



# 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.

September, 2017

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## Defendant Summary

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## Cleveland Man Sentenced to Nearly Three Years in Prison for Illegal Demolition of Former Factory

On September 21, 2017, William S. Jackson, age 47, was sentenced to 33 months in prison and ordered to pay \$7.8 million in restitution by U.S. Senior District Judge Donald C. Nugent.

Jackson was sentenced for violating the Clean Air Act by failing to remove asbestos prior to demolishing a former factory in Cleveland, law enforcement officials said.

Christopher Gattarello leased the former National Acme facility at 170 East 131st Street in Cleveland in June 2011. The 570,000 square-foot facility was built in 1917 and was used for manufacturing for nearly a century. It is located near many homes and a school. Gattarello represented to the lessor that paper and cardboard waste would be recycled at the facility. In July 2011, a company estimated removing asbestos from the facility would cost \$1.5 million.

Around August 2011, Gattarello directed paper and cardboard waste, as well as municipal garbage, be delivered to the facility for recycling. Over the next several months, more garbage, paper and cardboard were delivered than could be handled, and Gattarello had the waste moved inside. By April 2012, most of the facility was filled with garbage.

Gattarello entered into a contract to purchase the facility in 2012. Gattarello intended to demolish the facility and sell any metal removed as scrap.

Jackson operated a Cleveland building demolition company. In July 2012, he submitted a notice of demolition with the Cleveland Division of Air Quality stating there was no asbestos in the National Acme facility. About 10 days later, the CDAQ rejected Jackson's notice because it was incomplete and stated demolition "may not begin" until a proper notice was submitted and approved. About 10 days after that, on July 21, 2012, Jackson began demolition at Gattarello's direction.

Asbestos fibers were released into the environment during demolition. Debris accumulated outside the facility from demolition and asbestos in the piles were exposed to the wind and elements.

Gattarello was sentenced to nearly five years in prison for his crimes earlier this year.

"This defendant knowingly ignored regulations designed to protect the public's health and safety," U.S. Attorney Justin E. Herdman said. "He and his co-defendants caused irreparable harm to a Cleveland neighborhood."

"The defendants in this case put unsuspecting workers at great risk and threatened the health and safety of the community when they failed to follow proper procedures for removing asbestos," said Scot Adair, Acting Special Agent in Charge of EPA's criminal enforcement program in Ohio. "This case demonstrates that EPA and its law enforcement partners will prosecute those who willingly break environmental laws in an attempt



to cut costs.”

“It is both illegal and inexcusable to dump thousands of tons of garbage near a residential neighborhood,” said Ohio Attorney General Mike DeWine. “Residents were subjected to environmental and health hazards and deserve to see those accountable brought to justice.”

“Let these sentencings stand as a warning to those who victimize the public that whether you are the main perpetrator of a fraud, or merely assist in its facilitation, the law will hold all guilty parties accountable,” said Ryan L. Korner, Special Agent in Charge, IRS Criminal Investigation, Cincinnati Field Office. “The successful prosecution of these individuals is a direct result of the excellent partnership that federal, state and local law enforcement has in combating violations of federal law.”

The case was investigated by EPA’s Criminal Investigation Division, the State of Ohio Environmental Protection Agency, the Ohio Bureau of Criminal Investigation and the Internal Revenue Service. The case is being prosecuted by DOJ’s Assistant U.S. Attorneys.



*Asbestos TSI on pipes over waste*



## Stark County Man Sentenced to More than Three Years in Prison for Dumping Wastewater in Tuscarawas River

On September 5, 2017, Adam D. Boylen, 46, was sentenced to more than three years in prison for dumping wastewater into tributaries of the Tuscarawas River. Boylen previously pleaded guilty to four counts of violating the Clean Water Act by making unpermitted discharges. U.S. District Judge Sara Lioi sentenced him to 42 months in prison and ordered him to pay \$85,338 in restitution.

“This defendant intentionally dumped waste into a tributary of the Tuscarawas River, killing fish and other aquatic life,” said U.S. Attorney Justin E. Herdman. “We will always protect our waterways and environment.”

“Protecting our water is critical, both for the health and safety of our citizens and our wildlife,” Ohio Attorney General Mike DeWine said. “We will continue to assist in this case and others like it to protect Ohio.”

