



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 at <http://www2.epa.gov/enforcement/criminal-enforcement-policy-guidance-and-publications>.

July 2015

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Defendant Summary

Region	Defendants	Case Type/Status
Region 7	Earl Patrick Kearney	CWA/Altering sample data in monitoring reports
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Region 7	Michael J. Wolf	CWA/Illegally discharging biological materials and agriculture waste into U.S. waters
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Region 10	Jon Koloski	CWA/Making false statements to federal authorities, failure to complete permit process



Sentencings

Missouri Man Sentenced for CWA Crimes -- On July 6, 2015, **EARL PATRICK KEARNEY** was sentenced in federal district court for the Western District of Missouri to 5 years of probation and ordered to pay a criminal penalty of \$30,000. In December, Kearney pleaded guilty to two negligent Clean Water Act violations. Kearney was employed as a wastewater treatment operator for two housing developments between May 2010 and August 2011. He was responsible for conducting wastewater sampling at the facilities and submitting those results to the Missouri Department of Natural Resources. Kearney admitted to altering sample data on quarterly discharge monitoring reports that he submitted to the state so that it appeared they were in compliance with their discharge permits. The actual test results for total phosphorous, however, showed that they had violated their permits.

The case was investigated by EPA's Criminal Investigation Division and the Missouri Department of Natural Resources. It was prosecuted by Assistant U.S. Attorney Steve Mohlhenrich.

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Outfall from one of the facilities for which Kearney falsified discharge monitoring reports later submitted to the Missouri Department of Natural Resources.

Kansas Business Owner Sentenced for CWA Violations -- On July 6, 2015, **KEVIN L. CLINE**, of Minneapolis, Kansas, owner of C & R Plating, a metal plating company in Minneapolis, was sentenced in federal district court for the District of Kansas to four months in federal prison followed by six months home confinement for violating the federal Clean Water Act. His company was fined \$10,000. In addition, he and his company were ordered to pay \$281,503 in restitution.

In his plea, Cline admitted he was responsible for high levels of zinc found in a sewer system operated by the city of Minneapolis. Beginning in 2007, Cline submitted false and fraudulent samples and reports to the Kansas Department of Health and Environment to conceal the fact that untreated waste water from C & R Plating was being delivered to the Minneapolis sewer system. The water came from spent chemical baths used in treating metals. The city sewer system discharges into the Solomon River via Lindsey Creek and an unnamed tributary.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Assistant U.S. Attorney Richard Hathaway.

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The treatment system inside C&R Plating



Hoses in C&R Plating leading to the drain and city sewer system.

Sentencings



Former church where illegal asbestos removal was conducted.

New Jersey Man Sentenced for Submitting False Documents to City of Philadelphia

-- On July 21, 2015, **RONEN BAKSKI**, of Voorhees, New Jersey, was sentenced in federal district court for the Eastern District of Pennsylvania to one year and one day in prison for falsifying records to obstruct a matter within the jurisdiction of the U.S. EPA and wire fraud. He also received a \$30,000 fine, a \$200 special assessment, and a year of supervised release to follow imprisonment.

Bakski submitted false documents to the city of Philadelphia's Air Management Services office in connection with a project for removal of asbestos-containing material from a former church located in Philadelphia and billed the non-profit owner of the property for work he did not perform. He pleaded guilty on March 18, 2015 to both counts of the indictment.

The case was investigated by EPA's Criminal Investigation Division with assistance from the city of Philadelphia's Air Management Services office. It is being prosecuted by Special Assistant United States Attorneys Martin Harrell and Patricia C. Miller of EPA.

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Asbestos containing material illegally removed from the former Church.

