



# 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 on our [Policy, Guidance and Publications page](#)

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# Defendant Summary

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Region 8	<a href="#">Elaine Chiu, Cheery Way, Inc.</a>	CAA/Violation of notification requirements

# Sentencings

**California Woman and Her Company Sentenced for CAA Violation** -- On July 13, 2016, **CHEERY WAY, INC.**, and **ELAINE CHIU**, a resident of San Francisco, California, were sentenced in federal district court for the Eastern District of Louisiana to five years of probation, a \$500,000 fine, and \$162,520 in restitution to workers for medical monitoring costs for violating notification requirements under the Clean Air Act.

According to the court documents, on or about April 2, 2011, in the Eastern District of Louisiana, Cherry Way and Chiu did knowingly fail to notify and report to the Louisiana Department of Environmental Quality the demolition of the Mississippi Queen Riverboat which contained regulated asbestos containing material, to wit: wall and ceiling tiles, at least ten days prior to the start of the demolition as required by the Clean Air Act.

Prior to the demolition of the Mississippi Queen, Chiu and agents of Cherry Way had been informed that samples of the wall and ceiling tiles on the old riverboat contained asbestos. However, Cheery did not inform the demolition contractor they hired that sampling had been performed. Cheery Way merely told the contractor that the riverboat “might” have asbestos. The inexperienced demolition contractor told Chiu and Cheery Way that he did not believe the vessel contained any asbestos. As a result, workers were not required to take any precautions against the release of asbestos. After receiving a tip about the worksite, the Louisiana Department of Environmental Quality issued the site a Notice of Deficiency and work was stopped. The site was thereafter remediated by another Chiu company at a cost of \$245,248.23.

During her five year term of probation, Chiu is prohibited from participating in any capacity in the construction, demolition, or renovation business anywhere in the United States and must ensure that none of the companies she owns or operates will engage in the construction, demolition, or renovation business. Similarly, neither Cheery Way or its agents or employees will engage in the construction, demolition, or renovation business anywhere in the United States.



The case was investigated by EPA’s Criminal Investigation Division and the Louisiana Department of Environmental Quality-Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorney Emily K. Greenfield of the National Security Unit of the United States Attorney’s Office of the Eastern District of Louisiana.

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**Former New York Resident Sentenced to 18 Months for Environmental Fraud Scheme** -- On July 13, 2016, **DAVID L. FRISBY**, of Kiln, Mississippi, was sentenced in federal district court for the Northern District of New York to 18 months in prison for defrauding scrap metal brokerage firms out of more than \$144,000. In addition to the term of imprisonment, Frisby was ordered to pay \$144,216 in restitution to his victims.

Frisby, formerly of Fultonville, New York, pled guilty on December 10, 2015 to one count of conspiracy to commit wire fraud in connection with a scheme in which he and others entered into contracts for the disposal of batteries and other metal waste under false pretenses. As part of his plea agreement, Frisby admitted that he and his co-conspirators falsely held themselves out to be representatives of a scrap metal recycling firm that was authorized by the EPA to dispose of metal waste by shipping it to Korea, and that they defrauded businesses and individuals by charging them for recycling services that were never provided. In reality, Frisby and his co-conspirators were not authorized by the EPA to provide scrap metal recycling services and never intended to provide such services.

To further the scheme, Frisby, who formerly served as the Chief Executive Officer of D & L Heritage Enterprises, Inc., provided his co-conspirators with D & L Heritage incorporation documents that were fraudulently altered and e-mailed to victims. Victims transferred money to bank accounts maintained by Frisby, who retained a portion of the funds for his personal benefit and transferred the remainder to his co-conspirators overseas.

The case was investigated by the EPA's Criminal Investigation Division and the EPA Office of the Inspector General. It was prosecuted by Assistant United States Attorney Sean O'Dowd.

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**F**risby admitted that he and his co-conspirators falsely held themselves out to be representatives of a scrap metal recycling firm that was authorized by the EPA to dispose of metal waste by shipping it to Korea, and that they defrauded businesses and individuals by charging them for recycling services that were never provided.



# Sentencings

**Montana Man Sentenced to 18 Months for CWA Violations and Destruction of U.S. Property** -- On July 20, 2016, **JOSEPH DAVID ROBERTSON**, was sentenced in federal district court for the District of Montana to eighteen months in prison and three years' supervised release for unauthorized discharge of pollutants into waters of the United States and injury or depredation of United States property. Robertson must also pay \$129,933.50 in restitution. Robertson was convicted in April following a four day federal trial.

Robertson was indicted by a grand jury in May of 2015 as a result of illegal ponds he built on two parcels of land near Basin, Montana, one on Beaverhead-Deer Lodge National Forest land and the other on adjacent private property. Robertson has continually asserted that he owns the property where ponds were built, but he does not. The ponds resulted in the discharge of dredged and fill material into a tributary stream and adjacent wetlands and caused widespread damage to both properties.