“The defendant's deliberate and illegal dumping of wastewater killed thousands of fish and wildlife and harmed the quality of local waterways,” said Scot Adair, Acting Special Agent in Charge of EPA’s criminal enforcement program in Ohio. “Today's sentence reinforces EPA's commitment to work with its law enforcement partners to pursue egregious environmental crimes and the individuals who commit them.”



*White foam from illegal wastewater discharge in a stream leading to the Tuscarawas River*

“Today’s sentencing concludes a successful investigation and prosecution of the multiple discharges into waters of the state, which violated the federal Clean Water Act,” said Ohio EPA Director Craig W. Butler. “We will continue to work with our partners at the local, state and federal agencies to make sure that public health and the environment is protected and responsible parties are held accountable.”

**B**oylen drove the tanker truck to remote locations in Tuscarawas County and central-eastern Ohio and emptied the wastewater containing surfactants into waters of the United States

Boylen was a driver employed by an Ohio-based trucking company. Boylen’s job was to load wastewater generated from corporate facilities into a tanker truck and to drive the wastewater to a designated facility located in Pennsylvania for proper disposal. The wastewater contained surfactants capable of killing vegetation and fish, according to court documents.

Instead of delivering the wastewater to Pennsylvania, Boylen drove the tanker truck to remote locations in Tuscarawas County and central-eastern Ohio and emptied the wastewater containing surfactants into waters of the United States, according to court documents.

Boylen is charged with dumping the wastewater into two different tributaries of the Tuscarawas River, a wetland adjacent to the Tuscarawas River, and the Beach City Reservoir, on numerous occasions between April 18 and May 4, 2016.

White foam flowed down tributaries and streams as a result of Boylen's actions. In one instance, the foam traveled four miles downstream from the location where the tanker truck was emptied. Vegetation was killed at all the locations. Over 700 fish were killed in one of the tributaries, and collectively, approximately 3,231 minnows, crayfish, frogs, and tadpoles were killed, according to court documents.

The case was investigated by the United States and Ohio Environmental Protection Agencies, the Ohio Attorney General's Bureau of Criminal Investigation, the Stark County Sheriff's Offices, the Tuscarawas County Sheriff's Offices, the Ohio Department of Natural Resources, and the Ohio Department of Rehabilitation and Correction.

## Realtor Pleads Guilty To Violating Lead-Based Paint Disclosure Rules

On September 7, 2017, Maureen S. Walck, 72 of Lockport, NY, pleaded guilty to failure to provide lead paint hazard warning notice, before U.S. Magistrate Judge Jeremiah J. McCarthy. The charge carries a maximum sentence of one year in prison and a fine of \$100,000.

Assistant U.S. Attorney Aaron J. Mango, who is handling the case, stated that the defendant, a real estate broker with RealtyUSA, executed a contract on January 15, 2014, with the owner of a residence in Lockport, which gave the defendant the exclusive right to sell the residence. The residence was built in approximately 1900, and the owner was aware that lead-based paint hazards were present. The owner informed Walck of the hazards and showed a copy of the lead-based paint inspection reports to the defendant.

**T**he second prospective buyers purchased the residence and closed on the residence on April 11, 2014. In September 2015, **the new owners learned that their child was diagnosed with lead poisoning.**

On January 25, 2014, a prospective buyer made an offer to purchase the residence. As part of the sales contract, a lead-based paint rider and disclosure form was included. Walck indicated that records pertaining to lead-based paint and/or lead-based paint hazards at the residence were provided to the prospective buyer. After an inspection of the residence, and after reviewing the lead-based paint records, the prospective buyer cancelled the sales contract.

On February 6, 2014, a second prospective buyer made an offer to purchase the residence. As part of the sales contract, another lead-based paint rider was included. However, unlike the rider with the first prospective buyers, Walck indicated that the seller had no knowledge of lead-based paint and/or lead-based paint hazards at the residence and that there were no records pertaining to lead-based paint and/or lead-based paint hazards for the residence. The second prospective buyers purchased the residence and closed on the residence on April 11, 2014. In September 2015, the new owners learned that their child was diagnosed with lead poisoning.

