



# 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. Unless otherwise noted, all photos are provided by EPA-CID.

December 2017—January 2018

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# Defendant Summary

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## **Environmental Training Company Owner to Serve Prison Time for Falsely Certifying Lead Abatement Course Completion**

Stephen Craig, 66, of Essex, was sentenced on December 7, 2017, to six months of imprisonment, followed by three years of supervised release, for falsely certifying the completion of a lead abatement course. Craig was also ordered to pay a \$20,000 fine.

According to court documents and statements made in court, Stephen Craig owned Boston Lead Company LLC (BLC), a Connecticut corporation that provided industrial hygiene and safety services. Doing business as Environmental Training and Assessment (ETA), BLC offered a variety of training courses to individuals working with lead paint and asbestos. Stephen Craig was the training manager and a primary instructor for those courses, and his son, Matthew Craig, provided hands-on instruction and assisted with course administration, including the grading of examinations.

ETA's lead and asbestos training courses were subject to regulation under the training provider accreditation requirements of the federal Toxic Substances Control Act (TSCA). TSCA allowed states to obtain U.S. Environmental Protection Agency (EPA) authorization to administer and enforce the standards, regulations and other requirements of the TSCA's lead and asbestos programs, including the approval of training courses. The State of Connecticut received such authorization for all lead and asbestos programs except the lead program that covered renovations, repairs and painting. Individuals in Connecticut who perform lead abatement activities must be certified by the Connecticut Department of Public Health (CT DPH). To obtain certification, an individual must successfully complete an approved 32-hour lead abatement worker initial training course. ETA applied for and received approval from CT DPH to offer a wide range of lead and asbestos training courses, including lead abatement worker initial and refresher courses.

In August 2011, ETA offered a lead abatement training course at its Middletown facility. Stephen Craig was the training manager and primary course instructor, and Matthew Craig provided the hands-on training and graded the exams. An undercover EPA agent attended the course under the fictitious identity, seeking a lead abatement worker initial course completion certificate. The agent skipped the first two days of the course, and was two hours late on the third day. Thereafter, the agent attended the course for a total of approximately 15 hours, including approximately three hours of hands-on training. Stephen Craig was aware that agent did not attend the full training course.

At the conclusion of the course, the agent paid Stephen Craig \$525 in cash and was allowed to sit for the lead abatement worker examination, which was proctored and graded by Matthew Craig. The agent intentionally failed the examination. Although Matthew Craig knew that the agent had failed the examination, Matthew Craig completed questions that the agent had left blank and corrected a sufficient number of incorrectly answered questions to bring the examination grade to a passing grade of 80 percent.

On August 12, 2011, ETA issued a false Certificate of Completion to the agent that stated that the agent had successfully completed a 32-hour lead abatement worker initial training course and passed an examination in accordance with CT DPH standards.

## Sentencings

On August 3, 2017, Stephen Craig pleaded guilty to one count of making a false statement to the federal government.

Matthew Craig previously pleaded guilty to one count of making a false statement and, on March 14, 2013, was sentenced to two years of probation and ordered to perform 100 hours of community service.

This matter was investigated by the EPA's Criminal Investigation Division, and was prosecuted by DOJ.

## Webster County Kentucky, Business Owner Sentenced For Negligent Violation Of The Clean Air Act—Failed to Follow Safety Regulations when Demolishing Facilities Containing Asbestos

Timothy J. Smith, owner of S&S Salvage, LLC., was sentenced December 2, 2017, in United States District Court to serve a 90-day sentence plus two years probated, with the condition that he not commit additional environmental offenses, for negligent violation of the Clean Air Act. Smith admitted to failing to follow regulations during the demolition of a former Goodyear Tire plant located in Madisonville, Kentucky.

