



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.

July 2014

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Defendant Summary

Region	Defendants	Case Type/Status
Region 1	Thomas H. Faria	CWA/Illegal discharging industrial wastewater into POTW
Region 4	Benjamin Franklin Pass, P&W Waste Oil Services, Inc.	CWA/Unlawful handling of PCB-contaminated oil, tax violations, and false statements
Region 6	Ryan Thomas	RCRA/Falsifying shipping documents
Region 8	Tri State Environmental Group, Aftermath Cleanup & Remediation Services, LLC, James Joseph Duran	CAA/Improper disposal of asbestos-containing waste material

Defendant Summary

Region	Defendants	Case Type/Status
Region 8	Brent Powell	CWA/Damaging a wetland
Region 9	Nathan Stoliar	CAA/False Statements, Conspiracy, Wire Fraud
Region 9	Hernan Cortez Villasenor (Cortez)	FIFRA/Distribution of unregistered pesticides; Manufacture, distribution and possession of marijuana
Region 9	Jose Luis Garcia Villa (Garcia)	FIFRA/Pesticides
Region 9	Jorge Luquin	CWA/Unlawful discharge of pollutants

Two Colorado Companies and Their Owner Sentenced for Improper Asbestos Disposal -- On July 8, 2014, **TRI STATE ENVIRONMENTAL GROUP** and **AFTERMATH CLEANUP & REMEDIATION SERVICES, LLC**, were sentenced to pay fines totaling \$1 million for failing to properly dispose of asbestos containing waste material (ACWM). The total fine will be split evenly between the two asbestos abatement disposal companies. The owner of the companies, **JAMES JOSEPH DURAN**, and the companies were sentenced after all three plead guilty to the crime of causing and contributing to a hazardous substance incident which is a felony under Colorado law. Duran was also sentenced to 500 hours of community service and six years of probation and was ordered to pay \$2,538 in restitution.



Container filled with asbestos material from a Greeley Colorado project was ultimately transported to an authorized disposal facility.

Duran and his companies also violated Colorado Department of Public Health and Environment's (CDPHE) regulations regarding illegal storage of ACWM.

Beginning in 2009, Duran began abandoning ACWM without following the proper safety procedures which caused a series of hazardous substance incidents. Duran and his companies also knowingly violated emissions regulations of the Colorado Air Quality Control Commission. Finally, Duran, Aftermath and Tri State knowingly concealed violations from law enforcement and CDPHE officials.

The case was investigated by EPA's Criminal Investigation Division, the Environmental Crimes Unit of the Colorado

Attorney General's Office, and the CDPHE, all members of the Colorado Environmental Task Force. It was prosecuted by the Colorado Attorney General's office.

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North Carolina Recycling Business and Owner Sentenced for Unlawful Handling of PCB-Contaminated Oil, Tax Violations, and False Statements --On July 16, 2014, **BENJAMIN FRANKLIN PASS**, and **P&W WASTE OIL SERVICES, INC.**, (P&W) of Leland, N.C., was sentenced to 42 months in prison and ordered to pay restitution of more than \$21 million for clean-up costs associated with the environmental contamination at his business and an additional \$539,000 to the Internal Revenue Service for federal income taxes he failed to pay between 2002 and 2011.



Sign at P&W Waste Oil Services, Inc. located next to the transformers where the PCB oil was removed.

The court also ordered P&W Waste Oil Services, Inc. (P&W) to pay restitution of more than \$21 million for losses incurred by Colonial Oil and International Paper as a result of the defendants' mishandling of used oil contaminated with polychlorinated biphenyls (PCB) that led to widespread contamination and millions of dollars in clean-up costs. P&W was also ordered to serve a five-year term of probation and to take remedial action to address the environmental contamination at its facility and other leased property in eastern North Carolina.

Pass owned and operated P&W, which collected, processed and marketed used oil from automotive service stations, transformer repair

companies and marinas. P&W was not authorized to handle or store used oil containing more than two parts per million (ppm) of PCBs, man-made organic chemicals that are known carcinogens. PCBs were commonly used in thermal insulation in electrical transformers and capacitors from 1929 to 1979, when Congress banned their production.

Law enforcement also learned that in 2009 and again in 2010, Pass and P&W falsely certified that its employees had taken requisite training on the handling of hazardous wastes and that, between 2002 through 2011, Pass failed to pay his federal income taxes despite having the ability to pay.

The case was investigated by EPA's Criminal Investigation Division, the IRS's Office of Criminal Investigations, and the U.S. Coast Guard's Criminal Investigative Services. It was prosecuted by Assistant U.S. Attorney Banumathi Rangarajan of the Eastern District of North Carolina and Trial Attorney Shennie Patel of the Justice Department's Environmental Crimes Section of the Environment and Natural Resources Division who are the prosecutors in charge of the case. Assistant U.S. Attorney Norman Acker and the Financial Litigation Unit provided significant support to the prosecution team.



