



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. To subscribe to this monthly bulletin you may [sign up for email alerts](#) on our publications page. Unless otherwise noted, all photos are provided by EPA-CID.

January—February, 2023

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Former Owner and CEO/CFO of Recycling Company Sentenced to 33 Months for Federal Tax Crime Related to Recycling Business

Co-Defendant Pleads Guilty to Charges Related to Illegal Storage of Leaded Glass

On February 21, 2023, Kevin Shibilski, 61, of Merrill, Wisconsin was sentenced to 33 months in federal prison, followed by three years of supervised release, for failure to pay \$858,101 in employment taxes to the IRS for tax years 2014-2016. On May 16, 2022, Shibilski pleaded guilty to failing to pay overdue employment taxes to the IRS from Pure Extractions Inc. and Wisconsin Logistics Solutions LLC.

Shibilski's co-defendant, Bonnie Dennee, pleaded guilty to conspiracy to defraud the United States, relating to 5R's illegal storage of leaded glass. On January 26, 2021, Dennee was sentenced to five months in prison. Shibilski's co-defendant, James Moss, also pleaded guilty to conspiracy to defraud the United States relating to 5R's illegal storage of leaded glass, as well as conspiracy involving the failure to pay over 5R's employment taxes. On November 23, 2020, Moss was sentenced to 18 months in prison.

Shibilski was a minority owner and CEO/CFO of 5R Processors (5R), which had locations in Ladysmith, Catawba, Glen Flora, Wisconsin, and Morristown, Tennessee. 5R was involved in the recycling of electronic equipment and other assets. Pure Extractions Inc. (Pure Extractions) was created by Shibilski in June 2014 to handle 5R's recycling operations. Pure Extractions took on all of 5R's recycling customers, warehouses and equipment, income flows from recycling, most of 5R's recycling employees, but none of 5R's debts. Wisconsin Logistics Solutions LLC (Wisconsin Logistics) was created by Shibilski in February 2015 to handle 5R's trucking and logistics operations. Wisconsin Logistics took on most of 5R's trucks and equipment, drivers, dispatchers, pick-up routes, licenses, and all of 5R's income flows from trucking and logistics, but again, none of 5R's debts.

At sentencing, the judge found that the government presented overwhelming evidence showing that Shibilski had been in charge of 5R's operations and finances since March 2013 and had been the primary decision-maker on which bills to pay and not pay, including not paying the employment taxes for 5R, Pure Extractions and Wisconsin Logistics. Judge Peterson found that Shibilski had not sincerely accepted responsibility for his actions, noting that Shibilski kept blaming everybody else, including the IRS, his co-defendants, and other 5R employees for the nonpayment of the employment taxes. Judge Peterson added that as the CEO/CFO and part-owner of 5R, Shibilski was the person who was in charge at 5R, which had a brother-sister relationship with Pure Extractions and Wisconsin Logistics.

The judge also explained that a sentence of imprisonment was necessary in order to send a deterrence message to two groups: 1) Business owners who willfully fail to pay their employment taxes and need to know their actions will have consequences and they will go to federal prison; 2) The general public, who needs to know that prison is not just for the impoverished or drug dealers, and that people who willfully fail to pay the IRS and use the tax funds for other purposes, will go to prison.

As part of the plea agreement, Shibilski agreed to pay monies towards the remediation of the leaded glass storage sites for 5R in Wisconsin and Tennessee in the amount of: (1) \$100,000 to the Wisconsin Department of Natural Resources, and (2) \$100,000 to Paint Oak LLC, Knoxville, Tennessee.

The investigation was conducted by the Wisconsin Department of Natural Resources, Bureau of Law Enforcement, EPA's Criminal Investigation Division, and IRS Criminal Investigation. Prosecution was handled by a DOJ litigation team.

Michigan Industrial Polluters Sentenced to Custody for Clean Water Act Crimes

On February 14, 2023, ASP Plating Company of Grand Haven, Gary Stephen Rowe, 70, of Grand Haven, and Stephen Frederick Rowe, 39, formerly of Grand Haven and currently of Oklahoma, were sentenced for violating the Clean Water Act and collectively ordered to pay more than \$50,000 in financial penalties.

