



# 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 2014**

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# Defendant Summary

Region	Defendants	Case Type/Status
Region 2	<a href="#">Tonawanda Coke Corporation,</a> <a href="#">Mark L. Kamholz</a>	CAA & RCRA/Releasing benzene into air through un-reported pressure relief valve, disposing of hazardous waste without a permit, obstruction of justice
Region 4	<a href="#">Steven A. Murray, Bio-Tech Management, Inc.</a>	FIFRA/Conspiracy, unlawful use of pesticides, false statements, mail fraud
Region 4	<a href="#">Robert Lewis</a>	RCRA/Unlawful storage of hazardous waste
Region 5	<a href="#">Benedict W. Lupo</a>	CWA/Discharging brine into river tributary
Region 6	<a href="#">Robbie Mouton</a>	CWA/Negligent discharge of pollutants into river



## Defendant Summary

Region	Defendants	Case Type/Status
Region 9	<a href="#">Patrick Bowman, Rudolph Buendia III</a>	CAA/Violating the asbestos work-practice standards of the National Emissions Standards for Hazardous Air Pollutants
Region 10	<a href="#">Brandon Traner</a>	CWA/Abandonment of derelict vessel and discharging pollutants into state waters
Region 10	<a href="#">North Pacific Seafoods</a>	CWA/Illegal dumping of ammonia into city sewer system
Region 10	<a href="#">Stanley Xu, Longwell Company</a>	CAA/Exposing residents and workers to airborne asbestos

**Fish Processor Sentenced in Alaska for Illegal Dumping of Ammonia into City Sewer System** -- On March 11, 2014, **NORTH PACIFIC SEAFOODS** was sentenced in federal district court for the District of Alaska to three years of probation, and \$205,000 in criminal penalties, \$55,000 of which is to be directed to the city of Kodiak for hazardous waste response training and equipment for sewer and fire department employees. North Pacific Seafoods pled guilty to a charge of illegal dumping of ammonia into the Kodiak city sewer. The terms of probation also require that North Pacific Seafoods comply with an Environmental Compliance Plan that includes, among other things, training for all employees at all five facilities in Alaska regarding proper handling of hazardous wastes and specifically ammonia.



*Alaska Pacific Seafoods Facility*

North Pacific Seafoods is a Seattle, Washington corporation, which is a subsidiary of Marubeni, a Japanese corporation. North Pacific Seafoods owns five seafood processing facilities throughout Alaska, including Alaska Pacific Seafoods, located in Kodiak, Alaska.

According to the assistant U.S. attorney, on November 29, 2011, North Pacific Seafoods' employees at its Alaska Pacific Seafoods facility dumped approximately 40 pounds of ammonia waste from its refrigeration system into the Kodiak city sewer. The ammonia odor was detected by employees at the sewage

plant for Kodiak. The Kodiak Fire Department was asked to help locate the source of the ammonia.

The chief engineer for the Alaska Pacific Seafoods facility at first denied discharging the ammonia when asked about the ammonia odor. Sewer employees then traced the discharge back to the Alaska Pacific Seafoods facility, at which time the chief engineer admitted to the discharge. The discharge of the ammonia by the Alaska Pacific Seafoods facility wiped out the secondary treatment at the sewer system and caused the sewer system to violate its Clean Water Act permit.

A joint investigation by EPA and the Alaska Department of Environmental Conservation determined that the facility had been discharging ammonia into the St. Paul Harbor before and after the sewer incident in violation of its Clean Water Act permit. North Pacific Seafoods disputes the illegality of the ammonia discharges into St. Paul Harbor that occurred prior to the entry of its guilty plea but agrees that in the future such discharges will be prohibited.

The chief engineer who directed the discharge at the Alaska Pacific Seafoods facility, Bill Long, is scheduled to be arraigned in state court on March 14, 2014, on a charge of violating the permit regulated by the Alaska Department of Environmental Conservation.