At trial, the government introduced evidence that in October of 2013, a United States Forest Service (USFS) special agent visited the National Forest property to determine whether Robertson had complied with previously issued conditions of probation for misdemeanor violations of USFS regulations. The agent testified at trial that during the site visit, she observed multiple ponds dug into an existing stream on both USFS and adjacent private property not owned by Robertson.

During a subsequent site visit in November of 2013, Robertson admitted to U.S. EPA and USFS Criminal special agents that he had performed the work on the National Forest property using an excavator. State and federal officials visited the site again in May of 2014, and observed that Robertson had done additional work. The site was now approximately 1.2 acres in size, and extended beyond the National Forest property to a private property that he did not own. The work consisted of nine ponds of varying sizes, including some as large as approximately 4900 square feet that were placed directly in the stream and wetlands area. Unconsolidated dredged material from the ponds had been used to create the berms and had been placed in and around the stream and wetlands. Robertson admitted that he had completed the additional work. Additional investigation revealed that Robertson continued to construct ponds on the USFS property after May of 2014, despite being told repeatedly that he had no legal right to do so.

One of the central legal issues at trial was whether the waters polluted by Robertson were “waters of the United States” for purposes of the Clean Water Act. The United States introduced evidence and expert testimony from the Army Corps of Engineers and the EPA that the stream and wetlands had a significant nexus to traditional navigable waters, and therefore were “waters of the United States.” Fishery biologists from the Montana Fish, Wildlife and Parks (FWP) and the USFS testified that this headwater and wetland complex provided critical support to trout in downstream rivers and fisheries, including the Boulder and Jefferson Rivers.

The case was investigated by multiple state and federal agencies including EPA’s Criminal Investigation Division, the United States Forest Service, the Army Corps of Engineers, and the Jefferson County Sheriff’s Office. Other agencies that assisted the investigation included Montana Fish, Wildlife and Parks and the Jefferson Valley Conservation District. It was prosecuted by Assistant U.S. Attorney Bryan Whittaker and Special Assistant U.S. Attorney Eric Nelson from U.S. EPA.

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**German Shipping Company Pleads Guilty to Covering Up Illegal Dumping of Oily Waste Water into Great Lakes** -- On July 5, 2016, **MST MINERALIEN SCHIFFFAHRT SPEDITION UND TRANSPORT GMBH (MST)**, a German company and operator of the M/V Cornelia, pleaded guilty in federal district court for the District of Minnesota with violating the Act to Prevent Pollution from Ships (APPS) by failing to maintain an accurate ship record about the disposal of oil-contaminated waste.

According to the defendant's guilty plea and documents filed in court, from February 2015 through October 2015, the M/V Cornelia, a German-owned commercial vessel, experienced significant leakages of oily waste-water. As a result, the M/V Cornelia was accumulating a substantial volume of machinery space bilge water.

On at least ten occasions, the M/V Cornelia's chief engineer and/or second engineer instructed members of the engine room crew to transfer machinery space bilge water from the dirty bilge tank to the clean bilge tank, which is a separate tank that is supposed to contain only clean, oil-free water, and then discharge the oily waste-water overboard. At least one occasion when machinery space bilge water was transferred to the clean bilge tank and then discharged overboard occurred in approximately May 2015 while the ship was in the Great Lakes.

On each occasion in which oily waste-water was transferred internally and then discharged overboard, the chief engineer intentionally failed to record the transfers and subsequent discharges of oily waste-water in the M/V Cornelia's Oil Record Book (ORB). This gave the false impression in the ORB that all of the oily waste-water had been properly handled and disposed.

On November 3, 2015, the M/V Cornelia called upon the Port of Duluth to load grain for transport to Africa. At that time, U.S. Coast Guard inspectors boarded the vessel to conduct a Port State Control examination and were presented with the M/V Cornelia's ORB containing the omissions and false entries.

As a condition of the defendant's guilty plea, MST will be required to pay an \$800,000 criminal fine to the United States. In addition to the criminal fine, MST will be required to make a community service payment of \$200,000 to support the protection and preservation of Lake Superior and the Lake Superior watershed.



# Plea Agreements

As an additional condition of the defendant's guilty plea, MST will serve three years of probation, during which time the organization must commit no further violations of the International Convention for the Prevention of Pollution from Ships (MARPOL), federal, state or local law. In addition, MST must fund and implement an Environmental Compliance Plan (ECP) for all vessels that it operates which call at ports or places in the United States.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Coast Guard Investigative Service. It was prosecuted by Assistant U.S. Attorneys Benjamin F. Langner and John Kokkinen.