Louisiana Energy Company Operation Manager Pleads Guilty, Is Sentenced for Negligently discharging Pollutants Into a Bay

-- On July 15, 2015, **BRIAN OSBORN**, of Lafayette, Louisiana, pleaded guilty in federal district court for the Western District of Louisiana to one count of negligent discharge of pollutants. He was sentenced to one day in prison and one year of supervised release and was ordered to perform 200 hours of



Discharge pipe (shown with 90 degree angle).

community service. The evidence presented at the guilty plea showed that Gulfport Energy discharged produced water into West Cote Blanche Bay from June 2011 until March 2012. United States Attorney Stephanie A. Finley announced a clarification related to an oilfield production company employee's guilty plea and sentencing for dumping polluted water into West Cote Blanche Bay. Finley clarified that according to the guilty plea, Osborn, who was Gulfport Energy Corporation's operation manager for the platform, should have been aware of the problem. Additionally, Finley clarified that the problem was not timely addressed and the platform continued to illegally discharge the produced water at certain production rates over a 10-month period. Osborn was found to be an officer within Gulfport Energy Corporation who became aware of the defective nature of

the platform, and who had the responsibility to fix any deficiency causing illegal discharges. Produced waters are left over after separating oil from drainage fluids. The pollutants should have been disposed of via barge, injection well or other approved method.

Gulf Port Energy pleaded guilty and was sentenced on one count of negligent discharge of pollutants on October 27, 2014. The company was ordered to pay \$1.5 million. Gulfport paid a \$1.125 million fine for violating the Clean Water Act. The company also paid \$375,000 in community service for a total of \$1.5 million. Of the \$375,000, \$100,000 was paid to the Louisiana State Police Emergency Services Unit; \$100,000 was paid to the Louisiana Department of Environmental Quality; \$125,000 was paid to the Public Oyster Seed Ground Development Account within the Conservation Fund administered by the Louisiana Department of Wildlife and Fisheries; and \$50,000 was paid to Southern Environmental Enforcement Network.

The case was investigated by EPA's Criminal Investigation Division and the Louisiana Department of Environmental Quality-Criminal Investigations Division. It was prosecuted by Assistant U.S. Attorney Myers P. Namie.



Area of discharge

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An Iowa Man Sentenced for CWA -- On July 20, 2015, **MICHAEL J. WOLF**, of Remsen, Iowa, was sentenced in federal district court for the Northern District of Iowa for Clean Water. Michael Wolf received a sentence including six weekends in prison after a December 16, 2014, guilty plea to one count of knowingly discharging a pollutant into a waterway of the United States which resulted in a fish kill. A special assessment of \$100 was also imposed. At the plea and sentencing hearings, the United States presented evidence that on October 23 and 24, 2012, Wolf, while he was the maintenance manager at Sioux-Preme Packing, intentionally discharged biological materials and agricultural wastes (*e.g.*, blood, fecal material, animal guts, cleaning chemicals, *etc.*) from one of Sioux-Preme's waste lagoons into a tributary of the West Branch of the Floyd River.

The discharge lasted more than 11 hours. It fouled over 11 miles of river, downstream from the lagoon. It killed over 190,058 fish of various species (with a value of \$20,282.94) and caused the State of Iowa to expend more than \$5,000 in response costs. One witness to the fish kill described watching fish jumping out of the water and racing around to avoid the deadly plume. Wolf lied to members of the Iowa Department of Natural Resources' Emergency Response team attempting to ameliorate the effects of the spill. This delay likely worsened the effects of the spill.

The case was investigated by EPA's Criminal Investigation Division and the Iowa Department of Natural Resources. It was prosecuted by Assistant United States Attorney Forde Fairchild.

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A Nebraska Man Sentenced for CAA Violations -- On July 20, 2015, **LARRY WOLF**, of Dakota City, Nebraska, was sentenced in federal district court for the Northern District of Iowa for Clean Air Violations. Larry Wolf



The old YMCA building from which Wolf, and others at his direction, tore and removed pipes containing asbestos.

received a sentence including a year and a day in prison after a December 17, 2014, guilty plea to one count of knowingly violating the work practice standards of the Clean Air Act by failing to thoroughly inspect the old Sioux City YMCA to ascertain the amount of asbestos, and whether that amount was sufficient to subject the demolition project to regulation. A special assessment of \$100 was also imposed.

