



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 9	Waste Management of Hawaii, Inc., Joseph R. Whelan, Justin H. Lottig	CWA/Negligently discharging pollutants into U.S. waters without NPDES permit
Region 10	Max Spatig	RCRA/Knowingly illegally storing and disposing of hazardous waste without federal or state permit
Region 10	James Slade	CWA/Polluting river with turbid wastewater

Idaho Man Sentenced for Illegally Storing and Disposing of Hazardous Waste -- On October 8, 2015, **MAX SPATIG**, of Rexburg, Idaho, the owner of MS Enterprises, was sentenced in federal district court for the



District of Idaho to 46 months in prison for knowingly storing and disposing of hazardous waste on a property near Rexburg. He was also ordered to pay \$498,652 in restitution, and serve three years supervised release following his release from prison. Spatig was indicted by a federal grand jury on December 11, 2012, and convicted following a two-week jury trial in June.

According to the evidence introduced at trial, on July 8, 2010, a total of 3,478 containers of hazardous waste materials were found on the property outside of Rexburg. Many of the containers were labeled as containing hazardous materials and many were corroded. They

had been left outdoors for years. Samples taken from some of the containers confirmed that the contents were hazardous waste due to ignitability and corrosivity characteristics. Ignitable materials catch fire at relatively low temperatures and present a dangerous fire hazard. Corrosive materials cause other materials to dissolve on contact. The contents of the containers were shipped to a hazardous waste disposal facility, incurring a cost to the federal government of \$498,652. Neither MS Enterprises nor Spatig had any permits from EPA or the Idaho Department of Environmental Quality that would have covered the operation of a hazardous waste dump.

Spatig had engaged in similar conduct before. In 2005, the state of Idaho cleaned up hazardous waste from another property belonging to Spatig near Menan in Jefferson County, Idaho. The cost of that cleanup was \$188,000. Previous to 2005, Spatig engaged in similar conduct in Kaysville, Utah. Because of multiple violations of court-orders prior to trial and offenses committed while on pre-trial release, Spatig has been held in custody since September 11, 2014.

The case was investigated by EPA's Criminal Investigation Division, the Idaho Department of Environmental Quality, and the Madison County Sheriff's office. It was prosecuted jointly by the U.S. Attorney's Office and the Environmental Crimes Section of the U.S. Department of Justice.

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Sentencings

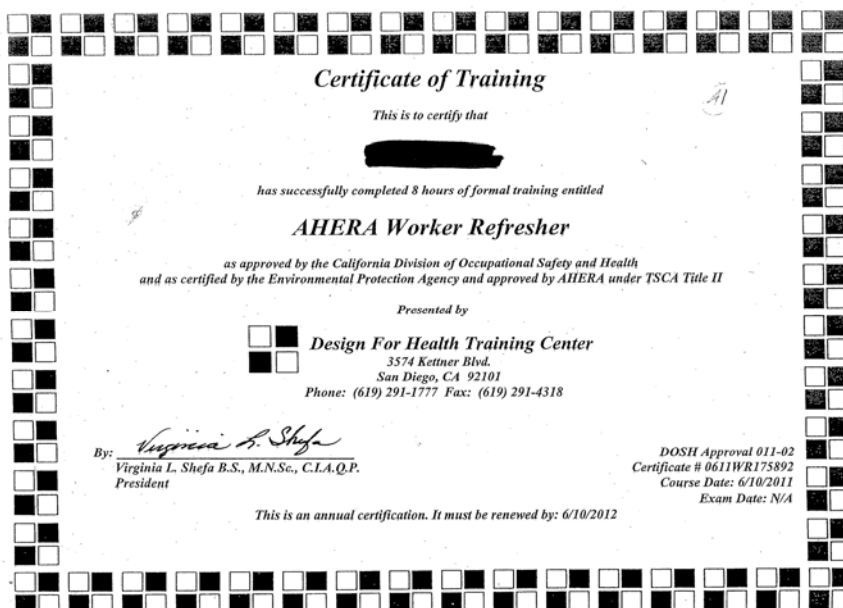
California Asbestos Trainer Sentenced for Sale of False Certificates -- On October 23, 2015, **LACHELLE RENE THROWER** was sentenced in federal district court for the Southern District of California to serve three years on probation and pay a \$100 special assessment. No fine was ordered. A restitution hearing was scheduled for December 7, 2015. She was sentenced for falsifying federal asbestos training certificates, admitting that over a four-year period she falsely certified over a hundred workers as being trained and qualified to safely remove asbestos.