“The success of the Clean Water Act depends in part on industrial permit holders diligently complying with the law to ensure public health and safety measures are upheld,” said U.S. Attorney Mark Totten. “If you can’t afford to follow environmental laws, you shouldn’t be in business. And if you commit environmental crimes in this district, all sentencing options are on the table, including jail time and substantial fines.”

Gary Rowe, president of the company, pleaded guilty to a felony violation. The Honorable Paul L. Maloney, United States District Judge, sentenced Gary Rowe to three months and one day in custody, to be followed by nine months of location monitoring as a part of a one-year term of supervised release. Gary Rowe was also ordered to pay a \$20,000 fine, \$13,500 due to the Grand Haven-Spring Lake Sewer Authority under an administrative consent order, \$4,212.54 in restitution to the City of Grand Haven, and a \$100 special assessment.

ASP Plating Company pleaded guilty to a felony violation. Judge Maloney sentenced the company, which filed for bankruptcy in October 2022, to three years of probation, a \$5,000 fine, a \$400 special assessment, and the restitution amounts Gary Rowe was ordered to pay.

Stephen Rowe, vice president of the company, pleaded guilty to a misdemeanor violation. The Honorable Sally J. Berens, United States Magistrate Judge, sentenced Stephen Rowe to 14 days in jail, one year of supervised release, a \$10,000 fine, \$4,212.54 in restitution, and a \$25 special assessment. The restitution obligations are joint and several.

According to public records filed in the case, the individual defendants operated the corporate defendant, an electroplating company that held an industrial pretreatment permit issued by the sewer authority. At least between 2015 and 2021, the company routinely violated the permit by discharging zinc in excess of the daily and monthly limitations, by releasing zinc in batches without notice, and by bypassing the mandatory pretreatment system entirely. The sewer authority periodically monitored the company’s discharges, but Gary and Stephen Rowe instructed employees to make sure the monitor was absent before discharging wastewater containing excessive amounts of zinc.

“The Defendants negatively impacted the public waste treatment program work by illegally causing improperly treated waste to enter the Grand Haven-Spring Lake Sewer Authority municipal sewer system,” said Acting Special Agent in Charge Richard Conrad of the U.S. Environmental Protection Agency’s Criminal Investigation Division. “Those companies who knowingly violate environmental laws will be held accountable for their actions.”

Investigation was conducted by EPA’s Criminal Investigation Division with assistance from the Michigan Department of Natural Resources-Environmental Investigation Section. Case prosecution was handled by a DOJ litigation team.

Electron Hydro Dam Owner Pleads Guilty to Operating an Unlawful Hydraulic Project—Company and Owner Face \$1M in Fines, Restitution and Two Years of Probation

On February 27, 2023, Attorney General Bob Ferguson announced that Electron Hydro, LLC and its Chief Operating Officer Thom Fischer pleaded guilty to a gross misdemeanor violation of operating an unlawful hydraulic project. The plea avoids a trial for Fischer and his company.

The Washington State Attorney General's Office recommended a sentence that totals \$1 million, and includes a restitution payment of \$745,000 to protect the health of the Puyallup River and a \$255,000 fine that goes to Pierce County. Fischer also will serve two years of probation, with 364 days in jail suspended so long as Fischer does not violate the law again. Fischer has agreed to accept this sentence. A Pierce County Superior Court judge must still agree to the terms of this plea.

Electron Hydro operates a hydroelectric dam on the Puyallup River. In late July 2020, Fischer allowed its workers to place artificial turf and crumb rubber that contain toxic chemicals into the riverbed. Workers then diverted the river, which ripped the liner and caused toxic debris to flow into the Puyallup River for two weeks. Charges against the company included violations of the state's Water Pollution Control Act, Fish and Wildlife Enforcement Code, Shoreline Management Act and Pierce County Code.



The \$745,000 in restitution will be directed toward projects to improve the health of the Puyallup River and restore salmon habitat. Ferguson's Office plans to work with the Puyallup Tribe to identify worthy projects.