At the plea and sentencing hearings, the United States presented evidence that Larry Wolf knew the building contained asbestos and regulated asbestos-containing material

and that he had even received an asbestos abatement estimate for the building. Despite knowing the old YMCA building contained asbestos, Wolf directed friends, family, and others to, disturb, renovate, remove, and dispose the asbestos and regulated asbestos-containing material and help him personally do so. Wolf took at least 19,514 pounds of scrap metal from the old YMCA and was paid at least \$30,477.54 from one particular scrap yard for it. He boasted he had made \$80,000.00 or more from the old YMCA in this way. When he was questioned by Special EPA Agents he lied, telling them he had only removed naked materials from the facility.

The case was investigated by EPA's Criminal Investigation Division and the Iowa Department of Natural Resources. It was prosecuted by Assistant United States Attorney Forde Fairchild.

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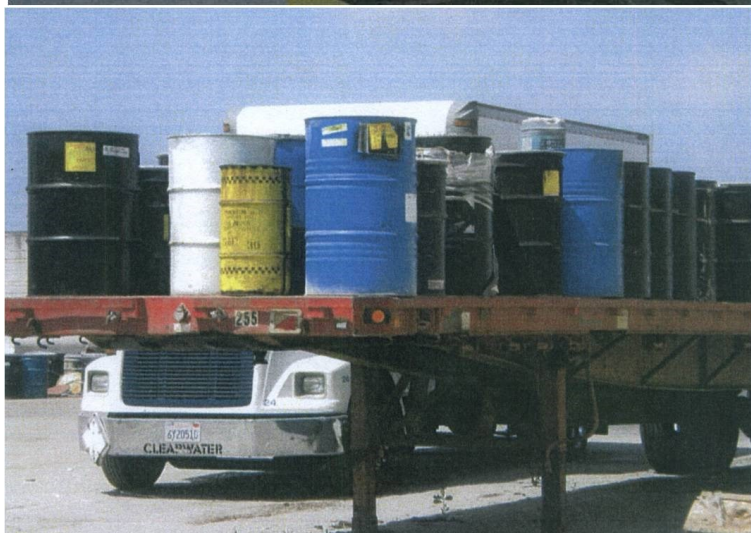
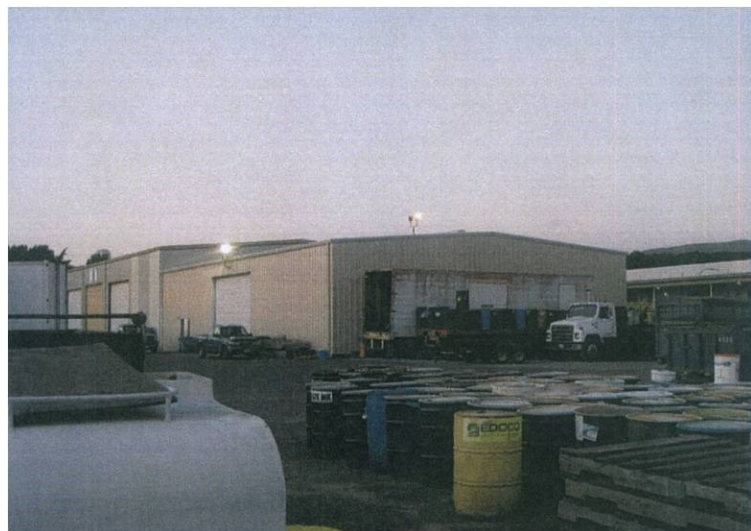
California Men Sentenced for Related to Hazardous Waste Disposal Records and for Transportation of Hazardous Waste Without Required Permit

-- On July 29, 2015, **KIRK HAYWARD** and **CHARLES SEATON**, respectively the former owner and the former vice president of Clearwater Environmental Management, Inc., of Union City, California, were sentenced in Alameda, California, county district court for felony convictions of conspiracy. Hayward was ordered to serve one year in the county jail and five years of formal probation, and to pay miscellaneous fines. He was also ordered not to own, manage, or consult for a hazardous waste company. Seaton was ordered to serve four months in the county jail and five years of formal probation, and to pay miscellaneous fines. He was also ordered not to own, manage, or consult for a hazardous waste company for ten years.

