



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>.

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Defendant Summary

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Region 2	Certified Environmental Services, Inc.	CAA/Negligent release of asbestos into the ambient air
Region 2	Brian Davis	RCRA/Illegal treatment, storage, disposal of hazardous waste without a permit
Region 4	Det Stavangerske Dampskibsselskab, Bo Gao, Xiaobing Chen, Xin Zhong	Act to Prevent Pollution from Ships/Discharging fuel oil directly into ocean by bypassing oily-water separator, obstructing justice, witness tampering, conspiracy
Region 6	Black Elk Energy Offshore Operations LLC, Grand Isle Shipyards Inc., Wood Group PSN Inc., Don Moss, Curtis Dantin, Christopher Srubar	Outer Continental Shelf Lands Act, CWA/Failure to follow proper safety practices that led to an explosion of an oil production platform and resulted in death of three workers, injury to others, and an oil spill
Region 6	Energy Resource Technology GOM, LLC	Outer Continental Shelf Lands Act, CWA/Knowingly and willfully failed to comply with the regulations for hot work; tampering with the method of collecting monthly overboard produced water discharge samples to be tested for oil and grease content pursuant to NPDES permit
Region 9	Brock Gustin William Baker and Mark Stephen Avila	State case/failure to warn of a concealed danger, interference with enforcement, storage of hazardous substances and repeated failures to communicate with employees about hazardous substances.

New York Company Ordered to Pay Over \$409,000 for Negligent Endangerment -- On November 24, 2015, **CERTIFIED ENVIRONMENTAL SERVICES, INC.**, ("CES") was sentenced in federal district court for the Northern District of New York to five years of probation, and to make restitution in the amount of \$409,829.67, for negligently releasing asbestos into the ambient air, thereby placing other persons in imminent danger of death or serious bodily injury. The judge in the case credited CES for prior restitution payments of \$87,960.06 and ordered CES to make an initial lump-sum payment of \$100,000 toward its restitution obligation, and then pay monthly installments of \$2,000 or 10 per cent of CES's net monthly cash flow, whichever is greater. He also credited CES for time already served on its 5-year probation sentence. The admissions by CES, in connection with pleading guilty to a one-count misdemeanor Information on May 5, 2015, included the following:

During the period of 1999 to 2007, CES was engaged in the business of, among other things, conducting air monitoring and sampling, and performing laboratory analysis before, during, and at the conclusion of asbestos abatement (removal) projects. CES provided air sampling and laboratory analysis for asbestos abatements by AAPEX Environmental Services, Inc., and Paragon Environmental Services, Inc., which had performed illegal "rip and run" removals in which asbestos was stripped and removed dry, scattered and left behind in various locations throughout the work area, and was permitted to, and did, migrate outside of the facility and into the ambient air.

Asbestos is a hazardous air pollutant, and severely toxic. Before asbestos abatement, containment structures known as isolation barriers must be constructed around the abatement area by the contractor and negative air pressure maintained to ensure that contaminated air in the abatement area does not filter back to an uncontaminated area. The containment and negative air pressure must be maintained continuously from the start of the abatement work through the cleanup operations and clearance air monitoring.

CES's negligence, which caused the release of asbestos and the resulting imminent danger to people, involved: 1) CES employees failing in certain cases to: perform visual inspections for asbestos debris and pools of water; observe required waiting periods before sampling; record accurate sampling starting and stopping times; calibrate pumps before and after sampling; conduct aggressive air sampling (by agitating the air inside the work area to ensure that present asbestos fibers are rendered airborne for collection and measurement); and decontaminate air samplers and their equipment before leaving the asbestos work area or signing in and out of containment; and 2) CES employees, in certain cases, conducting air sampling without entering work areas; letting contractors collect air samples themselves; and overstating sampling times.

CES thereby negligently released asbestos into the ambient air and negligently placed persons in imminent danger of death or serious bodily injury from exposure to asbestos fibers.

