



# Environmental Crimes Case Bulletin

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

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

October 2014

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# Defendant Summary

| Region   | Defendants                                                                                                                                             | Case Type/Status                                                                                                                                                                                 |
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**Michigan Man Sentenced for Clean Air Act Crimes** – On October 24, 2014, **TERRY WILLIAMS**, of Detroit, Michigan, was sentenced to 27 months in federal prison for criminal violations of the Clean Air Act. Williams had plead guilty to the violations that were in connection with the dismantling and scrapping of the former AMC headquarters on Plymouth Road in Detroit. The work disturbed asbestos-containing materials and released ozone depleting substances.

In 2012, Williams hired crews to remove salvageable metal from the facility, which included the dismantling of air conditioning units charged with R-22 refrigerant, an ozone-depleting substance. Williams' crews dismantled 50 to 70 of these air conditioning units, including many large rooftop units, causing releases of R-22 refrigerant into the environment.

Williams also arranged for other fixtures on the property to be scrapped, ordering crews to cut and remove pipes he knew to be insulated with regulated asbestos- containing insulation. These insulated pipes were removed without following the work practice requirements under the federal asbestos regulations, including failing to properly wet the asbestos-containing materials to prevent asbestos fibers from becoming airborne and failing to secure the materials for proper disposal.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by the U.S. Attorney's Office in the Eastern District of Michigan by Assistant U.S. Attorney Jennifer Gorland and Special Assistant United States Attorney David Mucha.

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**Massachusetts Company Fined, Placed on Probation for Violating CAA** -- On October 6, 2014, **ROBERTS CHEMICAL COMPANY, INC.** of Attleboro, Massachusetts, was fined \$200,000 and placed on probation for five years in federal district court for the District of Rhode Island for violating the Clean Air Act. It is also required to issue a public apology. The company failed to develop and implement a Risk Management Plan (RMP) to minimize the chance of release of ethyl ether from its former Pawtucket, Rhode Island, facility, and to protect workers, the community and emergency and first responders in the event of a release or fire involving ethyl ether. EPA regulations require a company's RMP to include a "worst case" response plan. Ethyl ether is a volatile, extremely flammable liquid chemical. EPA regulations require facilities storing more than 10,000 lbs. of ethyl ether to develop and implement a RMP. An investigation by EPA determined that in November and December 2008, Roberts Chemical Company, Inc. failed to develop and implement a RMP while storing 27,467 lbs. of ethyl ether at their former facility at 258 Pine Street in Pawtucket.

Roberts Chemical Company, Inc. is in the business of storing, distributing and repackaging chemicals, some of which are designated as extremely hazardous. The company pleaded guilty in August 2014 to violating the Clean Air Act.

The case was investigated by the U.S. EPA Criminal Investigation Division and Homeland Security Investigations, with the assistance of the REFP Unit of the Office of Environmental Stewardship with EPA's Region 1 office. It was prosecuted by Assistant U.S. Attorney Terrence P. Donnelly.

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*Stored Chemicals identified in an EPA Inspection at Roberts Chemical Company.*

**Illinois Man Convicted of Mail Fraud and Tax Evasion Related to Illegal Application of A Pesticide** -- On October 31, 2014, **CARL KIESER**, of Gibson City, Illinois, was convicted of mail fraud and illegal application of a pesticide inconsistent with its labeling. Sentencing is scheduled for February 19, 2015. Kieser had previously been convicted of four counts of tax evasion.



***Bags of Diuron located during a search warrant at Carl Kieser's property in 2012.***

Kieser owned and operated Aquatic Control of Illinois, a business located at his Gibson City Fishing and Camping Club. During the trial, the government presented evidence to establish that from June 2006 to September 2012, Kieser purchased large quantities of Diuron 80DF, a pesticide registered with the U.S. EPA for the control of land-based weeds. The EPA-approved labeling for Diuron 80DF warns that the chemical should not be applied directly to water due to its toxicity to fish and other aquatic wildlife.

