Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

Case Bulletin June 2012

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff.

Defendants in this edition:

- **Boris A. Tomicic — Region 1**
- **Cephus R. Murrell — Region 3**
- **Rodney R. Hailey — Region 3**
- **Michael J. McKenna, Blue Marsh Laboratories — Region 3**
- **Carlos A. Garcia — Region 4**
- **Spectro Alloys Corporation — Region 5**
- **The Ohio Valley Coal Company — Region 5**
- **Kent Phillips — Region 6**
- **Cody Tuma — Region 6**
- **Sedrix Blumingburg — Region 7**
- **Ronald Monsen — Region 10**

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 1	Boris A. Tomicic	Wire Fraud
Region 3	Rodney R. Hailey	CAA/Wire fraud and money laundering
Region 3	Cephus R. Murrell	TSCA/Improper lead paint abatement procedures & failure to disclose lead paint hazards
Region 3	Michael J. McKenna, Blue Marsh Laboratories	CWA/Falsifying test records, making false statements
Region 4	Carlos A. Garcia	CAA/Illegal purchase and sale of ozone depleting refrigerant gas
Region 5	The Ohio Valley Coal Company	CWA/Negligent discharge of untreated slurry waste water into stream

DEFENDANT SUMMARY:

REGION	DEFENDANTS	CASE TYPE/STATUTES
Region 5	Spectro Alloys Corporation	CAA/Failure to disclose excessive hazardous air pollutants
Region 6	Kent Phillips	CWA/Negligent discharge without a permit
Region 6	Cody Tuma	CWA/Negligent discharge of waste-water into city POTW
Region 7	Sedrix Blumingburg	Mail fraud/Falsifying safety and auto emissions tests .
Region 10	Ronald Monsen	CWA/Unpermitted discharge into U.S. waters

Quick Links:

- Sentencings p. 4 - 7
- Trials p. 8
- Plea Agreements p. 9 - 12

Sentencings *(Back to Quick Links)*

Baltimore City Landlord Sentenced to Prison for Lead Paint Violations — On June 6, 2012, **CEPHUS R. MURRELL** was sentenced to a year and a day in prison, followed by six months of home detention as part of one year supervised release, for improper lead paint abatement at rental properties owned and managed by Murrell, as well as failure to disclose to tenants the presence of documented lead-based paint hazards. Murrell is the president and owner of **C. MURRELL BUSINESS CONSULTANTS, INC**., through which Murrell owns and manages approximately 68 rental properties with 175 rental housing units throughout Baltimore. All of these properties were built before 1978 and are subject to federal, state and local laws and regulations pertaining to the risks associated with lead-paint exposure. The Maryland Department of the Environment (MDE) or its predecessor agencies have conducted environmental lead inspections for many years at properties owned by Murrell after discovering that children with elevated lead blood levels were living there. These inspections identified numerous lead hazards in tenants' homes. The state of Maryland and the city of Baltimore have issued more than 20 Notices of Violation and compliance orders against Murrell and/or his company, C. Murrell Business Consultants, for lead-based paint violations, including situations in which a child with an elevated blood lead level was documented as living in a rental property leased by Murrell. Additionally, Murrell entered into a number of Consent Decrees with the State and City of Baltimore designed to achieve compliance with applicable lead requirements. On July 19, 2011, Murrell pleaded guilty to three misdemeanor counts of violating the Toxic Substances Control Act. According to his guilty plea, Murrell had workers conduct lead-paint abatement work at one of his apartments while the tenants and their children were present on site, in violation of the lead-paint abatement regulations. In addition, Murrell admits that there were several instances in which he falsely certified to MDE that workers would be conducting lead abatement work and that a particular supervisor would be on site to supervise the work, when in fact, no supervisor was on site, also in violation of the lead-paint abatement regulations. Finally, Murrell admits that he and his company failed to disclose to tenants the presence of documented lead-based paint hazards when they rented units he owned and managed. Many of these units had a history of lead-based paint problems that had been documented by MDE. This case was investigated by EPA's Criminal Investigation Division, MDE, and the Maryland Attorney General's Office. It was prosecuted by the U.S. Attorney's Office for the District of Maryland.

Back to Top

Photographs taken from an environmental lead inspection conducted on January 18, 2012 at some of the properties owned by Murrell. Inspectors identified numerous lead hazards.