The investigation was conducted by EPA's Criminal Investigation Division, and the U.S. Department of Veterans Affairs Office of Inspector General, Criminal Investigations Division. Sentencing is scheduled for December 11, 2017.

## St. Lawrence County Man Pleads Guilty to Clean Water Act Crimes

On September 7, 2017, Acting United States Attorney Grant C. Jaquith announced Michael J. Ward, age 54, of Gouverneur, New York, pled guilty, in Binghamton federal court, to three felony counts of violating the Clean Water Act.

In pleading guilty, Ward admitted that between January 2013 and September 2015, while employed as the Technical Director in charge of environmental compliance at the APC Paper Group paper mill in Norfolk, New York, he caused the paper mill to violate its Clean Water Act permit by discharging wastewater containing excessive levels of biochemical oxygen demand (“BOD”) into the Raquette River. BOD is the amount of dissolved oxygen necessary for microorganisms in the water to break down organic material. BOD levels also provide an index for measuring the effect discharged wastewater will have on the body of fresh water receiving it. In this case, the paper mill’s Clean Water Act permit restricted the amount of BOD that could be discharged through wastewater. Ward admitted in court today that he was responsible for monitoring, calculating, and reporting the paper mill’s compliance with its Clean Water Act permit. He further admitted that he hid and falsified data regarding the BOD levels in the mill’s wastewater discharges, thus allowing the mill to violate its Clean Water Act permit on a regular basis. Additionally, he repeatedly falsified monthly reports to the DEC to hide the continuing Clean Water Act violations. The defendant’s illegal conduct was discovered after he was fired by APC Paper Group for unrelated reasons in the fall of 2015.

The charges to which Ward pled guilty carry a maximum sentence of up to 3 years in prison, a fine of up to \$800,000, and a term of supervised release of up to 1 year. Ward will be sentenced in federal court in Binghamton on January 26, 2018 by Senior United States District Judge Thomas J. McAvoy. A defendant’s sentence is imposed by a judge based on the particular statute the defendant is charged with violating, the U.S. Sentencing Guidelines and other factors.

This case was investigated by EPA’s Criminal Investigation Division, and the New York State DEC, Division of Law Enforcement and Bureau of Environmental Crimes Investigation Unit (BECI). The case is being prosecuted by DOJ’s Assistant U.S. Attorney.



## Tyson Poultry Pleads Guilty to Clean Water Act Violations in Connection with Discharge of Acidic Feed Supplement

On September 27, 2017, Tyson Poultry Inc. (“Tyson”) pleaded guilty in federal court in Springfield, Missouri, to two criminal charges of violating the Clean Water Act stemming from discharges at its slaughter and processing facility in Monett, Missouri.

Tyson, the nation’s largest chicken producer, is headquartered in Springdale, Arkansas. Tyson is a subsidiary of Tyson Foods Inc., which owns and operates multiple companies in the food supply and food service industry. The charges to which Tyson pleaded guilty arose out of a spill after the company mixed ingredients in its chicken feed at its feed mill in Aurora, Missouri.

One ingredient in Tyson’s feed was a liquid food supplement called “Alimet,” which has a pH of less than one. According to the plea agreement filed in federal court, in May 2014, the tank used to store Alimet at the Aurora feed mill sprang a leak, and the acidic substance flowed into a secondary containment area. Tyson hired a contractor to remove the Alimet and transport it to Tyson’s Monett plant, where the Alimet was unloaded into the in-house treatment system that was not designed to treat waste with Alimet’s characteristics. Some of the Alimet made it into the City of Monett’s municipal waste water treatment plant, where it killed bacteria used to reduce ammonia in discharges from the treatment plant into Clear Creek, and resulting in the death of approximately 108,000 fish.

Under the terms of the plea agreement, Tyson will pay a \$2 million criminal fine and serve two years of probation. In addition, Tyson will pay \$500,000 to maintain and restore waters in the Monett area, with a focus on Clear Creek and the adjoining waterways. Tyson will also implement environmental compliance programs including: hiring an independent, third-party auditor to examine all Tyson poultry facilities throughout the country to assess their compliance with the Clean Water Act and hazardous waste laws; conducting specialized environmental training at its poultry processing plants, hatcheries, feed mills, rendering plants, and waste water treatment plants; and implementing improved policies and procedures to address the circumstances that gave rise to these violations.