"When I took office, very few environmental crimes were criminally prosecuted," Ferguson said. "I created our Environmental Protection Division to take on bad actors who endanger our shared environment. Electron Hydro and Thom Fischer's reckless conduct damaged this waterway and put species like salmon at risk. My office will hold accountable any companies that pollute our rivers, put aquatic life at risk and endanger the health of communities."



If approved by the judge, the Attorney General's Office believes the \$1 million would be the largest fine and restitution paid for an environmental crime in Washington state law history.

Fischer's trial was set to begin on February 27, 2023, in Pierce County Superior Court. At trial, he faced 30 gross misdemeanor charges the Attorney General's Office filed in January 2022. Pierce County Superior Court Judge Philip Sorensen set a hearing for May 5 to determine Fischer's sentence.

The criminal charges stemmed from a construction project updating the Electron Dam during the summer of 2020. Electron Hydro, under Fischer's supervision, placed artificial field turf containing crumb rubber onto the riverbed and dam as part of a temporary bypass channel during the construction. By its own admission, Electron Hydro estimated it placed approximately 2,400 square yards of turf material that contained 16 to 18 cubic yards of crumb rubber in the bypass channel. The company then covered the field turf with a plastic liner and diverted the Puyallup River over it. The company did not receive permission to use the field turf or crumb rubber on the project.

Days later, the liner ruptured and artificial turf and crumb rubber were discharged into the Puyallup River. In early August 2020, the company received a stop work order from Pierce County and the Army Corps of Engineers. The river remained diverted until the end of October 2020.

The court filing notes University of Washington-Tacoma Center for Urban Waters researchers tested samples of recovered field turf and crumb rubber and discovered that it contained chemicals found in tires, including one that is "extremely toxic" to coho salmon.

EPA's Criminal Investigation Division assisted with the investigation. The Washington Attorney General's Environmental Protection Division is prosecuting the case.

Former Erie Coke Employee Pleads Guilty to Violating the Clean Air Act

David Stablein, 54, of Fairview, Pennsylvania pleaded guilty in federal court on Feb. 24, 2023, to conspiracy to violate the Clean Air Act. Stablein pleaded guilty to one count before a United States District Judge.

In connection with the guilty plea, Stablein admitted the facts set forth in the information filed in the case; that is, from October 2015 to September 2018, Stablein conspired with his supervisor Anthony Nearhoof and others to violate the Clean Air Act while employed at the Erie Coke Corporation. The conspiracy involved employees opening heating flues on top of the coke oven batteries by removing their caps to allow combustion gases to vent directly into the air to avoid the plant's environmental monitoring system. Stablein and Nearhoof, who is pending trial, personally removed flue caps, and directed others to do so, in order to vent coke

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oven gas directly into the atmosphere to reduce opacity levels being read by the monitoring system through the smokestack. The improper venting of coke oven gas to bypass the monitoring system and minimize opacity readings resulted in the spread of air pollutants outside the facility's boundaries to adjoining residential and commercial areas, which presented potential dangers to the public's health and safety.

Sentencing is scheduled for June 30, 2023. The law provides for a total sentence of not more than five years in prison, a fine of \$250,000.00, or both. Under the Federal Sentencing Guidelines, the actual sentence imposed is based upon the seriousness of the offense and the prior criminal history, if any, of the defendant.

The case was investigated by EPA's Criminal Investigation Division. Prosecution is being handled by a DOJ litigation team.

West Virginia Environmental Services (WVES) Landfill Owner and Business Plead Guilty to Clean Water Act Violations

On February 22, 2023, Michael Graves, 67, of Charlton Heights, and West Virginia Environmental Services (WVES), a company wholly owned by Graves, each pleaded guilty to a felony violation of the Clean Water Act.

According to court documents and statements made in court, Graves and WVES owned and managed an industrial waste landfill in Fayette County, West Virginia. As noted by inspectors from the West Virginia Department of Environmental Protection, Graves and WVES failed to maintain the landfill's leachate collection for several years beginning in at least 2016. Leachate is any liquid that passes through the landfill and picks up material from the landfill, including toxic materials that must be properly treated prior to discharge into a stream or tributary.