Connecticut Man Gets Federal Prison Term for Role in Fraud Scheme — On June 18, 2012, **BORIS A. TOMICIC**, of West Hartford, Connecticut, was sentenced in federal district court for the District of Connecticut to 18 months in prison followed by three years of supervised release for his participation in a scheme to defraud the developer of a New York shopping mall and the liability insurer of the development site. In September 2004, Plaza Construction Company, the general contractor for the shopping mall construction, entered into a subcontract with Earth Technology, Inc., a Connecticut-based environmental contractor, to provide site preparation services, including soil excavation. TOMICIC served as Earth Technology's project manager on the project. He also had an ownership interest in Recycle Technology, LLC, a contaminated fuel, soil disposal, and recycling company located in Charlton, Massachusetts. During the site preparation work, a portion of the soil was found to contain high levels of lead. The contaminated soil was transported to and disposed of at a facility in New Jersey at a price of $127.50 per ton. Using Recycle Technology as a so-called "broker," TOMICIC directed Williams McCambridge, who served as the nominal owner of Recycle Technology, to receive the invoices for $127.50 per ton and then re-invoice Earth Technology at a price of $218 per ton. TOMICIC then took Recycle Technology invoices provided to Earth Technology, marked them up another 15 percent, and fraudulently passed the resulting $250.70 per ton price to Plaza Construction Company and Atlas Park, LLC, the shopping mall developer. When asked for competitive bids related to the disposal costs after Chubb Insurance, the site liability insurer, had requested them, TOMICIC fabricated two bids to give the false appearance that the $218 per ton price purportedly proposed by Recycle Technology was the low bid among three competitive bids. The trial evidence showed the fabricated bids caused the insurance company to pay more on the claim than it would otherwise have paid. TOMICIC was ordered to pay restitution of $90,000 to Chubb Insurance. McCambridge pleaded guilty to conspiracy to commit wire fraud on July 7, 2009, and awaits sentencing.

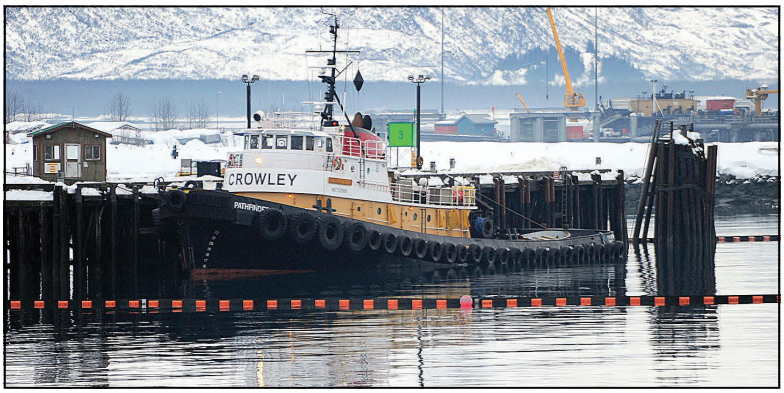
Back to Top

Louisiana Wastewater Manager Sentenced for Illegally Discharging Pollutants into the Red River — On June 20, 2012, **CODY TUMA**, of Shreveport, Louisiana, was sentenced in federal district court for the Western District of Louisiana to five years of supervised probation after having pled guilty to one misdemeanor count of discharges to the Red River, in violation of the CWA. Tuma faced up to a year in prison and/or a fine of up to $100,000.00, however, the government filed a motion seeking a downward departure from the sentencing guidelines for Tuma's cooperation. Tuma was plant operator in 2005 and night shift supervisor in 2006 at Arkla Disposal Services, Inc. (Arkla). The Arkla facility, located in Shreveport, was a centralized wastewater treatment facility that received wastewater from industrial processes and oilfield exploration and production facilities. Arkla contracted to treat the wastewater through a multi-step treatment process and then discharge the treated wastewater to either the city of Shreveport's publicly owned treatment works or to the Red River. Between January 2005 and August 2005, Tuma negligently discharged and caused to be discharged pollutants into the Red River without a permit. His father, John Tuma, was convicted by a jury on all five counts in an indictment against him which included violations of the Clean Water Act, conspiracy, and obstruction of justice related to illegal discharges coming from the Arkla Disposal Services, Inc. John Tuma is scheduled to be sentenced on July 25, 2012. This case was investigated by EPA's Criminal Investigation Division and is being prosecuted by the U.S. Attorney's Office for the Western District of Louisiana and the Environmental Crimes Section of the Department of Justice.