“These federal safety guidelines for hazardous materials exist to protect us – to protect workers and protect the community,” stated United States Attorney John Kuhn. “Mr. Smith repeatedly disregarded these guidelines, thereby putting the safety and health of others at risk. Our fervent hope is that 90 days of incarceration will encourage Mr. Smith and others to think long and hard before once again violating regulations that ensure worker and community safety,”



According to details of the plea agreement, in January 2014, a Madisonville City Inspector observed demolition activities at the tire plant, located at 200 Commerce Drive, and informed a manager for S&S Salvage that any demolition activities at the facility required a ten-day notice to the City because the building contained asbestos. On February 19, 2014, the same inspector returned to find employees of S&S Salvage conducting demolition activities consisting of destruction of a boiler and pipes with acetylene torches and placement of the insulation in dumpsters. None of the employees was wearing any

kind of respirator nor did the inspector observe employees wetting insulation materials, as required by regulations established for this purpose. Kentucky Environmental officials, also present at the scene, took samples of the suspected asbestos containing materials. The samples were positive for asbestos ranging in content from 10 to 20%.

On May 25, 2016, EPA/CID Agents met with Smith. Smith had on two prior occasions been involved in enforcement actions with the Kentucky Department of Environmental Protection involving demolition projects for which he had failed to provide notice or provide an environmental survey prior to conducting demolition projects. Smith admitted that he was “guilty” in not performing these tasks prior to engaging in cutting up and removing the boilers and pipes from the 200 Commerce Drive location in Madisonville on or about February 19, 2014.

The case was investigated by the Kentucky Division of Air Quality, and EPA’s Criminal Investigation Division. The case was prosecuted by DOJ.

## St. Lawrence County Man Sentenced for Clean Water Act Crimes

Michael J. Ward, age 54, of Gouverneur, New York, was sentenced on January 26, 2018, to serve a 3 year term of probation, perform 200 hours of community service, and pay a \$1,000 fine, after previously pleading guilty to three felony counts of violating the Clean Water Act.



In previously 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.

As part of his guilty plea, Ward admitted that he concealed 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 APC Paper Group terminated his employment for unrelated reasons in the fall of 2015.

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 was prosecuted by DOJ.

## Three Sentenced for Role in Defrauding Biodiesel Purchasers and Shareholders

On December 2, 2017, Jeffrey Wilson and Craig Ducey were sentenced to serve prison terms of 120 months and 74 months, respectively, for their roles in multi-million dollar fraud schemes involving biodiesel tax credits, renewable fuel credits and shares of Imperial Petroleum Inc., Chad Ducey was sentenced to an 84-month prison term for his role in the same schemes. These defendants were the last to be sentenced from a group of seven charged co-conspirators. The others, Joseph Furando, Katirina Tracy, Brian Carmichael and Chris Ducey were sentenced at prior hearings. Although charged in three separate cases, all the defendants were involved in fraud involving federal incentives to produce renewable fuels, specifically biodiesel.

The December 2, 2017 sentences were the first to address securities fraud charges leveled against Wilson and Craig Ducey. That fraud stemmed from lies those defendants told in the course of their dealings with investors, auditors and the Securities and Exchange Commission, while representing Imperial Petroleum. Wilson, the President and Chief Executive Officer of Imperial Petroleum, was the person who drafted and certified the accuracy of Imperial's quarterly and annual reports and made those reports available to the investing public through filings with the Securities and Exchange Commission (SEC). He also lied to the company's outside auditor to keep him from learning of the scheme. At a jury trial in July 2016, he was convicted for his role in the fraud. In April 2015, Craig Ducey admitted to related crimes and began cooperating with the United States; he testified at Wilson's trial and the court recognized his substantial assistance in giving him a lower sentence than Wilson.

The Renewable Fuel Standard is designed to reduce greenhouse gases, fight climate change and reduce our dependence on foreign oil. EPA and its partners are committed to protecting the integrity of this important program and to ensuring a level playing field for honest companies."