The case was investigated by EPA's Criminal Investigation Division and the Alaska Department of Environmental Conservation.

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**Georgia Hazardous Waste Transporter Sentenced** -- On March 20, 2014, **ROBERT LEWIS**, of Atlanta, Georgia, was sentenced in federal district court for the Middle District of Georgia to serve 10 months in federal prison for unlawful storage of hazardous waste.

Lewis entered a guilty plea to the charges on September 26, 2013. In his plea agreement, Lewis admitted that he owned and operated a waste hauling business under the name of Simple Solutions, Inc. From about May 2007 until April 2008, Lewis transported hazardous waste, generated by a local manufacturing plant, to a licensed disposal facility.

On February 26, 2009, forty 55-gallon drums and sixteen 275-gallon totes of this hazardous waste material were found to be improperly stored at a self-storage facility in Macon, Georgia. The units had been rented by Lewis in July 2007. Lewis rented four additional units in August 2007. It was also determined that Lewis had improperly stored hazardous waste, including highly flammable solvents and highly toxic cyanide wastes, in Rex, Georgia, and at his home in Albany, Georgia.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Assistant United States Attorney Paul C. McCommon III.

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*Totes of hazardous waste found inside storage units at Bass at Wesleyan self storage, Macon, Georgia. Storage units were initially rented by Robert Lewis and then opened due to lack of rent payment.*



*Assessment and removal of hazardous waste Lewis illegally stored inside storage unit 34 at Bass at Wesleyan self storage.*



*Hazardous waste tote and drum found inside a storage unit.*

**New York Coke Company and Manager Sentenced for CAA and RCRA Violations** -- On March 19, 2014, **TONAWANDA COKE CORPORATION** was sentenced in federal district court for the Western District of New York to pay a \$12.5 million penalty and \$12.2 million in community service payments for criminal violations of the Clean Air Act and the Resource Conservation and Recovery Act. Tonawanda was convicted by a federal jury in March 2013 on 11 counts of violating the CAA and three counts of violating the RCRA.



*Storage tank that was dismantled for scrap metal and released coal tar sludge material that tested positive for benzene.*

The fine is one of the largest fines ever levied in an air pollution case involving a federal criminal trial. The community service payment will go to fund an epidemiological study and an air and soil study to help determine the extent of health and environmental impacts of the coke facility on the Tonawanda community.

In addition, Tonawanda Coke Environmental Control Manager, **MARK L. KAMHOLZ**, of West Seneca, New York, who was convicted of 11 counts of violating the CAA, one count of obstruction of justice and three counts of violating the RCRA, was sentenced to one year in prison, 100 hours of community service, and a \$20,000 fine.

According to evidence presented at trial, Tonawanda Coke released coke oven gas containing benzene into the air through an unreported pressure relief valve. In addition, a coke-quenching tower was operated without baffles, a pollution control device required by TCC's Title V Clean Air Act permit designed to reduce the particulate matter that is released into the air during coke quenches.

In addition, prior to an inspection conducted by EPA in April of 2009, Kamholz told another TCC employee to conceal the fact that the unreported pressure relief valve, during normal operations, emitted coke oven gas directly into the air, in violation of the TCC's operating permit.

The defendants also stored, treated and disposed of hazardous waste without a permit to do so, in violation of the Resource Conservation and Recovery Act. These offenses related to TCC's practice of mixing its coal tar sludge, a listed hazardous waste that is toxic for benzene, on the ground in violation of hazardous waste regulations.

The sentences are the culmination of an investigation on the part of EPA's Criminal Investigation Division and the New York State Department of Environmental Conservation Police's Bureau of Environmental Crimes Investigation. It was prosecuted by Assistant U.S. Attorney Aaron J. Mango of the Western District of New York and Senior Trial Attorney Rocky Piaggione of the Environmental Crimes Section in the Justice Department's Environment and Natural Resources Division.