This pipe is the first underwater extension of Arkla's river outfall. The underwater piping prevented the detection of the illegal river discharges.

Back to Top

Tugboat Captain Sentenced for Hitting Reef in Alaska — On June 15, 2012, **RONALD MONSEN**, of Anchorage, Alaska, was sentenced to 36 months of probation with the first six months to be spent on home confinement. He was also fined $15,000 and ordered to provide 50 hours of community service. Monsen's sentence was the result of his guilty plea and conviction for violating the federal Clean Water Act. Monsen was a captain in command of the Pathfinder Tug operated by Crowley Maritime Corporation. On December 23, 2009, the Pathfinder was conducting ice scouting operations in the area of Bligh Reef in Prince William Sound, Alaska.



The tug 'Pathfinder' moored in Valdez after grounding. Photograph: US Coast Guard

After scouting for ice, Captain Monsen kept the Pathfinder in Prince William Sound until it was time to communicate his ice report at 6 PM, expecting that he would then be released from scout duty and allowed to return to Valdez harbor. While waiting until 6 PM, Monsen altered the auto-pilot course back to Valdez by manually by-passing or skipping two way points on the pre-programmed Global Positioning System course that would safely guide the Pathfinder's travel out of Prince William Sound and back to Valdez harbor. By skipping these two way points, Monsen set a course that, once it was engaged, would steer the Pathfinder directly to Rocky Point way point. After Monsen by-passed these two way points, but before it was time to engage this course and return to Valdez, the Pathfinder continued to travel slowly to the southeast, putting the vessel due south of Bligh Reef. As the vessel traveled, Bligh Reef was soon directly in the path between the Pathfinder and the Rocky Point way point. At 6 PM, the second mate called in the ice report and the tug was released from ice duty. Monsen then placed both engines full speed ahead, and engaged the autopilot to steer the vessel directly to the Rocky Point way point. He did not chart his position or attempt to determine his exact location via GPS or any other method. As a result, when Monsen engaged this course, he did not know the location of the Pathfinder, was unaware that the vessel was 1.5 miles due south of Bligh Reef, and did not recognize that he had set a course that was taking the Pathfinder directly into the reef. After making the course change, Monsen instructed the second mate to make an entry in the logbook, but he did not observe that the vessel was headed directly toward the reef, Monsen did not check the vessel's location or the location of the reef in relation to his course. The vessel was left on autopilot with no one at the controls. Had Monsen not deleted the two way points earlier in the evening, the Pathfinder would have steered northwest, back to these points, and clear of Bligh Reef. Instead the Pathfinder headed due north and ran aground on Bligh Reef at approximately 6:14 PM on December 23. As a result of the grounding, the Pathfinder's keel and tanks were breached and the vessel discharged approximately 6,410 gallons of fuel, causing a visible sheen on the water of Prince William Sound. The judge in the case called Monsen's conduct grossly negligent. In determining an appropriate sentence, the judge took into account that as a result of his conduct Monsen no longer had a pilot's license and was no longer employed as a captain.

Oil spill containment booms surround 'Pathfinder' following its pre -Christmas grounding. Photograph: Mercator Media

Back to Top

International Product Support Company Senior Vice President Sentenced for the Illegal Purchase and Sale of Smuggled Ozone-Depleting Refrigerant Gas – On June 26, 2012, **CARLOS A. GARCIA** was sentenced in federal district court for the Southern District of Florida to 13 months in prison, followed by two years of supervised release, including four months of home confinement under electronic monitoring for his role in the illegal receipt, purchase, and sale of ozone-depleting refrigerant gas that had been smuggled into the United States in violation of the Clean Air Act.

Container shipped by Kroy Corporation (a convicted defendant in a separate investigation) where the smuggled refrigerant was hidden behind some legal refrigerant. It was subsequently shipped to Marcone during a monitored delivery as part of a undercover operation initially targeted at Kroy.

