

Environmental Crimes Case Bulletin



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

April 2013

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

Defendants in this edition:

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- **Edward K. Durst — Region 3**
- **Harvey Bryant Pridgen — Region 4**
- **Alexander Morrisette — Region 4**
- **Newell (Nick) Smith, Armida Di Santi, Milto Di Santi — Region 4**
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- **Carr William Brown, Lobdell Percy Brown, III — Region 6**
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DEFENDANT SUMMARY:

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Region 3	Edward K. Durst	CAA/Knowingly disposing of regulated asbestos-containing materials
Region 4	Harvey Bryant Pridgen	CWA/Unauthorized filling of wetland
Region 4	Alexander Morrissette	CAA/Knowingly releasing ozone-depleting substances into the environment

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
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Region 5	<u>Theresa Neubauer, Frank Scaccia</u>	SDWA/Making false statements about source of village drinking water
Region 6	<u>Carr William Brown, Lobdell Percy Brown, III</u>	CWA/Illegal discharges into state waters
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Massachusetts Man Sentenced for Negligent Discharge of Oil into the Environment -- On April 4, 2013, **LARRY MCKISSICK, II**, of Charlton, was sentenced in federal district court for the District of Massachusetts to 12 months of probation, including four months of home detention and ordered to pay a fine of \$75,000. In addition, McKissick must submit a written public apology within two weeks of sentencing, at his own expense, to the Boston Globe Metro West Edition, or Worcester Region Edition or Worcester Telegram and Gazette. He must also complete a Spill Prevention and Countermeasures training course. Restitution was not part of McKissick's plea agreement, as authorities are pursuing it through a separate process under the Clean Water Act.

McKissick is president of Charlton Welding, which operates a trucking and plowing company in Charlton. In October 2012 McKissick plead guilty to negligently discharging a harmful quantity of oil, namely diesel fuel, into or upon the navigable waters of the United States. On June 11, 2010, McKissick washed diesel fuel off of the parking lot at his business property after realizing that the fuel had been released from a storage tanker parked on the property. It is estimated that 3,200 gallons of diesel fuel were released from the storage tank and washed into a tributary stream connected to the Quinebaug River. The fuel spill caused impacts to the wetlands and residents of a nearby housing complex, and triggered a six-month cleanup response by the Massachusetts Department of Environmental Protection (Mass DEP) costing more than \$680,000.

The case was investigated by EPA's Criminal Investigation Division. The Mass DEP oversaw extensive cleanup efforts within the wetlands and its Environmental Strike Force assisted in this investigation as well. The case was prosecuted by Assistant U.S. Attorney Anton P. Giedt.

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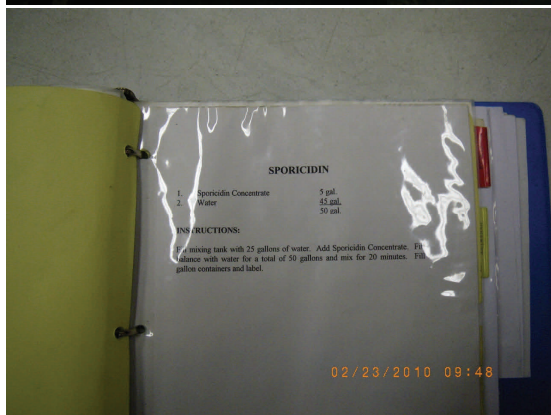
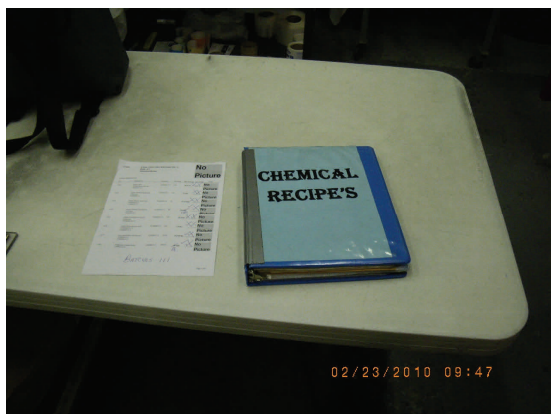
Spill response to diesel fuel release. Photo source: Mass DEP

Nevada Air Duct Company and Its Owner Sentenced for Selling Diluted Pesticide with Forged Labels

-- On April 8, 2013, DPL ENTERPRISES INC., (dba AIR CARE INDOOR QUALITY SPECIALISTS), located in Las Vegas, Nevada, was sentenced in federal district court for the District of Nevada to two years of probation and ordered to pay an \$80,000 fine. The company must also establish within 30 days a plan to assure that it is operating in full compliance of all environmental and occupational safety regulations. It pleaded guilty in December 2012 to one felony count of making a materially false statement and two misdemeanor counts of misbranding of a pesticide.