For years, Hayward and Seaton ran the Union City, California-based company and systematically defrauded Clearwater's customers, falsified Clearwater customers' official hazardous waste disposal records, and transported hazardous waste without a license from DTSC.

Defrauded Clearwater customers, including BART, Closure Solutions, Pape Machinery, and Recology, had hired the business to ensure compliance with their legal obligations as generators of hazardous waste, to lawfully transport and dispose of their hazardous waste, and to truly and accurately document disposal in official hazardous waste tracking records called 'manifests'. However, Clearwater failed to provide customers with all of these environmental services.

Clearwater lost its license (called a 'registration') to transport hazardous waste in 2007 after Hayward was criminally convicted and ordered to serve 60 days in jail and pay a \$70,000 fine stemming from an earlier DTSC investigation. After losing its license, Clearwater lawfully transported waste that was non-hazardous, but also transported waste that was hazardous, by fraudulently using the identity and license of another transporter on customers' official hazardous waste manifests. The defendants also often falsified the disposal site in customers' manifests. They represented that waste had been disposed of at Clearwater's facility in Silver Springs, Nevada, when the waste never went there, according to facility employees and records. In truth, Clearwater illegally consolidated, stored, and/or disposed of the waste.



Inside the Clearwater Environmental Management yard and trucking facility.

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Ohio Company Owner and His Company Sentenced in Asbestos Dumping Case -- On July 21, 2015, **DONZELL MOORE**, of Toledo, Ohio, was sentenced in county court of common pleas for charges related to asbestos removal and disposal during demolition of the former Champion Spark Plug facility in Toledo. He was given 30 days in jail (with work release eligibility), three years community control, and 240 hours of community service. He also was ordered to pay \$25,274.37, jointly with his company, to Ohio EPA for clean-up and investigative costs. The court also reserved a 12-month prison sentence if Moore violates the terms of his community control. He had pleaded guilty on June 4 to charges of complicity to remove asbestos without a certification or license and illegal disposal of construction and demolition debris.



The Old Stateline Road dumpsite. This was taken by the Ohio EPA employee who discovered the dump site.

Separately, his company, **MOORHOUSE REAL ESTATE DEVELOPMENT LLC**, was ordered to pay fines totaling \$10,750. The company pleaded guilty to complicity to remove asbestos without a certification or license, removing asbestos without notifying Ohio EPA, and illegal disposal of construction and demolition debris.

In October 2012, Moore paid scrap worker Ronald Gibson, to illegally remove and dispose of friable asbestos pipe insulation from the Champion facility in anticipation of demolishing the boiler building. Gibson, of Holland, Ohio, illegally disposed of the asbestos insulation in rural western Lucas County and in large trash bins behind an apartment complex in West Toledo. Gibson was sentenced on April 15 to one year and 90 days in jail and a \$750 fine on the latter

two counts. He received three years' community control including 160 hours of community service and was ordered to pay \$5,374.37 in restitution. The jail time was suspended on the condition he completed the terms of his community control and cooperated in the prosecution of Moore and his company. The Gibson criminal investigation was a collaboration of multiple agencies at the local, state, and federal level as part of the Northwest Ohio Environmental Crimes Task Force, which also included assistance from the Toledo Division of Environmental Services and Ohio Department of Health's Environmental Abatement Section. It was prosecuted by the Ohio Attorney General's Environmental Enforcement Section, Criminal Prosecutions Unit, which was appointed by the Lucas County prosecutor.

The dump site in western Lucas County was discovered in November 2012 on private property off Old Stateline Road in Monclova Township. After evidence was collected, the asbestos insulation was cleaned up and properly disposed of by an Ohio EPA contractor.

The Moore case was investigated by EPA's Criminal Investigation Division, the Ohio EPA Office of Special Investigations, and the Ohio Attorney General's Bureau of Criminal Investigation, with help from public tips. The investigation led to Gibson, who pleaded guilty to removing asbestos without a license or certification, removing asbestos without notifying Ohio EPA, and illegal disposal of construction and demolition debris.