According to court documents, Thrower was employed by an approved provider of asbestos removal training. Any student seeking to be accredited to remove asbestos was required to complete four, eight-hour days of training, and to pass a written examination. Thrower admitted that between May 14, 2010, and August 5, 2014, she falsely certified 100-150 training certificates for asbestos workers who did not actually attend the training courses or take the necessary exam. Thrower kept the money paid by the non-attending trainees, and falsified the certificates by using an electronic signature of the authorized trainer. Her false certifications caused her employer to falsely report to the EPA-delegated agency (Cal/OSHA) that certain individuals had attended the asbestos training and passed the exam. Thrower also admitted that when trainees did actually attend classes and paid in cash, defendant would keep this cash herself instead of providing it to her employer. All told, Thrower caused a financial loss to her employer of between \$10,000 and \$30,000.

Training for asbestos abatement professionals is required under the Asbestos Hazard Emergency Response Act of 1986 (AHERA), as well as the Toxic Substances Control Act (TSCA). Section 206(a) of TSCA prohibits any person from removing asbestos from schools and commercial buildings unless that person has been trained under an EPA-approved program, or a State program accredited by the EPA that has been found to be at least as stringent as the model program developed by the EPA. The EPA has accredited the asbestos training program of the State of California, administered by the Occupational Safety and Health Administration of the State (Cal/OSHA).

The case was investigated by EPA's Criminal Investigations Division and the FBI.

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One of the training certificates falsified by Thrower.

Three Michigan Individuals Sentenced in Major Asbestos Release Case -- On October 28, 2015, **CORY HAMMOND** and **ROBERT “MIKE” WHITE** each were sentenced in federal district court for the Western District of Michigan to three years’ probation and pay \$154,604 restitution to the EPA Superfund. And, on



October 27, 2015, **LUANNE LABRIE**, formerly known as LuAnne McClain, was sentenced to three years’ probation and combined restitution of \$897,325, of which \$175,841 is payable to IRS, and \$721,484 of which is payable to EPA. The three were sentenced for their roles in violating the Clean Air Act in what environmental investigators believe may be the largest asbestos release in Michigan since it was declared a hazardous air pollutant in 1971.

The three each pled guilty to the felony offense of failing to notify federal or state authorities that asbestos material would be stripped and removed at the former power generation facility located in Comstock Township,

The Morrow Power Plant was the former power generation facility in which asbestos material was illegally stripped and removed.

Michigan. Hammond and White each pled guilty to failing to adequately wet asbestos material while stripping and removing asbestos inside that facility, also a felony violation.

In 2011, LaBrie, Hammond, and White agreed to salvage valuable material from the facility and share in the proceeds. All three knew that asbestos was present inside of the facility. LaBrie supervised and controlled the facility, visited the site on a regular basis, and communicated with White and Hammond concerning the status of the salvage operation. Despite knowing that Hammond, White, and other laborers were stripping and removing asbestos insulation from pipes and facility components, LaBrie failed to notify EPA or the state of Michigan that the salvage operation would involve the removal of asbestos inside the facility. Hammond and White admitted to failing to adequately wet asbestos material that had been stripped and removed until it was collected and sealed in a leak-tight container to prevent the release of asbestos particulates during the salvage operation. The three individuals agreed to pay restitution to the EPA for remediation costs associated with the illegal asbestos removal at the facility.

