



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.

March 2015

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Region	Defendants	Case Type/Status
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Region 10	Aaron A. Powless	RCRA/Unlawful transporting of hazardous waste

Former Massachusetts Environmental Inspector Sentenced for Falsifying EPA Reports -- On March 4, 2015, **PAUL RICCO**, of Springfield, Massachusetts, a former state pesticide manufacturing facility inspector, was sentenced in federal district court for the District of Massachusetts to 24 months of probation. In November 2014, he pleaded guilty to 15 counts of making false statements to the U.S. EPA.

From March 2010 through May 2012, Ricco was in charge of the Producer Establishment Inspection program at the Massachusetts Department of Agriculture where he inspected establishments that produce, sell and/or distribute pesticides. During that time period, Ricco submitted 15 false reports of purported inspections that he never performed. Ricco submitted the false reports to the EPA to conceal the fact that he was not performing environmental inspections which he was required to perform. Those inspections were necessary to insure that pesticide manufacturers across the state were producing and packaging pesticides safely.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Assistant U.S. Attorney Carlos A. López.

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West Virginia Woman Gets Prison Sentence for Filing False Water Quality Reports -- On March 26, 2014, **BONITA WITT-HIRD**, of Thorpe (McDowell County), West Virginia, was sentenced in federal district court for the Southern District of West Virginia to one year and one day in federal prison for filing fraudulent water quality reports.

Witt-Hird was formerly employed as the office manager for Richmorr Associates, Inc., an environmental engineering firm in Elkview, West Virginia. Richmorr provides water sampling services to wastewater treatment plants throughout West Virginia. Wastewater plants are required by state and federal law to sample wastewater discharges. The results are submitted to the West Virginia Department of Environmental Protection, which reviews them to ensure compliance with water quality standards. In the event of non-compliance, WVDEP may levy fines or, in extreme cases, shut down the wastewater treatment plant.

In November of 2014, Witt-Hird pleaded guilty admitting that from April of 2012 to June of 2013, she filed approximately 80 false reports with the WVDEP. The false reports made it appear that current water quality sampling had been performed for the wastewater plants when, in fact, the test results had been copied from previous years. Witt-Hird previously plead guilty in September of 2013 to obstructing an IRS investigation and served a one year sentence imposed for that offense.

The case was investigated by EPA's Criminal Investigation Division, the West Virginia Department of Environmental Protection, and the Federal Bureau of Investigation. It was prosecuted by Assistant United States Attorney Erik S. Goes.

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Pennsylvania Man Gets Prison Term for CAA Violation -- On March 9, 2015, **ANTHONY BIELLO II**, formerly of Ambler, Pennsylvania, was sentenced in federal district court for the Eastern District of Pennsylvania to one year and one day in prison for violating the Clean Air Act. Biello failed to notify the city of Philadelphia's Air Management Services division of EPA of the removal of asbestos-containing material from a former church in Philadelphia.

In addition to the prison term, he was also ordered to pay a \$100 fine, restitution to the city of Philadelphia of \$12,000, a \$100 special assessment, and two years of supervised release. The court also ordered that the defendant not work in the asbestos removal industry during the period of supervised release.

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Former church where illegal asbestos removal was conducted by Biello.



Asbestos containing material illegally removed from the former Church.

Texas-Based Energy Company Sentenced for Felony CWA Violation -- On March 4, 2014, **XPLOR ENERGY SPV -1, Inc., (XPLOR)**, an Oklahoma corporation based in Southlake, Texas, was sentenced in federal district court for the Eastern District of Louisiana to serve three years of probation and pay a \$3.1 million monetary penalty for violating the Clean Water Act. The monetary penalty includes payments of \$2.5 million to the



Well site platform and flow lines

United States Treasury, \$600,000 to the Louisiana Department of Environmental Quality Trust Fund. In November 2014, XPLOR pled guilty to one felony count of knowingly discharging produced water in the Breton Sound Area of the Gulf of Mexico.

According to court documents, from on or about November 24, 1997, until November 18, 2011, XPLOR operated the MP 35 offshore facility ("MP 35 Platform"). XPLOR operated the MP 35 Platform for the purpose of extracting oil and natural gas. As part of the oil and gas production, separation and processing, XPLOR was tasked with disposing of the pollutant known as "produced water" or "brine" which is produced with the extracted oil and natural gas. The MP 35 Platform was designed to dispose of this pollutant by forcing the produced water, under pump generated pressure, into disposal/injection wells located in Gulf of Mexico waters near the MP 35 Platform.

