



# 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 publications page.

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# Defendant Summary

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| Region 2 | <a href="#">A&amp;L Cesspool Service Corp</a>   | CWA/ Unlawfully discharged pollutants into a waterway of the United States without a permit                                      |
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| Region 5 | <a href="#">Fred Witmer and Gary Jury (Triton Energy)</a>   | CAA/RINs Fraud   |
| Region 6 | <a href="#">Champion ES Holdings, Inc.</a>  | CWA/ Failed to report federal pollutant law violations in the Gulf of Mexico   |
| Region 6 | <a href="#">KTX Limited, KTX Properties, Crosby LP, Ramsey Properties LP</a>  | CAA/ Failed to adhere to workplace standards and practices; negligently released hazardous air pollutants after a tank explosion |
| Region 9 | <a href="#">W. Bockstiegel Reederei GmbH &amp; Co. KG and W. Bockstiegel GmbH &amp; Co. Reederei KG MS "NILS B"</a> | APPS/Failing to accurately maintain an Oil Record Book for the Motor Vessel (M/V) Nils B   |

# Defendant Summary

| Region    | Defendants   | Case Type/Status   |
|-----------|--|--|
| Region 10 | <a href="#">M/V Gallia Graeca</a>                            | APPS/Falsification of records in a federal investigation and engaging in a scheme to defraud the United States             |
| Region 10 | <a href="#">Isaac Cole</a>                                   | AHERA/Provided false asbestos training course certifications in exchange for money   |
| Region 10 | <a href="#">Dayabir Bath, Gee Grewal, 2013 Investors LLC</a> | State of WA - Improperly removed and disposed of asbestos without the required inspections, training, equipment or permits |

## Former Cleveland Housing Network Official Sentenced to Prison for Taking Bribes and Steering Contracts

On October 12, 2016, **James Todt**, 49, of Brecksville was sentenced to 30 months in prison by U.S. District Benita Y. Pearson. He previously pleaded guilty to one count of conspiracy to commit bribery and two counts of theft concerning programs receiving federal funds. Todt was sentenced to 30 months in prison for taking bribes and steering contracts.

Todt worked at the Cleveland Housing Network between 2005 and 2014, where his duties included supervising inspectors and project managers, as well as awarding CHN contracts on various projects for the non-profit community development organization. Lizandro Orellana, 56, of Cleveland, owned and operated Modern Construction Group LLC. Chris Peterson, 42, of Macedonia, owned and operated Top Notch Construction, according to court documents.

Orellana had a lead abatement contractor license issued by the Ohio Department of Health, which allowed Modern Construction to bid on lead-based paint abatement projects for CHN homes. These projects often required Modern to gut a portion or all of a home's interior, including the removal of doors, windows, walls, moldings and sometimes porches. Orellana understood the work was to be done by workers licensed to perform lead-based paint abatement and comply with federal and state standards, according to court documents.



*Stock Photo*

Modern Construction was contracted to conduct lead-based paint abatement on several CHN properties between 2010 and 2012. Orellana, due to his work-

load and to save time, directed employees to gut homes containing lead-based paint. Items and components covered in lead-based paint were removed without following abatement procedures. The employees directed to gut the homes were not licensed to perform lead-based paint abatement, which Orellana knew, according to court documents.

Todt corruptly solicited and accepted things of value from Orellana and Peterson between 2009 and 2014. Orellana paid \$8,222 to Todt's personal credit account at a local business in exchange for CHN work awarded to Modern Construction. Peterson paid Todt up to \$10,000 in cash in exchange for CHN work that Todt awarded to Top Notch, according to court documents.

On numerous occasions, Todt provided Orellana with CHN's internal cost projections for various projects, which were used to evaluate a contractor's bid.

Orellana paid another person to do \$3,650 worth of electrical work at Todt's home in November 2012. In October 2013, Todt asked Orellana for assistance building a deck and installing windows at his home. Orellana provided a crew of six Modern employees to construct the deck, and directed employees to install seven windows. The labor cost related to the deck and windows was valued at approximately \$8,736, according to court documents.

# Sentencings

In 2012, Peterson repaired the roof of a home in Seven Hills owned by one of Todt's relatives, and performed repairs on a rental property owned by Todt in Brecksville, according to court documents.

