of Arkla's river outfall. The blue piping was added in September 2007, shortly before the welded bypass was added at the facility. The piping was added to hide the illegal river discharges.

Asgard Associates Sentenced for Hazardous Waste Crimes in California — On December 3, 2012, **ASGARD ASSOCIATES, LLC**, a Delaware corporation, was sentenced in federal district court for the Southern District of California to a term of three years probation and was ordered to pay \$175,411.68 in



Abandoned chemicals found at Asgard laboratory

restitution to the EPA and the San Diego County Department of Environmental Health Services for the direct costs incurred through remediating a site at which Asgard illegally stored hazardous waste. Additionally, **MI-CHAEL CONRAD**, the principle employee of defendant Asgard Associates, LLC, was ordered to perform 240 hours of community service as a condition of the three year term of probation. Asgard pleaded guilty in July 2012 to unlawfully storing hazardous waste. Asgard admitted responsibility for maintaining chemicals and biological agents in a laboratory in San Diego that posed a threat of im-

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

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Chemicals and samples discovered in refrigerator



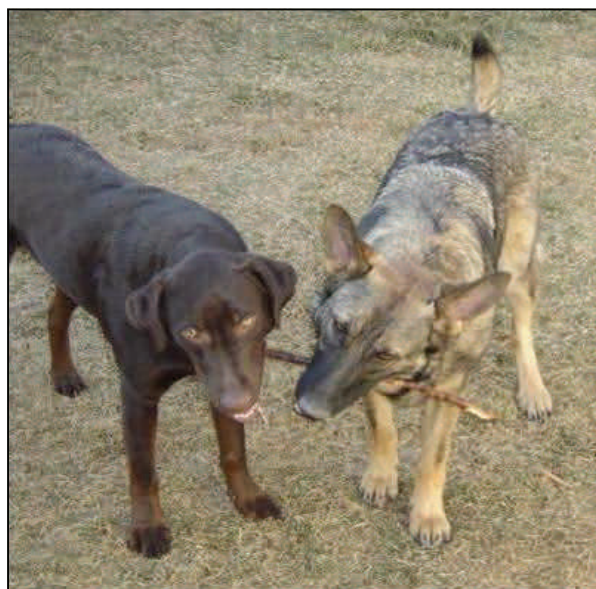
Abandoned petri dishes containing bacteria

Colorado Man Receives Jail Term for Poisoning Dogs, Intimidating Witness – On December 12, 2012, **JOSEPH LOSINSKI** was sentenced in Weld County District Court in Greeley, Colorado, to nine and a half years in prison for poisoning his neighbor's two dogs and intimidating a witness. According to police and court records, Losinski laced meat with strychnine and fed the meat to the dogs, one a German Shepherd the other a lab. Both died. Later, Losinski sent an intimidating letter to a neighbor who was a witness in the case.

Losinski pleaded guilty on October 11, 2012 to aggravated cruelty to animals and for intimidating a victim or witness. On the former charge, he was sentenced to 18 months in prison, the maximum sentence available, and to eight years in prison on the latter charge. In handing down the sentence, the judge noted the overwhelming evidence in the case and the continuing danger to the community that Losinski poses.

The case was investigated by EPA's Criminal Investigation Division due to strychnine being a controlled poison that requires special permits to possess. It was prosecuted by Deputy District Attorney Jennifer Hill.

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Dozer Boy, left, a chocolate lab, and Kyera, a German Shepherd, died after eating meat laced with strychnine, a powerful poison which requires a special permit to possess.

Miami Man Sentenced in Illegal Refrigerant Smuggling Operation – On December 11, 2012, **NORBERT GUADA**, of Hialeah, Florida, was sentenced 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), in violation of the provisions of the Clean Air Act (CAA). HCFC-22 is a widely used refrigerant for residential heat pump and air-conditioning systems. Guada pled guilty to a single count of the multiple-count indictment which had been brought against he and co-defendant Jorge G. Murillo. Guada was sentenced to serve 6 months in prison, and 6 months under electronically monitored home-confinement, followed by 18 months of supervised release, and he was given a criminal fine of \$3,000.

According to court records and a factual statement filed during the plea hearing, Guada was hired as a salesman in February 2007 by a company known as Lateral Investments, LLC. Lateral was 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. To legally import HCFC-22, one must hold an unexpended consumption allowance. 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 Fish & Wildlife Conservation Commission, South Region Bureau, Environmental Investigation Unit. The case was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer and Assistant U.S. Attorney Thomas Watts-FitzGerald.