In or near November 2011, XPLOR transferred ownership and operation to another corporation. The platform's new owner quickly discovered the platform was continuously discharging produced water containing oil and other harmful substances into the waters of the United States. The new owner immediately contacted regulatory authorities to report the discharge. The ensuing investigation revealed that XPLOR had knowingly discharged produced water containing oil into waters of the United States without any permit from faulty injection lines/pipes leading from the platform to the disposal wells used to store the produced water containing oil, and from produced water



Offshore storage tanks

disposal wells which had insufficient capacity to hold the produced water. Despite knowing of this consistent discharge from the injection lines and the insufficient capacity of their disposal wells, XPLOR failed to adequately repair these faulty injection lines and disposal wells. XPLOR's intentional failure to make these repairs resulted in the repeated discharge of produced water containing oil into the waters of the United States from in or near October 2009, and continuing through to November 18, 2011. XPLOR's actions resulted in a total monetary savings or gain to them in the amount of approximately \$1,550,000.

The case was investigated by EPA's Criminal Investigation Division and the Criminal Investigation Division of the Louisiana Department of Environmental Quality. It was prosecuted by Assistant United States Attorney Emily K. Greenfield.

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Oregon Man Convicted For Unlawfully Transporting Hazardous Waste -- On March 20, 2015, **AARON A. POWLESS**, of Klamath Falls, Oregon, was sentenced for a felony violation for unlawfully transporting hazardous waste.



Hazardous waste illegally transported in this trailer by Powless.

He had previously pled guilty to the charge on December 2, 2014. Powless was sentenced to five years of probation and 90 days in the county jail. As conditions of probation, he was ordered to pay the maximum fine available of \$100,000 to Siskiyou County. Also as conditions of probation, Powless was ordered to pay a civil penalty of \$28,400.00 that he had previously agreed to pay in 2011 as part of a settlement with the Oregon DEQ for related violations that occurred in Oregon. The Oregon civil penalty included paying a fine to Oregon DEQ in the amount of \$5,680.00, and the completion of a Supplemental Environmental Project.

In 2007, Powless was informed by the Oregon Department of Environmental Quality (DEQ) that he must properly dispose of a large amount of hazardous materials and waste he had taken control of in 2006. By then the waste materials had been stored in his warehouse, from which he ran a roofing business in Klamath Falls. Rather than comply, Powless loaded 29,000 pounds of hazardous waste into two of his large tractor trailers. The hazardous waste included numerous materials, among them flammable liquids and solids, acids, peroxides, oxidizers, and alkalis. These were mostly stored in containers of five gallons or less. Without any permits or licenses to transport hazardous materials or waste, Powless moved the hazardous waste across state lines into Tullake, California. The hazardous waste then remained in the tractor trailers on Main Street in Tullake for over a year before being discovered.

Government officials visited the site in September, 2008 with Powless. There they were shocked to find flammable and explosive materials loaded haphazardly onto the trucks with no separation of incompatible wastes. Some had leaked from their containers. Testing later confirmed that tons of these chemicals had been comingled.

The city of Tullake immediately evacuated the nearest residence, cordoned off the site, and initiated a patrol around the clock until the waste was removed. The next day the City Council declared a local emergency due to the “immediate and significant threat to the children and the citizens of the community.” The site was quickly cleaned by specially trained and licensed contractors, at taxpayer expense.

The case was investigated by EPA’s Criminal Investigation Division and the California Department of Toxic Substances Control (DTSC), with assistance from the Siskiyou County Environmental Health Division, and the Tullake Police Department. It was prosecuted by Deputy District Attorney Martha Aker.



Trailers used by Powless (top) and state inspectors conducting inventory/sampling operations (bottom).

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Mining Official Pleads Guilty in Alaska to Making Illegal Discharges from Mine and for Making False Statements to Federal Officials

-- On March 4, 2015, **ROBERT PATE**, of Spokane, Washington, a former general manager of the Platinum Creek Mine in Platinum, Alaska, pleaded guilty in federal district court for



the District of Alaska to three felony violations of the federal Clean Water Act. According to the plea agreement, the United States will recommend a sentence that will include both imprisonment and home confinement. Pate also agreed to pay a \$10,000 fine.