The failure of Graves and WVES to maintain the leachate collection system caused the discharge of leachate that contained toxic water pollutants into a tributary that flowed into the Kanawha River near Alloy, West Virginia. The toxic pollutants included arsenic, hexavalent chromium, and selenium. The Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit for the landfill has since lapsed and has not been renewed.

Graves is scheduled to be sentenced on June 1, 2023, and faces a maximum penalty of three years in prison, three years of supervised release, and a \$250,000 fine. WVES faces a maximum penalty of \$500,000 and five years of probation. Graves and WVES both face a possible order of restitution.

"Polluters must be held accountable when their violations result in a risk to our communities," said United States Attorney Will Thompson. "I thank the Criminal Investigative Division of the Environmental Protection Agency and the West Virginia Department of Environmental Protection for their investigative work in this case."

"Our nation's environmental laws are designed to ensure water contaminated with heavy metals and known carcinogens from industrial activities, such as those seen here, do not get into our rivers and streams," said Acting Special Agent in Charge Richard Conrad of EPA's Criminal Investigation Division in West Virginia. "(The) guilty plea by Mr. Graves and West Virginia Environmental Services demonstrates that individuals and companies who knowingly violate those laws will be held responsible for their crimes."

The case was investigated by EPA's Criminal Investigation Division. Prosecution is being handled by a DOJ litigation team.

Florida Companies and Owners Convicted of Conspiring to Tamper with Diesel Truck Monitoring Devices Required by the Clean Air Act

On February 1, 2023, Vivian Machado, 62, Eric Flaquer, 39, and Miami-based companies Quick Tricks Automotive Performance, Inc., and Kloud9Nine, LLC pled guilty in federal district court to conspiring to tamper with monitoring devices on diesel vehicles, in violation of the Clean Air Act (CAA).

The purpose of the CAA, among other things, is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” Motor vehicles, including those with heavy duty diesel engines, cause or contribute to air pollution which may endanger public health or welfare and are thus regulated including the requirement that manufacturers design and install emissions control systems to treat exhaust. Those systems are monitored by an on-board diagnostic system (OBD). The OBD is software and sensors that monitor emissions-related engine systems and components. It is a felony to tamper with CAA-required monitoring devices.



According to court records and a Joint Factual Statement filed in Court, between January 2018 and December 2020, defendants Machado, Flaquer, and Quick Tricks were paid approximately \$230,830.61 for 1,100 transactions for the sale of “delete tune files” that tamper with or disable the OBDs on heavy-duty diesel motor vehicles that were required under the CAA to have OBD systems to monitor the emissions control systems. Similarly, between October 2019 and March 2021, Machado, Flaquer, and Kloud9Nine were paid \$141,162.70 for an additional 657 transactions. The defendants would customize the delete tune files based on the vehicle identification number and desired parameters and would conduct active customer service for the automotive businesses. Knowing the conduct was illegal, the defendants would often warn customers by e-mail not to tell anyone about the purchases and to take steps to avoid detection by the U.S. Environmental Protection Agency (EPA), and “stay under the radar.”

The vehicles at issue in this case were driven in the Southern District of Florida and throughout the United States on public roads and highways. Diesel exhaust contains a mix of acidic and hydrocarbon gases that are harmful to human health. Excess emissions from illegally tampered vehicles can have important environmental justice implications for overburdened communities near major roads and highways.

Sentencing for all four defendants was scheduled for April 7, 2023, in federal district court in Miami. Machado and Flaquer face up to five years in prison and a criminal fine of up to \$250,000 or twice the gross gain or

loss resulting from the offense. The companies face a term of probation up to five years and a criminal fine of up to \$500,000 or twice the gross gain or loss resulting from the offense.

Markenzy Lapointe, United States Attorney for the Southern District of Florida and Charles Carfagno, Special Agent in Charge, U.S. Environmental Protection Agency (EPA), Criminal Investigation Division, Southeast Area Branch, announced the conviction.

The case was investigated by EPA's Criminal Investigation Division. Prosecution is being handled by a DOJ litigation team.