Garcia pled guilty in April, 2012 to a charge of knowingly receiving, buying, selling and facilitating the transportation, concealment, and sale of approximately 13,600 kilograms of the ozone-depleting substance hydrochlorofluorocarbon-22 (HCFC-22), a widely used refrigerant for residential heat pump and air-conditioning systems. Garcia's employer, Mar-Cone Appliance Parts Co. (Marcone), was previously convicted and sentenced for its role in the illicit conduct and ordered to pay a $500,000 criminal fine, a $400,000 community service payment, and was ordered to forfeit to the United States $190,534.70 in illegal proceeds.

EPA Special Agents tunneled down the left side of the container and discovered the smuggled refrigerant while still at the Port. Garcia claimed he never purchased imported refrigerant and this was an essential part of the evidence to show the refrigerant they received was indeed Chinese.

Garcia was senior vice-president of Marcone's Heating and Cooling Division, responsible for executing legal purchases and sales of refrigerant gas. Instead, Garcia engaged in a pattern of conduct to purchase and sell black market HCFC-22. The investigation revealed that Garcia routinely arranged the purchase of HCFC-22 from importers who did not hold the required unexpended consumption allowances, totaling approximately 55,488 kilograms of restricted HCFC -22, with a fair market value of approximately $639,458. The refrigerant gas was routinely distributed by Marcone throughout the United States.

Entire contents of one of the three containers that Kroy had imported and had promised the smuggled portion to Marcone. EPA Special Agents did not allow the third container to be delivered and seized it instead.

This matter and others involving the smuggling and distribution of ozone-depleting substances are being investigated through a multi-agency initiative that includes EPA's Criminal Investigation Division, known as Operation Catch-22. Operation Catch-22 has, to date, resulted in the successful conviction of nearly a dozen individuals and corporations at every level of the refrigerant gas smuggling and distribution chain.

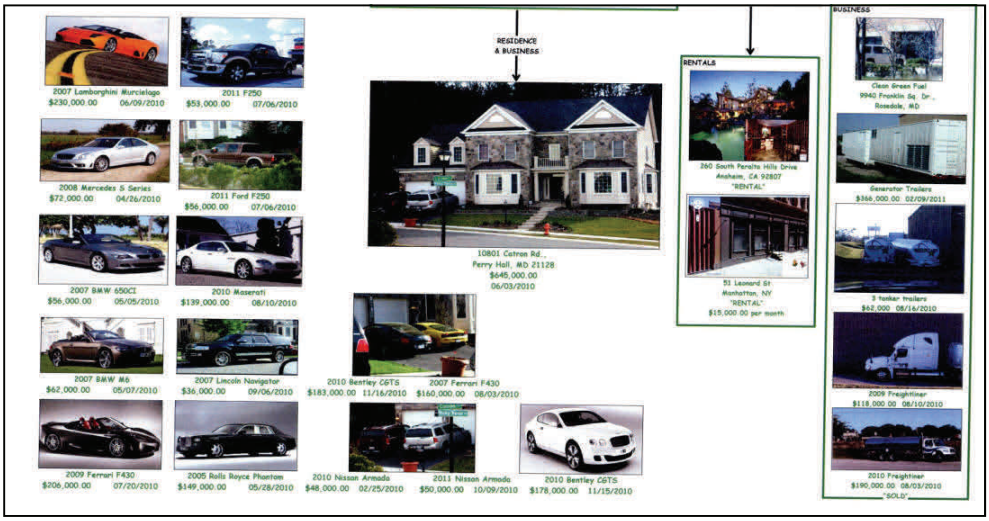
Back to Top

'Clean Green Fuel' Owner Convicted of Scheme to Violated EPA Regulations and Sell Fraudulent Renewable Fuel Credits -- On June 26, 2012, **RODNEY R. HAILEY,** of Perry Hall, Maryland, was convicted in federal district court in Maryland of wire fraud, money laundering and a violation of the Clean Air Act, in connection with a scheme in which he sold $9 million in renewable fuel credits he falsely claimed were produced by his company, Clean Green Fuel, LLC. According to evidence, Hailey owned Clean Green Fuel, LLC, located in the Baltimore area. Hailey registered Clean Green Fuel with the EPA as a producer of bio-diesel fuel, a motor vehicle fuel derived from renewable resources that can be used like any other motor vehicle fuel. In order to encourage the production of renewable fuel and lessen the nation's dependence on foreign oil, all oil companies that market petroleum in the U.S. are required to produce a given quantity of renewable fuel or to purchase credits, called renewable identification numbers (RINs) from producers of renewable fuels to satisfy their renewable fuel requirements. Between March 2009 and December 2010, Hailey sold over 35 million RINs (representing 23 million gallons of bio-diesel fuel) to brokers and oil companies for at least $9 million, when in fact Clean Green Fuel had produced no fuel at all and Hailey did not have a facility capable of producing bio-diesel fuel.