RICHARD PAPALEO, of Las Vegas, the company's president and owner, was sentenced to two years of probation and ordered to pay a \$15,000 fine. Papaleo pleaded guilty in December to one felony count of making a materially false statement and two misdemeanor counts of misbranding of a pesticide. **MICHAEL STANOVICH**, of Henderson, Nev., an engineer who worked at the company since 1991, was sentenced to one year of probation. Stanovich pleaded guilty in December 2012 to two misdemeanor counts of misbranding of a pesticide.



Binder containing the recipe for counterfeit Sporicidin (top) and the recipe from the binder (bottom)

According to the court records, Air Care was in the business of manufacturing and selling air duct cleaning equipment, filters and various chemical compounds, and it also ran its own air duct cleaning and repair operation. Air Care purchased and sold to its customers a disinfectant pesticide known as Sporicidin. Air Care diluted it with 10 times the amount of water, and sold the fake Sporicidin with a forged label that claimed that it could kill various organisms, including HIV, Avian Flu, Salmonella, Staph and MRSA. Neither the diluted pesticide nor the label was approved by the EPA as required. Air Care and Papaleo had been warned by the maker of Sporicidin as far back as 1998 that the company must obtain EPA approval for its label and that misbranding was "illegal." Air Care admitted to selling approximately 6,312 gallons of the misbranded and diluted pesticide between 2005 and 2010.

The government's investigation was initiated after EPA received complaints from the maker of Sporicidin. EPA made an undercover purchase of the fake Sporicidin sold by Air Care, and EPA's National Enforcement Investigations Center laboratory in Colorado found that it was diluted with water even though the fake label made by Air Care claimed it contained the original strength of the active ingredient. When federal agents from the FBI and from EPA's Criminal Investigations Division questioned Papaleo about whether his company was selling the diluted chemical, he denied it.

EPA regulates pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act, which makes it a crime to manufacture a pesticide in the United States without first being registered with the EPA and obtaining from the EPA a manufacturer establishment number. Approved labels must be affixed to any container of the pesticide that is distributed or sold. A pesticide is deemed "misbranded" if among other things the labeling is false or misleading. Misbranding pesticides is a misdemeanor offense.

The case was investigated by EPA's Criminal Investigation Division with assistance from the FBI. The case was prosecuted by Assistant U.S. Attorney Kathryn C. Newman and Richard A. Udell, a Senior Trial Attorney with the Environmental Crimes Section of the U.S. Department of Justice.

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North Carolina Man Sentenced for Unauthorized Filling of Wetland — On April 10, 2013, **HARVEY BRYANT PRIDGEN**, of Nashville, North Carolina, was sentenced in federal district court for the Eastern District of North Carolina to six months in prison followed by one year of supervised release that



Contaminated soil dumped in wetlands and stream by Pridgen

includes six months home confinement with electronic monitoring. He was also fined \$300,000. As part of his plea agreement, Pridgen made an \$11,367 payment to the North Carolina Ecological System Enhancement Program – Wetlands Restoration Fund. Pridgen was charged on September 5, 2012, with unauthorized fill of wetlands. He pled guilty to the charge on September 6.

According to the evidence, an investigation was initiated into the illegal dumping of petroleum-contaminated soil in a protected wetland area in Jones County, North Carolina. It was learned that the soil was a product of an environmental clean-up project on Marine Corp

Air Station New River and that in March 2010 the Marine Corps had contracted with Osage of Virginia Inc. to conduct environmental remediation services. Osage, in turn, contracted with P&F Service Inc. to haul contaminated soil from the excavation site and ensure its proper disposal. Pridgen was the owner of P&F.

In April 2010, the manager of an area of farmland contracted Pridgen to deliver soil to the farm to fill a low-lying area. In April 2010 to May 2010, an estimated 50 to 60 trucks loaded with contaminated soil from the March Corps project were lumped on the property. The contaminated soil was then pushed by bulldozers into a protected wetlands area on the farm. In mid-May 2010, a site inspection of the farm was performed and it was confirmed that the soil dumped was contaminated.

The case was investigated by EPA's Criminal Investigation Division, the North Carolina State Bureau of Investigation, the U.S. Department of Agriculture's Office of Inspector General, the North Carolina Department of Environmental and Natural Resources, the Naval Criminal Investigations Service, and the U.S. Army Corps of Engineers. It was prosecuted by Assistant U.S. Attorney Banumathi Rangarajan.

