



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.

December 2014

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Defendant Summary

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Two Florida Corporations and Four Residents Sentenced In Connection with Scheme to Unlawfully Sell an Unregistered Pesticide and Obstruct Justice -- On December 5, 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 sentenced in federal district court for the Southern District of Florida for their involvement in a scheme to unlawfully sell an unregistered pesticide and obstruct justice.

New Nautical Coatings, Inc. (New Nautical), which pled guilty to willfully conspiring to obstruct EPA, was sentenced to pay a fine of \$1,235,315.00, that constituted a disgorgement of the unlawful gains the company derived from the offense. New Nautical was also sentenced to a three year period of probation, which requires the company to complete an Environmental Compliance Program during that period of time. David Norrie, who also pled guilty to willfully conspiring to obstruct EPA, was sentenced to five months in prison and six months of home confinement. Erik Norrie, who pled guilty to willfully conspiring to knowingly distribute and sell an unregistered pesticide, was sentenced to three months in prison. Sea Hawk Refinish Line, Inc., who pled guilty to the same conspiracy, was sentenced to probation for one year. Jason Revie and Tommy Craft previously pled guilty to knowingly distributing and selling an unregistered pesticide and were each sentenced to a one year period of probation.

According to the superseding indictment and other court documents, New Nautical manufactured an antifouling coating called Biocop, 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 March 30, 2005, EPA cancelled New Nautical’s registration for Biocop, making it unlawful for the company 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 order, New Nautical continued to produce Biocop for sale in the United States from 2006 through 2009. In order to conceal this post-cancellation production of Biocop, New Nautical employees were directed to change the batch numbers on cans of Biocop, which previously referenced the date of production, to a series of numbers ending in “9999.” During this time period, New Nautical used its sales team and staff, including David Norrie, Erik Norrie, Jason Revie and Tommy Craft, to sell and distribute unregistered Biocop in the Southern District of Florida and elsewhere in the United States, but invoiced those sales through its sister company, Refinish Line. On May 22, 2009, after David Norrie sold 60 gallons of Biocop to a customer in Broward County, Norrie directed the customer to tell EPA investigators that the customer did not have Biocop, and that New Nautical did not sell Biocop. Roughly six months later, in November 2009, EPA and Florida Fish and Wildlife agents and investigators executed a search warrant on New Nautical’s premises, and seized evidence which led to the indictment and conviction of the defendants.

The case was investigated by EPA’s Criminal Investigation Division, EPA’s Office of Inspector General, and the Florida Fish and Wildlife County Commission. It was prosecuted by Assistant U.S. Attorneys Alejandro O. Soto and Maria Medetis.

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Drilling Operator Sentenced for Environmental and Maritime Crimes in Alaska -- On December 19, 2014, NOBLE DRILLING, LLC was sentenced in U.S. District Court in Anchorage for committing eight felony



environmental and maritime crimes arising out of its operation of the drill ship Noble Discoverer and the drilling unit Kulluk. Noble will pay \$12.2 million dollars in fines and community service and serve a four year period of probation during which time it must implement a comprehensive Environmental Compliance Plan. Noble's parent corporation, Noble Corporation plc, headquartered in London, England, will also implement an Environmental Management System for all of its mobile offshore drilling units worldwide. During the 2012 drilling season, the Kulluk and the Noble Discoverer made several port calls in Washington and Alaska on their way to a drilling site in the Chukchi Sea. The Kulluk broke free from its tow in bad weather and ultimately ran aground off the coast of Unalaska. The Noble Discoverer was towed from Dutch Harbor to Seward due to failures with its main engine and other equipment.

This case was investigated by the U.S. Coast Guard Investigative Service and EPA's Criminal Investigation Division and was prosecuted by the Department of Justice's Environmental Crimes Section and the United States Attorney's Office for the District of Alaska.

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The Noble Discoverer

Ohio Mining Company Sentenced For EPA Violations - - On December 16, 2014 **OXFORD MINING COMPANY, LLC (OXFORD)** was ordered to pay \$650,000 in fines and community service for the negligent failure to report violations of the company's permit in connection with its coal mining operations. Oxford was fined \$500,000 and ordered to pay \$150,000 in community service as part of the sentence. The community service payment will be split equally between the Ohio EPA and the National Park Foundation (NPF). The Ohio EPA will use the money to study the watersheds in Southeast Ohio and the NPF will use the money to improve and restore the waterways that are part of the Hopewell Culture National Historical Park, located near Chillicothe, Ohio.

According to Court documents, Mr. Light was the Director of Environmental Compliance for Oxford and as part of his job duties was responsible for reviewing Oxford's environmental compliance, including the submittal of reports to the Ohio EPA. As part of their permit, Oxford is required to report to Ohio EPA permit exceedances once they are discovered.

On numerous occasions between November 2007 and November 2011, Light submitted reports to Ohio EPA that showed sampling results that were in compliance with permit limits, although he knew that the sampling results actually showed violations of the applicable permit limits.

Oxford failed to adequately oversee the activities of Light, including those activities related to the submittal of reports to Ohio EPA. Because of this failure, Oxford was unaware that discharges from its surface mines were in excess of the permitted limits and that Light had submitted false statements to the Ohio EPA.