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**South Dakota Man Convicted of Unlawful Taking of a Bald Eagle and Unlawful Use of Pesticide** -- On July 13, 2016, **THEODORE NELSON, JR.**, a/k/a Ted Nelson, of Letcher, South Dakota, was found guilty in federal district court for the District of South Dakota of unlawful taking of bald eagle and unlawful use of pesticide as a result of a federal jury trial in Sioux Falls, South Dakota.

The charges carry a maximum penalty of 13 months in custody and/or a \$26,000 fine, one year of supervised release, restitution, and a \$30 special assessment to the Federal Crime Victims Fund. Nelson was indicted by a federal grand jury on September 9, 2015.

Nelson is a landowner in Sanborn County. The convictions stemmed from incidents between approximately January 1, 2015, and May 12, 2015, when Nelson, without being permitted to do so, knowingly and with wanton disregard for the consequences of his actions, injected a poison, Carbofuran, also known as Furadan 4F, into the carcasses of cows in order to kill predators, including coyotes. Carbofuran is a restricted use pesticide that is extremely toxic to wildlife, including birds. Use of this pesticide for baiting purposes is strictly prohibited, and the container is labeled accordingly.

As a result of Nelson's actions, area animals, including coyotes and an adult Bald eagle, died of Carbofuran poisoning. Laboratory results from the National Fish & Wildlife Forensic Laboratory in Ashland, Oregon, confirmed that the eagle died of Carbofuran poisoning, after eating coyote carcasses with poisoning in its system.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Fish & Wildlife Service, and the South Dakota Department of Game, Fish and Parks. It was prosecuted by Assistant U.S. Attorney Meghan N. Dilges. Nelson is in custody with the U.S. Marshals Service. A sentencing date has not been set.

**A**s a result of Nelson's actions, area animals, including coyotes and an adult Bald eagle, died of Carbofuran poisoning.

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**Indiana Man Convicted of Securities Fraud Related to Massive Multi-State Fraud Scheme** -- On July 21, 2016, **JEFFREY WILSON**, of Evansville, Indiana, was convicted in federal district court for the Southern District of Indiana of securities fraud related to a massive multi-state fraud scheme. Wilson had plead guilty after an eight-day jury trial. His crimes centered on the e-biofuels biodiesel business in Middletown, Indiana, which was a wholly-owned subsidiary of Imperial Petroleum. Wilson, the chief executive officer and president of Imperial Petroleum, was convicted for securities fraud, filing false reports with the Securities and Exchange Commission, falsely certifying reports to the SEC, lying to the company's outside auditor and lying to federal investigators.

The verdict in the securities fraud was directly related to wire fraud crimes committed by Craig Ducey, Chad Ducey of Fishers, Indiana, and Chris Ducey of North Webster, Indiana; Joseph Furando and Katirina Tracy of Park Ridge, New Jersey; and Brian Carmichael of Bend, Oregon. The Ducey brothers, Furando, Tracy and Carmichael were charged with conspiracy to commit wire fraud, tax fraud, false statements to the Environmental Protection Agency and other crimes in a separate indictment in September 2013. They all pleaded guilty prior to Wilson's trial: Carmichael in September 2013, Tracy in July 2014, Furando in April 2015 and the Ducey brothers in April 2015.

The companies CIMA Green, Caravan and e-biofuels have all pleaded guilty as well. Carmichael is serving a five year prison sentence for his role in the fraud. Chris Ducey has begun a six year sentence. And Joseph Furando, the leader of the New Jersey part of the conspiracy, has been sentenced to twenty years imprisonment. The other defendants have yet to be sentenced.

Carmichael and the Ducey brothers used the e-biofuels facility in Middletown, Indiana, to pretend to manufacture what they had bought and then illegally reassigned the tax credit and the RIN.

The underlying fraud involved Furando and Tracy purchasing biodiesel through their New Jersey companies CIMA Green and Caravan Trading. The conspirators knew that this biodiesel had already been used to claim tax credits and an EPA credit associated with renewable fuel, known as a "renewable identification number" (RIN). Furando and Tracy would sell this biodiesel to Carmichael and the Ducey brothers, who used the e-biofuels facility in Middletown, Indiana, to pretend to manufacture what they had bought and then illegally reassigned the tax credit and the RIN. On average, the conspirators added in excess of \$1.60 per gallon for doing nothing to the biodiesel other than move it around.

All told, the underlying fraud involved more than \$140 million in revenue and \$56 million in criminal profits. The securities fraud case tried over the last eight days involved over \$20 million in loss to investors and a \$25 million attempted fraud that was foiled by a due diligence team inspecting the e-biofuels facility.