"Indiana is not the place to try to fool the investing public," said U.S. Attorney Minkler, "Here, we expect executives to care about shareholders and to be upfront and honest about what the companies they manage are doing. Today, Jeffrey Wilson and Craig Ducey learned where the other path, the path of deceit, leads."

As shown at Wilson's trial, the securities fraud began when Wilson learned that e-biofuels LLC—a business that Wilson arranged for Imperial Petroleum to buy—was faking paperwork to claim incentives for biodiesel it had not manufactured. Put another way, Wilson learned that the e-biofuels managers fraudulently claimed millions in federal tax rebates and other incentives that had no basis in real manufacturing. Knowing that it was much more profitable for e-biofuels to fraudulently claim government incentives on biodiesel that had been made by somebody else, Wilson directed the e-biofuels managers to move more and more gallons of such fuel rather than incur the cost associated with legitimate biodiesel production. Despite their knowledge that the e-biofuels facility was dormant, Wilson and Craig Ducey told investors, auditors and SEC that it made millions of gallons a month from raw materials like chicken fat. This defrauded biodiesel buyers—who were duped into taking bad tax credits and renewable fuel credits—and also defrauded investors, who would never have invested in Imperial Petroleum had they known its profits were based on sham manufacturing.

On Thursday, Chad Ducey was sentenced for his role in the underlying wire, tax fraud and environmental crime that were hidden by the securities fraud (he was not charged with securities fraud). Chad Ducey owned e-biofuels, together with his brother Craig Ducey, until they sold it to Imperial Petroleum in a deal

# Sentencings

that Wilson organized. Chad Ducey was intimately familiar with how the e-biofuels facility worked and knew that it was not manufacturing biodiesel between July 2010 and June 2011. Nevertheless, he twice persuaded an outside engineer that the facility was a biodiesel producer as essential steps to registering and claiming renewable fuel incentives.

In addition, as shown during Wilson's trial, Chad Ducey worked with Wilson and others to try to establish "beachheads" in Texas. A beachhead would have been a fuel transload facility used to disguise the transfer of biodiesel to an e-biofuels customer from a Texas fuel terminal where it was purchased. Essentially, a brief stop at the beachhead would have stood in for actual biodiesel production. Chad Ducey traveled to Texas in order to scout sites for the transload facility. Workers at e-biofuels called these remote, no-production transfers "ghost loads" and the transload facility was planned to hide those loads. Ghost loads occurred in Texas and between fuel terminals and e-biofuels customers in Illinois, Indiana and Pennsylvania.

"Today's sentencing represents the culmination of a five-year investigation of the largest tax and securities fraud scheme in Indiana history," said Special Agent in Charge W. Jay Abbott of the Indianapolis Office of the Federal Bureau of Investigation (FBI). "The FBI collaborated with our partner agencies from the beginning to uncover the significant and widespread fraudulent activity. The complexity and magnitude of this scheme required extensive forensic accounting and computer forensic work. The FBI will continue to thoroughly investigate individuals that commit illegal acts by stealing money from individuals, businesses, and government programs."

"Imperial Petroleum's top executive played a key role in this massive scheme to deceive investors," said Regional Director David Glockner of the SEC Chicago Regional Office. "The SEC was pleased to participate in a multi-agency effort to hold him accountable."

"The sentencings handed down send a loud message that IRS Criminal Investigation operates year round to protect the integrity of our tax system and today is a victory for the American people" said Special Agent in Charge James Robnett for the Internal Revenue Service-Criminal Investigation (IRS-CI). "The object of the defendant's schemes was to defraud the government, the IRS and the taxpaying public. IRS-CI together with the cooperative efforts of our law enforcement partners, identified and vigorously investigated and put a stop to the fraud and those involved in this scheme."