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Owner of Pavement Painting Business Sentenced in Alaska for Illegally Disposing Hazardous

Waste -- On December 19, 2012, **WILLIAM DURAN VIZZERRA, JR.**, was sentenced in federal district court for the District of Alaska to 15 months in prison and was ordered to pay \$180,000 in restitution to two victims for illegally disposing of over 200,000 pounds of highly flammable hazardous waste in Anchorage, Alaska.



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

On approximately November 1, 2009, Vizzerra illegally abandoned approximately 321 55-gallon drums, 179 five-gallon pails and two 200-gallon totes of hazardous waste to avoid the costs of proper disposal. Vizzerra abandoned a total of 204,750 pounds of hazardous waste, all of which was determined to be flammable. The landowners where Vizzerra abandoned the hazardous waste incurred almost \$400,000 in clean-up costs.

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

Under RCRA, hazardous waste, due to its dangerous qualities, may only be disposed of at a licensed treatment, storage or disposal facility. The storage lot Vizzerra used was neither equipped nor permitted for the disposal of hazardous waste. Yet, knowing this, Vizzerra illegally abandoned and disposed of the waste at the lot, which cost the land owner and lease holder \$380,000 in clean-up, disposal, and legal fees.

The investigation was conducted by EPA’s Criminal Investigation Division. The case was prosecuted by the Environmental Crimes Section of DOJ’s U.S. Attorney’s Office for the District of Alaska and the Regional Criminal Enforcement Counsel for EPA’s Region 10 in Seattle.

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Vizzerra was president, director, and part owner of Precision Pavement Markings, Inc., a road and parking lot painting and striping business that operated out of a storage lot in Anchorage from 2006 through 2009. He used the storage lot to store hazardous waste, including methyl methacrylate paint and toluene that was used to flush the paint lines, nozzles, and sprayers used in his business. Vizzerra ordered employees to dispose of the waste at a local landfill but the employees were turned away because the waste was hazardous. Vizzerra was also told by an environmental services company that it would cost tens of thousands of dollars to properly dispose of the hazardous waste.



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

Environmental Waste Recycling Company and Executives Found Guilty of Fraud and International Environmental Crimes -- On December 21, 2012, **EXECUTIVE RECYCLING, INC.**, **BRANDON RICHTER**, of Highlands Ranch, Colorado, who was the owner and chief executive officer, and **TOR OLSON**, of Parker, Colorado, former vice president of operations, were convicted in federal court of multiple counts of mail and wire fraud, environmental crimes related to the illegal disposal of electronic waste, smuggling, and obstruction. Sentencing is scheduled for April 2012.

According to the indictment, as well as the facts presented at trial, Executive Recycling was an electronic waste recycling business located in Englewood, Colorado, with affiliated locations in Utah and Nebraska. The company collected electronic waste from private households, businesses, and government entities. Executive Recycling was registered with the Colorado Department of Public Health and Environment as a “Large Quantity Handler of Universal Waste.” Richter, as owner and CEO, was responsible for supervising all aspects of the company. Olson, the vice president of operations, was responsible for running day-to-day operations.

A significant portion of electronic waste collected by the defendants were Cathode Ray Tubes (CRTs). CRTs are the glass video display component of an electronic device, usually a computer or television monitor, and are known to contain lead. The defendants engaged in the practice of exporting electronic waste, including CRTs, from the United States to foreign countries, including the People’s Republic of China. The defendants regularly negotiated the sale of electronic waste to brokers who represented foreign buyers or who sold the electronic waste overseas. The foreign buyers often paid the defendants directly. To transport the



Port in Hong Kong where Executive Recycling exported electronic waste. Hong Kong Customs and Excise Department states that approximately 21 million containers are processed through this Port annually.

electronic waste, the defendants used shipping cargo containers which were loaded at the company’s facility. The containers were then transported by rail to domestic ports for export overseas.

Executive Recycling appeared as the exporter of record in over 300 exports from the United States between 2005 and 2008. Approximately 160 of these exported cargo containers contained a total of more than 100,000 CRTs.

Between February 2005 and continuing through January 2009, the defendants knowingly devised and intended to devise a scheme to defraud various business and government entities who wanted to dispose of their electronic waste, and to obtain these business and government entities’ money by means of materially false and fraudulent pretenses. The defendants represented themselves on a website to have “extensive knowledge of current EPA requirements.” The defendants falsely advertised to customers that they would dispose of electronic waste in compliance with all local, state and federal laws and regulations. It was part of the scheme that the defendants falsely represented that they would dispose of all electronic waste, whether hazardous or not, in an environmentally friendly manner. Specifically, the defendants falsely represented that the defendant company recycled electronic waste “properly, right here in the U.S.”