Two civil inspectors from EPA's Air Enforcement Division visited Clean Green's headquarters on July 22, 2010, to inspect Hailey's bio-diesel production facility, in response to a complaint alleging that Clean Green had been selling false RINs. Hailey was not able to provide an exact location for the bio-diesel fuel production facility, nor any records to support claims that Clean Green Fuel had produced bio-diesel fuel. When asked to explain his method of production, Hailey falsely stated that he paid employees and contractors to recover waste vegetable oil from 2,700 restaurants in the "Delmarva" area and bring it to his production facility where he converted it to bio-diesel fuel. Hailey claimed that only the drivers who picked up the oil knew the names of the restaurants, and Hailey could not provide the names of the drivers. Federal law enforcement agents investigated the scheme after a Baltimore County police detective working with Maryland's federal financial crimes task force received a report about the large number of luxury cars parked in front of Hailey's house. The financial crimes task force contacted the EPA's Criminal Investigation Division and initiated a criminal investigation.

Hailey used the proceeds of the wire fraud scheme to purchase luxury vehicles as well as real estate and jewelry. In all of these transactions, Hailey generally used cash or checks drawn on accounts he controlled to make the purchase, including a check for $645,330.15 to buy his home in Perry Hall. The government seeks forfeiture of the cars, jewelry, property and bank accounts already seized by the government, as well as any other proceeds traceable to the offense, in order to satisfy a monetary judgment of $9 million. Hailey faces a maximum sentence of 20 years in prison for each of eight counts of wire fraud; 10 years in prison for each of 32 counts of money laundering and two years in prison for each of two counts of violating the Clean Air Act. Sentencing is scheduled for October 11, 2012.

Back to Top



Items purchased by Hailey from the proceeds of the wire fraud scheme which were seized by the government.

Plea Agreements *(Back to Quick Links)*

Environmental Testing Lab Company Owner Pleads Guilty to Falsifying Test Results— On June 11, 2012, **MICHAEL J. McKENNA**, president, laboratory director, and owner of **BLUE MARSH LABORATORIES, INC.**, pled guilty to conspiracy, making a false material statement in a report, record and document required to be filed under the Clean Water Act, and making a false statement in a matter within the jurisdiction of the Food and Drug Administration (FDA). Sentencing has been set for September 10, 2012. Blue Marsh Laboratories, Inc., located in Douglassville, Pennsylvania, and Michael McKenna were engaged in the business of analytical testing of environmental samples, including water and wastewater samples, in order to determine the amounts of pollutants and levels of other chemicals present in the water. From approximately September 2005 through October 2005, the defendants prepared and mailed false and fraudulent test results for Hurricane Katrina flood water samples which were required by EPA to be tested for contamination by various pollutants, including, among others, cyanide, and the herbicides MCPA and MCPP. From approximately June 2006 through December 2006, the defendants prepared and mailed false and fraudulent water test results required by the United States Army Corps of Engineers for four separate reservoirs which were required to be tested for contamination by various pollutants. From approximately July 2007 through September 2007, the defendants prepared and sent false and fraudulent test results required by the FDA for the testing of certain fruit, that is, tangelos, which had been imported from South America, and which were required to be tested for contamination by pesticides. At various times in 2006 and 2007, the defendants prepared and submitted false and fraudulent environmental test reports to the Upper Moreland/Hatboro Joint Sewer Authority, the Gloucester County Utilities Authority and Upper Merion Township Industrial Pre-Treatment Program permit holders Elan Pharmaceutical Research Corp., Merck and Company, and Hope's Country Fresh Cookies in connection with the analyses and testing of water samples for various types of pollutants, which these customers were required by law to report to EPA.