The wire fraud, tax fraud, securities fraud and environmental crime investigation that culminated in this week's sentencing hearings began in January 2012, when investigators from the FBI, the Environmental Protection Agency's (EPA) Criminal Investigation Division, IRS-CI and the SEC began meeting with a whistleblower whose statements were corroborated by government agency data. That led the investigative team to conclude that e-biofuels had engaged in sham manufacturing and tax fraud. Based on intense work at the beginning of the investigation, the team obtained a multi-state search warrant in May 2012, which yielded substantial additional evidence and witness accounts. For over a year, prosecutors and attorneys from the U.S. Attorney's Office for the Southern District of Indiana, the Environmental Crimes Section of the Department of Justice and SEC pursued the investigation of this matter with special agents of the FBI, EPA, and IRS. Their work involved nearly 100 witness interviews and the review of millions of documents.

The United States approached targets of the investigation and sought pre-indictment plea agreements with

them. Ultimately, one defendant, Brian Carmichael, entered into a plea agreement before indictment. The others were indicted in September of 2013. After multiple continuances sought by the defendants and one additional plea, the first case, involving tax fraud, wire fraud and false statements under the Clean Air Act, was set for a final trial date of May 2015. Ultimately, all of the defendants in that case pleaded guilty before trial. The second case, which was the case against Jeffrey Wilson for securities fraud, was scheduled for trial and then continued at the defendant's request. It was continued and ultimately set for a final trial date of July 2016. In a two-week trial, the United States presented evidence that Wilson had lied to investors in person, through filings he created for his publicly traded company and indirectly through company auditors. Wilson was convicted of fraud in the offer and sale of securities, falsely certifying annual and quarterly reports filed with SEC, lying to a public company's outside auditor and making false statements to investigators. Today's sentencing hearing establishes Wilson's punishment for those convictions. According to litigation team members, Wilson must pay \$16 million in restitution.

## Cherokee County Man Sentenced For Unlawful Hazardous Waste Disposal

On January 23, 2018, in Wichita, Kansas, Jack E. Smith was sentenced to 18 months in prison for unlawful disposal of hazardous waste.

Smith pleaded guilty to one count of unlawful disposal of hazardous waste. In his plea, he admitted he bought a truck that was loaded with urethane flooring materials, paints and other chemicals. He knew the materials were hazardous and flammable when he bought the truck.

Smith transported the truck to his residence and then to a rural location in Crawford County. Before he had unloaded all the containers, they caught fire. The United States calculated the cost of cleaning up the site at more than \$19,000.

The case was investigated by EPA's Criminal Investigation Division and prosecuted by DOJ.



### **Westport, Washington Man Sentenced to Over 6 Years for Conspiring to Defraud the Government and to Commit Wire Fraud**

Donald Holmes, age 75, of Westport, Washington, was sentenced December 20, 2017, to Conspiracy to Defraud the Government and Conspiracy to Commit Wire Fraud. Holmes was sentenced to a 78-month term of imprisonment, to be followed by a three years of court supervised release. Holmes was also ordered to pay \$9,517,412.50 in restitution to the United States taxpayers and an additional \$6,175,929.17 in restitution to the victims of his fraud.

According to information disclosed during the court proceedings, Holmes was a member of a conspiracy involving Gen-X Energy Group, Inc. (Gen-X), a renewable energy company formerly located in Pasco and Moses Lake, Washington. Between October of 2012 and April of 2015, Holmes and his co-conspirators falsely claimed the production of more than 72,000,000 marketable renewable energy credits, which they then sold for more than \$57,000,000, and filed false claims with the IRS for \$9,517, 412.50 in excise credit refunds. Throughout this period, much of the renewable fuel claimed to be produced at the Gen-X facilities was either not produced or re-processed multiple times.

Acting United States Attorney Harrington stated, "The United States Attorney's Office for the Eastern District of Washington is, and will continue to be, committed to prosecuting aggressively and seeking appropriate punishment for white collar crimes. The prison term imposed and the amount of restitution ordered reflect the seriousness of Holmes' criminal conduct. I commend the tenacious and thorough efforts of the Environmental Protection Agency's Criminal Investigation Division and the IRS-Criminal Investigation."

