



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.

May 2015

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Defendant Summary

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Region 4	Det Stavegerske Dampskibsselskab, Daniel Paul Dancu, Bo Gao, Xiaobing Chen, Xin Zhong	Act to Prevent Pollution from Ships (APPS)/ Conspiracy, obstruction of justice, witness tampering
Region 4	Duke Energy Corporation	CWA/Unlawful failure to maintain equipment, unlawful discharge of coal ash into river
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Region 6	Race Addington	Title 18/Knowingly presenting a falsely created blow-out preventer (BOP) test chart

Sentencings

Rhode Island Chemical Company Sentenced for Failing to Develop and Implement a Risk Management Plan

-- On May 6, 2015, **MANN DISTRIBUTION, LLC**, of Warwick, Rhode Island, also known as Mann Chemical, LLC, pleaded guilty in federal district court for the District of Rhode Island to violating the Clean Air Act by failing to develop and implement a Risk Management Plan to minimize the chance of release of hydrofluoric acid from its Warwick facility, and to protect workers, the community, and emergency and first responders in the event of a chemical release or fire.

The company was fined \$200,000 and ordered to serve a term of three years' probation for failing to adhere to EPA regulations which require a Risk Management Plan be developed, including a "worst case" response plan. Mann Chemical is also required to issue a public apology.

EPA regulations require facilities storing more than 1,000 lbs. of hydrofluoric acid to develop and implement a Risk Management Plan. An EPA inspection in June 2009 determined that Mann Chemical failed to develop and implement a Risk Management Plan while storing 92 drums of hydrofluoric acid in a concentration of 70%. The inventory indicated that each drum weighed 500 pounds, for a total of 46,000 pounds of hydrofluoric acid.

According to a Center for Disease Control and Prevention website, hydrogen fluoride is a chemical compound that contains fluorine. It can exist as a colorless gas or as a fuming liquid, or it can be dissolved in water. When hydrogen fluoride is dissolved in water, it may be called hydrofluoric acid. Hydrofluoric acid is used mainly for industrial purposes, and may cause skin burns, tissue damage and/or respiratory concerns.

The case was investigated by EPA's Criminal Investigation Division with the assistance of the REFP Unit of the Office of Environmental Stewardship with EPA's Region 1 office. It was prosecuted by Assistant U.S. Attorney Terrence P. Donnelly and Special Assistant United States Attorney Peter Kenyon of EPA.

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Mann Distribution Facility in Warwick, Rhode Island.

Former Water Works Employees in Louisiana Sentenced for Falsifying Information on Water Testing Logs --

On May 12, 2015, **KEVIN BRANCH**, of LaPlace, Louisiana, and **DANIELLE ROUSSEL**, of Paulina, Louisiana,



Drinking water fountains covered up as a result of the defendants falsifying water testing logs.

former employees of the St. John the Baptist Parish Water Works, pleaded guilty in federal district court for falsifying information on the water testing logs they were required to maintain and for falsely swearing to cover up their failure to properly collect and record water samples from testing sites where a brain-eating amoeba was found in the water system.

Both were sentenced to one year in prison, with that sentence suspended, and six months of probation. Branch was ordered to perform 80 hours of community service. Roussel was ordered to perform 40 hours of community service. Each was ordered to pay a \$400 fine.

Branch and Roussel were required to collect water samples from at least two locations, the Lions Water Treatment Plant in Reserve and an additional site

in Mt. Airy, to ensure that the water contained the appropriate amount of residual chlorine to disinfect the water and prevent growth of the amoeba, known as *Naegleria fowleri*. Branch and Roussel were required by law to record their findings on a daily log to be filed with the Department of Health and Hospitals.

However, a Louisiana State Police investigation found that the two did not collect all the samples to which they had attested. It was found that data from Global Positioning Systems (GPS) permanently attached to the parish vehicles assigned to Branch and Roussel showed that they were nowhere near the testing sites on numerous days where the employees alleged to have tested water samples.

The case was investigated by EPA's Criminal Investigation Division, the Louisiana State Police, the Louisiana Department of Health and Hospitals, and the St. John the Baptist Parish Government.

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Brain-eating amoeba found in the water system.