Todt also submitted false invoices and caused two checks totaling \$15,280 to be deposited into his personal account, according to court documents.

Additionally, Orellana, Peterson and Modern Construction have pleaded guilty to their roles in the case .

This case is being prosecuted by Assistant U.S. Attorney Robert J. Patton and Special Assistant U.S. Attorney Brad Beeson. It comes following an investigation by the FBI, HUD-OIG, U.S. EPA, Ohio EPA, Ohio Bureau of Criminal Investigation, Ohio Department of Health – Environmental Compliance Program and the Cleveland Division of Police.



## Ship Discharged Oily Waste on Voyage from China to Seattle; False Log Books given to Coast Guard Inspectors—

On October 21, 2016, the companies that own and operate a Greek shipping vessel were sentenced in U.S. District Court in Seattle to a \$1.3 million fine for the dumping of oily waste at sea. The ship operator, **ANGE-LAKOS (HELLAS) S.A.**, and the ship owner, **GALLIA GRAECA SHIPPING LTD**, were found guilty in June 2016 of violating the Act to Prevent Pollution from Ships, Falsification of Records in a Federal Investigation, and engaging in a Scheme to Defraud the United States. In imposing the monetary penalty, U.S. District Judge John C. Coughenour said he hoped the sanctions “would resonate and cause other companies to pause when they think about creating a corporate culture that encourages deception.”

“These companies promoted a culture of lies and lawlessness that left a trail of pollution in the Pacific Ocean,” said U.S. Attorney Annette L. Hayes. “Knowing that the Coast Guard was going to do an inspection of their shipping vessel, corporate managers allowed the Chief Engineer to present falsified documents. The significant fines imposed in this case send a clear message that those who spoil our environment by putting their business interests ahead of our laws will be held responsible.”

According to records filed in the case and testimony at trial, a cargo ship named the M/V Gallia Graeca travelled from China to Seattle in October 2015. During the voyage, a pollution-control device known as an oil water separator was inoperable. On October 16, 26 and 27, 2015, the defendants discharged overboard approximately 5,000 gallons of oily bilge water. The defendants concealed these incidents from the Coast Guard by making false statements to inspectors, and making false statements and omissions in the ship’s oil record book. When Coast Guard inspectors asked the engineers to operate the oil water separator during the inspection, the engineers did so in such a way that the equipment appeared to be working properly even though it was not.

When Coast Guard inspectors examined the oil water separator they found its filters were clogged with oil and found oil residue in the overboard discharge piping. Records indicated the oil water separator had not been serviced for months prior to the voyage from China. The defendants presented the Coast Guard with an official oil record book stating that bilge water had not been discharged during the voyage to Seattle. However, the Coast Guard investigation discovered evidence that oily water had been discharged into the sea three times on its voyage from China.

Calling it “a voyage of deception and pollution,” prosecutors argued that the engineers tried to hide the pollution from the Coast Guard to avoid having the ship detained in Seattle. Keeping the ship on schedule was a benefit to the owners and operators who had a contract to move \$25 million in goods out of Seattle. Shipping company executives had been in contact with the engineers about how they should present the log book for the Coast Guard inspection.



*Oil residue in overboard discharge piping*

“Through strong partnerships with the Department of Justice, the U.S. Attorney's Office and our Coast Guard



## Sentencings

Investigative Service, this case demonstrates our commitment to hold accountable shipping companies engaged in illegal activities,” said Captain Joe Raymond, Coast Guard Captain of the Port Puget Sound. “The Coast Guard will protect our marine environment through coordination with international, national, regional and local partners, and will promote sustainable development of our Nation's ocean resources by enforcing pollution prevention laws and regulations and maintaining a robust vessel inspection program.”

The companies were placed on five years of probation and required to have environmental compliance plans in place which will ensure they are abiding by anti-pollution policies and regulations.

In addition to the \$1.3 million fine, Judge Coughenour ordered a \$200,000 community service payment to be shared between the National Fish and Wildlife Foundation and the National Parks Foundation. The National Fish and Wildlife Foundation is a congressionally-chartered non-profit organization that works to “further the conservation and management of fish, wildlife, plants, and other natural resources.” The payment will go to fund marine restoration and preservation projects in the Pacific Ocean, the site of defendants’ pollution. The National Parks Foundation does significant ocean beach clean-up – particularly on the ocean beaches of Washington’s Olympic Peninsula.