"American taxpayers and the biofuels industry were defrauded \$65 million as a result of this massive and elaborate scheme," said EPA Administrator Scott Pruitt. "EPA is committed to working with its law enforcement partners to prosecute those who blatantly disregard the law."

"The IRS, along with our law enforcement partners, vigorously pursue corporate officers who commit fraud and violate the public trust," said Assistant Special Agent in Charge Troy Burrus of IRS Criminal Investigation. "Mr. Holmes sentence today sends a clear message that the government is committed to investigate and prosecute those who violate our tax laws."

This investigation was conducted by the IRS, EPA's Criminal Investigation Division, and the United States Secret Service, with assistance from the Washington State Patrol.

The case was prosecuted by DOJ Assistant and Special Assistant US Attorneys for the Eastern District of Washington and EPA Regional Criminal Enforcement Counsel.

## Former Suzuki Employee Sentenced For Submitting False Report to EPA

Wayne Powell, a former employee of American Suzuki Motor Corporation headquartered in Brea, California, was sentenced on December 14, 2017, to one day in prison in federal court in Detroit for violating the Clean Air Act when he submitted a false end-of-year report to the U.S. Environmental Protection Agency, the Justice Department announced.

According to court records, Powell was a Government Relations Analyst for Suzuki and was responsible for submitting documents to EPA regarding Suzuki's compliance with motorcycle emission standards. Powell submitted Suzuki's 2012 application to EPA for a "certificate of conformity," which allows a vehicle manufacturer to sell vehicles in the United States.

At the end of the model year, Suzuki was required to submit to EPA an end-of-year report to show that it was in compliance with emission standards. The first end-of-year report Powell submitted to EPA's Office of Transportation and Air Quality in Ann Arbor in 2013 purported to claim "banked credits" to offset the excess emissions. However, because Suzuki had not participated in the banked credit program, it had no credits to use. EPA informed Powell it could not accept that report. Subsequently, on March 28, 2014, Powell submitted an amended end-of-year report to EPA in which he had altered the numbers of four motorcycle engine families, which resulted in a calculation that was within the emission limit. The altered numbers were false. Powell also falsely represented to EPA in the email that accompanied the amended report that "[t]he computer software that we use to gather this information did not count all of the units" and that he had "corrected some mistakes on the 2012 report."

On Nov. 8, 2016, EPA announced that it had entered an administrative settlement with Suzuki Motor of America, Inc. and Suzuki Motor Corporation that resolved Clean Air Act violations for manufacturing, importing, and selling model year 2012 motorcycles that failed to meet the EPA average emission standard for the Suzuki on-highway motorcycle fleet, and for submitting falsified production reports based on incorrect motorcycle production volumes to demonstrate compliance with the emission standard. Suzuki agreed to pay a total civil penalty of \$2,054,924.