They also stated that they would not send the electronic waste overseas.

The defendants' misrepresentation induced customers to enter into contracts or agreements with the defendants for electronic waste disposal. Each victim paid the defendants to recycle their electronic waste in accordance with the representations made by the defendants. Contrary to their representations, the defendants sold the electronic waste they received from customers to brokers for export overseas to the People's Republic of China and other countries.



Search warrant being served at Executive Recycling

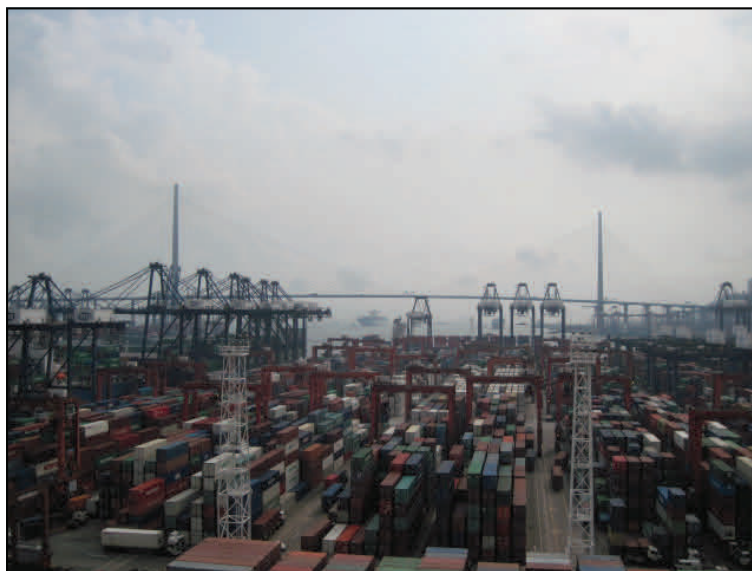
years imprisonment and up to a \$250,000 fine. They face one count exportation contrary to law, which carries a penalty of not more than 10 years imprisonment, and up to a \$250,000 fine or twice the gross gain or loss, or both. Lastly, Richter faces one count of destruction, alteration, or falsification of records in federal investigations and bankruptcy, which carries a penalty of not more than 20 years imprisonment and a fine of up to \$250,000. There is also an asset forfeiture allegation, which states that upon conviction the defendants shall forfeit to the United States any and all property or proceeds derived from their illegal activity.

This case was investigated by EPA's Criminal Investigation Division, the U.S. Immigration and Customs Enforcement's Homeland Security Investigations, and the Colorado Attorney General's Office, Special Prosecutions Unit. Assistant U.S. Attorneys Suneeta Hazra and Valeria Spence and Special Assistant U.S. Attorney Lillian Alves are prosecuting.

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Executive Recycling as a corporation faces a \$500,000 fine per count for seven wire fraud counts, or twice the gross gain or loss. The corporation faces a conviction for one count of failure to file notification of intent to export hazardous waste, which carries a penalty of a \$50,000 fine per day of violation, or twice the gross gain or loss. The corporation also faces a one count of exportation contrary to law, which carries a penalty \$500,000 fine or twice the gross gain or loss.

Richter and Olson each face seven counts of wire fraud, each count of which carries a penalty of not more than 20



Another view of the Port of Hong Kong

Bio-diesel Fuel Company Owner Pleads Guilty to Wire Fraud, Money Laundering and Making False Statements in Violation of the Clean Air Act – On December 14, 2012, **JEFFREY DAVID GUNSELMAN** pleaded guilty in federal district court for the Northern District of Texas to an indictment charging 51 counts of wire fraud, 24 counts of money laundering and 4 counts of making false statements in violation of the Clean Air Act. Each of the wire fraud counts carries a maximum penalty of 20 years in federal prison; each of the money laundering counts carries a maximum penalty of 10 years in federal prison; and each of the false statement counts carries a maximum penalty of two years in prison. In addition, each of the 79 counts carries a maximum fine of \$250,000.

Gunselman was the owner of Absolute Fuels, LLC, dba Absolute Fuels, LLC (Absolute Fuels), which he formed in April 2009. He was also named as Governing Person and/or as Registered Agent for other business entities associated with Absolute Fuels, LLC, including Absolute Fuels, LLC; Absolute Milling, LLC; Ellipse Energy, LLC; 21 Investments, LLC; and YGOG Holdings, LLC. However, Gunselman admitted that these entities are solely alter egos of himself, as an individual, as he alone owns, manages, directs and controls each of them and each has no separate and distinct existence from him.