Duke Subsidiaries Plead Guilty and Are Sentenced to Pay \$102 Million for CWA Crimes -- On May 14, 2015, three subsidiaries of North Carolina-based Duke Energy Corporation, the largest utility in the United States, pleaded guilty in federal district court to nine criminal violations of the Clean Water Act at several of its North Carolina facilities and agreed to pay a \$68 million criminal fine and spend \$34 million on environmental



The coal ash discharged into the Dan River from this broken 48-inch storm water pipe.

projects and land conservation to benefit rivers and wetlands in North Carolina and Virginia. Four of the charges are the direct result of the massive coal ash spill from the Dan River steam station into the Dan River near Eden, North Carolina, in February 2014. The remaining violations were discovered as the scope of the investigation broadened based on allegations of historical violations at the companies' other facilities.

Under the plea agreement, both Duke Energy Carolinas and Duke Energy Progress, must certify that they have reserved sufficient assets to meet legal

obligations with respect to its coal ash impoundments within North Carolina, obligations estimated to be approximately \$3.4 billion.

On Feb. 20, 2015, the three U.S. Attorney's Offices in North Carolina filed separate criminal bills of information in their respective federal courts, alleging violations of the Clean Water Act at the following Duke facilities: the Dan River steam station (Rockingham County), the Cape Fear steam electric plant (Chatham County), the Asheville steam electric generating plant (Buncombe County), the H.F. Lee steam electric plant (Wayne County) and the Riverbend steam station (Gaston County). The alleged violations included unlawfully failing to maintain equipment at the Dan River and Cape Fear facilities and unlawfully discharging coal ash and/or coal ash wastewater from impoundments at the Dan River, Asheville, Lee and Riverbend facilities.

As part of their plea agreements, Duke Energy Business Services LLC, Duke Energy Carolinas LLC and Duke Energy Progress Inc. will pay a \$68 million criminal fine and a total \$24 million



The grey coal ash mixing in with the Dan River just downstream of the spill.

community service payment to the National Fish and Wildlife Foundation for the benefit of the riparian environment and ecosystems of North Carolina and Virginia. The companies will also provide \$10 million to an authorized wetlands mitigation bank for the purchase of wetlands or riparian lands to offset the long-term environmental impacts of its coal ash basins. In addition, they will pay restitution to the federal, state and local governments that responded to the Dan River spill and be placed on a period of supervised probation for five years.

Duke's subsidiaries operating 18 facilities in five states, including 14 in North Carolina, will also be required to develop and implement nationwide and statewide environmental compliance programs to be monitored by an independent court appointed monitor and be regularly and independently audited. Results of these audits will be made available to the public to ensure compliance with environmental laws and programs. The companies' compliance will be overseen by a court-appointed monitor who will report findings to the court and the U.S. Probation Office as well as ensuring public access to the information.



The primary coal ash basin at the Dan River Steam Station with all the wastewater drained out as a result of the pipe collapse.

Approximately 108 million tons of coal ash are currently held in coal ash basins owned and operated by the defendants in North Carolina. Duke Energy Corporation subsidiaries also operate facilities with coal ash basins in South Carolina, approximately 5.99 million tons of coal ash, Kentucky, approximately 1.5 million tons of coal ash, Indiana, approximately 35.6 million tons of coal ash and Ohio, approximately 5.9 million tons of coal ash. The companies must also meet the obligations imposed under federal and state law to excavate and close coal ash impoundments at the Asheville, Dan River, Riverbend and Sutton facilities.

Additionally, at the insistence of the United States, the holding company Duke Energy Corporation has guaranteed the payment of the monetary penalties and the performance of the nationwide and statewide environmental compliance plans.

The case was investigated by EPA's Criminal Investigation Division, the Office of Inspector General of EPA, Criminal Investigations of the IRS and North Carolina State Bureau of Investigation with assistance from the Federal Bureau of Investigation and the Department of Defense Criminal Investigative Service.

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Sentencings

Oklahoma Chemical Corporation Fined \$225,000 for Environmental Crime -- On May 4, 2015, **HELENA CHEMICAL CORPORATION** was sentenced in federal district court for the Northern District of Oklahoma for unlawfully disposing the restricted pesticide, Medal II AT, at its Welch, Oklahoma, facility in Craig County.

According to the plea agreement, for at least a six-month period beginning in May 2013, Helena Chemical Corporation disposed of unused Medal II AT by discharging the pesticide onto the ground and allowing it to run onto an adjacent property and into the Little Cabin Creek. Medal II AT contains the restricted use chemicals Altrazine and S-Metolachor which are two of the main active ingredients. If exposed to Altrazine, a person may experience difficulty breathing, weakness, irritation of the eyes, and suffer from liver damage; and a person exposed to S-Metolachor may experience eye, skin and respiratory irritation, dizziness, and nausea.