The case was investigated by EPA’s Criminal Investigation Division, the Michigan Department of Natural Resources Environmental Investigation Section, and the Internal Revenue Service. It was prosecuted by Assistant U.S. Attorney Christopher O’Connor and U.S. Attorney Patrick Miles.

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Hawaii Waste Management Company and Two of its Officers Sentenced for Negligently Discharging Pollutants into U.S. Waters

-- On October 26, 2015, **WASTE MANAGEMENT OF HAWAII, INC.**, (WMH), **JOSEPH R. WHELAN**, the company's general manager and vice president, and **JUSTIN H. LOTTIG**, the company's environmental protection manager, were sentenced in federal district court for the District of



Waste Management of Hawaii's Waimanalo Gulch Landfill after the massive rain events in December 2010—January 2011. Waste Management never installed the stormwater diversions required by their permit which is what caused the flooding and pollutants to be discharged.

Hawaii. WMH was sentenced to pay a \$400,000 fine; \$200,000 in restitution (with \$100,000 payable to the Ko Olina Community Association and \$100,000 payable to the Malama Learning Center on the leeward shore of Oahu for implementation of water quality monitoring and erosion control projects); and pay a \$250 special assessment to the Court. Whelan was sentenced to pay a total criminal fine of \$25,000. Lottig was sentenced to pay a total criminal fine of \$25,000. They were sentenced for negligently discharging pollutants into a water of the U.S. without having a National Pollutant Discharge Elimination System (NPDES) permit.

The charges stem from illegal discharges of contaminated storm water from the Waimanalo Gulch Sanitary Landfill into Hawaii's coastal waters after heavy rainfalls in December 2010 and January 2011. WMH was

permitted to discharge storm water from the landfill to the Pacific Ocean under a NPDES permit issued by the Hawaii Department of Health Clean Water Branch. The storm water was required to go through the landfill's storm water management system to ensure that it did not come into contact with waste in the landfill before being discharged to Hawaii's coastal waters. The NPDES permit prohibited WMH from causing or contributing to a violation of Hawaii's state water quality standards.

The case was investigated by EPA's Criminal Investigation Division with the assistance of the DOH-CWB. It is being prosecuted by Assistant U.S. Attorney Marshall Silverberg of the U.S. Attorney's Office for the District of Hawaii and Senior Trial Attorney Daniel Doohar of the Justice Department's Environmental Crimes Section of the Environment and Natural Resources Division.



Medical waste that originated from Waste Management of Hawaii's landfill that washed up on the beaches.

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Plea Agreements

Maine Man Pleads Guilty to CWA Violation -- On October 27, 2015, **CHRISTOPHER GARRITY**, of Leeds, Maine, pleaded guilty in federal district court for the District of New Hampshire to a one-count information alleging that he discharged a pollutant into a navigable water, in this case the Piscataqua River, without a permit, in violation of the federal Clean Water Act. Garrity will be sentenced on February 2, 2016. He faces a statutory maximum sentence of three years and a possible maximum fine of not less than \$5,000 nor more than \$50,000 per day of violation. If Garrity is sentenced to prison he will also serve a period of supervised release that begins upon his release from prison.

On June 26, 2013, agents of EPA's Criminal Investigations Division were called to the New Hampshire facility of Grimm Industries, L.L.C., after the Portsmouth Harbor Master discovered polluted water from a tanker truck located on the Grimm facility being discharged through a hose directly to the Piscataqua River. Garrity was employed as the terminal manager at the time of the discharge and he was aware that the tanker truck storage of the polluted water was part of a civil agreement between Grimm Industries and the EPA to avoid discharges to the river. An investigation by the EPA identified Garrity as the individual responsible for connecting the hose to the truck and allowing the discharge to the river.

The case was investigated by EPA's Criminal Investigation Division with assistance from the Portsmouth Harbor Master's Office of the Pease Development Authority, Division of Ports and Harbors. Assistant U.S. Attorney Alfred Rubega is prosecuting the case.