The two engineers who operated the ship’s equipment and falsified the log books were sentenced to short prison terms before returning to Greece.

The case is being prosecuted by Assistant United States Attorneys Seth Wilkinson and Matthew Diggs and by Special Assistant U.S. Attorney Stephen Bor. Mr. Bor is an attorney with the United States Coast Guard specially appointed to prosecute criminal cases in federal court.

The case is being investigated by the U.S. Coast Guard and the Environmental Protection Agency Criminal Investigation Division.



## Second Former Lab Manager Pleads Guilty to Tampering with Water Samples—

On October 5, 2016, a former lab manager from Raleigh County who falsified data pleaded guilty to a violation of the Clean Water Act, announced United States Attorney Carol Casto. **John Brewer**, 62, is the second former employee of **Appalachian Laboratories** to be prosecuted for a federal crime involving the Clean Water Act.

Appalachian Laboratories performed water sampling and analysis for coal mining operations to ensure that the discharges of pollutants into public waterways were within the limits of permits issued by the West Virginia Department of Environmental Protection. From at least 2008 through the summer of 2013, law enforcement found evidence of irregularities in the sampling. Brewer admitted that he knew and approved of employees falsifying the date that water samples were taken, as well as falsifying dates himself. Brewer further admitted that Appalachian Laboratories employees would falsify the date a sample was taken in order to avoid collecting samples that they believed to be in violation of permit limits. Instead, the employees would wait until they believed the water was within permit limits and then take a sample. They then backdated the samples to make it appear as though the samples had been collected in the previous month as required. Brewer additionally admitted that he caused this falsified data to be submitted in a report to the West Virginia Department of Environmental Protection.

Brewer faces up to two years in federal prison and a fine of \$250,000 when he is sentenced on January 18, 2017. John Shelton, another former lab manager at Appalachian Laboratories, previously pleaded guilty to conspiring to violate the Clean Water Act. Shelton was sentenced in February 2015 to a year and nine months in federal prison.

The investigation was conducted jointly by the FBI and the Environmental Protection Agency's Criminal Investigation Division. Assistant United States Attorney Eric Baca and Special Assistant United States Attorney Perry McDaniel are in charge of the prosecution. The plea hearing was held before United States District Judge Irene C. Berger.



# Plea Agreements

## Cesspool Services Company Pleads Guilty To Felony Clean Water Act Violations and Pays \$900,000 in Penalties to Resolve Charges Relating to Wastewater Dumping in the Gowanus Canal and Elsewhere—

On October 26, 2016, **A&L Cesspool Service Corporation (A&L Cesspool)**, a Queens-based cesspool services company, pled guilty at the federal courthouse in Brooklyn, New York, to violating the Clean Water Act by dumping waste removed from blocked sewer lines into manholes that flowed directly into the Gowanus Canal, among other locations in New York City. The guilty plea was taken by U.S. District Judge I. Leo Glasser, who immediately following the plea sentenced the company to two years' probation and criminal financial penalties totaling \$900,000, pursuant to a plea agreement entered by the company and the government.

The guilty plea and sentence were announced by Robert L. Capers, United States Attorney for the Eastern District of New York, William F. Sweeney, Jr., Assistant Director-in-Charge, Federal Bureau of Investigation, New York Field Office (FBI), and Vernesa Jones-Allen, Special Agent-in-Charge, U.S. Environmental Protection Agency, Criminal Investigations Division, New York (EPA).

According to court filings and facts presented during the plea proceeding, A&L Cesspool is one of the largest cesspool service providers in New York City. Among other services, A&L Cesspool clears blocked sewer lines by pumping and removing waste. A&L Cesspool held a permit issued by the New York City Department of Environmental Protection that allowed it to dispose of liquid waste removed from sewer lines at designated wastewater treatment facilities. Rather than following the rules set forth in the permit, however, employees of A&L Cesspool repeatedly dumped liquid waste at other locations, including into various manholes at John F. Kennedy International Airport, Fort Wadsworth on Staten Island, a New York City Housing Authority housing development in Brooklyn, and into the Gowanus Canal.