In 2010, a 15-count superseding indictment charged CES and others with environmental offenses and mail fraud, and a jury trial concluded with the conviction of CES and three co-defendants. In 2014, however, the U.S. Court of Appeals for the Second Circuit reversed the convictions and remanded for a new trial as to the three defendants (including CES) that appealed their convictions. The sentencing of CES for negligent endangerment resolves the pending charges against CES and two co-defendants who also appealed. Two other co-defendants face re-sentencing.

The case was investigated by EPA's Criminal Investigation Division, the New York regional office and the Syracuse resident office. On remand, the case was prosecuted by First Assistant U.S. Attorney Grant C. Jaquith. [Back to Defendant Summary](#)



New York Man Sentenced to Prison for Illegally Treating, Storing and Disposing of Hazardous Chemicals --

On November 27, 2015, **BRIAN DAVIS**, of Owego, New York, was sentenced in federal district court for the Northern District of New York to serve one year and one day in federal prison after pleading guilty earlier in the year 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 addition to the prison sentence, Davis was sentenced to pay a \$5,000 fine and to serve a three-year term of supervised release after release from prison.

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 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. Davis stored the hazardous waste without labeling, and failed to properly isolate incompatible materials, or protect them 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 to offsite locations without listing it on manifests, as required.

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

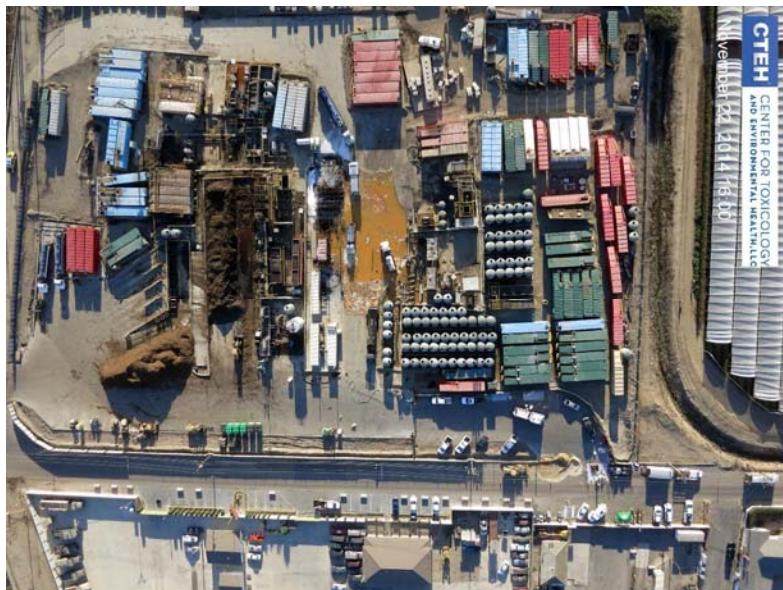
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Plating wastes illegally stored at the Large Car LLC facility. The top picture shows EPA scientists sampling the waste.

Two California Men Plead Guilty to Misdemeanors Related to Hazardous Waste Storage

-- On November 20, 2015, **BROCK GUSTIN WILLIAM BAKER** and **MARK STEPHEN AVILA** pled guilty in Ventura County, California, court to failure to warn of a concealed danger, interference with enforcement, and two misdemeanors related to storage of hazardous substances and repeated failures to communicate with employees about hazardous substances. Baker and Avila's guilty pleas were entered as to charges in the indictment returned by the Ventura County Grand Jury in connection with their involvement in an explosion that occurred



Aerial photograph of the Santa Clara Waste Water Company

at Santa Clara Waste Water Company in Santa Paula, California on November 18, 2014. A sentencing hearing for both defendants is scheduled in Ventura Superior Court for June 1, 2016.

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The explosion that occurred at the Santa Clara Waste Water Company on November 18, 2004 and its aftermath.

Norwegian Shipping Company and Engineering Officers Convicted of Environmental Crimes and Obstruction of Justice

-- On November 10, 2015, a federal jury in the U.S. District Court for the Southern District of Alabama convicted **DET STAVANGERSKE DAMPSKIBSSELSKAB AS (DSD Shipping)** and three



The M/T Stavanger Blossom

employees with obstructing justice, violating the Act to Prevent Pollution from Ships (APPS), witness tampering and conspiracy. DSD Shipping is a Norwegian-based shipping company that operates crude oil tankers, including the *M/T Stavanger Blossom*. Also convicted at trial were three senior engineering officers, **BO GAO, XIAOBING CHEN** and **XIN ZHONG**, employed by DSD Shipping to work aboard the vessel. A fourth employee, Daniel Paul Dancu, pleaded guilty in October.