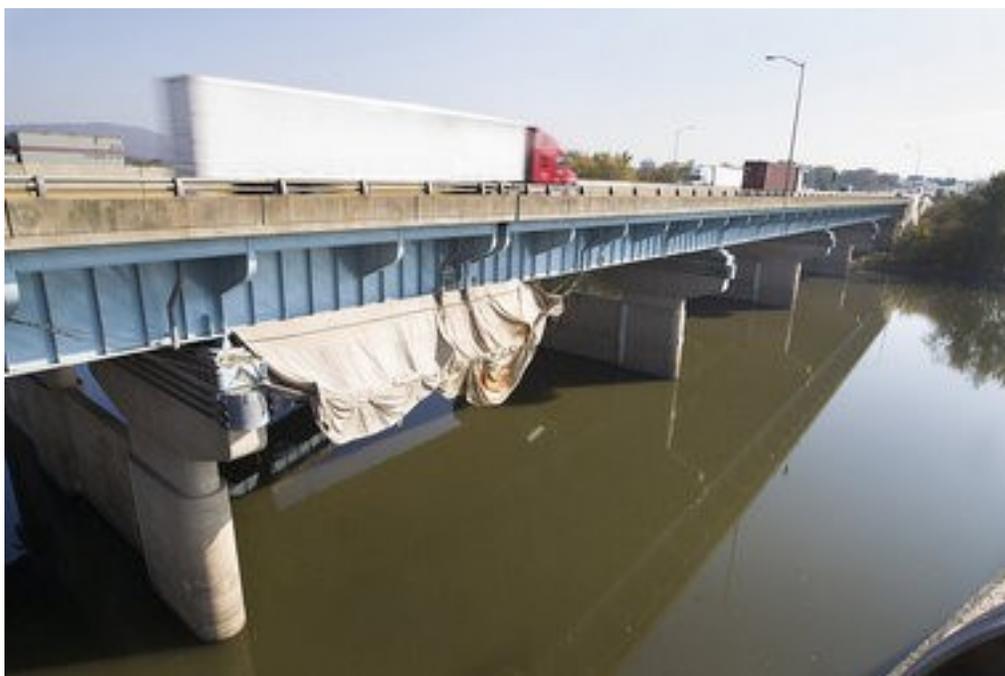
The case was investigated by EPA's Criminal Investigation Division, U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), and the U.S. Postal Inspection Service. The case was prosecuted by DOJ

## Painting Contractor Pleads Guilty In Connection With George Wade Bridge Project

On January 22, 2018, Andrew Manganas, age 60, of Canonsburg, Pennsylvania and Panthera Painting, Inc., headquartered in Canonsburg, pled guilty to theft from union plans, wire fraud, and discharge of pollutants into the Susquehanna River.

Manganas and his company, Panthera Painting, Inc. were charged in a 46-count indictment for crimes related to Panthera's role as a subcontractor on the multi-year George Wade Bridge restoration project. In September 2009, PennDOT awarded a contract for rehabilitation work on the George Wade Bridge to J.D. Eckman as the prime contractor. The George Wade Bridge spans the Susquehanna River on Interstate 81 in Cumberland and Dauphin Counties, Pennsylvania. The Wade Bridge Project was a federal oversight project, meaning the Federal Highway Administration of the U.S.

Department of Transportation conducted reviews and approvals during the project's design and construction phases. The contract amount was \$42,480,434.05 with the FHWA's federal-aid programs reimbursing 90 percent of that cost. The Wade Bridge Project was scheduled to be completed on May 25, 2012, but was extended to September 27, 2013. In October 2009, Panthera was awarded a \$9,875,000



subcontract by Eckman; that contract amount was increased to more than \$10 million. The subcontract awarded to Panthera covered the blasting, resurfacing, and painting of the structural steel on the George Wade Bridge.

The federal oversight and funding of the contract required each contractor and subcontractor to submit Certified Payroll Reports for every worker and every pay period to certify that the appropriate prevailing wage was being paid to each worker. Manganas and Panthera pleaded guilty to submitting false payroll reports that did not accurately reflect the amount workers were being paid. Manganas paid only partial wages in a wage check that did not include overtime pay. He then paid overtime in a separate "per diem" check that did not properly deduct taxes and remittances, some of which were owed to the unions of which the workers were members. By under-reporting wages paid, Manganas defrauded the federal agencies paying for the bridge work. By failing to properly remit wages to the unions, Manganas effectively stole money from the workers and the union. Moreover, Manganas and Panthera pled guilty to knowingly discharging pollutants into the Susquehanna River over the course of three painting seasons of the

## Plea Agreements

Project. The contract and environmental laws prohibit the discharge of pollutants without a permit. Panthera and Manganas were supposed to utilize various methods to ensure that pollutants did not enter the Susquehanna River, including construction of “containment” to cover bridge areas being blasted clean and repainted. Containment involved 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. Manganas knew he did not have a permit to discharge pollutants into the River, but Panthera workers, at Manganas’ direction and with his knowledge, utilized 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.