Under the Clean Water Act, it is a crime for anyone to knowingly dump pollutants into a waterway of the United States without a permit or in violation of a permit. As part of the plea resolution, A&L Cesspool pleaded guilty to a criminal information charging the company with one count of conspiracy to violate the Clean Water Act, one count of unlawfully discharging pollutants into a waterway of the United States, namely, the Gowanus Canal, without a permit, and four counts of illegally dumping pumped sewer waste in violation of its permit.

The financial penalties imposed by the court include a \$375,000 fine, \$350,000 in criminal forfeiture, and a \$175,000 community service payment to the National Fish and Wildlife Foundation to be used toward projects in or directly benefiting the Gowanus area of Brooklyn.

“Today’s felony guilty plea and sentence demonstrate that polluters face serious consequences for violating the Clean Water Act,” stated United States Attorney Capers. “The Department of Justice is committed to



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prosecuting businesses who ignore their obligation to keep our waterways clean.”

“Environmental laws, such as those violated by A&L Cesspool, are put in place to protect us from grossly negligent practices that threaten the cleanliness of our communities and put the public’s health at risk. Circumventing procedures to properly dispose of pollutants is a serious crime, and those who engage in this type of activity won’t get away with it,” said FBI Assistant Director-in-Charge Sweeney.

“Waste that is disposed of illegally jeopardizes the health and safety of the entire community, so it’s imperative that septic haulers adhere to the appropriate waste disposal regulations and laws,” said Special Agent-in-Charge Jones-Allen of EPA’s criminal enforcement program in New York. “EPA and its law enforcement partners will continue to pursue those who undermine our efforts to protect public health, and those who ignore the law must be held to account.”

The government’s case is being prosecuted by the Office’s Public Integrity Section. Assistant United States Attorneys Lan Nguyen and Lauren Howard Elbert are in charge of the prosecution, with assistance from Assistant U.S. Attorney Brian Morris of the Office’s Civil Division, which is responsible for the forfeiture of assets.



## Owners of Biofuel Company Plead Guilty to Conspiracy and Fraud Charges —

### RINs Fraud

On October 12, 2016, the owners of an Indiana biofuel producer pleaded guilty to conspiracy, fraud and false statements for participating in a scheme that generated over \$60 million in fraudulent tax credits and U.S. Environmental Protection Agency (EPA) renewable fuels credits (RIN credits) at Triton Energy LLC, a company that purported to produce and sell biofuel for use as transportation fuel.

**Fred Witmer**, 46, and **Gary Jury**, 58, pleaded guilty before U.S. District Magistrate Judge Magistrate Judge Susan Collins of the Northern District of Indiana, announced Assistant Attorney General John C. Cruden for the Department of Justice’s Environment and Natural Resources Division, Assistant Administrator Cynthia Giles for EPA’s Office of Enforcement and Compliance Assurance, Special Agent in Charge James D. Robnett for the Internal Revenue Service-Criminal Investigation (IRS-CI) and Special Agent in Charge W. Jay Abbott of the FBI’s Indianapolis Field Office.

According to their pleas, Witmer and Jury were co-owners of Triton Energy LLC and Gen2 Renewable Diesel LLC, both located in Waterloo, Indiana. Witmer admitted to participating in a scheme with other coconspirators to fraudulently claim tax credits and RIN credits on non-qualifying renewable fuel. Although the credits required that the fuel be used domestically for transportation, Witmer admitted selling it for uses that included the production of fire starter logs and asphalt and also for power generation. Jury admitted to participating in a conspiracy to fraudulently claim tax credits and to providing false statements to the EPA.

As part of their pleas, Witmer agreed to serve a sentence of 57 months’ incarceration and Jury agreed to serve a sentence of 30 months’ incarceration. A sentencing hearing, has not yet been scheduled.

“Witmer, Jury, and their co-conspirators defrauded a program Congress had enacted to incentivize the production of biofuels and to help modernize our nation’s energy economy,” said Assistant Attorney General Cruden. “These serious crimes undermine these important public policies and this case demonstrates they will not go unpunished. The Justice Department will continue to vigorously prosecute those seeking to manipulate these programs for personal gain.”

“Eliminating fraud in the renewable fuels market is key to achieving the greenhouse gas reductions Congress intended under the Renewable Fuel Standard,” said Assistant Administrator Giles. “EPA is committed to holding those who violate the law accountable and ensuring a level playing field for companies that follow the rules.”