The jury found DSD guilty of all charges except the two allegations of concealing the so called “magic pipe.” They found Chief Engineer Gao, Second Engineer Chen, and Fourth Engineer Zhong guilty of various counts of failing to maintain an oil record book, obstruction of justice related to the false oil record book, failing to maintain a garbage record book, obstruction of justice related to the false garbage record book, and witness intimidation. Chief Engineer Gao was also convicted of the conspiracy charge, although Second Engineer Chen and Fourth Engineer Zhong were acquitted of that charge.

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, known as an oily-water separator, 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.

The evidence presented during the two-week trial demonstrated that in January 2010, DSD Shipping knew that the oily-water separator aboard the *M/T Stavanger Blossom* was inoperable. In an internal corporate memo, DSD Shipping noted that the device could not properly filter oil-contaminated waste water and stated that individuals “could get caught for polluting” if the problem was not addressed. Rather than repair or replace the oily-water separator, however, DSD Shipping used various methods to bypass the device and force the discharge of oily-wastes into the ocean. During the last months of the vessel’s operation prior to its arrival in the Port of Mobile, the *M/T Stavanger Blossom* discharged approximately 20,000 gallons of oil-contaminated waste water.

The evidence at trial also established that DSD Shipping employees intentionally discharged fuel oil sludge directly into the ocean. Specifically, crewmembers cleaned the vessel’s fuel oil sludge tank, removed approximately 264 gallons of sludge and placed the waste oil into plastic garbage bags. After hiding the sludge bags aboard the ship from port authorities in Mexico, defendants Chen and Zhong

ordered crewmembers to move as many as 100 sludge bags to the deck of the vessel. There, Zhong threw the sludge bags overboard directly into the ocean.

DSD Shipping, Dancu, Gao, Chen and Zhong, all attempted to hide these discharges from the U.S. Coast Guard by making false and fictitious entries in the vessel's oil record book and garbage record book. Further, after arriving in Mobile, Chen and Zhong lied to the U.S. Coast Guard about the discharge of sludge and ordered lower ranking crewmembers to do the same.

At the conclusion of trial, DSD Shipping was convicted of one count of conspiracy, three counts of violating APPS, three counts of obstruction of justice and one count of witness tampering. Defendant Gao was convicted of one count of conspiracy and two counts of obstruction of justice. Defendant Chen was convicted of one count of violating APPS, three counts of obstruction of justice and one count of witness tampering. Finally, Zhong was convicted of two counts of violating APPS, two counts of obstruction of justice and one count of witness tampering. DSD Shipping could be fined up to \$500,000 per count, in addition to other possible penalties. Gao, Chen and Zhong face a maximum penalty of 20 years in prison for the obstruction of justice charges

The case was investigated by EPA's Criminal Investigation Division, the U.S. Coast Guard Sector Mobile, U.S. Coast Guard District Eight, and CGIS. It was prosecuted by Assistant U.S. Attorney Michael D. Anderson, with the U.S. Attorney's Office for the Southern District of Alabama, and the Department of Justice's Environmental Crimes Section Trial Attorney Shane N. Waller.

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The fuel oil sludge tank that crewmembers cleaned, placing 264 gallons of sludge into these plastic garbage bags. These were later thrown overboard.

Three Companies and Three Individuals Charged in Fatal 2012 Gulf of Mexico Oil Drilling Platform Explosion

-- On November 19, 2015, **BLACK ELK ENERGY OFFSHORE OPERATIONS LLC, GRAND ISLE SHIPYARDS INC., WOOD GROUP PSN INC.,** as well as **DON MOSS**, of Groves, Texas, **CURTIS DANTIN**, of Cut-Off, Louisiana, and **CHRISTOPHER SRUBAR**, of Destrehan, Louisiana, were charged in federal district court for the Eastern District of Louisiana with crimes for a November 2012 explosion on an oil production platform that resulted in the death of three workers, the injury of others and an oil spill.