The case was investigated by the U.S. Department of Labor, Office of Inspector General, the U.S. Department of Transportation, Office of Inspector General, EPA’s Criminal Investigation Division, and the FBI. DOJ and EPA attorneys are prosecuting the case.

The embezzlement offense carries a maximum penalty of up to five years in prison and a \$250,000 fine for an individual and a fine of \$500,000 for a company; the wire fraud charge carries a maximum penalty of up to 20 years in prison and a \$250,000 fine for an individual and a \$500,000 fine for a company; and each of the Clean Water Act charges carries a maximum penalty of up to 3 years in prison, and a fine of up to the greater of \$250,000 or \$50,000 per day of violation, a term of supervised release following imprisonment, and a fine for an individual and a fine of up to the greater of \$500,000 or \$50,000 per day of violation for a company.

## Corporation Convicted of Criminal Negligence in Grede Foundry Asbestos Exposure Case

On January 11, 2018, the corporate owner of the now shuttered Grede foundry located in Berlin, Wisconsin, paid a maximum fine of \$200,000 and pled guilty to a criminal violation of Title 42, United States Code, Section 7413(c)(4), a provision of the Clean Air Act.



*Industrial vacuum used to remove dry asbestos insulation*

Under the terms of the plea agreement, Grede LLC acknowledged that in January of 2012, foundry management negligently ordered numerous employees to remove asbestos-containing insulation material from the roof of an inactive industrial oven. The work on the oven released chrysotile asbestos fibers into the air. The company failed to provide the workers with adequate personal protective equipment, or follow standard asbestos abatement procedures, placing the workers in imminent danger of serious bodily injury.

In addition to the fine, Grede LLC agreed to provide the 11 affected workers with over \$340,000 to provide for future medical monitoring for mesothelioma and similar lung conditions.

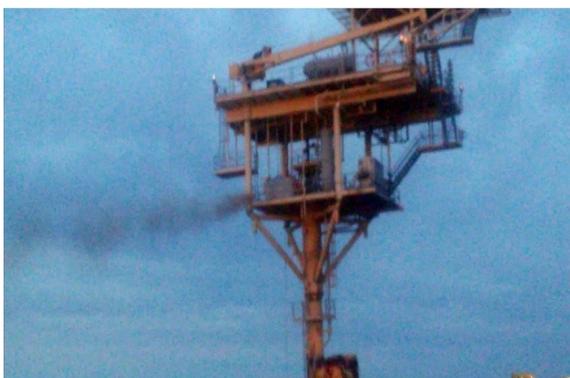
"It is well known that asbestos exposure is hazardous to human health," said Brad Ostendorf, Assistant Special Agent in Charge of EPA's criminal enforcement program for Region 5. "If materials containing asbestos aren't handled safely – and legally – workers and the community can be placed at great risk. EPA and its partner agencies are committed to protecting both the environment and public health."

EPA's Criminal Investigation Division, OSHA and the Wisconsin Department of Natural Resources investigated this case. EPA and DOJ attorneys prosecuted the case.

## Texas Man Pleads Guilty to Making False Statements in Relation to Blowout Preventer Testing on Oil Platform in Gulf of Mexico

On December 20, 2017, Kenneth Johns, age 46, of Rosharon, Texas, pled guilty to making false statements in relation to the veracity of blowout preventer testing on an offshore oil and gas platform located at Ship Shoal 225 positioned on a federal mineral lease in the Gulf of Mexico. Specifically, Johns pled guilty to one count of making false statements to the Bureau of Safety and Environmental Enforcement's (BSEE) Safety and Incident Investigation Division (SIID) of the United States Department of Interior.

According to court documents, on or about November 27, 2012, production and well workover operations were being conducted on the platform and the blowout preventer system had to be tested. A blowout preventer system is designed to ensure well control and prevent potential release of oil and gas and possible loss of well control.