Inside Blue Marsh Laboratories

Back to Top

Former Oil Well Owner and Operator Pleads Guilty to Negligent Discharge into Creek — On June 21, 2012, **KENT PHILLIPS**, of Oklahoma City, Oklahoma, plead guilty in federal district court for the Western District of Louisiana, to negligently discharging oil without a permit into Devil's Creek in violation of the Clean Water Act. Phillips was a corporate officer and owner of Kepco Operating, Inc, an oil production company operating and leasing oil field sites near Jena, Louisiana, including the Hailey #2 well site. Sentencing has been set for October 10, 2012.

Back to Top

Minnesota Secondary Aluminum Processing Company Pleads Guilty to False Statement Charges —

On June 7, 2012, **SPECTRO ALLOYS CORPORATION,** a Minnesota company that operates a secondary aluminum processing facility in Rosemount, Minnesota, pleaded guilty in federal district court for the District of Minnesota, to two counts of violating the federal false statements statute. The crimes involved Spectro's failure to disclose violations of limits placed on its emissions of hazardous air pollutants under the Clean Air Act. An Information charging Spectro with the two counts was filed on May 2, 2012. According to the documents filed in this case, Spectro processes large quantities of various types of scrap metal, which are melted in two large industrial furnaces before being processed into aluminum alloys. The furnaces and other equipment at the Spectro facility are typically found in secondary aluminum reprocessing facilities but can be sources of various hazardous air pollutants. As a result, the emissions from Spectro's equipment, including its furnaces, are regulated under the federal Clean Air Act, and the company is required to operate subject to a permit that sets out the legal limits for emissions of pollutants. The permit also requires the company to disclose to the EPA and the Minnesota Pollution Control Agency ("MPCA") all instances known where emissions exceed those limits. In its plea agreement, Spectro admitted that in May of 2007, it submitted a semi-annual compliance report to both the MPCA and the EPA that falsely indicated that its facility was in compliance with all pollution limits. The company failed to disclose that its own testing had revealed excessive emissions of dioxin/furans, which are hazardous air pollutants. In a letter sent to the EPA in March 2007, which was submitted in response to a violation notice issued by the EPA, Spectro further admitted that the company failed to disclose those excessive dioxin/furans emissions. Following its guilty plea, Spectro was sentenced to pay a criminal fine of $500,000, and was placed on probation for two years. Spectro also was ordered to develop, implement, and maintain procedures to ensure complete and accurate reporting in the future. In addition, Spectro must retain a full-time environmental health and safety manager and report to both the MPCA and EPA the results of all emissions testing, whether or not required by law.

Scrap being loaded into one of the two scrap dryers at Spectro Alloys

This criminal investigation has been conducted parallel to a civil investigation of alleged violations of the Clean Air Act. The United States recently reached a settlement with Spectro regarding civil claims filed by the EPA for these alleged violations, and this settlement was included in a consent decree lodged with the District Court on March 6, 2012. The consent decree, which is awaiting court approval, resolves allegations that in 2009, the company emitted dioxin/furans and hydrochloric acid in amounts exceeding federal emissions limits; that the company failed to install, operate, and inspect an adequate system to capture and treat its emissions; and that between 2004 and 2008, it violated various Clean Air Act regulations regarding monitoring, reporting, and temperature maintenance. The consent decree also settles alleged violations of federal law governing the storage of hazardous waste at the Spectro facility without a permit required under the Resource Conservation and Recovery Act. Under the proposed consent decree, Spectro will pay a civil penalty of $600,000, install more pollution control equipment, conduct additional testing, and accurately comply with all reporting requirements.