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Air Conditioner Thief Sentenced to Six-and-a-half years in Federal Prison for Damaging Environment -- On April 17, 2013, **ALEXANDER MORRISSETTE**, of Monroe, Georgia, was sentenced in federal district court for the Middle District of Georgia to 78 months in federal prison for knowingly releasing ozone-depleting substances into the environment. There is no parole in the federal system and the term of imprisonment is to be followed by three years of supervised release. Morrisette was also ordered to make restitution of \$178,846, the amount of money needed to repair several commercial air conditioners illegally harvested for scrap metal. Randall Scott Wimpey, a co-defendant, of Snellville, Georgia, was previously sentenced to 15 months in federal prison. The case was investigated by the Special Agents of the Environmental Protection Agency and the Monroe Police Department. It was prosecuted by Assistant United States Attorney Daniel E. Bennett.

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Louisiana Oil Company Technician Sentenced for Illegal Discharges into State Waters – On April 16, 2013, **CARR WILLIAM BROWN**, a field technician for T&F Oil Company, pled guilty in a state court in Louisiana to illegal discharges of pollutants into state waters in Louisiana, a violation of a provision of the Louisiana Pollution Discharge Elimination System. He was sentenced to three years of probation and given a \$5,000 criminal fine.



Oil pooled around T & F storage tanks

In October 2011, Carr William Brown, along with his brother, **LOBDELL PERCY BROWN, III**, owner of T&F Oil Company, were indicted for two willful and illegal discharges of oil and chlorides into the waters of the state, along with five additional spills that went unreported from sites located in the Little Chenier oilfield in Cameron Parish, Louisiana. Carr Brown dumped oilfield wastes from a production facility owned and operated by T&F Oil into Little Chenier. The waste contained oil and produced water.

On December 11, 2012, Lobdell Brown pled guilty to six misdemeanor violations. Pursuant to the terms of the plea agreement, Lobdell Brown received a deferred sentence of six years probation, paid a criminal fine of \$15,000, restitution of \$50,000, and the cost of investigation by the Louisiana Department of Environmental Quality of \$11,080.

The prosecution is a result of the investigation conducted by the Louisiana Department of Environmental Quality's Criminal Investigation Division and the Louisiana Environmental Crimes Task Force. The case was prosecuted by the Louisiana Attorney General's office.

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Oil contaminated waters of the State

Tennessee Salvage Company Owners and Operators Plead Guilty to Conspiring to Violate Clean Air

Act -- On April 18, 2013, three owners and operators of a Tennessee salvage and demolition company, A&E Salvage, Inc., pleaded guilty in federal district court for the Eastern District of Tennessee for conspiring to violate the Clean Air Act.

NEWELL (a.k.a., NICK) SMITH, ARMIDA DI SANTI, and MILTO DI SANTI pleaded guilty to one criminal felony count for conspiring to violate the Clean Air Act's "work practice standards" salient to the proper wetting, stripping, bagging, and disposal of asbestos. According to the charges, Smith and the Di Santis, along with other co-conspirators, engaged in a multi-year scheme in which substantial amounts of regulated asbestos containing materials were improperly removed from components of the former Liberty Fibers Plant or were illegally left in place during demolition. Smith and the Di Santis face up to five years in prison and a fine of up to \$250,000 or twice the gross gain or loss to the victims.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorney Matthew T. Morris of the U.S. Attorney's Office for the Eastern District of Tennessee and Trial Attorney Todd W. Gleason of the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division.

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Aerial photo of the former Liberty Fibers Plant



Debris piles with stripped tanks



Stripped boiler from powerhouse of the facility

Former Virginia Asbestos Abatement Company Foreman Pleads Guilty to Violating Clean Air Act--

On April 22, 2013, **EDWARD K. DURST**, of Richmond, Va., former foreman of an asbestos company



Virginia Technology's Cowgill Hall

hired to remove asbestos-containing materials from Virginia Tech's Cowgill Hall in 2007, pled guilty in federal district court for the Western District of Virginia for violating the Clean Air Act. He was charged in a five-count indictment in October 2012. Durst pled guilty to one count of knowingly disposing of and causing the disposal of, regulated asbestos-containing materials in violation of the Clean Air Act and the federal regulations regarding proper handling of asbestos. At sentencing, the maximum possible penalty faced by the defendant is up to five years in prison and/or a fine of up to \$250,000.

According to evidence, Durst's former employer, an asbestos abatement company, was hired to oversee the removal and disposal of asbestos-containing materials from Cowgill Hall on the campus of Virginia Tech in 2007. The materials were aluminum window frames with asbestos glazing.

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. He later instructed others to transport those materials to a metal recycling facility and kept the cash payments for the scrap aluminum. 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.

The case was investigated by the Blue Ridge Environmental Task Force, which included EPA's Criminal Investigation Division, the Office of Inspector General United States Housing and Urban Development, the Virginia Tech Police Department and the Christiansburg Police Department. It is being prosecuted by Special Assistant United States Attorney David Lastra (EPA Regional Criminal Enforcement Counsel) and United States Attorney Jennie L.M. Waering.