“When individuals, such as Mr. Witmer, Mr. Jury and their co-conspirators, use fraud and deceitful measures to take advantage of federal tax credits and incentives for personal gain, the harm is felt by all American taxpayers and our economy,” said Deputy Chief Don Fort for IRS-CI. “IRS-CI will continue to vigorously pursue individuals who attempt to undermine our tax system.”

“The FBI was pleased to be part of another renewable fuel fraud investigation in the state of Indiana, in this



case targeting Mr. Witmer, Mr. Jury and their co-conspirators,” said Special Agent in Charge Abbott. “This fraud scheme also victimized U.S. Taxpayers who believe those who participate in these programs should abide by the rules which govern them. This multi-agency effort is indicative of the commitment of resources by the FBI against perpetrators seeking to take advantage of incentivized programs in place to modernize our domestic energy programs”

Wire Fraud is punishable by up to 20 years in prison. Conspiracy is punishable by up to five years in prison. False Statements to the EPA is punishable by up to two years in prison.

Assistant Attorney General Cruden commended the cooperative investigation by law enforcement, as well as Department of Justice Trial Attorney Adam Cullman and Senior Trial Attorney Jeremy Korzenik, who represented the United States in this case.



# Plea Agreements

## Company Pays \$1 Million for Concealing Violation of the Clean Water Act—

On October 5, 2016, Champion ES Holdings, Inc., (Champion), a Texas corporation, pled guilty to a one-count Bill of Information for misprision of a felony, and was sentenced to a one-year term of probation and ordered to pay a \$1 million fine and a \$250,000 community service payment to the Barataria-Terrebonne Estuary Foundation.

According to court documents, on or about February 23, 2010, Champion's former affiliate, Champion Technologies, Inc., entered into a Master Service Agreement with the facility operator of the Innovator, an offshore oil and gas production facility that was located 80 miles south of Empire, Louisiana, to provide chemical management services. Between October 2010 and March 2012, Champion, however, failed to report to law enforcement its knowledge that the Innovator's operator was violating the National Pollutant Discharge



Elimination System General Permit No. 290000 by discharging one of the chemicals Champion sold it into the Gulf of Mexico to hide oil sheens. Despite the fact that Champion knew the facility operator was discharging the chemical, known as Cleartron ZB-103, into the Gulf of Mexico to use as a dispersant to hide oil sheens, it nevertheless continued to supply Cleartron ZB-103

to the operator. Between October 2010 and March 2012, production foremen on the Innovator ordered a total of 4,025 gallons of Cleartron ZB-103 from Champion that was injected into the produced water piping past the floatcell of the production facility and used as a dispersant to hide oil sheens from the produced water coming from the Innovator.

As part of its plea agreement, Champion agreed to discontinue the sale of Cleartron ZB-103 and to provide offshore personnel with training on the Clean Water Act and its restrictions governing the use of dispersants and surfactants on offshore oil and gas platforms.

U.S. Attorney Polite praised the work of the Environmental Protection Agency-Criminal Investigation Division and Department of Interior-OIG in investigating this matter. Assistant United States Attorney Emily K. Greenfield of the National Security Unit was in charge of the prosecution.



## Four Texas Companies Agree to Pay \$3.5 Million for Criminal Violations of the Clean Air Act at Two Oil and Chemical Processing Facilities –

On October 12, 2016, **KTX Limited** and **KTX Properties Inc.** was charged with negligently releasing hazardous air pollutants after a tank explosion at their chemical and petroleum processing facility located in Port Arthur, Texas on March 31, 2011. The explosion killed one worker at the plant and severely injured two others.

According to the factual basis of the plea agreement, KTX Limited and KTX Properties Inc, authorized two contract workers to perform welding or “hot work” on piping connected to a tank at their Port Arthur, Texas, facility. Prior to beginning the welding, the defendants falsified the “hot work” permit issued to the workers and failed to properly drain, isolate and decontaminate the tank and connecting equipment as required by Occupational Safety and Health Act (OSHA) regulations. As a result, the welding work ignited vapors causing the tank to explode and release hazardous air pollutants to the environment. Because the defendants had



failed to properly inspect and maintain the tank pursuant to generally accepted industry standards, the exploding tank collapsed spilling burning product which severely injured two workers. A third worker was killed when the rails and ladder from the collapsing tank fell on his head.