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Washington State Homeowner Pleads Guilty to Making False Statement to Federal Authorities --On July 9, 2015, **JON KOLOSKI**, of Potlatch in Mason County, Washington, a Hood Canal waterfront property owner, pleaded guilty in federal district court for the Western District of Washington to the federal felony offense of making a false statement to a federal official in connection with his unlawful construction of a beachfront bulkhead. Koloski constructed the bulkhead in September 2011, without the appropriate permit from the U.S. Army Corps of Engineers. He had been told by both Mason County officials and the Corps that he needed the federal permit to construct the bulkhead. After he failed to complete the permit process, and after the new bulkhead had been installed, Koloski falsely told the U.S. Army Corps of Engineers via email that he no longer needed the permit as he was not going to replace the previously existing bulkhead. A subsequent inspection by the Corps of Engineers revealed the bulkhead had already been constructed and was in violation of federal and state rules. Koloski is scheduled to be sentenced on October 5, 2015. In

addition to the criminal charge, Koloski also settled civil violations of the federal Clean Water Act.

According to the plea agreement, Koloski admits that in the late 1990s he started exploring the replacement of the existing bulkhead at his beachfront property. He was told by Mason County authorities that any new bulkhead had to remain on the footprint of the existing bulkhead, and could not extend further than 6 feet past the ordinary high water mark. Koloski was also informed that any work that extended beyond the ordinary high water mark had to be approved and permitted by the U.S. Army Corps of Engineers. In early 2010, Mason County issued permits for a new bulkhead 6 feet past the ordinary high water mark. In June 2010, an official with the U.S. Army Corps of Engineers informed Koloski that he needed to apply for a permit. In paperwork submitted to the Corps, Koloski said the bulkhead would be ten feet past the ordinary high water mark. The Corps asked for more information on the project, but Koloski did not respond and in September 2010 the permit process was cancelled.

In October 2010, Koloski revived the process by submitting some of the required information and he was informed of the time frame for permit approval. Still without a permit, in mid-2011 Koloski went forward and hired a contractor. In September 2011 Koloski had the bulkhead installed ten feet past



Koloski's beachfront property before construction of the bulkhead (top) and after (bottom).

Plea Agreements

the ordinary high water mark. The Corps of Engineers was unaware of the construction and sent Koloski information on specific requirements for a permit in early 2012. Koloski responded in April 2012 that due to financial considerations he no longer planned to build the new bulkhead and asked that his application for a permit be withdrawn. Koloski sent the email some six months after having the new bulkhead constructed. In May 2012, a Corps of Engineers inspector visited the Koloski property and discovered the new bulkhead had been constructed without a permit and in violation of rules regarding the distance seaward from the ordinary high water mark.

Koloski has agreed to pay \$60,000 in civil penalties and \$60,500 to the Hood Canal Coordinating Council for mitigation of salmon habitat to offset environmental impacts associated with construction of the bulkhead. In addition, the civil settlement requires habitat restoration at the site of the bulkhead to remedy habitat loss.

The case was investigated by EPA's Criminal Investigation Division, the Mason County, Washington Department of Ecology, Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and the National Oceanic and Atmospheric Administration. It is being prosecuted by Assistant United States Attorney James Oesterle.

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More photographs of Koloski's beachfront property before construction of the bulkhead (left) and after (right).

Puerto Rico Construction Company and Its Executive Owner Indicted for CAA Violations --On July 13, 2015, **AIREKO CONSTRUCTION COMPANY** was charged by a grand jury in federal district court for the District of Puerto Rico with illegal removal of asbestos during the renovation of the 9th floor of the Minillas North Tower in May 2012.