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Illinois Village Official Convicted of Falsifying Reports to Conceal Use of Well in Drinking Water Supply

-- On April 29, 2013, **THERESA NEUBAUER**, former water department clerk and supervisor and currently Crestwood's police chief of the Village of Crestwood, was found guilty of all 11 counts of



making false statements by a federal jury after a week-long trial and was convicted for lying repeatedly to environmental regulators for more than 20 years about using a water well to supplement the village's drinking water supply from Lake Michigan. Neubauer, of Crestwood, faces a maximum sentence of five years in prison and a \$250,000 fine on each count. Sentencing has been tentatively set for October 2. A co-defendant, **FRANK SCAC-**

CIA, also of Crestwood, the village's retired certified water operator, pleaded guilty on April 11 to making false statements and is also awaiting sentencing. Neubauer concealed the village's use of its well from the government and the citizens of Crestwood to save money, prosecutors argued to the jury. By doing so, the village didn't have to fix its leaking water distribution system, pay the neighboring Village of Alsip more money for water drawn from Lake Michigan, and properly monitor for contaminants that could have been introduced to Crestwood's water supply.

The charges did not allege, and the trial did not seek to establish, that the defendants' false statements in regulatory reports concealing the use of well water resulted in any harm to Crestwood's nearly 11,000 residents or to the environment, but the concealment avoided regulations requiring that Crestwood test its commingled water supply and monitor the amount of certain contaminants.

According to the evidence at trial, since at least 1973, the substantial majority of Crestwood's drinking water came from Lake Michigan and was purchased from neighboring Alsip, which, in turn, had purchased the water from the city of Chicago after it was treated and tested pursuant to state and federal environmental regulations. Since 1982, Crestwood regularly supplemented the Lake Michigan water with water drawn from an underground aquifer through a well located on Playfield Drive, known as Well #1. Crestwood found it necessary to supplement the Lake Michigan water with water pumped from Well #1, in part, because of substantial leakage in its water distribution system, which Crestwood officials failed to adequately repair.

Between 1987 and 2008, Neubauer schemed with others to conceal that Crestwood was supplementing its Lake Michigan water with water drawn from Well #1. She helped prepare and submit various false reports stating that Well #1 was on standby status and no water from the well was distributed to Crestwood's drinking water customers, and also stating that the sole source of Crestwood's drinking water was Lake Michigan water purchased from Alsip. The false statements were contained in annual Consumer Confidence Reports (CCRs) and Monthly Operation and Chemical Analysis Reports (MORs).

The trial evidence showed that Neubauer was part of a scheme involving a small circle of trusted village employees, including Scaccia, that were directed by Crestwood's longtime former mayor, Chester Stranczek, who was not charged.

Under the federal Safe Drinking Water Act of 1974, EPA created regulations to ensure the safety of drinking water distributed by public water systems by requiring testing and establishing maximum contami-

nant levels for various contaminants. EPA delegated the primary responsibility for enforcement to the Illinois Environmental Protection Agency, which established its own state regulations that implemented the federal statute and regulations.

Because the City of Chicago tested and treated Lake Michigan water for contaminants, Crestwood, like other municipalities that purchased water directly or indirectly from Chicago, was excused from monitoring its Lake Michigan water for certain contaminants. Due to Crestwood's use of Well #1, however, the village was required to periodically monitor its drinking water for organic contaminants, inorganic contaminants, and radiological contaminants beginning in the 1970s.

Crestwood was also required to submit an Annual Water Use Audit form, known as an LMO-2 form, to the Illinois Department of Natural Resources and, previously, to the Illinois Department of Transportation. This form required Crestwood to report the amount of water it had drawn from Lake Michigan and from Well #1, and to account for the amount of water distributed and lost by its water system annually. From at least 1982 to 2008, Crestwood officials filed LMO-2 forms that neither reported the amount of water drawn from Well #1, nor accurately accounted for the amount of water distributed and lost by its water system.

Scaccia was responsible for ensuring that water distributed by Crestwood met all federal and state regulations, including filing annual CCRs; obtaining the raw data that was used to complete the MORs; transmitting raw data for the MORs to Neubauer so that she could complete them and submit them to the IEPA; and serving as a point of contact for IEPA with respect to drinking water compliance issues. Neubauer prepared the CCRs for signature by Stranczek, arranged for the CCRs to be issued to Crestwood's water customers, prepared MORs for distribution to the IEPA based upon information obtained from Scaccia, and distributed completed MORs to IEPA. All the while, Neubauer and Scaccia knew that water pumped from Well #1 was being distributed to the village's water customers.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorneys Erika Csicsila and Timothy Chapman.

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The pump that the Village of Crestwood used to draw water from an underground aquifer, which was used to supplement their drinking water drawn from Lake Michigan. This picture was taken after the pump was already disconnected from the well and taken out of service.