Ex-Signal Peak Mine Safety Official Admits Conspiring to Make False Statement about Mine Injury

Curtis Floyd, the former mine safety director at the Signal Peak Energy LLC coal mine near Roundup, Montana, admitted on January 5, 2023 to charges that he conspired to not report as required an incident in which a mine employee injured his fingers, resulting in partial amputation, U.S. Attorney Jesse Laslovich said.

Curtis Floyd, 47, of Billings, pleaded guilty to an information charging him with conspiracy to submit false statements in mine records. Floyd faces a maximum of five years in prison, a \$250,000 fine and three years of supervised release. The court will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors. Floyd was released pending further proceedings.

The government alleged in court documents that in 2018, Floyd was the Director of Mine Safety at the Signal Peak Energy coal mine and was responsible for overseeing safety related accidents and injuries, ensuring that all safety-related incidents at the mine were properly reported in accordance with federal law. In early 2018, John Doe 1, an employee under Floyd's area of responsibility, had his fingers crushed while loading mining materials. The injury eventually required partial amputation. As Floyd was taking John Doe 1 to the hospital, John Doe 1 received a phone call from Dale Musgrave, the former vice president of underground operations. Musgrave directed John Doe 1 to falsely claim that the injury was unrelated to his work at the mine. Musgrave also said he would make it worth John Doe 1's while. Floyd told John Doe 1 he would support whatever decision was made. John Doe 1 eventually agreed to not report the incident. Both Floyd and John Doe 1 subsequently admitted to investigators that this occurred. Floyd and Musgrave were required to complete a U.S. Department of Labor Mine Safety and Health Administration Mine Accident, Injury and Illness report. They never completed or submitted the form for this incident. They also failed to report John Doe 1 as an "MSHA reportable injury or illness" on another MSHA quarterly mine employment and coal production report.

This prosecution was part of a broad corruption investigation into Signal Peak Energy's management and operations that resulted in not only misdemeanor convictions of the company for willful violation of health and safety standards, but also in individual convictions and charges for some former mine officials and associates for embezzlement, tax evasion, bank fraud, money laundering, drugs and firearms violations. Musgrave was sentenced to probation and fined \$20,000 for his conviction in the case.

The case was investigated by FBI, EPA's Criminal Investigation Division, and the IRS. Prosecution is being handled by a DOJ litigation team.

Former Owner of California Wastewater Treatment Company Pleads Guilty to Federal Environmental Criminal Charge

The former owner of a wastewater treatment facility in Orange County and his company each pled guilty on January 13, 2023 to a federal environmental criminal charge for discharging untreated industrial wastewater into the county's sewer system.

Tim Miller, 65, of Kewaskum, Wisconsin, and his company, Klean Waters Inc., pleaded guilty to one felony count of knowingly violating a requirement of an approved pretreatment program.

According to their plea agreements, from 2013 to 2015, Miller was the owner and president of Klean Waters, a wastewater treatment facility in Orange County. Klean Waters was permitted to receive non-hazardous industrial wastewater, treat it for pollutants if needed, and then discharge the water into the Orange County Sanitation District's (OCSD) sewer.

OCSD runs a pretreatment program that was approved under federal law and that implements and enforces the national pretreatment standards established under the Clean Water Act (CWA). Pursuant to the CWA, any violation of any requirement imposed in OCSD's local pretreatment program is a violation of federal law.

In 2013, Miller applied for and received a permit from OCSD for Klean Waters to discharge wastewater into the sewer. Klean Waters' permit from OCSD required defendant to, among other things, test and, if necessary, treat wastewater so that the level of pollutants in it remained below permitted levels when it was discharged to the sewer.

In April 2015, without testing the wastewater, Miller knowingly caused Klean Waters to discharge wastewater into the sewer, so that the type and concentration of pollutants in the wastewater remained unknown.

United States District Judge Josephine L. Staton scheduled an April 14 sentencing hearing, at which time Miller will face a statutory maximum sentence of three years in federal prison and Klean Waters will face a statutory maximum sentence of three years' probation and \$50,000 in fines.