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EPA's National Enforcement Investigations Center (NEIC) Engineers and Region 1 Office of Environmental Measurement and Evaluation (OEME) technicians perform on-site testing to prove the direct discharge of pollutants to the Piscataqua River.

Canadian Mine Operator Convicted of CWA Crimes -- On October 8, 2015, **JAMES SLADE**, of Calgary, Canada, was convicted after a two week jury trial in federal district court for the District of Alaska of violating the federal Clean Water Act by polluting the Salmon River with turbid wastewater from the Platinum Creek Mine



Turbid process water from placer mining at the Platinum Creek mine was illegally discharged into Platinum/Squirrel Creek.

he was in charge of operating. A sentencing hearing is scheduled for November 12, 2015, and Slade was ordered to surrender his Canadian passport and remain in the United States pending his sentencing. Slade faces maximum penalties of one year in jail and a \$100,000 fine for each of the two counts of conviction.

Slade was the chief operating officer for XS Platinum, the company that owned the mining claims, and he is the third manager or senior executive of that company to be convicted in this case. Robert Pate, who was employed as the mine manager previously pled guilty to violating the Clean Water Act, along with James Staeheli, the prior processing plant manager, who also pled guilty to a Clean Water Act crime. All three individuals worked for

the now defunct XS Platinum, Inc. That company was registered in name only in Delaware, and was 100 percent owned by an offshore company. Two other senior executives from XS Platinum, both Australian citizens, were also indicted but have refused to return to the United States to stand trial on the charges.

Evidence was presented at trial that the discharges from the mine were hundreds of times over the legal limits set in the National Pollution Discharge Elimination System (NPDES) water quality permit issued for the mine. The jury deliberated for two days before convicting Slade of two misdemeanor Clean Water Act crimes for discharging polluted wastewater during the 2010 and 2011 mining seasons in violation of the NPDES permit. The jury was deadlocked and could not reach a decision on several felony violations, and found Slade not guilty on other charges, including finding him not guilty of making a false annual report to the Alaska Department of Conservation that was submitted by another senior manager. That manager, Robert Pate, has previously pleaded guilty to making that false statement.

The Salmon River is located in Western Alaska, running past the Platinum Creek Mine and emptying into Kuskokwim Bay. It passes through the Togiak National Wildlife Refuge before entering the bay, and all five species of Alaska Salmon spawn in the river. Evidence at trial was that a flow of up to 1200 gallons per minute of wastewater was discharged from the mine's processing plant into one or more settling ponds that were not lined, and that did not contain the wastewater. Instead, the wastewater flowed out of the ponds and into the Salmon River, turning it from crystal clear to dirty brown.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Department of Interior Bureau of Land Management Office of Law Enforcement and Security. It was prosecuted by First Assistant U.S. Attorney Kevin Feldis with Chris Costantini, as senior trial attorney from the Department of Justice's Environmental Crimes Section.

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Texas-Based Oil Company Charged with Failing to Notify of Hazardous Waste Spill -- On October 9, 2015, **WALTER OIL & GAS CORPORATION**, a Texas corporation domiciled in Houston, Texas, was charged in a one-count Bill of Information with a felony violation of failing to immediately notifying the proper agency of a hazardous waste spill in connection with its oil and gas production activities in the Gulf of Mexico.

According to the Bill of Information, on or about March 31, 2014, in the navigable waters of the United States and within the Eastern District of Louisiana, Walter Oil & Gas Corporation, an entity in charge of an offshore facility from which hazardous substances were discharged in a quantity which may be harmful into navigable waters of the United States, failed to immediately notify the appropriate agency of the United States government as soon as it had knowledge of the discharge.

The case was investigated by EPA's Criminal Investigation Division and the Criminal Investigation Division of the Louisiana Department of Environmental Quality. It is being prosecuted by Assistant United States Attorney Jon Maestri.

(A Bill of Information is merely a charge and that the guilt of the defendants must be proven beyond a reasonable doubt.)

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