According to the indictment, the defendants were involved in different capacities while construction work was being done of the West Delta 32 platform when it exploded. Black Elk Energy Offshore Operations LLC and Grand Isle Shipyards Inc. are charged with three counts of involuntary manslaughter, eight counts of failing to follow proper safety practices under the Outer Continental Shelf Lands Act (OCSLA) and one count of violating the Clean Water Act. Wood Group PSN Inc., Moss, Dantin and Srubar are charged with felony violations of OCSLA and the Clean Water Act.

The Outer Continental Shelf Lands Act and federal regulations govern welding and activities that generate heat or sparks, known as “hot work,” on oil production platforms in U.S. waters. Because this work can be hazardous and cause explosions, regulations mandate specific precautions that must be taken before the work can commence. For instance, before hot work can be performed, pipes and tanks that had contained hydrocarbons must be isolated from the work or purged of hydrocarbons. Gas detectors and devices used to prevent gas from travelling through pipes must be used. According to the Indictment, these safety precautions were not followed and an explosion causing the deaths of three men and a spill resulted.

An indictment is only an allegation of wrongdoing and the defendants are presumed innocent unless proven guilty at trial.

The case was investigated by EPA’s Criminal Investigation Division and the U.S. Department of Interior Office of Inspector General. It is being prosecuted by Emily Greenfield of the U.S. Attorney’s Office for the Eastern District of Louisiana and by Kenneth E. Nelson of the Environmental Crimes Section of the Department of Justice.

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Louisiana Oil Company Charged with Multiple Felonies Related to Violations of Offshore Oil Production Safety and Environmental Regulations – On November 30, 2015, **ENERGY RESOURCE TECHNOLOGY GOM, LLC (ERT)**, was charged in federal district court for the Eastern District of Louisiana with two felony counts of violating the Outer Continental Shelf Lands Act and two felony counts of violating the Clean Water Act related to conduct on its offshore oil production facilities in the Gulf of Mexico.

According to the Bill of Information, on or about November 26, 2012, ERT knowingly and willfully failed to comply with the regulations for hot work on its offshore production platform known as Ship Shoal 225. Specifically, it is alleged that ERT violated a regulation which mandates that welding and associated activities, also known as hot work, on offshore facilities may not take place within 10 feet of a well bay unless production in that area is shut-in.

On or about November 27, 2012, on Ship Shoal 225, ERT is further alleged to have knowingly and willfully failed to comply with the regulations for blowout preventer testing. A blowout preventer system is designed to ensure well control and prevent potential release of oil and gas and possible loss of well control.

ERT is also alleged to have violated the Clean Water Act by tampering with the method of collecting the monthly overboard produced water discharge samples to be tested for oil and grease content pursuant to its NPDES permit. As required by its NPDES Permit, ERT is prohibited from introducing into the Gulf of Mexico produced water in which the oil and grease content exceed a monthly average of 29 mg/l. Produced water is that which is brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, oil and any chemicals added downhole or during the oil/water separation process. ERT collects and submits monthly samples of its produced water to a laboratory for testing to determine whether the quantity of oil and grease contained in the produced water exceeds a monthly average of 29 mg/l, as required by its NPDES Permit.

The Bill of Information alleges that beginning at a time unknown, but continuing to on or about March 2014, ERT tampered with the monitoring methods for the collection of the overboard water samples on nine of its offshore facilities in violation of Title 33, United States Code, Section 1319(c)(4). Most recently, on or about June 9, 2015, ERT is alleged to have knowingly discharged and caused a discharge of a pollutant from a point source into the Gulf of Mexico without a permit in violation of Title 33, United States Code, Section 1319(c)(2)(A).

If convicted, ERT faces a maximum term of probation of five years per count and/or a maximum fine of \$500,000 per count or twice the gross gain or twice the gross loss to any person pursuant to statute.

The case was investigated by EPA's Criminal Investigation, the Department of Interior-Office of Inspector General (Energy Investigations Unit), the Investigations and Review Unit, and the 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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