Gunselman admitted that from September 2010 to October 2011 he devised a scheme to defraud EPA by falsely representing that he was in the business of producing bio-diesel fuel, yet he did not have a bio-diesel fuel-producing facility. Instead, his business operation consisted of falsely generating renewable fuel credits and selling them to oil companies and brokers. He instructed purchasers to wire payments to a bank account he solely controlled, and as a result, approximately \$41,762,236 was deposited into that account. During this period, he conducted 51 fraudulent transactions, which were transmitted by wire communications, that represented to EPA that bio-diesel fuel had been produced at the Absolute Fuels facility in Anton, Texas, when in fact, no bio-diesel fuel had been produced.

Regarding the money laundering convictions, during the same time period, Gunselman engaged in monetary transactions in criminally derived property by purchasing real and personal property valued at approximately \$12 million with the funds derived from the wire fraud. Included in that property are: several vehicles, including a Bentley, Mercedes-Benz, Lexus, Cadillac and Shelby Cobra; a Patton Military Tank; a Gulfstream airplane, professional basketball season tickets and corporate sponsorship; and agricultural, business and residential real estate.

The false statements convictions stem from Gunselman making material false statements to the EPA, falsely claiming and representing that bio-diesel fuel, a renewable fuel, had been produced, generating renewable fuel credits, when Gunselman well knew that no bio-diesel fuel had been produced. Gunselman further agreed to forfeit all property obtained and derived as a result of his criminal activities.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Secret Service. Assistant U.S. Attorneys Paulina Jacobo and Justin Cunningham, of the U.S. Attorney's Office in Lubbock, are in charge of the prosecution. Assistant U.S. Attorney John J. de la Garza is handling the forfeiture.

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Alaska Company Convicted of Clean Air Act Asbestos Crime – On December 17, 2012, **COPPER RIVER CAMPUS, LLC**, an Alaska company, pled guilty in federal district court for the District of Alaska and was convicted of violating the federal Clean Air Act for negligently endangering others when it released hazardous asbestos into the ambient air at its property in Anchorage. The company was sentenced to pay a \$70,000 fine and to serve three years on probation. As part of the sentence, the company was also ordered to contract with an environmental consultant to insure that no further violations of environmental laws and safety standards occur in the future.

Copper River Campus owns and manages the property and buildings occupied and used by Copper River Seafoods, Inc, in Anchorage. Copper River Campus purchased the property and buildings in 2009 knowing that the buildings had asbestos containing materials within the walls, ceilings and floors, and that special handling and disposal of these materials would be required if the buildings were going to be renovated or demolished.

After Copper River Campus purchased the properties, and with knowledge of the existence of asbestos containing materials in the two buildings, it instructed an employee of Copper River Seafoods to demolish the older building on the property, and other employees to begin renovation work on the newer building, including removing the first level flooring. The employee was given the instructions to proceed with the demolition by managers that did not know about the asbestos problem in the building. The employee who proceeded with the demolition likewise did not know about the existence of asbestos in the building.

On March 16, 2010, upon direction of Copper River Campus, a Copper River Seafoods' employee used a backhoe to begin demolishing the older building without taking any steps to wet down or otherwise safely remove the asbestos containing materials in the building. The backhoe operator did not have any special environmental training, and was not wearing any personal protective equipment. That same day, EPA received a call alerting it to the activities and sent an air inspector to the property. The demolition work was halted, and the pile of debris from the partially torn-down building was watered down. Prior to the starting, Copper River Campus never notified EPA about the demolition and renovation work being conducted, or about the existence of regulated asbestos containing materials in the two buildings on the property.

The next day, EPA inspectors returned to the property and observed employees using electric grinders to grind off the flooring in the newer building, including grinding of the asbestos floor mastic. These employees did not have any specialized training and were not wearing personal protective equipment. The floor grinding and renovation work on this building were halted thereafter.

The building demolition and floor grinding conducted by Copper River Campus negligently released a hazardous air pollutant into the ambient air both inside and outside of the two buildings, specifically friable chrysotile asbestos. As a result, Copper River Campus negligently placed employees of Copper River Seafoods and others in imminent danger of serious bodily injury. While no specific individual has been identified who has suffered any harm from the release, the release of friable asbestos into the ambient air created the risk that people could have suffered serious illness due to asbestos inhalation.

The investigation was conducted by the EPA's Criminal Investigation Division. The case was prosecuted by the U.S. Attorney's Office for the District of Alaska.

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