Wilson's conviction is the final chapter in the investigation and prosecution of this complex fraud. Wilson's crimes began in November 2010. On May 24, 2010, Imperial Petroleum bought e-biofuels. Soon thereafter, if not before the acquisition, he learned that the facility was not making bio-

diesel as outsiders were told, but bought biodiesel from Caravan and CIMA Green. Nevertheless, Wilson filed an Imperial Petroleum annual report with the SEC on Nov. 15, 2010, that presented the e biofuels manufacturing cover story in describing Imperial's new acquisition. From then on, Wilson consistently presented false information about e-biofuels to the public, to investors, to auditors and investigators. He was convicted of counts related to relate to all of these lies.

The cases were investigated by EPA's Criminal Investigation Division, the FBI, the IRS-Criminal Investigation office, the Securities and Exchange Commission, U.S. Department of Agriculture and Indiana Department of Environmental Management. The cases were prosecuted by Senior Litigation Counsel Steven D. DeBrotta of the U.S. Attorney's Office, along with Senior Counsel Thomas Ballantine of the Environmental Crimes Section in the Department of Justice's Environment and Natural Resources Division and Jake Schmidt, a Special Assistant U.S. Attorney at the U.S. Attorney's Office and Senior Attorney for the Securities and Exchange Commission. Also providing valuable assistance were the EPA's Criminal Investigation Division, the Federal Bureau of Investigation, the IRS-Criminal Investigation Division and Scott Hlavacek, an accountant with the Securities and Exchange Commission.

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**Pennsylvania Contractor Charged with Embezzlement, Fraud, and Unpermitted Discharges of Pollutants into Susquehanna River in Connection with the George Wade Bridge Project** -- On July 28, 2016, **ANDREW MANGANAS**, a resident of Canonsburg, Washington County, Pennsylvania and **PANTHERA PAINTING, INC.**, which is headquartered in Canonsburg, were indicted in federal district court for the Middle District of Pennsylvania on embezzlement, fraud, false statements, and environmental charges related to a subcontract performed as part of a \$42 million rehabilitation project administered by the Pennsylvania Department of Transportation (PennDot).

The Indictment charges that the defendants knowingly caused discharges of pollutants into the Susquehanna River during and connected with work on the George Wade Bridge project. The Federal Clean Water Act and its regulations, and the project's contract, prohibit the discharge of pollutants without a permit. Panthera and Manganas were supposed to use methods to ensure that pollutants did not enter the Susquehanna River, including construction of "containment" to cover bridge areas being blasted clean and repainted, using ropes, cables, fabric, metal pans and waste collection and recycling systems on segments of the bridge being blasted and repainted to prevent pollutants from being discharged into the River.

In addition to embezzlement, fraud and false statement charges related to an alleged payroll scheme, the Indictment also alleges that between 2011 and 2013, Panthera workers, at the direction of and with the knowledge of defendant Manganas, in fact used a variety of methods and equipment to discharge pollutants, including abrasive paint blasting materials, waste paint, and metal, into the Susquehanna River, rather than collect them for recycling or disposal as hazardous waste. These techniques allegedly included, blasting paint off metal pieces outside areas in which the workers had set up containment to capture waste material (open blasting), using air hoses connected to blasting equipment to blow debris off bridge components into the River, setting up containment in which the fabric had holes, having workers poke holes in containment to let wastes discharge into the River, pushing waste off the side of the bridge, and tipping over metal pans used to collect paint waste, all without a permit to do so. The Clean Water Act charges each carry a maximum penalty of up to 3 years in prison, and a fine of up to \$50,000 per day of violation, a term of supervised release following imprisonment, and a fine.

"Unpermitted discharges of pollution threaten our lakes, rivers and streams and can pose serious risks to public health and our communities. Today's indictment demonstrates that EPA and its partner agencies will aggressively investigate and prosecute actions that put our waterways at risk."

-ASAC Jennifer Lynn

This matter was investigated by the U.S. Department of Labor, Office of Inspector General; the U.S. Department of Transportation, Office of Inspector General; the U.S. Environmental Protection Agency, Criminal Investigation Division; and the Federal Bureau of Investigation. Prosecution is assigned to Assistant U.S. Attorney James T. Clancy and Special Assistant U.S. Attorney Martin Harrell of the EPA Region 3 Office in Philadelphia.

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**South Carolina Environmental Company and Its Owner Indicted on Storing Hazardous Waste and Releasing Hazardous Air Pollutants** -- On July 12, 2016, **GLENN WELCH** and **WELCH GROUP ENVIRONMENTAL**, both of Belton, South Carolina, were charged in federal district court for the District of South Carolina with storage and disposal of hazardous waste without a permit. The charge carries a maximum penalty of five years imprisonment and a maximum fine of \$50,000. Release of hazardous air pollutants carries a maximum penalty of 15 years imprisonment and a maximum fine of \$250,000 for Glenn Welch and a maximum fine of \$500,000 for Welch Group Environmental.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant United States Attorney William J. Watkins, Jr., of the Greenville office.

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