The grand jury charged Aireko with five counts of failing to comply with the National Emission Standards for Hazardous Air Pollutants (NESHAP) by failing: (1) to adequately wet the asbestos during the removal; (2) to have a properly trained supervisor on site during the removal; (3) to properly place the asbestos in leak tight bags; (4) failing to properly label the asbestos containing waste material; (5) to properly dispose of the asbestos containing material at an authorized land fill. Count Six charges the defendant with failing to notify immediately the appropriate government agency of the release of a reportable quantity of a hazard substance-asbestos.

The indictment alleges that between Saturday 12 and Sunday May 13, 2012, subcontractors, working within the scope of their employment and at least in part for the benefit Aireko, removed ceiling materials containing more than 1 percent asbestos and placed the asbestos containing materials in the trash area in back of the Minillas North Tower. The failure to notify charge focuses on conduct of corporate officials who discovered the release of asbestos on Monday, May 14, and failed to make the appropriate notifications.

The illegal removal of the asbestos containing ceiling material and transporting it down to the trash area without following the NESHAP work practice requirements resulted in the contamination of the entire office building. The building was ordered closed by the Public Building Authority on May 20, 2015. Clean-up required almost one year to complete.

In a related matter, **EDGARDO ALBINO** was charged with failing to notify immediately the appropriate government agency of the release of a reportable quantity of a hazard substance-asbestos. Albino, of Caguas, Puerto Rico, is the vice-president of operations and executive owner of Aireko. He was the senior Aireko employee responsible for supervising the ninth floor renovation.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Howard P. Stewart, Senior Litigation Counsel, Environmental Crimes Section of the Department of Justice Washington, D.C., and Assistant United States Attorney Mariana E. Bauzá-Almonte with assistance from Carolina Jordan-García, EPA Region II Criminal Enforcement Counsel. The charges and allegations are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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South Carolina Man Indicted for Illegally Storing Hazardous Waste at Camden, New Jersey, Chemical Company Facility and Making False Statements to EPA

-- On July 17, 2015, **MIGUEL CASTILLO**, of Hilton Head, South Carolina, former president and CEO of Concord Chemical Co. Inc. (Concord) was charged by a federal grand jury in federal district court for the District of New Jersey with one count of storing hazardous waste at Concord's Camden, New Jersey, facility in violation of the Resource Conservation and Recovery Act and two counts of making false statements to the EPA.

According to the indictment: RCRA was enacted in 1976 to address a growing nationwide problem with industrial and municipal waste. RCRA was designed to protect human health and the environment by prohibiting the treatment, storage or disposal of any hazardous waste without a permit. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes the EPA to remove hazardous waste from industrial sites and hold responsible parties liable for the costs.

Concord manufactured, repackaged and distributed a wide variety of chemical products, including cresylic acid, soaps, waxes, pipe lubricants and emulsions. Some of Concord's products and the raw materials used to make them were hazardous. Castillo was Concord's president or CEO from 2003 through August 2011. He also served as the president and director of another company, KW Inc., which repackaged and distributed commercial laundry products while leasing space from Concord's Camden facility from May 2008 through the fall of 2009. Neither Concord nor KW had a permit to store hazardous waste at the Camden facility.

While Castillo was in charge of Concord, drums containing hazardous waste were stored in the Camden facility basement. In 2004 and 2005, Concord employees attempted to remove those drums but allegedly never finished due to claims by Castillo that Concord could not afford to remove additional drums.

By March 2010, Concord and KW had ceased operations at Concord's Camden facility. In August 2010, the EPA conducted a site visit and discovered that the facility was devoid of employees, left in a deteriorated condition and filled with drums containing corrosive and ignitable hazardous waste. From October 2010 through March 2011, the EPA removed the hazardous substances from the facility.

On September 1, 2011, EPA requested information from Castillo in order to identify the parties responsible for EPA's removal costs. When Castillo responded to the EPA's requests, he failed to identify himself as Concord's president and CEO or KW's president and director.

The illegal storage of hazardous waste charge and each of the false statements charges carry a maximum penalty of five years in prison and a \$250,000 fine, or twice the gain or loss caused by the offense.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorney Kathleen P. O'Leary of the U.S. Attorney's Office Health Care and Government Fraud Unit in Newark. The charges and allegations against Castillo are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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