Back to Top

Missouri Man Admits to Falsifying Documents for Vehicle Owners — On June 15, 2012, **SEDRIX BLUMINGBURG** pled guilty to one count of mail fraud for falsifying documentation for vehicle owners regarding titling of vehicles, auto emissions tests, and sales taxes, during his employment at Sure Start Battery & Tire Company in St. Louis. Another defendant, Michael Terry, is also expected to sign a plea agreement in the coming weeks. The legitimate business of Sure Start was general vehicle repair, including safety and auto emissions testing. Blumingburg conducted false safety and auto emissions tests and provided false safety documentation to vehicle owners for compensation to bypass the Missouri state laws associated with vehicle safety and EPA regulations. He also created false documents showing vehicle insurance; false bill of sale documents on motor vehicles reducing the actual sales price to lower the amount of state sales tax due; and paid personal property tax receipts for vehicle owners to register their vehicles, all of which they personally delivered to the Missouri Department of Revenue office. Blumingburg received illegal payments from the vehicle owners for these services. These documents were processed by fee/contract clerks as true and correct and sent to the Missouri Department of Revenue, depriving Missouri of fees and taxes. This case was investigated by the EPA/CID, the Missouri Department of Revenue, Missouri Highway Patrol, Missouri Department of Natural Resources, Internal Revenue Service-Criminal Investigation and the St. Louis County Police Department. It was prosecuted by the U.S. Attorney's Office for the Eastern District of Missouri.

Back to Top

Ohio Valley Coal Company Pleads Guilty to Clean Water Act Crimes – On June 28, 2012, **THE OHIO VALLEY COAL COMPANY (TOVCC)** pleaded guilty in federal district court for the Southern District of Ohio to criminal violations of the Clean Water Act in connection with two coal slurry release incidents that polluted Captina Creek, Belmont County, Ohio. The plea agreement documents $7,050,000 in fines and expenditures related to the incidents. Specifically, the plea agreement calls for TOVCC to pay a criminal fine of $500,000 and to pay restitution to the Ohio Environmental Protection Agency of $87,000 for restoration activities in Captina Creek. In addition, TOVCC certified that it has spent $6,000,000 by the installation of a pipeline system with double-walled features between American Energy Corporation and TOVCC, designed to improve pipeline integrity. TOVCC will implement and install such equipment and provide employees with requisite training to force a shutdown of the flow of slurry in the pipeline from AEC to TOVCC in the event of a pipeline failure.

Slurry in Captina Creek (2008 Incident)

TOVCC admitted that in early 2008 they negligently discharged wastewater from its impoundment at Powhatan Mine No. 6 through a decant pipe into Perkins Run which flows into Captina Creek in violation of its state NPDES permit issued under the CWA by negligently failing to monitor for flow and pollutants in such discharges as required by the permit. As a result TOVCC discharged slurry to the creek and turned the creek dark downstream. TOVCC further admitted that in the fall of 2010, a pipeline rupture in the slurry pipeline which conveys slurry from AEC to the TOVCC slurry impoundment resulted in the direct discharge of untreated slurry waste water into Captina Creek, negligently bypassing TOVCC's treatment works, in violation of TOVCC's state NPDES permit issued under the CWA. As a result, thousands of gallons of slurry had bypassed the treatment works and had been discharged from the pipeline into Captina Creek before the flow from the AEC pipeline was stopped. The discharge discolored Captina creek for approximately 1.5 miles downstream and resulted in a fish kill.

Captina Creek contaminated with slurry (2010 Incident)

Depth of Slurry in Captina Creek (2010 Incident)

TOVCC has agreed to a global resolution of the matters which are the subject of the plea agreement by coordinating the resolution of the federal criminal case with the Ohio EPA (OEPA) and Ohio Department of Natural Resources (ODNR) civil cases. TOVCC has agreed to: (1) pay the ODNR a $91,000.00 penalty and $4,000.00 for all natural resource damages, which includes any fish, amphibians, wildlife and any pending or unasserted penalties or assessments from ODNR for the 2010 slurry discharge from the pipeline incident (2) pay the OEPA, an administrative fine in the amount of $184,000.00 for violations of Ohio environmental law involving the 2008 slurry discharges, and pay OEPA an administrative fine in the amount of $184,000.00 for the 2010 slurry discharge.

Two managers of TOVCC previously pleaded guilty to environmental crimes associated with the 2008 slurry release. On May 26, 2011, David Bartsch, environmental manager at TOVCC, was sentenced to one year of probation, 104 hours of community service, and a $2,500 criminal fine based on his conviction for negligently failing to report discharges from the TOVCC impoundment in January 2008. On June 22, 2011, Donald Meadows, a manager for TOVCC, was sentenced to one year of probation, 156 hours of community service, and a $2,500 criminal fine for his conviction for negligently violating the CWA by allowing the discharge of collected slurries from an impoundment into Captina Creek on or about February 28, 2008.

Back to Top

EPA Pub. 310-N-12-006