“The dishonest [and outright] failure to adhere to workplace standards and practices can lead to death and injury to American workers who deserve better, as

this case tragically shows,” said Assistant Attorney General John C. Cruden for the Justice Department’s Environment and Natural Resources Division. “The Justice Department is committed to enforcing environmental and workplace safety laws that protect workers from this kind of egregious behavior and to help ensure it doesn’t happen again.”

The information also charges **Crosby LP** and **Ramsey Properties LP** with failing to monitor leaks of ground-level ozone (smog) producing air pollutants at their chemical processing facility in Crosby, Texas, from 2008 until 2012. Pursuant to the factual basis, the defendants also admitted that they falsified records and reports for these Title V permit requirements to EPA and the Texas Commission of Environmental Quality certifying the facility was complying with the permit requirements.

“Safety inspections involving toxic or hazardous materials are mandatory and vital to the safety of the worker and the surrounding communities,” said Acting U.S. Attorney Brit Featherston for the Eastern District of Texas. Non-performance is unacceptable and will not be tolerated, and offenders will be prosecuted.”



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The plea agreement requires the companies to pay a total of \$3.3 million in criminal fines. In addition, the companies will make a \$200,000 community service payment to the Southern Environmental Enforcement Network (SEEN). The payment will be used by SEEN for hazardous air release prevention and emergency response training to state and local environmental and law enforcement agencies.

“When handled or stored improperly, chemicals can result in severe injuries or even death, so protecting communities from the harmful effects of hazardous chemicals is a priority for EPA,” said Special Agent in Charge Christopher R. Brooks of EPA’s criminal enforcement program for Texas. “This case emphasizes the importance of having – and following – a plan to manage risks associated with storing hazardous chemicals, which help companies avoid accidents and enable local emergency responders to be better prepared.”



“Employee safety is of paramount importance as there is no excuse for workers not returning to their families at the end of the day,” said Regional Administrator Kelly Knighton for OSHA Region 6. “Resulting from an initial OSHA fatality investigation, I commend the Federal and State partners for holding accountable, to the fullest extent of the law, those employers that take shortcuts and endanger the safety and health of their workers.”

Assistant U.S. Attorney Joseph R. Batte of the Eastern District of Texas and Trial Attorneys Richard Powers and David Kehoe of the Department of Justice, Environmental Crimes Section, prosecuted the case. The case was investigated by EPA’s Criminal Investigation Division and assisted by the Texas Commission on Environmental Quality, the Texas Parks and Wildlife Department, and the Occupational Safety and Health Administration.



# Plea Agreements

## Owner and Operator of Asbestos Removal Training Course Pleads Guilty to Providing False Certifications—

On October 13, 2016, the owner of a company that provided federally-mandated training for construction firms working with asbestos pleaded guilty to falsifying documents as part of a scheme to violate the Asbestos Hazard Emergency Response Act, announced U.S. Attorney Annette L. Hayes. **ISAAC COLE**, 54, of Kent, Washington, owns and operates Cole and Associates, Inc., a business licensed by Washington State to provide asbestos training courses for asbestos workers and supervisors in exchange for a course enrollment fee. COLE admitted in his plea agreement that he took additional fees to provide falsified certifications to people he knew had not actually taken the course. Sentencing before U.S. District Judge John C. Coughenour is scheduled for January 13, 2017.

“Asbestos is a dangerous substance, which is why state and federal authorities require those who work with it to receive annual training on how to safely handle it,” said U.S. Attorney Annette L. Hayes. “This defendant put workers and the public at risk by selling false certifications for asbestos training. Like this defendant, those who flout our environmental laws will be held to account.”

Cole and Associates, Inc. was licensed from 1998 to the present to provide asbestos training courses. According to the plea agreement, between 2013 and 2016, ISAAC COLE caused the company to certify that various asbestos workers had successfully completed required safety courses when they had not done so. COLE required workers seeking these fraudulent course certifications to pay an additional fee beyond the fee Cole and Associates charged students who actually attended the classes. After receiving these payments, COLE directed his employees to certify to L&I that the asbestos worker had attended the federally-mandated training program, when in fact COLE knew the asbestos worker had not undergone any of the training. COLE encouraged the participants to claim they had attended training on dates when they were on vacation (rather than on dates when they were working) so that L&I could not compare work records to class attendance records and determine that the participants were making false reports. At least four Cole and Associates employees participated in this scheme at COLE’s instruction.