“Our Division is hopeful that the outcome of this case will help deter future violations of the Clean Water Act and keep our water supply and marine life free from pollution,” said Acting Assistant Attorney General Jeffrey H. Wood of the Environment and Natural Resources Division. “Today’s agreement will remedy environmental harm caused by the defendant’s actions while also helping to ensure that these kinds of problems do not happen again.”

“Tyson’s admitted criminal conduct caused significant environmental damage, including a large-scale fish kill,” said Acting U.S. Attorney Tom Larson of the Western District of Missouri. “Today’s plea agreement not only holds Tyson accountable for its actions in Missouri, but requires the company to take steps to insure

compliance with the Clean Water Act at its poultry facilities throughout the United States.”

“Ensuring agricultural operations dispose of their waste in a lawful way is critical to protecting the health of local communities and clean water,” said Larry Starfield, acting Assistant Administrator for EPA’s Office of Enforcement and Compliance Assurance. “The plea agreement in this case will improve Tyson’s compliance with important clean water and hazardous waste laws and help prevent future violations.”

Acting Assistant Attorney General Wood and Acting U.S. Attorney Larson thanked the U.S. Environmental Protection Agency’s Criminal Investigation Division for its work in this investigation. The case is being prosecuted by the U.S. Attorney’s Office for the Western District of Missouri and the Environmental Crimes Section of the Justice Department’s Environment and Natural Resources Division.

## Former Omega Protein manager pleads guilty to polluting Vermilion River

On September 19, 2017, Aldes K. “Al” Vidrine III, 52, of New Orleans, La., pleaded guilty before U.S. Magistrate Judge Carol Whitehurst on one count of unlawful discharge of a pollutant into a water of the United States. According to the guilty plea, Vidrine, who worked as a manager at the Abbeville Omega Protein Inc. plant, directed employees on February 1, 2016 to place a hose in a treatment pond and drain process water from the plant’s treatment pond into a canal that emptied into the Vermilion River.



*Discharge of drain process water to drainage canals leading into Vermillion River*

Vidrine faces up to one year in prison, one year of supervised release and a fine of not less than \$2,500 or more than \$25,000 per day of the violation.

The investigation was conducted by EPA’s Criminal Investigation Division and the Louisiana State Police. The case is being prosecuted by DOJ’s Assistant US Attorney. Sentencing is scheduled for January 11, 2018.

## **Owner of O.C. Pet Products Company Pleads Guilty to Selling Pet Meds Without Prescriptions, Some of Which Were Not Approved for U.S. Sale**

On September 11, 2017, Sean Gerson, 49, pleaded guilty to charges of selling misbranded veterinary medications without a prescription, some of which were not approved for use in the United States.

Gerson, owner of Vaccination Services, Inc. in Lake Forest, pleaded guilty in a scheme that netted him at least \$2.5 million over the past 15 years.

Gerson pleaded guilty to smuggling, introduction into interstate commerce misbranded animal prescription drugs with the intent to defraud and mislead the United States Food and Drug Administration, and a misdemeanor charge of distribution and sale of an unregistered pesticide. Vaccination Services also pleaded guilty today to the same federal charges.

The misbranded drugs – meaning they were sold without a valid prescription from a veterinarian – were Comfortis, an anti-flea medication, and Ciprofloxacin, a powerful antibiotic commonly called “Cipro” that can be used in dogs and cats to treat skin, respiratory and urinary tract infections.

According to court documents, Gerson sold Comfortis that was designed for the South African market and was not approved for distribution in the United States. Federal law prohibits the importation and sale of veterinary medicines that have not been approved by the FDA and Environmental Protection Agency for use in this country.

Gerson used several websites – including fleastuff.com, mydoghasfleas.xyz and fleaandtickstuff.com – to market prescription animal products to buyers without valid prescriptions.

In a plea agreement filed in United States District Court, Gerson admitted that he “knowingly distributed, transported and sold the prescription animal drugs Comfortis and Ciprofloxacin in interstate commerce” to an undercover law enforcement officer in Missouri in August 2016. Gerson at the time knew that the drug had been smuggled into the United States “because the drugs were foreign-market branded and not approved by the U.S. FDA for entry into the United States.”