As part of the scheme to defraud, Kieser manufactured, advertised, sold, and distributed a product he called Pond Clear Plus. Kieser produced Pond Clear Plus by mixing Diuron 80DF with other ingredients, including a blue pond

dye. Kieser advertised Pond Clear Plus in newspapers and magazines and represented that he had 20 years of experience in lake management and consulting. The advertisements for Pond Clear Plus falsely and fraudulently represented that Pond Clear Plus could control lake weeds and algae “Mother Nature’s Way,” with “No Chemicals,” using a “biological method with live bacteria that dissolves plant nutrients, black muck, and rotten egg odor.” Kieser also falsely and fraudulently represented to customers that Pond Clear Plus contained no chemicals. In fact, as Kieser knew full well, Pond Clear Plus contained the chemical pesticide Diuron 80DF, which was prohibited by its EPA-approved labeling from being applied directly to water.

As a result of his false advertising and representations, Kieser sold and distributed Pond Clear Plus to customers from approximately July 2007 to September 2012. Kieser obtained more than \$400,000 in proceeds from customers from the sale of Pond Clear Plus, but failed to pay any federal income tax on his profits from 2008 to 2011.

As a further part of the scheme, Kieser provided Pond Clear Plus to his customers via Federal Express or some other means in 2.5 gallon jugs without any labels, including any labels informing customers that Pond Clear Plus contained Diuron 80DF and should not be applied directly to water. To the



***A number of dead fish in a neighborhood pond following the use of the Pond Clear Plus product from Carl Kieser in 2008.***

contrary, Kieser advised customers that Pond Clear Plus contained no chemicals and should be applied by pouring it directly into the customer's pond or lake. Moreover, Kieser himself on occasion directly applied Pond Clear Plus to lakes or ponds for his customers. As a result, Diuron 80DF was directly applied to ponds and lakes throughout the United States in direct contravention of its EPA-approved labeling. Additionally, multiple customers experienced fish kills following the application of Pond Clear Plus to their ponds and lakes.

Following the jury's return of the guilty verdicts, Kieser was allowed to remain on release under conditions of bond, including that he no longer sell his product, Pond Clear Plus.

The maximum statutory penalty for each count of mail fraud is 20 years in prison and a fine of up to \$250,000. The maximum statutory penalty for tax evasion is five years in prison and a fine of up to \$100,000. The maximum statutory penalty for applying a pesticide inconsistent with its labeling is one year in jail and a fine of up to \$50,000.

The case was investigated by EPA's Criminal Investigation Division and the Internal Revenue Service with the assistance of the Illinois Department of Natural Resources, the Illinois Environmental Protection Agency, and the Illinois Department of Agriculture. It is being prosecuted by Assistant U.S. Attorney Eugene L. Miller.

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*This is one of the many jugs of Pond Clear Plus that was shipped from Carl Kieser. This particular unlabeled jug was purchased during an EPA undercover operation. Testing of the contents ultimately showed that there was a high concentration of Diuron. The ring of granular Diuron can also be seen in the white layer on the bottom of the container.*

**Trans Energy Convicted of Clean Water Act Violations** -- On October 1, 2014, **TRANS ENERGY, INC.**, entered guilty pleas in federal district court for the Northern District of West Virginia to three violations of the Clean



***The impoundments constructed on Robert Christopher's property. The pond at the bottom was constructed in 2009 and is included in the civil enforcement action. The impoundment at the top of the photo was constructed in 2010 and is the basis for one of the counts in the criminal information.***

Water Act in connection with its natural gas drilling activity in Northern West Virginia.

Trans Energy pled guilty to three counts of “Negligent Discharge of Pollutants without a Permit,” admitting that it dumped pollutants into waterways found in Marshall County, West Virginia. The company agreed that it discharged materials such as rock, sand, soil and stone into streams at Wolf Run, the North Fork of Grave Creek, and the Left Fork of Maggoty Run, all for the purpose of creating impoundments. The water from the impoundments was subsequently used by Trans Energy for Marcellus Shale drilling activity. Trans Energy admitted that it failed to properly train and supervise its employees and that it relied upon the unsubstantiated representations of a nearby property owner when determining whether environ-

mental laws were being followed.