A section of the tank farm at P&W Waste Oil Services, Inc.

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Former Texas Logistics Company Manager Sentenced for Falsifying Shipping Documents -- On July 14, 2014, **RYAN THOMAS**, former Logistics Manager for CES Environmental Services in Houston, Texas, was sentenced in U.S. District Court in Beaumont, Texas, to 12 months' probation, ordered to pay a \$500 fine, and serve 100 hours of community service for falsifying shipping documents related to the transportation of hazardous materials.

Thomas produced manifests that indicated that three tanker truckloads of wastewater originated from CES' Houston plant when in fact, they were produced and shipped from CES' Port Arthur (PACES) plant. The PACES location was placed on a moratorium after a November 3, 2008, accident in which a CES driver was overcome by vapors released during the offloading of wastewater. The disposal facility placed the moratorium on all loads of waste-water from the PACES location until the cause of the accident could be identified and new inbound load testing protocols were agreed to.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Department of Transportation, the Texas Commission on Environmental Quality, the Houston Police Department, the U.S. Department of Labor and the U.S. Coast Guard. It was prosecuted by the Department of Transportation with assistance of Department of Justice's Environmental Crimes Section.

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Port Arthur Chemical and Environmental Services



CES Environmental Services

Montana Rancher Sentenced for Damaging Wetland on Indian Reservation -- On July 9, 2014, **BRENT POWELL**, a St. Ignatius, Montana-area rancher, was sentenced in federal district court for the District of Montana to three years' probation and a \$20,000 fine for violating the Clean Water Act by damaging a wetland on the Flathead Indian Reservation.

Powell operates B.P. Cattle Company on property that includes a wetland complex bordering Sabine Creek and Mission Creek in Lake County, Montana, which are waters of the United States. These wetlands also lie within the Flathead Indian Reservation.

Through investigative interviews and a check of tribal records, EPA's Criminal Investigation Division established that in 2004, Powell failed to submit a Tribal Application for the Alteration of Aquatic Land or Wetland on the Flathead reservation, known as an 87A (ALCO), before he performed work in wetlands along Pistol Creek. As a result of the 2004 Clean Water Act 404 violations, the United States Army Corps of Engineers issued Powell a cease and desist order for the activities on Pistol Creek and Powell was required to remediate the area.

Undeterred, in 2010, Powell again dredged several channels on his property in an effort to drain the wetlands and extend his agricultural land along the Sabine and Mission Creeks. The dredged material was cast off beside the channels and remained within the wetland area. As a result of the work, heavy sediment was observed in the manmade channels, and cloudy water was observed flowing into Sabine Creek from manmade channels.

EPA-CID conducted interviews and reviewed documents that show Powell again failed to submit a Tribal Application for the Alteration of Aquatic Land or Wetland on the Flathead reservation, before he performed work along Sabine Creek.

In March 2010, the United States Army Corp of Engineers, EPA-CID, and Flathead tribal Shoreline Protection Administrator participated in an on-site inspection of the disturbed wetland area; they described the disturbance of wetland and riparian vegetation as very extensive. The disturbance of the wetland area includes approximately seven different areas in which soil was dredged from the wetland area and side-casted along the trenches into waters of the United States.

The case was investigated by EPA's Criminal Investigation Division, the Army Corps of Engineers and the environmental specialists of the Flathead Tribe.

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The affected wetlands border both Sabine Creek and Mission Creek, which flow into the Flathead River within the boundaries of the Confederated Salish Kootenai Tribal reservation.

Mexican Man Sentenced for Involvement in Illegal Toxic Marijuana Cultivation Operation -- On July 28, 2014, **JOSE LUIS GARCIA VILLA (GARCIA)**, of Michoacán, Mexico, was sentenced in federal district court for the Eastern District of California to three years and 10 months in prison for his involvement in a toxic marijuana cultivation operation in the Sequoia National Forest. Garcia was also ordered to pay \$3,328 in restitution to the U.S. Forest Service for damage sustained to public land and natural resources as a result of the cultivation operation.

According to court documents, Garcia conspired to cultivate 8,876 marijuana plants near the Greenhorn Creek Trail in the Sequoia National Forest in Kern County. Native oak trees and other vegetation were cut down to make room for the marijuana planted there. The soil was tilled, and fertilizers and pesticides, including a highly toxic and illegal rat poison from Mexico called Fosfuro de Zinc or zinc phosphide, were spread throughout the site. Exposure to zinc phosphide can cause a variety of ailments, including vomiting, burning sensations, abdominal pain, unconsciousness, and lack of muscle control. If ingested, a small quantity can be fatal to humans. Garcia is subject to deportation after he serves his sentence.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Forest Service, the U.S. Drug Enforcement Administration, the U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), and the Kern County Sheriff's Office. It was prosecuted by Assistant United States Attorney Karen Escobar.