This case was a joint investigation by the Ohio Bureau of Criminal Investigation, Ohio EPA, the U.S. EPA Criminal Investigation Division and was prosecuted by Assistant U.S. Attorney J. Michael Marous and Special Assistant U.S. Attorney Brad Beeson.

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Toxic Marijuana Grow Nets 10-Year Prison Term --On December 1, 2014, **HERNAN CORTEZ VILLASENOR (CORTEZ)**, of Michoacán, Mexico, was sentenced to 10 years in prison for his involvement in a toxic marijuana cultivation operation in the Greenhorn Creek area of the Sequoia National Forest in Kern County. Cortez was also ordered to pay \$3,328 in restitution to the U.S. Forest Service for the damage caused by his marijuana cultivation operation.

On July 7, 2014, Cortez pleaded guilty 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). According to court documents, Cortez supplied toxic rat poison and other chemicals and materials to support the 8,876 marijuana plants growing on public land. The 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 marijuana plants. 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, California.

The 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.

Upon completion of his prison sentence, Cortez is subject to deportation to Mexico.

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



Smuggled Mexican pesticides involved in this investigation

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Michigan Insurance Agents Plead Guilty In Statewide Fake Insurance Scheme Involving Underground Storage Tanks

--The Environmental Protection Agency and the Federal Bureau of Investigation have uncovered and disrupted a scheme involving the fabrication of insurance certificates by **ALLEN P. CHADDERDON**, of Williamston, Michigan, and **DEAN P. TUCKER**, of Lansing, Michigan. Insurance certificates were sold to owners and operators of underground storage tanks ("USTs") throughout the state of Michigan. The fake documents made it appear that certain USTs were in compliance with laws requiring owners and operators of USTs to demonstrate the ability to clean up any environmental contamination caused by a leaking tank. Two insurance agents in Lansing, Michigan, have pled guilty for their roles in creating and selling fake insurance certificates to owners and operators of USTs.

Federal and state law requires owners and operators of certain underground storage tanks to obtain proof of financial assurance in the event of a release into the environment. Most owners and operators comply with the law by obtaining an annual insurance policy that would cover up to \$1 million in clean-up costs and damages. The fake document scheme, which ran from 2011 to 2013, primarily involved gas stations with underground storage tanks that were either uninsurable due to age or condition, or were expensive to insure due to their age. Rather than replace the aging tanks, UST owners and operators purchased fake insurance certificates created by two Lansing insurance agents that made it appear to federal and state UST inspectors that the USTs were in compliance with the law. In reality, those gas stations had no insurance in the event of a leak.

Immediately upon disrupting the scheme, the EPA and State of Michigan sought to identify which USTs were not in compliance with the financial assurance requirements to mitigate the risk of harm to the environment. Gas stations that failed to present a genuine insurance policy were shut down until the owner or operator demonstrated compliance with the law.

Chadderdon and Tucker pled guilty in federal court to fabricating insurance certificates that they sold to UST owners and operators. Federal law prohibits altering or fabricating documents with the intent to impede, obstruct, or influence the proper administration of any matter that is within the jurisdiction of a federal agency. Both defendants face a maximum of 20 years in prison for the offense, but the Court will determine the sentence after considering the federal sentencing guidelines and the statutory sentencing factors. On December 3, 2014, Allen Chadderdon was sentenced to one day credited as time served, one year supervised release, and a \$20,000 fine. Tucker will be sentenced on March 5, 2015.

The underground storage tank cases are being prosecuted by Assistant U.S. Attorney Christopher O'Connor.

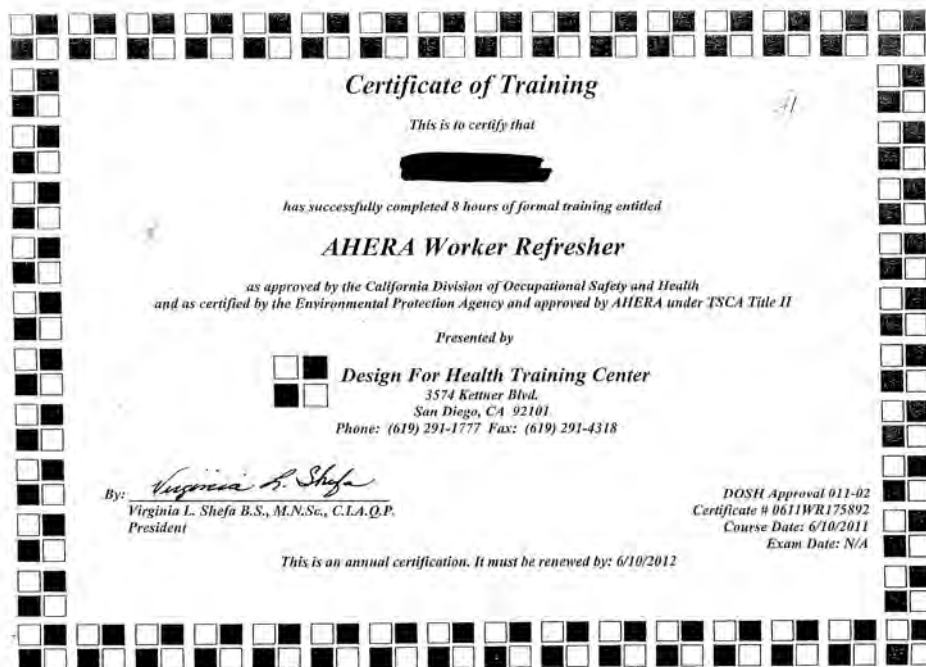
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California Asbestos Removal Trainer Pleads Guilty to Sale of False Certificates --On December 3, 2014, **LACHELLE RENE THROWER** pled guilty to falsifying federal asbestos training certificates, admitting that over a four-year period she falsely certified over a hundred workers as being trained and qualified to safely remove asbestos.