Pate admitted to knowingly discharging wastewater from the Platinum Creek mine into Platinum/Squirrel Creek, without a Clean Water Act permit, knowingly violating the conditions of XS Platinum Inc.'s CWA permit for discharges to the Salmon River and falsely reporting to the Alaska Department of Environmental Conservation in the 2010 Annual Report for placer mining at the Platinum Creek Mine that there was "no discharge" during 2010, a statement Pate knew to be false.



Turbid process water from placer mining at the Platinum Creek mine was illegally discharged into Platinum/Squirrel Creek.

Pate was XS Platinum Inc.'s general manager and a senior member of its office staff in Seattle from February 2010 to June 2012. According to the plea agreement, Pate documented unpermitted discharges of turbid effluent process water into the Salmon River beginning on July 3, 2010. Turbid process water from the placer mining at the Platinum Creek Mine contained pollutants such as suspended particles and sediments and may have also included waste such as dissolved metals that posed a potential threat to aquatic life. After documenting the first discharges of turbid effluent process water, Pate

supervised the construction of a ditch to divert the effluent directly into nearby Squirrel/Platinum Creek, also without a permit. Turbid discharges, which XS Platinum Inc. never reported to regulators as required, continued into the Salmon River for much of the remaining season. When Pate filed XSP's annual water quality report in January 2011, he falsely wrote that the Platinum Creek Mine had experienced no discharges in 2010. The discharges continued in 2011.

The investigation is being conducted by EPA's Criminal Investigation Division and the U.S. Department of Interior Bureau of Land Management Office of Law Enforcement. It is being prosecuted by First Assistant U.S. Attorney Kevin Feldis of the U.S. Attorney's Office of the District of Alaska, Trial Attorney Todd S. Mikolop of the U.S. Justice Department's Environmental Crimes Section and U.S. EPA Regional Criminal Enforcement Counsel Dean Ingemanson.

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Michigan Resident Pleads Guilty to Conspiracy to Violate Customs and Environmental Laws Regarding Export of E-Waste

-- On March 13, 2015, **LIP BOR NG**, also known as Paul Wu, a Michigan resident, pleaded guilty in federal district court for the Eastern District of Michigan to a one-count conspiracy information, which charged him with conspiring with others to knowingly submit false and misleading export information to the United States, to fraudulently and knowingly export electronic waste in violation of United States law, and to exporting hazardous waste without filing a notification of intent to export with EPA. Ng faces a maximum sentence of five years imprisonment and a \$250,000 fine. Sentencing is set for July 14.

According to the charges in the information, Ng submitted fraudulent export information to the Automated Export System, an electronic database maintained by the U.S. Customs and Border Protection, on two occasions in 2011. He falsely declared the commodities as plastic and metal scrap, when, in fact, they contained various types of used electronics and computer components, including cathode-ray tube (CRT) monitors. CRT monitors can be considered hazardous waste under certain conditions and thus their export is regulated by EPA.

Anyone who exports unusable, hazardous CRT monitors must file a notification of intent to export CRT monitors and must also receive permission from the receiving country, in this case, China and Hong Kong, to allow import into that country. Ng did not file the appropriate notification, or receive permission from China and Hong Kong to export the CRT monitors.

The case is being investigated by EPA's Criminal Investigation Division, the U.S. Immigration and Customs Enforcement's Homeland Security Investigations, the U.S. Department of Commerce, and the U.S. Postal Inspection Service. It is being prosecuted by the Department of Justice, Environmental Crimes Section, Trial Attorney Jennifer Leigh Blackwell, the United States Attorney's Office for the Eastern District of Michigan, Assistant U.S. Attorney Lynn Dodge, as well as EPA Regional Criminal Enforcement Counsel Dave Taliaferro.

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West Virginia Manufacturer and Executives Plead Guilty to Environmental Crimes -- On March 16, 2015, **WILLIAM E. TIS**, and **CHARLES E. HERZING**, former owners, officers, and directors of Freedom Industries, Inc., pleaded guilty in federal district court for the Southern District of West Virginia to an environmental crime in connection with the January 2014 Elk River chemical spill. Both men pleaded guilty to causing the unlawful discharge of MCHM into the Elk River without a permit. Sentencing is set for June 22, 2015. Both men were charged with negligent discharge of a pollutant into navigable water, causing unlawful discharge of refuse matter into navigable water, and negligent violation of permit condition.