...he took additional fees to provide falsified certifications to people he knew had not actually taken the course... any business that issues asbestos abatement training certificates without providing legitimate training puts both workers and the public at risk.

“The health threats posed by asbestos exposure are well-known and real, and any business that issues asbestos abatement training certificates without providing legitimate training puts both workers and the public at risk,” said Jeanne Proctor, Special Agent-in-Charge of EPA’s Criminal Investigation Division in the Pacific Northwest. “EPA will continue to hold accountable any firm that illegally pursues financial gain without regard for people’s health.”

“I will not tolerate people who flout environmental laws to make a quick buck,” said Attorney General Bob Ferguson. “My office, working with our state and federal partners, will hold accountable those who threaten the environment and public health.”

“Asbestos is extremely hazardous to workers and the public. That’s why training on the proper ways for workers to safely handle it is critical and required,” said Anne Soiza, head of L&I’s Division of Occupational Safety and Health. “This sham training put people at risk. Our hope now is that nobody affected will develop asbestos-related cancer or another fatal disease because of this criminal carelessness.”



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Under the terms of the plea agreement the government will recommend a sentence of probation, and may seek fines or other penalties. COLE has agreed that as a condition of his probation he will have no further participation in the asbestos training business.

The case was investigated by the Environmental Protection Agency (EPA) and the Washington State Department of Labor and Industries. The Washington State Attorney General's Office assisted with the investigation.

The case is being prosecuted by Assistant United States Attorney Seth Wilkinson.



# Plea Agreements

## AG Ferguson Garners Guilty Pleas over Asbestos Violations in Spokane—

On October 20, 2016, **Dayabir Bath**, **Gee Grewal** and Bath’s company, **2013 Investors LLC** pled guilty in Spokane County Superior Court to multiple violations of the Washington Clean Air Act. The case stems from renovations at the former Spokane House Hotel, where asbestos was putting workers and the public at risk of exposure.

As part of the plea agreement, Dayabir Bath, Gee Grewal and Bath’s company, 2013 Investors LLC, will pay a total of \$115,000 in restitution. The restitution funds will go toward asbestos education, awareness and training for workers, employers, inspectors and the public.

The court also sentenced the two individual defendants to two years of probation, during which they must comply with environmental regulations or face up to 364 days in jail. A third man, their employee John Hickson, pled guilty in August to three counts of violating the Clean Air Act and was sentenced to 60 days in jail.

“These individuals not only endangered the environment, they put workers and innocent neighbors at risk to pad their pockets,” Ferguson said. “Asbestos-removal regulations exist for a reason: to protect us from exposure to this dangerous pollutant.”

In 2013 and 2014, Kent-based 2013 Investors LLC performed extensive renovation work on the 89-room hotel at 4301 W. Sunset Blvd. in Spokane. Although the building contained asbestos, the owners didn’t obtain the proper asbestos surveys or city permits to do the work as required by law.

Investigators from the Spokane Regional Clean Air Agency only became aware of the full extent of the renovation when one of them happened to drive by and noticed the extensive work in June of 2013. Investigators reported piles of debris likely to contain asbestos sitting out in the open air, endangering workers and neighbors.



Again in 2014, Clean Air Agency investigators spotted another debris pile, containing visible asbestos. The asbestos allegedly sat in the open air for several months, during which the area experienced high winds of over 40 miles per hour. During such winds, delicate and breakable asbestos fibers can blow freely around the neighborhood, endangering the health of those nearby.

“Any business or individual conducting demolition or renovation of a structure must do so properly to reduce risk of asbestos exposure,” said Julie Oliver, executive director of Spokane Regional Clean Air Agency. “An uncontrolled release of asbestos fibers is a health hazard proven to cause lung cancer and other illnesses.”

Bath and his company will pay \$90,000 in restitution, and Grewal will pay \$25,000. Half of the total —



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\$57,500 — will go to the Asbestos Disease Awareness Organization, which will work with the Spokane Regional Clean Air Agency to educate workers and employers about the dangers of asbestos. The remaining \$57,500 will go to the Western States Project, which sponsors education and training for environmental enforcement.