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Smuggled Mexican pesticides involved in this investigation

Production Manager of California Tank Cleaning Company Sentenced for CERCLA Violation -- Production Manager of California Tank Cleaning Company Sentenced for CERCLA Violation

-- On July 24, 2014, **JORGE LUQUIN**, production manager for Pacific Tank Cleaning in San Diego, California, was sentenced in federal district court for the Southern District of California for a CWA violation stemming from an acid spill that occurred at a Pacific Tank Cleaning facility in March 2011. Luquin was sentenced to pay a \$5,000 fine and

will complete a three-year term of probation. Luquin and the company pleaded guilty on February 20, 2014.

In March 2011, a valve on a 275-gallon container of acidic tank cleaning solution caused the tank's contents to leak onto the ground, and into a nearby alley and street. The company admitted that although an employee advised management of the spill, the employee in charge of the facility failed to notify the National Response Center. Luquin knew that the tank had leaked, but made no effort to contain the spill outside the facility. Luquin pleaded guilty to a CWA violation and Pacific Tank Cleaning pleaded guilty to a

CERCLA violation. The company was sentenced to pay a \$50,000 fine, complete a three-year term of probation, and pay \$11,238 in restitution to the San Diego Department of Environmental Health Services.



The cleanup of the acid spill outside Pacific Tank Cleaning, Inc.



Stains on the ground caused by the acid spill

The case was investigated by the U.S. EPA Criminal Investigation Division, the FBI, and the San Diego Department of Environmental Health Service, Hazardous Materials Management Division.

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Former Connecticut Manufacturing Company CEO Pleads Guilty to Violating CWA -- On July 8, 2014, **THOMAS H. FARIA**, the former chief executive officer and president of Faria Limited, LLC, doing business as Sheffield Pharmaceuticals, waived his right to indictment and pleaded guilty in federal district court to a felony violation of the Clean Water Act. As a condition of his guilty plea, Faria resigned from the company on March 7, 2014, and shall have no role in the operations or management of Faria Limited.

Sheffield Pharmaceuticals has a factory in New London, Connecticut, that manufactures a wide range of over-the-counter pharmaceutical creams, ointments and toothpastes. From approximately 1986 to July 2011, Sheffield discharged industrial wastewater from its New London manufacturing operations to the New London POTW without a permit and in violation of Connecticut's approved pretreatment program. The New London POTW discharges to the Thames River in southeastern Connecticut. During this entire time period, Sheffield lacked a pretreatment system at its factory to treat its industrial wastewater prior to discharge to the New London POTW, performed no regular monitoring of its discharges of industrial wastewater, and submitted no monthly monitoring reports to the CT DEEP.

After becoming the company's president and chief executive officer in April 2003, Faria soon learned through his own employees that Sheffield was discharging pollutants, including the toxic metal zinc, in its industrial wastewater without the required permit. Faria also learned that in order to obtain a permit from CT DEEP, the company would have to install, at significant expense, a wastewater pretreatment system that would pretreat its industrial wastewater prior to discharging it to the New London POTW. Although Faria's own employees urged him to make the financial investment to bring the company into compliance, Faria chose not to do so. Faria continued this illegal course even when four environmental consulting firms, which the company had hired, advised him that the discharge of industrial wastewater to the public sewage treatment system, without a pretreatment system and CT DEEP permit, is illegal.

On April 20, 2011, CT DEEP conducted an unannounced inspection of Sheffield. After finding that the company had no wastewater discharge permits, the CT DEEP inspector issued a Notice of Violation and cited the company for discharging manufacturing and laboratory wastewater without a permit. On or about May 27, 2011, Faria Limited, LLC submitted a permit application to CT DEEP so that the company could legally discharge industrial wastewater from its New London facility into the New London POTW. By July 2011, the company had installed a wastewater pretreatment system at its factory to pretreat the pollutants contained in its industrial wastewater prior to its discharge to the New London POTW.

Faria pleaded guilty to one count of knowingly violating, or causing to be violated, the Clean Water Act, an offense that carries a maximum penalty of three years of imprisonment and a fine of not less than \$5,000 but not more than \$50,000 per day of the violation. Sentencing is scheduled for October 6, 2014. The case was investigated by EPA's Criminal Investigation Division and the Connecticut Department of Energy and Environmental Protection. It is being prosecuted by Assistant U.S. Attorney Hal Chen and Special Assistant U.S. Attorney Peter Kenyon.