Officials inspecting the Elk River.

On March 18, 2015, **MICHAEL E. BURDETTE** and **ROBERT J. REYNOLDS**, both former Freedom Industries officials, pleaded guilty in federal district court for the Southern District of West Virginia to environmental crimes in connection with the January 2014 Elk River chemical spill. Both men pleaded guilty to negligently discharging MCHM into the Elk River without a permit. Sentencing is set for June 24, 2015.

On March 23, 2015, **FREEDOM INDUSTRIES** pleaded guilty in federal district court for the Southern District of West Virginia to three environmental crimes in connection with the January 2014 Elk River chemical spill. Freedom, which owned and operated the facility from which the chemical MCHM spilled into the river, pleaded guilty to negligent discharge of a pollutant, the unlawful discharge of refuse, and violating a permit condition. Sentencing of the company is scheduled for June 29, 2015.

The case is being investigated by EPA's Criminal Investigation Division and the FBI.

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On the Elk River.

Ohio Man Pleads Guilty to Violating CAA After Storing Garbage at Old Factory -- On March 24, 2015, **CHRISTOPHER GATTARELLO**, of Cleveland, Ohio, pleaded guilty in federal district court for the Northern District of Ohio to fraud, money laundering and violating the Clean Air Act by failing to remove asbestos prior to demolishing a former factory in Cleveland. Gattarello admitted to defrauding a Louisiana company out of nearly \$1.2 million, he pleaded guilty to one count each of conspiracy to commit wire fraud and money laundering. He is scheduled to be sentenced June 19.

Gattarello owned and controlled several municipal garbage-hauling businesses in greater Cleveland, including Reach Out Disposal, All Points Rubbish Disposal and Axelrod Rubbish Recycling. In June 2011, on behalf of All Points, he 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, company officials 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 the 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, Gattarello directed the demolition to begin. 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.

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.

In 2011 and 2012, Robert 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 court documents. Shaw’s case is pending.

The case was investigated by EPA’s Criminal Investigation Division, the FBI, the Ohio Environmental Protection Agency, 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.

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Missouri Man Indicted for Asbestos-Related CAA Violations -- On March 26, 2015, **DANIEL T. WRIGHT**, of Harrisburg, Missouri, was indicted in federal district court for the Eastern District of Missouri for failing to properly dispose of asbestos from a former school building in Owensville, Missouri. According to the indictment, in August 2013 Wright was contracted to remove and properly dispose of asbestos from the former school building for \$104,000. Wright solicited and received a verbal bid for asbestos abatement and disposal from GEHM Environmental for \$86,000. However, Wright ultimately decided to employ workers who were not licensed or trained to work with asbestos to complete the abatement. The crew was mostly comprised of local people, including high school students.

After being advised by the City of Owensville that he needed to obtain a demolition permit, Wright obtained a demolition package, which included a notice that demolitions needed to comply with all state and federal guidelines and required notifications. A demolition permit was granted by the city of Owensville. The day after receiving the permit, the project was shut down by the Owensville Police Department after having received complaints from local citizens. The indictment alleges that Wright continued unpermitted demolition activities and asbestos removal at the building even after being informed by the city that the building contained asbestos and that demolition activities were banned. Wright failed to ensure that the asbestos insulation was deposited at an approved waste disposal site. Instead, Wright had the untrained workers dispose of the material in large boxes that remained on the property and in rented dumpsters that sat behind the school.

The case was investigated by EPA's Criminal Investigation Division, the Missouri Department of Natural Resources, and the Owensville Police Department. It is being prosecuted by U.S. Attorney Dianna Collins. Charges set forth in an indictment are merely accusations and do not constitute proof of guilt. Every defendant is presumed to be innocent unless and until proven guilty.

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South Dakota Man Indicted on Multiple Charges of Falsely Representing Water Pollution Control Measures

-- On March 24, 2015, **GREG V. MOHR**, of Pierre, South Dakota, was indicted in federal district court for the District of South Dakota with 10 misdemeanor counts of false representation filed or maintained for water pollution control, the maximum penalty of which is one year imprisonment in a county jail and/or a \$2,000 fine. Charges stem from actions taken while Mohr was employed at the city of Pierre's water treatment plant.

The case is being investigated by EPA's Criminal Investigation Division. It is being prosecuted by the Attorney General's Office. Mohr is presumed innocent until such time as proven guilty.

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