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*Coal tar concrete pad where decanter tank tar sludge (K087 - listed hazardous waste) should have been mixed with coal prior to placing the mixture into the coke oven battery.*



*East Quench Tower that required the installation of baffles for particulate emission control per the Title V air permit.*



**Washington Apartment Complex Owner, Company Sentenced to Prison for CAA Violations** -- On March 13, 2014, **STANLEY XU**, the owner of a Kent, Washington, apartment complex, was sentenced in federal district court for the Western District of Washington for violating the Clean Air Act by exposing residents and workers to airborne asbestos to 15 months in prison, 90 days of home confinement and ordered to make a \$75,000 community service payment to the National Environmental Education Foundation. Xu's company, **LONGWELL COMPANY**, was fined to \$159,850 and placed on five years of probation to ensure it complies with all environmental regulations. The defendants pleaded guilty in October 2013 for failing to protect residents of the Avante Apartments in Kent from asbestos exposure following a pipe rupture in December 2009. Xu knew the ceiling material that rained into the apartments contained asbestos, but still hired a clean-up contractor who took no steps to protect the apartment residents or workers hired to clean up and dispose of the hazardous waste.

According to records filed in the case, in 2006 EPA filed complaints against Xu for lead paint contamination at another apartment complex he owns. In 2007, he was cited by the Washington State Department of Labor and Industries for failing to do an asbestos survey before construction work at another complex. At a hearing in November 2009, Xu stated he understood the code and that popcorn ceiling material contains asbestos. Despite those statements, less than a month later when the pipes burst, he took no steps to ensure the asbestos material that fell into the apartments was disposed of properly. In fact, after Xu's guilty plea in October 2013, he again failed to protect tenants and workers from airborne asbestos during another apartment repair project.



*One of the apartments with asbestos contaminated ceiling material that Xu failed to dispose of properly.*

The community service payment in this case goes to the National Environmental Education Foundation, a Congressionally mandated foundation established and dedicated to advancing environmental education.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Assistant United States Attorney Kathryn K. Frierson and Special Assistant United States Attorney Karla G. Perrin with the EPA.

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**California Men Sentenced for Asbestos Abatement Violations at Former Air Force Base** -- On March 31, 2014, **PATRICK BOWMAN**, of Los Banos, California, and **RUDOLPH BUENDIA III**, of Planada, California, were sentenced in federal district court for the Eastern District of California for violating the asbestos work-practice standards of the National Emissions Standards for Hazardous Air Pollutants. Bowman was sentenced to 27 months in prison and Buendia to 24 months in prison. Another defendant, **JOSEPH CUELLA**, is currently scheduled to be sentenced on June 16, 2014. A restitution hearing as to all three defendants is also scheduled for June 16.

According to court documents, Joseph Cuella was the administrative manager of Firm Build Inc., Patrick Bowman was its president, and Rudolph Buendia was its construction project site supervisor. From September 2005 to March 2006, Firm Build operated a demolition and renovation project in the former Castle Air Force Base in Atwater, California. They were to turn Building 325 into a mechanic training center for the Merced County Board of Education. The defendants hired local high school students from the Workplace Learning Academy in Merced to perform some of the renovation.

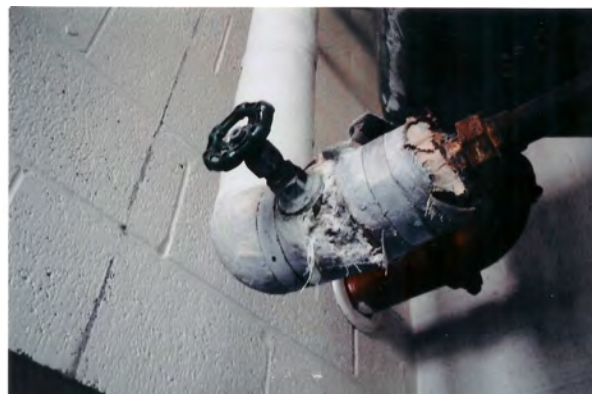
According to court documents, the students and other employees removed and disposed of approximately 1,000 linear feet of pipe insulation and additional tank insulation which the defendants knew contained regulated asbestos-containing material without utilizing proper protective equipment (in the form of Tyvek suits, full-face respirators, bootie or footwear coverings, gloves, hair hoods or caps, and shower equipment) or taking protective measures (wetting the asbestos containing materials, sealing the asbestos debris in secure plastic bags, using negative air pressure in the building) in violation of federal law. Asbestos became airborne during this illegal asbestos abatement. In performing the asbestos abatement project in this manner, defendants knowingly exposed Firm Build employees, Workplace Learning Academy students, as well as other subcontractors and their employees to hazardous airborne asbestos.