The plea agreement calls for Trans Energy to pay a fine of \$200,000 for each conviction, for a total fine of \$600,000. It also requires that Trans Energy be placed onto probation for two years and be under the supervision of the Court during that time period. The parties agreed that separate violations committed by Trans Energy and occurring in connection with two other impoundments constructed in Marshall County would be addressed by civil penalties.

The Clean Water Act, also known as the Federal Water Pollution Control Act, was enacted by Congress to restore and maintain the integrity of the Nation’s waters. It prohibits the discharge of any pollutant from a point source into the waters of the United States without a permit. Discharges of dredged or fill material into waters of the United States are prohibited unless authorized by a permit issued by the U.S. Army Corps of Engineers.

The case was investigated by EPA’s Criminal Investigation Division. It is being prosecuted by David J. Perri, Assistant United States Attorney, and Perry D. McDaniel, Special Assistant United States Attorney.



***The impoundment for the Goshorn well pad constructed in 2011. The white pipe at the bottom leads from the impoundment to the well pad.***

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**West Virginia Lab Manager Pleads Guilty to Tampering with Water Samples** -- On October 9, 2014, **JOHN W. SHELTON**, of Daniels, West Virginia, pled guilty in federal district court for the Southern District of West Virginia to conspiring to violate the Clean Water Act. Shelton was employed by Appalachian Laboratories in Daniels as a field technician and manager. Appalachian Laboratories performed water sampling and analysis for coal mining operations to ensure that discharges of pollutants into public waterways were within permitted limits. He faces up to five years imprisonment and a fine of \$250,000 when he is sentenced on February 26, 2015.

Shelton admitted that he and other employees tampered with water samples to make them appear to be within permissible levels. Shelton admitted that they diluted samples by adding distilled water, and substituted water samples from the “honeypot,” designated as such because the samples were always within permissible limits. Each time samples were diluted or water was substituted, Shelton allowed excessive pollutants to be discharged from mining operations into adjacent creeks and rivers.

Shelton also admitted that from 2008-2013, he and other Appalachian Laboratories employees failed to place samples on ice as required by law, and instead kept them in their trucks all day, compromising the integrity of the samples. To avoid detection by WVDEP, Shelton and other employees placed ice in their coolers on known inspection days to make it appear as though this was their regular practice.

The case was investigated by EPA’s Criminal Investigation Division and the Federal Bureau of Investigation. It is being prosecuted by Assistant United States Attorneys Blaire L. Malkin and Larry R. Ellis.

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**New York Corporation Pleads Guilty to CAA Violation** -- On October 29, 2014, **TIER NY, LLC**, located in Niagara Falls, New York, pleaded guilty in federal district court for the Western District of New York to negligent endangerment under the Clean Air Act. The charge is punishable by a fine of \$200,000 and a possible term of probation of up to five years. Sentencing is scheduled for January 8, 2015. Tier, NY, LLC is engaged in the business of cleaning tanks that once carried hazardous materials, including titanium tetrachloride. Titanium tetrachloride, when combined with water, forms hydrochloric acid gas--a hazardous air pollutant listed under the Clean Air Act.

The charges stem from an incident that occurred on June 11, 2013. Tier employees cleaned a tank that last contained titanium tetrachloride. During the cleaning process, employees introduced a caustic solution with an unverified concentration of sodium hydroxide and water into the vessel and negligently caused the release of an unknown quantity of hydrochloric acid gas. The gas then travelled to an adjacent business and placed other people in imminent danger of death or serious bodily injury.

The case was investigated by EPA's Criminal Investigation Division, and the New York State Department of Environmental Conservation Police, BECI. It is being prosecuted by Assistant U.S. Attorney Aaron J. Mango.