Under the settlement, Helena Chemical will pay \$150,000 in criminal fines and \$75,000 toward performing community service to fund environmental projects, initiatives, emergency responses, and/or education dedicated to the preservation and restoration of the environment and waters.

The case was investigated by EPA's Criminal Investigation Division and the Oklahoma Department of Agriculture. It was prosecuted by Assistant United States Attorney Joel-lyn A. McCormick.

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Pesticide flowing off of Helena Chemical Corporation's property.

Texas Man Sentenced for False Statements in Relation to Blowout Preventer Testing on Oil Platform in Gulf of Mexico -- On May 20, 2015, **RACE ADDINGTON**, of Houston, Texas, was sentenced in federal district court for the Eastern District of Louisiana to one year probation and 40 hours of community service for making false statements to agencies or departments of the United States in relation to the veracity of blowout preventer testing on an offshore oil and gas platform located at Ship Shoal 225 on a federal mineral lease in the Gulf of Mexico.

According to court documents, on or about November 27, 2012, production and well workover operations were being conducted on the platform and the blowout preventer system had to be tested. A blowout preventer system is designed to ensure well control and prevent potential release of oil and gas and possible loss of well control. The blowout preventer pressure chart that recorded the testing of the blowout preventer testing done on November 27, only recorded 6 of the 7 required components as being tested and was not signed nor dated by any representative on the platform.

On or about November 28, 2012, Addington, as the well site supervisor for the platform saw the results of the blowout preventer testing and had workers create a false blowout preventer test. The next day when Bureau of Safety and Environmental Enforcement (BSEE) inspectors conducted a routine inspection of the platform, Addington presented the fabricated blowout preventer pressure test chart to the BSEE inspectors with the expectation that it would be a passing test and the inspectors would not find the platform to be in non-compliance for failing to properly test the blowout preventer system.

On December 6, 2012, during an investigation of the veracity of the blowout preventer test by the Department of Interior's Investigation and Review Unit, Addington lied and told investigators the false chart he provided inspectors was a test of the chart recorder and that the inspectors mistakenly retrieved the wrong pressure chart from the files when in truth and in fact he knew that he had the blowout preventer pressure test chart fabricated and personally presented the chart to inspectors as the actual test record for the platform's blowout preventer system.

The case was investigated by EPA's Criminal Investigation Division, the Department of Interior-Office of Inspector General (Energy Investigations Unit) and the Investigations and Review Unit, Bureau of Safety and Environmental Enforcement. It was prosecuted by Assistant United States Attorney Emily K. Greenfield of the United States Attorney's Office's National Security Unit.

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Ohio Company Pleads Guilty to Dumping Fracking Waste -- On May 28, 2015, **HARDROCK EXCAVATING LLC**, a Youngstown, Ohio-based company, pleaded guilty in federal district court for the Northern District of Ohio to violating the Clean Water Act by dumping fracking waste into a tributary of the Mahoning River. The company's owner, Benedict W. Lupo, was previously sentenced to 28 months in prison for ordering the



illegal discharges, which took place more than 30 times between Nov. 1, 2012 and Jan. 31, 2013, according to court documents.

The community payment will be split between two agencies -- \$12,500 each to the Friends of the Mahoning River and Midwest Environmental Enforcement Association.

Hardrock Excavating LLC was owned by Lupo and was 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 storm sewer outfall in which Lupo directed an employee to discharge waste liquid. The outfall ultimately flows into the Mahoning River.

the facility and each holds approximately 20,000 gallons.

Lupo, directed employees to empty some of the waste liquid stored at the facility into a nearby wastewater drain on or about Nov. 1, 2012. Lupo directed the employees to conduct this activity only after no one else was at the facility and only after dark.

The employees, at Lupo's direction, 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 Jan. 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 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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Plea Agreements

New York Man Pleads Guilty to Illegally Treating, Storing, and Disposing of Hazardous Waste -- On May 12,

2015, **BRIAN DAVIS**, of Owego, New York, pled guilty in federal district court for the Northern District of New York to one felony count of treating, storing, and disposing of hazardous waste without a permit, in violation of the Resource Conservation and Recovery Act.