The case was investigated by EPA's Criminal Investigation Division, assisted by the California EPA, the investigations bureau of the Merced County District Attorney, and the California Department of Justice. It was prosecuted by Assistant United States Attorneys Samuel Wong and Melanie Alsworth.

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***Regulated asbestos containing material pipe insulation debris.***



***Regulated asbestos containing material wrapped steam pipe attached to a heater suspended from the ceiling.***



***Garbage bags with regulated asbestos containing pipe insulation.***



**Former Owner of Ohio Company Pleads Guilty to Discharging Brine into Mahoning River** -- On March 24, 2014, **BENEDICT W. LUPO**, of Poland, Ohio, the former owner of a Youngstown, Ohio-based company, pleaded guilty in federal district court for the Northern District of Ohio to violating the Clean Water Act by discharging brine into a tributary of the Mahoning River. Lupo is scheduled to be sentenced on June 16. The



***The storm sewer outfall in which Lupo directed an employee to discharge waste liquid. The outfall ultimately flows into the Mahoning River.***

conduct took place between November 1, 2012, and January 31, 2013, according to court documents.

According to the indictment and related court documents, Hardrock Excavating LLC was owned by Lupo and located in Youngstown. The company provided services to the oil and gas industry in Ohio and Pennsylvania, including the storage of brine and oil-based drilling mud used in hydrofracturing, or fracking. There were approximately 58 mobile storage tanks at the facility and each holds approximately 20,000 gallons.

Lupo directed an employee to empty some of the waste liquid stored at the facility into a nearby wastewater drain on or about November 1, 2012. Lupo directed

the employee to conduct this activity only after no one else was at the facility and only after dark. At the direction of Lupo, an employee emptied some of the waste liquid at the facility into the nearby stormwater drain using a hose on numerous occasions over the next several months. The drain flowed into a tributary of the Mahoning River and ultimately into the Mahoning River.

The last time an employee emptied some of the waste liquid into the drain was on or about January 31, 2013. The waste liquid that night included brine and drill cuttings. A sample of the discharge taken that night was black in color and a subsequent analysis showed the presence of several hazardous pollutants, including benzene and toluene.

The statutory maximum for violating the Clean Water Act for individuals is three years in prison, one year of supervised release and a fine of \$50,000 per day of violation or \$250,000, whichever is larger. Michael Guesman, of Cortland, Ohio, previously pleaded guilty to his role in the crime and has been sentenced to three years of probation and 300 hours of community service. The criminal case against Hardrock Excavating LLC remains pending.

The case was investigated by EPA's Criminal Investigation Division, the Ohio EPA, Ohio Department of Natural Resources, the Ohio Bureau of Criminal Investigation, the Youngstown Department of Public Works and the Youngstown Fire Department. It is being prosecuted by Special Assistant U.S. Attorney Brad Beeson.

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**Louisiana Company Owner Pleads Guilty to Negligently Discharging Pollutants into River** -- On March 12, 2014, **ROBBIE MOUTON**, of Youngsville, Louisiana, pleaded guilty in federal district court for the Western District of Louisiana to one count of negligent discharge of pollutants. He faces a year in prison, a year of supervised release, and a fine of \$2,500 to \$25,000 per day of the violation or \$100,000, whichever is greater. No sentencing date was set.