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*The tank that Tier employees cleaned out which caused the release of hydrochloric gas.*

## **California Man Pleads Guilty to Negligent Discharge of Pollutants into U.S. Waters** -- On October 16, 2014, KIEDOCK KIM, of Biggs, California, a former mill superintendent for the French Gulch Mine pleaded guilty



*Plume from French Creek flowing into Clear Creek.*

to charges related to polluting federal property in Shasta County, California. Kim admitted to depredation of U.S. property and negligent discharge of a pollutant into U.S. waters. The charges arose out of alleged actions in the mid-2000s. He is set to be sentenced Jan. 15. He faces up to 10 years in prison and \$375,000 in fines.

Kim had been accused of misrepresenting the wastewater treatment system at the mine as closed circuit. It had actually spilled the wastewater, which contained arsenic and lead, into abandoned mines, often on land owned by the Bureau of Land Management. Kim also ordered construction of a “substandard” pipe

system that dumped liquid waste into an abandoned mine on BLM property. On one occasion in 2006, the pipe system broke and up to 10 tons of mine tailings flowed into Scorpion Gulch Creek, which flows into Whiskeytown Lake.

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*Mine tailings from the 2006 spill flowing from French Creek into Clear Creek.*

**Two Florida Corporations and Four Tampa Residents Indicted in Scheme to Unlawfully Sell an Unregistered Pesticide and Obstruct Justice** -- On October 3, 2014, **NEW NAUTICAL COATINGS, INC., d/b/a “Sea Hawk Paints,” Sea Hawk Refinish Line, Inc., d/b/a “Refinish Line Auto Supplies,”** of Clearwater, Florida, and Hillsborough County residents **ERIK NORRIE, DAVID NORRIE, JASON REVIE, and TOMMY CRAFT** were indicted in federal district court for the Southern District of Florida in a scheme to unlawfully sell an unregistered pesticide and obstruct justice. David Norrie, Jason Revie, and Tommy Craft had their initial appearances on February 11, 2013, in Tampa.

Specifically, each defendant is charged with one count of conspiracy to (1) impede, impair, obstruct, and defeat the lawful functions of the EPA; (2) sell an unregistered pesticide; (3) violate an EPA cancellation order; and (4) obstruct justice and a separate conspiracy to commit mail and wire fraud. New Nautical Coatings, Refinish Line, David Norrie, Erik Norrie and Jason Revie are also charged with one count of wire fraud and one count of misuse of a government seal. New Nautical Coatings and David Norrie are also charged with one count of obstruction of justice, and New Nautical Coatings and Erik Norrie are charged with two other counts of obstructing justice. New Nautical Coatings, David Norrie, Erik Norrie, Jason Revie, and Tommy Craft are also charged with four counts of the sale of an unregistered pesticide.