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Australian Man Pleads Guilty in Las Vegas to Biofuels Fraud Scheme -- On July 22, 2014, **NATHAN STOLIAR** of Australia pleaded guilty to five felonies for his role in multiple schemes worth more than \$41 million, to generate fraudulent biodiesel credits and to export biodiesel without providing biodiesel credits to the United States as required by law. Sentencing for Stoliar has been set for Oct. 30, 2014.

Stoliar and another defendant had been charged in January 2014 in a 57-count indictment alleging conspiracy, wire fraud, false statements under the Clean Air Act, obstruction of justice and conspiracy to engage in money laundering. Stoliar returned to the United States from Poland in early February and pleaded guilty to one count of conspiracy, one count of conspiracy to engage in money laundering, two counts of wire fraud and one count of making false statements under the Clean Air Act. Stoliar is required by the plea to forfeit \$4 million and pay \$1 million in restitution. He faces a maximum sentence of 20 years in prison and a \$500,000 fine for each count of conspiracy to engage in money laundering and wire fraud, five years in prison and a \$250,000 fine for conspiracy, and two years in prison and a \$250,000 fine for making false statements under the Clean Air Act.

The Energy Independence and Security Act of 2007 created a number of federally-funded programs that provided monetary incentives for the production and use of renewable fuels such as biodiesel in the United States. Biodiesel producers and importers can generate and attach credits known as “renewable identification numbers,” or RINs, to the gallons of biodiesel they produce or import. Because companies that sell transportation fuel in the United States need RINs to comply with regulatory obligations, RINs have significant market value.

Stoliar admitted that beginning around September of 2009, he and co-defendant James Jariv operated City Farm Biofuel in Vancouver, British Columbia, which billed itself a producer of biodiesel, using “feedstocks” such as animal fat and vegetable oils. Stoliar and Jariv also formed Canada Feedstock Supply that represented itself as City Farm’s supplier of necessary feedstocks. Jariv also controlled a Las Vegas-based company called Global E Marketing (GEM). Using these three and other closely-held companies, Stoliar and his codefendants claimed to import, purchase and blend more than 4 million gallons of biodiesel. They then sold the RINs and fraudulently generated millions of dollars. In reality, no biodiesel produced at City Farm was ever imported and sold to GEM as claimed. Stoliar and Jariv then conspired to launder the proceeds of their crimes by using foreign banks and complex financial transactions.

The case is being prosecuted by Assistant Chief Wayne D. Hettenbach of the Environmental Crimes Section of the Justice Department’s Environment and Natural Resources Division , Assistant U.S. Attorney’s Crane M. Pomerantz and Daniel D. Hollingsworth of the U.S. Attorney’s Office in Nevada, and Assistant Deputy Chief Darrin L. McCullough of the Justice Department’s Criminal Division, Asset Forfeiture and Money Laundering Section, with the assistance of the Justice Department’s Office of International Affairs and the United States Attorney’s Office for the Southern District of Texas.

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Mexican Man Pleads Guilty to FIFRA Violations -- On July 7, 2014, **HERNAN CORTEZ VILLASENOR (CORTEZ)**, of Michoacán, Mexico, pleaded guilty in federal district court for the Eastern District of California to conspiring to manufacture, distribute and possess with intent to distribute marijuana, and distributing unregistered pesticides, in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In pleading guilty, Cortez also agreed to pay \$3,328 to the U.S. Forest Service for the damage caused by his marijuana cultivation operation in the Greenhorn Creek area of the Sequoia National Forest.

According to court documents, the Greenhorn Creek site sustained extensive damage as a result of the cultivation activities. Native oak trees and other vegetation were cut down or otherwise killed to make room for the 8,876 marijuana plants planted there. The soil was tilled, and fertilizers and pesticides, including Fosfuro de Zinc, a common Mexican rat poison containing zinc phosphide, were spread throughout the site. Law enforcement officers also found 30 containers of Fosfuro de Zinc at Cortez's residence in Arvin, Calif. after Cortez delivered supplies to the cultivation operation. EPA has designated zinc phosphide as a restricted use pesticide, which means that it may only be purchased and used by, or under the supervision of, a certified applicator. Zinc phosphide is banned for residential sale due to its acute toxicity. A single swallow can be fatal to a small child.

Cortez is scheduled for sentencing on September 22, 2014. He faces a mandatory minimum prison term of 10 years and a maximum prison term of life for the drug conspiracy. The pesticide charge carries a maximum penalty of one year in prison and a fine of \$100,000. The actual sentence, however, will be determined at the discretion of the court after consideration of any applicable statutory sentencing factors and the Federal Sentencing Guidelines, which take into account a number of variables. Upon completion of any prison term imposed, Cortez is subject to deportation to Mexico.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Forest Service, U.S. Drug Enforcement Administration, U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), and the Kern County Sheriff's Office.

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