According to evidence presented at the guilty plea, Mouton, who owns Robbie's Gauging Service, Inc. of Youngsville and is its principal gauger, negligently discharged a mixture of produced water and crude oil into the Vermilion River during the period January 6, 2009 to January 19, 2009, at an oilfield exploration site in Milton, Louisiana. Mouton admitted that the discharge took place without a permit.

The case was investigated by EPA's Criminal Investigation Division, the Louisiana Department of Environmental Quality-Criminal Investigations Division, and the Louisiana State Police-Emergency Services Unit. It is being prosecuted by Assistant U.S. Attorney Daniel J. McCoy.

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*Oil contamination along slough*



*Source of oil and produced waters that were discharged*



# Plea Agreements

**Alabama Pest Control Company and Its Owner Plead Guilty to Unlawful Application of Pesticides at Georgia Nursing Homes** -- On March 14, 2014, **STEVEN A. MURRAY**, of Pelham, Alabama, and his company, **BIO-TECH MANAGEMENT, INC.**, pleaded guilty in federal district court for the Middle District of Georgia to charges of conspiracy, unlawful use of pesticides, false statements and mail fraud in connection with the misapplication of pesticides in Georgia nursing homes.

According to the plea agreement, from October 2005 to June 2009, Murray and Bio-Tech provided monthly pest control services to nursing homes in Georgia by spraying pesticides in and around their clients' facilities. Bio-Tech employees routinely applied the pesticide Termidor indoors, contrary to the manufacturer's label instructions. After the Georgia Department of Agriculture made inquiries regarding Bio-Tech's misuse of Termidor and other pesticides, Murray directed several of his Bio-Tech employees to alter company service reports with the intent to obstruct an investigation.

The case was investigated by EPA's Criminal Investigation Division. Inquiries about it should be directed to Pamela Lightsey, United States Attorney's Office for the Middle District of Georgia.

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*Georgia Department of Agriculture Inspector taking samples to be tested for the presence of Termidor inside the nursing homes.*



### **Washington Fishing Trawler Owner Charged with Abandoning Vessel and Discharging Pollutants into State Waters**

-- On March 5, 2014, **BRANDON TRANER**, owner of the *M/V Forus*, a former salmon fishing trawler, was charged in Benton County, Washington, District Court with abandoning his sunken vessel and of discharging polluting matters into state waters, namely, the Columbia River near Finley, Washington, in July 2013. This is the first state-initiated derelict vessel prosecution in Eastern Washington. The charges carry a maximum of 364 days in jail or a \$10,000 fine plus restitution and assessments.

The state alleges Traner was evicted from the Columbia Marine Center in Pasco in July 2013. According to the affidavit of probable cause, he asked his friend, Lyle Aylett, to pilot the Forus to the Hat Rock Marina in Oregon. Aylett told the investigator, the vessel began taking on water in the middle of the navigation channel, forcing him to abandon it and swim to safety.

According to the affidavit of probable cause, the Forus sank in the middle of the Columbia River in approximately 40 feet of water. The vessel reportedly carried 50 gallons of diesel and eight gallons of motor and hydraulic oils. Court documents state the masts posed a threat to passing barges and vessels in that well-trafficked area.

In the investigation, the EPA Region 10 On-Scene Coordinator reported contacting Traner to remove the vessel. Traner reportedly said he did not have the resources or insurance to respond or remove it. Due to difficulties in lifting the vessel from the bottom of the river, the state alleges it took more than a month to remove the Forus from the river. The removal effort prevented the potential release of an additional 159 gallons of fuel. The Forus was then taken to the Port of Pasco for storage until it was eventually dismantled and sent for disposal. The state has spent more than \$100,000 in cleanup and recovery costs.

The case was investigated by EPA's Criminal Investigation Division.

The charges contained in the affidavit of probable cause are only allegations. A person is presumed innocent unless and until he or she is proven guilty beyond a reasonable doubt in a court of law.

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