According to the indictment, New Nautical manufactured a paint called Biocop Anti-Fouling Coating which contained tributyltin methacrylate, also known as “TBT,” a chemical compound which was found to have significant harmful effects on marine life. TBT based paints such as Biocop are pesticides subject to registration with the EPA. On or about December 1, 2005, the EPA cancelled New Nautical’s registration for Biocop, making it unlawful for New Nautical to manufacture Biocop for sale in the United States after December 1, 2005, or sell Biocop in the United States after December 31, 2005. Despite the cancellation, New Nautical Coatings, through defendants David Norrie, Erik Norrie Jason Revie, Tommy Craft and others continued to manufacture and sell Biocop in the United States. In order to manufacture and sell Biocop after the cancellation date, New Nautical Coatings, through defendants David Norrie, Erik Norrie, Jason Revie, Tommy Craft, and others, misled their customers and the EPA regarding their continued production of Biocop after the cancellation date. In furtherance of the conspiracy, the defendants took steps to make it falsely and fraudulently appear that New Nautical had earmarked and sold significant amounts of Biocop to distributors prior to December 31, 2005. In truth, the supposedly allocated Biocop had not been manufactured by December 1, 2005, and did not exist to be sold by December 31, 2005. In furtherance of the conspiracy, Refinish Line, David Norrie, Erik Norrie, and Jason Revie created and caused to be created false and fraudulent purchase orders and invoices for orders of Biocop that Refinish Line did not sell, distribute, or ship to the customers and companies listed in the purchase orders and invoices. New Nautical, David Norrie, and Erik Norrie took other steps to conceal the unlawful production and sale of Biocop, including the falsification of reports submitted to the EPA and directing a witness to lie to the EPA. By producing and selling Biocop, an unregistered pesticide, for domestic use and application, and by concealing such acts from the EPA and customers, New Nautical, Refinish Line and their co-conspirators derived pecuniary gains in excess of \$2,000,000. If convicted, the corporate defendants, New Nautical Coatings, Inc. and Sea Hawk Refinish Line, Inc., face a fine of up to \$500,000 for each felony conviction, and a fine of \$200,000 for each of conspiracy to defraud the government, up to twenty years in prison for each count of conspiracy to commit conviction. If convicted, the individual defendants face up to five years in prison for each count of conspiracy

to defraud the government, up to twenty years in prison for each count of conspiracy to commit mail and wire fraud, wire fraud, and obstruction of justice, up to five years in prison for each count of the misuse of a government seal, and up to one year in prison for each count of the sale of an unregistered pesticide.

The case was investigated by EPA's Criminal Investigation Division, EPA's Office of Inspector General, and FWCC. The case is being prosecuted by Assistant U.S. Attorney Alejandro O. Soto. An indictment is only an accusation and the defendant is presumed innocent until proven guilty.

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**Two Louisiana Parish Government Employees Indicted for Improper Failure to Collect and Record Water Samples** -- On October 20, 2014, **KEVIN BRANCH**, of LaPlace, Louisiana, and **DANIELLE ROUSSEL**, of Paulina, Louisiana, were both charged with malfeasance in office and filing or maintaining false public records by a St. John the Baptist Parish Grand Jury. They were parish government employees and were indicted for their role in failing to properly collect and record water samples from testing sites where a brain-eating amoeba (*Naegleria fowleri*) was found in the water system.

According to the grand jury indictment, the charges stem from allegations that the two not only failed to perform a duty lawfully required of a public employee in completing necessary water testing, but they also falsified information on water testing logs they were required to maintain.

As part of their job duties, Branch and Roussel were tasked with collecting water samples from at least two locations, including the Lions Water Treatment Plant in Reserve and an additional site in Mt. Airy, to ensure that the public water met specific quantities of residual chlorine as required by Louisiana law. The employees were to truthfully record those findings on a daily log, which was to be filed with the Department of Health and Hospitals each month.

According to the indictment, through a Louisiana State Police investigation it was determined that Global Positioning Systems (GPS) permanently attached to the parish vehicles assigned to Branch and Roussel showed that the two did not collect the samples that they attested to. The GPS data showed that on numerous days where the employees alleged to have tested water samples, they were not near the site of testing.

The case was investigated by EPA's Criminal Investigation Division and the Louisiana State Police. It is being prosecuted by the Louisiana Attorney General's Office. An indictment is only an accusation and the defendant is presumed innocent until proven guilty.

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### Ohio Men and Michigan Man Indicted for Violating CAA, Illegally Dumping Garbage and Defrauding Company

--On October 2, 2014, **CHRISTOPHER L. GATTARELLO**, of Cleveland, Ohio, and another Cleveland man were charged in federal district court for the Northern District of Ohio with violating the Clean Air Act by failing to remove asbestos prior to demolishing a former factory in Cleveland. They were also charged with defrauding a Louisiana company out of nearly \$1.2 million. At the same time, state charges were filed in Cuyahoga County Common Pleas Court against Gattarello and two men, charging them with illegally dumping garbage in Cleveland. Besides Gattarello, the others indicted were **WILLIAM S. JACKSON, JR.**, of Cleveland, and **ROBERT A. SHAW, SR.**, of Ypsilanti, Michigan.