The case was investigated by EPA's Criminal Investigation Division and the FBI. Prosecution is being handled by a DOJ litigation team.



Delaware Man Pleads Guilty to Tampering with Clean Air Act Devices in Diesel Trucks

The U.S. Attorney for the District of Delaware, announced on January 19, 2023, that Gordon W. Lindamood, 47, of Middletown, Delaware, pleaded guilty to tampering with devices required by the federal Clean Air Act.

According to court documents and statements made in court, Lindamood tampered with the onboard diagnostic systems (OBDs) of diesel trucks. The U.S. Environmental Protection Agency (EPA) has established maximum air pollutant emission standards for motor vehicles. In order to meet those standards and in compliance with the Clean Air Act, manufacturers equip motor vehicles with emission control devices that are monitored by computer software in the vehicles' OBDs. This software, often referred to as a "tune," detects and identifies malfunctions, illuminating a light on the vehicle's dashboard.

Emission control devices operate to protect the environment at the expense of horsepower and fuel efficiency. Ordinarily, when a diesel truck owner removes a factory-installed emission control device, the truck's OBD automatically renders the truck inoperable. Lindamood illegally disabled this control.

Operating from his home, Lindamood custom-altered software tunes for trucks where the owner previously removed a factory-installed emission control device, and he sold these tunes to customers throughout the United States. Lindamood's tunes enabled diesel trucks to operate without emission control devices.

EPA's Air Enforcement Division estimates that the installation of such software results in ten to one hundred times more air pollution emissions from each altered diesel truck. These pollutants are harmful to human health and the environment.

U.S. Attorney David C. Weiss stated, "The criminal conduct here is not insignificant. EPA estimates that over 550,000 diesel truck owners have disabled vehicle emissions controls in the past decade – leading to over 575,000 tons of excess air pollutants over the lifetime of those trucks. Everyone suffers when our air quality is degraded. I wish to recognize EPA's efforts in investigating this case."

"The defendant knowingly tampered with and rendered inaccurate emissions control devices required under the Clean Air Act, which affected the air quality of nearby communities," said Acting Special Agent in Charge, Richard Conrad, EPA, Criminal Investigation Division, Mid Central Area Branch. EPA continues to hold accountable those parties who willingly violate environmental regulations for profit."

The case was investigated by EPA's Criminal Investigation Division. Prosecution was handled by a DOJ litigation team.

Reliance Laboratories Manager Admits to Lying about Testing Public Water

On January 30, 2023, the co-owner and manager of Reliance Laboratories, Inc., in Bridgeport, West Virginia, admitted to violating the Safe Drinking Water Act and the Clean Water Act.

According to court documents, Tenley Megan Miller, 42, of Bridgeport, was the owner of Reliance Laboratories, Inc., a company that purportedly tested public drinking water samples submitted to it pursuant to the Safe Drinking Water Act. In May 2021, the City of Martinsburg sent water samples to Miller's laboratory for testing and Miller reported that she tested the samples and found them to be safe. Investigators then discovered that Miller did not test the samples because her laboratory equipment was not operational. The City of Martinsburg unwittingly reported the false test results to the State of West Virginia pursuant to U.S. Environmental Protection Agency regulations.

Miller pleaded guilty to making a false representation in a matter within the jurisdiction of the Environmental Protection Agency. She faces up to five years in prison and a fine of no more than \$250,000.

"The defendant in this case knowingly submitted falsified water analysis results, jeopardizing the health and safety of the impacted communities," said Special Agent in Charge Nic Evans of EPA's Office of Inspector General. "(This) guilty plea demonstrates the Environmental Protection Agency Office of Inspector General's commitment to holding accountable those who attempt to undermine the laws designed to protect the safety of the public's drinking water supply."

"The defendant in this case had knowingly falsified vital analysis results jeopardizing drinking and wastewater operations." Said Acting Special Agent in Charge Richard Conrad of EPA's Criminal Investigation Division. "The defendant will be held accountable for their actions because they placed several communities and businesses at risk."

EPA's Office of Inspector General and Criminal Investigation Division conducted the investigation. Prosecution was handled by a DOJ litigation team.