The lead prosecutor was Assistant Attorney General Bill Sherman.

Ferguson has made prosecuting environmental crimes a priority of his administration. Since 2013, he has brought environmental prosecutions leading to 19 criminal convictions, and restitution orders in excess of \$900,000.



## German Shipping Corporations Convicted of Environmental Crimes —

On October 25, 2016, two German shipping companies that owned and operated the Motor Vessel (M/V) Nils B, pleaded guilty to an environmental crime in federal court in San Diego before the Honorable Jan M. Adler, announced Assistant Attorney General John C. Cruden and United States Attorney Laura E. Duffy.

**W. Bockstiegel Reederei GmbH & Co. KG** (which operated the vessel) and **W. Bockstiegel GmbH & Co. Reederei KG MS “NILS B”** (which owned the vessel), pleaded guilty to one felony violation of the Act to Prevent Pollution from Ships for failing to accurately maintain an oil record book for the M/V Nils B. In doing so, the firms failed to disclose that oil contaminated water had been discharged into the ocean from the vessel without the use of pollution prevention equipment.

According to the plea agreement, on August 5, 2014, personnel from the United States Coast Guard boarded the vessel after its entry into the Port of San Diego, California. Once onboard, the Coast Guard discovered that the crew had failed to keep an oil record book for a significant period of time, modifications had been made to piping coming from the oil water separator and oil was discovered in discharge piping that should not have been present.

The defendants acknowledged that Coast Guard examiners took oil samples from the oil water separator’s overboard discharge valve and from the vessel’s sludge tank and the samples from the two locations matched. Under U.S. and international law, sludge is never to be discharged through an oil water separator. The Coast Guard also discovered a black hose near the oil water separator that contained oil slightly weathered light fuel oil mixed with lubricating oil. In the industry, such a hose is known as a “magic hose.” The defendants, in pleading guilty, admitted that the oil record book on board the vessel did not disclose any discharges of sludge between the time that the overboard discharge valve had been cleaned while the vessel was in dry dock in June of 2014 and its entry into the Port of San Diego in August.

Sentencing for this case has been set for Nov. 3. According to the plea documents, the company and the United States agree to recommend that the court impose a total criminal penalty of \$750,000.00, of which \$250,000.00 will be a community service payment for the benefit of the Tijuana River National Estuarine Research Reserve to further research related to the effects of pollution on the marine estuarine environment.

This case was investigated by U.S. Coast Guard Investigative Service and U.S. Environmental Protection Agency, Criminal Investigation Division personnel in San Diego, California. The case was prosecuted by Senior Trial Attorney Kenneth E. Nelson of the Environmental Crimes Section of the Environment and Natural Resources Division of the Department of Justice and Assistant U.S. Attorney Melanie Pierson of the U.S. Attorney's Office for the Southern District of California.



## Dyer Man Charged With Violating The Federal Insecticide Act —

On October 27, 2016, **Dipen Patel**, 34, of Dyer, Indiana was charged with a criminal violation of the Federal Insecticide, Fungicide and Rodenticide Act, a/k/a FIFRA.

According to documents filed in this case, the defendant knowingly distributed a pesticide in the State of Indiana which was not registered with the EPA as required. The pesticide known as “DOOM” was applied to rooms at a motel located in Michigan City, Indiana and a motel located in Howe, Indiana. An information and plea agreement have been filed with respect to the criminal violation.

The United States Attorney's Office emphasized that an Information is merely an allegation and that all persons charged are presumed innocent until, and unless, proven guilty in court.

If convicted in court, any specific sentence to be imposed will be determined by the judge after a consideration of federal sentencing statutes and the Federal Sentencing Guidelines.

This case was the result of an investigation by the Northern District of Indiana Environmental Crimes Task Force lead by the Environmental Protection Agency-Criminal Investigation Division. This case is prosecuted by Assistant United States Attorney Toi Denise Houston, Trial Attorney Richard J. Powers, U.S. Department of Justice, Environmental and Natural Resource Division, Environmental Crimes Section, and Special Assistant United States Attorney David P. Mucha, Environmental Protection Agency.