Gerson also admitted that he sold foreign market pesticides – animal flea and tick products not approved for sale and distribution in the United States – to an undercover law enforcement officer in Washington in June 2012.

In the plea agreement, prosecutors and Gerson have agreed that the appropriate sentence in this case is 30 months in federal prison and a fine of \$200,000. The final sentence will be determined by Judge Klausner, and if the judge decides to deviate from the agreed-upon sentence both parties have the right to withdraw from the plea agreement and proceed to trial. Sentencing is scheduled for December 11, 2017.

In addition to the prison sentence and criminal fine, Gerson has agreed to the entry of a \$2.5 million forfeiture judgment which will require Gerson to forfeit the proceeds of his long-running scheme.

In its plea agreement, Vaccination Services has agreed to pay a \$300,000 fine and to be placed on probation for a period of five years. This stipulated sentence is also subject to the approval of Judge Klausner.

Gerson was previously convicted of charges related to the illegal sale of pet medications and products. According to documents previously filed in the federal case in Los Angeles, Gerson pleaded guilty in Texas in 2014 to state charges of delivery of a dangerous drug, specifically a prescription drug called Clenbuterol.

In a related case, Judge Klausner in June ordered a South African veterinarian to pay a fine of \$5,000 and forfeit to the United States \$145,000 after pleading guilty to a charge of making false statements in relation to unapproved pet medications he shipped to Gerson. Craig Mostert sent the foreign-market drugs to Gerson, and significantly understated the value of the products in a series of shipments between 2008 and 2017.

The case against Gerson and Vaccination Services is the product of an investigation by U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations, the Food and Drug Administration's Office of Criminal Investigations, and the Environmental Protection Agency. The case is being prosecuted by DOJ's Assistant US Attorney Joseph O. Johns, Chief of the Environmental and Community Safety Crimes Section.



### **Owner And Manager Of Plymouth Environmental Company Charged In Fraud Conspiracy Related To Disposal Of Toxic Chemicals**

On September 20, 2017, Acting United States Attorney Gregory G. Brooker announced an indictment charging Luminaire Environmental and Technologies, Inc., John D. Miller, Jr., 60, and Joseph V. Miller, 57, with conspiracy, multiple counts of wire fraud, mail fraud and falsifying documents.

According to the indictment, Luminaire Environmental and Technologies, Inc. (“Luminaire”), purported to be a recycling and waste disposal business that offered to pick up customers’ fluorescent light ballasts containing polychlorinated biphenyls (“PCBs”), transport the PCB-containing ballasts to the Luminaire facility located in Plymouth, Minn., and remove and dispose of all the PCBs in accordance with the Toxic Substances Control Act (TSCA). Luminaire charged customers a significant fee for this service because the PCBs contained in the ballasts were considered a toxic chemical, and regulations promulgated by the United States Environmental Protection Agency mandate special procedures for disposal of these materials.

According to the indictment, from 2010 until 2015, John and Joe Miller, owner and manager, respectively, of Luminaire, orchestrated a fraudulent scheme designed to generate business for Luminaire by making false representations to customers that Luminaire would properly dispose of customers’ toxic chemicals. Instead, after picking up loads of PCB-ballasts from customers, Luminaire’s employees, at the direction of John and Joe Miller, would remove or otherwise obscure labels from the containers holding the PCB-ballasts, and then sell the PCB-ballasts as scrap metal to nearby metal recycling facilities. By doing so, John and Joe Miller were able to charge customers a significant fee for work that was never actually performed and obtain additional profits by fraudulently selling the PCB-ballasts to scrap yards. Additionally, in order to conceal the true destination and disposal of customers’ toxic chemicals, John and Joe Miller and others would falsely certify on shipping manifests that the PCB-ballasts had been properly transported to Luminaire’s facility. As a result of the scheme, Luminaire fraudulently collected more than \$1,000,000 in fees and additional profits.

This case is being investigated by EPA’s Criminal Investigation Division, and is being prosecuted by DOJ’s Assistant U.S. Attorneys.