Gattarello owned and controlled several municipal garbage-hauling businesses in greater Cleveland, including Reach Out Disposal, All Points Rubbish Disposal and Axelrod Rubbish Recycling. Shaw worked for Gattarello at those companies, while Jackson operated a Cleveland building demolition company. Gattarello and Jackson were each charged with two counts of violating the Clean Air Act. Additionally, Christopher Gattarello was charged with in federal court with one count each of conspiracy to commit wire fraud and money laundering. Shaw faces one count of conspiracy to commit wire fraud.

According to the four-count federal indictment: In June 2011, Gattarello, on behalf of All Points, leased the former National Acme facility in Cleveland. The 570,000 square-foot facility was built in 1917 and was used for manufacturing for nearly a century. It is located near many homes and a school. Gattarello represented to the lessor that paper and cardboard waste would be recycled at the facility.

In July 2011, a company estimated removing asbestos from the facility would cost \$1.5 million.

Around August 2011, Gattarello directed paper and cardboard waste, as well as municipal garbage, be delivered to the facility for recycling. Over the next several months, more garbage, paper and cardboard were delivered than could be handled, and Gattarello had the waste moved inside. By April 2012, most of the facility was filled with garbage.

In May 2012, Gattarello, on behalf of Reach Out, entered into a contract to purchase the facility. Gattarello intended to demolish the facility and sell any metal removed as scrap. In July 2012, Jackson submitted a notice of demolition with the Cleveland Division of Air Quality stating there was no asbestos in the National Acme facility. About 10 days later, the CDAQ rejected Jackson's notice because it was incomplete and stated demolition "may not begin" until a proper notice was submitted and approved. About 10 days after that, on July 21, 2012, Jackson began demolition at Gattarello's direction.

Asbestos fibers were released into the environment during demolition. Debris accumulated outside the facility from demolition and asbestos in the piles were exposed to the wind and elements.

In the state's case, Christopher Gattarello, Axelrod Rubbish Recycling, and Reach Out Disposal each were indicted on the same five counts — two counts of illegal open dumping, two counts of operating a solid waste landfill without a license, and one count of operating a solid waste transfer facility without a license. The charges stem from alleged solid waste violations at the former National Acme facility at 965 Wayside Avenue in Cleveland.

Also in the state's case, Christopher Gattarello's brother, **ANTHONY GATTARELLO**, of Highland Heights, Ohio, was indicted on one count of illegal open dumping and one count of operating a solid waste disposal facility without a license. Jackson was indicted on one count of illegal open dumping. The charges relate to alleged violations at the former National Acme facility.

AIM Business Capital LLC is a financial company based in Louisiana that specializes in “factoring” – a practice in which AIM purchases accounts receivable, such as invoices billed to customers for goods and services. Businesses that factored their receivables with AIM received immediate cash. AIM, like other factoring companies, purchase the receivables at a percentage discount of the invoice. AIM made a profit by collecting the full amount of the invoice from the business’s customers, according to the federal indictment.

In 2011 and 2012, Shaw, on behalf of Reach Out and Axelrod, entered into contracts with AIM for the purchase of receivables from Reach Out and Axelrod. Gattarello directed the creation of false and fraudulent invoices for the companies and directed that they be submitted to AIM. In some cases, Gattarello and Shaw directed other employees to create false letters attesting to the validity of the invoices, which Shaw forwarded to AIM. The loss to AIM was nearly \$1.2 million, according to the federal indictment.

The case was investigated by EPA’s Criminal Investigation Division, the Ohio EPA, the Ohio Bureau of Criminal Investigation, and the Internal Revenue Service. It is being prosecuted by Assistant United States Attorneys Brad Beeson and James V. Moroney. An indictment is only an accusation and the defendant is presumed innocent until proven guilty.

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