In June 2013, Davis, the owner of Large Car LLC, a company in Owego that installs and removes old industrial plating equipment for re-use or recycling, agreed to remove various hazardous chemicals, including arsenic, chromium, lead, and selenium, from a bankrupt waste generator facility in New Hampshire. Davis did not have a permit or environmental license to remove these chemicals, but he nevertheless transported them to the Large Car LLC facility in Owego, where he treated, stored, and disposed of them over the course of nearly a year. Specifically, Davis stored the hazardous waste without labeling it, properly isolating incompatible materials, or protecting it from the elements. Davis also treated and disposed of much of this waste by igniting and evaporating it, mixing it with other materials, and shipping it offsite without manifesting it. He faces up to five years in prison, a fine of up to \$15 million, and will be responsible to pay any charges associated with the cleanup and removal of the remaining hazardous waste material. He is scheduled to be sentenced on September 25.

The case was investigated by EPA's Criminal Investigation Division and the New York State Department of Environmental Conservation. It is being prosecuted by Assistant United States Attorney Michael F. Perry.

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Plating wastes illegally stored at the Large Car LLC facility. The top picture shows EPA scientists sampling the waste.

Norwegian Shipping Company and Engineering Officers Charged with Environmental Crimes and Obstruction of Justice -- On May 13, 2015, **DET STAVANGERSKE DAMPSKIBSSELSKAB AS** (DSD Shipping) and four employees were charged in federal district court for the Southern District of Alabama with violating the Act to Prevent Pollution from Ships (APPS), conspiracy, obstruction of justice and witness tampering. DSD Shipping is a Norwegian-based shipping company that operates the oil tanker *M/T Stavanger Blossom*, a vessel engaged in the international transportation of crude oil. Also indicted were four engineering officers employed by DSD Shipping to work aboard the vessel, **DANIEL PAUL DANCU**, of Romania, **BO GAO**, of China, **XIAOBING CHEN**, of China, and **XIN ZHONG**, of China.

According to the indictment, in 2014, DSD Shipping and its employees conspired to bypass pollution prevention equipment aboard the *M/T Stavanger Blossom* and to conceal the direct discharge of waste oil and oil-contaminated waste water from the vessel into the sea. The operation of marine vessels, like the *M/T Stavanger Blossom*, generates large quantities of waste oil and oil-contaminated waste water. International and U.S. law requires that these vessels use pollution prevention equipment to preclude the discharge of these materials. Should any overboard discharges occur, they must be documented in an oil record book, a log that is regularly inspected by the U.S. Coast Guard. Despite these requirements, DSD Shipping and its employees used a bypass pipe to circumvent pollution prevention equipment and discharge waste oil and oil-contaminated waste water directly into the sea. DSD Shipping and its employees also filled plastic bags with waste oil from a sludge tank aboard the vessel and then discarded the oil-filled plastic bags overboard into the sea.

The indictment further alleges that prior to an inspection by the U.S. Coast Guard, Chen ordered crewmembers to remove the bypass pipe, install a new pipe and repaint the piping to hide the illegal discharges. Chen and Zhong then ordered crewmembers to lie to the U.S. Coast Guard and instructed them to say that no plastic bags containing waste oil were discarded overboard, that all plastic bags remained aboard the vessel and to provide the incorrect quantity of bags generated from the cleaning of the sludge tank. To further hide the illegal discharges of waste oil and oil-contaminated waste water, DSD Shipping and its employees maintained a fictitious oil record book that failed to record the disposal, transfer, or overboard discharge of oil from the vessel. The oil record book also contained false entries stating that pollution prevention equipment had been used when it had not.

DSD Shipping and the engineering officers were charged with violating the APPS for failing to record overboard discharges in the vessel's oil record book and garbage record book and with obstruction of justice and witness tampering for presenting false documents and deceiving the Coast Guard during an inspection. If convicted, DSD Shipping could be fined up to \$500,000 per count, in addition to other possible penalties. Dancu, Gao, Chen and Zhong face a maximum penalty of 20 years in prison for the obstruction of justice charges. An indictment is merely a formal charge that a defendant has committed a violation of criminal laws and every defendant is presumed innocent until and unless proven guilty.

The case was investigated by EPA's Criminal Investigation Division, the Sector Mobile of the U.S. Coast Guard, and Investigative Services of the U.S. Coast Guard. It is being prosecuted by Assistant U.S. Attorney Mike D. Anderson, with the U.S. Attorney's Office for the Southern District of Alabama, and ECS Trial Attorney Shane N. Waller.

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