According to court documents, Thrower was employed by an approved provider of asbestos removal training. Any student seeking to be accredited to remove asbestos was required to complete four, eight-hour days of training, and to pass a written examination. Thrower admitted that between May 14, 2010, and August 5, 2014, she falsely certified 100-150 training certificates for asbestos workers who did not actually attend the training courses or take the necessary exam. Thrower kept the money paid by the non-attending trainees, and falsified the certificates by using an electronic signature of the authorized trainer. Her false certifications caused her employer to falsely report to the EPA-delegated agency (Cal/OSHA) that certain individuals had attended the asbestos training and passed the exam. Thrower also admitted that when trainees did actually attend classes and paid in cash, defendant would keep this cash herself instead of providing it to her employer. All told, Thrower caused a financial loss to her employer of between \$10,000 and \$30,000.

Training for asbestos abatement professionals is required under the Asbestos Hazard Emergency Response Act of 1986 (AHERA), as well as the Toxic Substances Control Act (TSCA). Section 206(a) of TSCA prohibits any person from removing asbestos from schools and commercial buildings unless that person has been trained under an EPA-approved program, or a State program accredited by the EPA that has been found to be at least as stringent as the model program developed by the EPA. The EPA has accredited the asbestos training program of the State of California, administered by the Occupational Safety and Health Administration of the State (Cal/OSHA).

Thrower is scheduled to appear before United States District Court Judge Marilyn L. Huff on February 17, 2015, for sentencing.



***One of the federal asbestos training certificates that
Lachelle Rene Thrower falsified.***

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West Virginia Chemical Company Officials Indicted in January Spill--On December 17, 2014, **FREEDOM INDUSTRIES, INC. (FREEDOM), GARY L. SOUTHERN, DENNIS P. FARRELL, WILLIAM E. TIS, CHARLES E. HERZING, ROBERT J. REYNOLDS, MICHAEL E. BURDETTE** were charged with various federal crimes related to the January 2014 Elk River chemical spill in Charleston.

Former Freedom President Gary L. Southern, 53, currently of Marco Island, Florida, along with former Freedom owners and officers Dennis P. Farrell, 58, of Charleston, William E. Tis, 60, of Verona, Pennsylvania, and Charles E. Herzing, 63, of McMurray, Pennsylvania, were indicted by a grand jury sitting at Beckley, West Virginia. Freedom environmental consultant Robert J. Reynolds, 63, of Apex, North Carolina, and tank farm plant manager Michael E. Burdette, 60, of Dunbar, West Virginia, were charged in charging documents known as "informations." Freedom Industries, Inc., was also charged in an information.

Southern is charged with the negligent discharge of a pollutant in violation of the Clean Water Act, negligent discharge of refuse matter in violation of the Refuse Act, and violating an environmental permit. Southern is also charged with wire fraud and various bankruptcy fraud charges. If Southern is convicted of all the charges contained in the indictment, he is exposed to a statutory maximum of 68 years in prison.

Farrell, Tis and Herzing are charged with the negligent discharge of a pollutant in violation of the Clean Water Act, negligent discharge of refuse matter in violation of the Refuse Act, and violating an environmental permit. If Farrell, Tis and Herzing are convicted of all the charges with which they are charged in the indictment, they are each exposed to a statutory maximum of three years in prison.

During the time they were responsible corporate officers for Freedom, Farrell, Tis, Herzing and Southern allegedly approved funding only for those projects that would result in increased business revenue for Freedom, or that were immediately necessary for required equipment maintenance. They allegedly failed to take action to fund other repair and upkeep projects for equipment and systems necessary for environmental compliance at the Elk River facility, including repairing defects in a containment wall, addressing drainage problems in the containment area, and developing and implementing proper protection plans.

Information charges were also filed against Freedom itself, as well as Robert J. Reynolds and Michael E. Burdette. Freedom is charged with the negligent discharge of a pollutant in violation of the Clean Water Act, negligent discharge of refuse matter in violation of the Refuse Act, and violating an environmental permit. Michael Burdette, the former plant manager for the Freedom facility on the Elk River, and Robert Reynolds, also one of the individuals responsible for environmental compliance at Freedom, have each been charged with violating the Clean Water Act.

Charges contained in indictments and informations are merely accusations, and defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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