*Still photo from crude oil discharge video recording at VR-195 platform*

On or about November 28, 2012, Johns and another worker created a false blowout preventer test. The next day when BSEE inspectors conducted a routine compliance inspection of the platform, the fabricated blowout preventer pressure test chart was presented to the BSEE inspectors with the expectation that it would be a passing test and the inspectors would not find the platform to be in non-compliance for failing to properly test the blowout preventer system. Johns signed the fabricated pressure chart and a schematic of the testing sequence as if he had actually been involved in the BOP testing.

During subsequent investigation of the veracity of the blowout preventer test by the Department of Interior, Johns lied and told investigators the BOP chart with his signature was pre-signed and that he had been testing a pump when he made the chart.

Johns faces a maximum term of imprisonment of five years per count and/or a maximum fine of \$250,000 per count. U.S. District Judge Nannette Jolivet Brown set sentencing for March 22, 2018.

The Department of Interior-Office of Inspector General—Energy Investigations Unit, BSEE, and EPA's Criminal Investigation Division investigated the case. The US Attorney's Office, National Security Unit is in charge of the prosecution.

## Louisiana Company Pleads Guilty To Transporting and Dumping Hazardous Waste in Savannah Neighborhood—Company Plea Follows the Convictions of Individual Company Employees

On December 20, 2017, Boasso America, Inc., headquartered in New Orleans, Louisiana, and with a facility in Garden City, Georgia was sentenced to 5 years of organizational probation for its actions in the illegal transportation and dumping of hazardous waste. Additionally, Boasso was ordered to pay full restitution, including cleanup costs; to pay the maximum criminal fine penalty of \$500,000; and to establish, implement, and enforce an effective environmental compliance plan, so that future dumping incidents do not happen.

Boasso pled guilty to a felony violation of the Resource Conservation and Recovery Act (RCRA), a law regulating the storage and transportation of hazardous waste. Boasso's conviction follows the convictions of two of its former employees, Ray Mitchell, 52, of Pooler, Georgia, and Maurice Miller, 40, of Savannah, for their individual roles in the illegal transportation and dumping of hazardous waste. Earlier this year, Miller was sentenced to 28 months in federal prison. Mitchell was sentenced to 20 months in federal prison.

According to evidence presented during multiple guilty plea and sentencing hearings, Boasso provides transportation services for tank containers containing hazardous wastes. Boasso's Garden City facility stored and transported its customers' tanks containing hazardous waste. In 2015, rather than properly transporting and safely disposing of drums and totes at its Garden City facility that contained the hazardous chemical naphthalene, Boasso employees Mitchell and Miller illegally transported and dumped a significant amount of naphthalene into the ground of a nearby Savannah neighborhood. Exposure to amounts of naphthalene, a main ingredient found in mothballs, can cause serious health issues. Once discovered, law enforcement and environmental officials quickly removed the hazardous waste before it caused any health concerns. Further investigation by law enforcement officials uncovered that Boasso employees fabricated invoices in an effort to hide their illegal dumping of hazardous waste.

United States Attorney Bobby L. Christine said, "The Southern District of Georgia is an historic and beautiful land. Companies doing business in our great District will be held accountable for any and all harm they cause and we will continue to work with our law enforcement partners to enforce our federal laws and keep Savannah beautiful."

"The actions of the defendants in this case resulted in hazardous waste being illegally dumped in Savannah's Carver Village community," said Andy Castro, Special Agent in Charge of EPA's criminal enforcement program for Georgia. "This case shows that EPA and its law enforcement partners will prosecute those who put public health at risk by avoiding the cost of handling or disposing of dangerous chemicals properly."

The case was investigated by EPA's Criminal Investigation Division, the Georgia Department of Natural Resources, the Savannah-Chatham Metropolitan Police Department, and the Savannah Fire Department. DOJ Assistant United States Attorneys prosecuted the case on behalf of the United States.

## Explo Co-owner Pleads Guilty to Conspiracy, False Statement Charge

On December 14, 2017, David Alan Smith, co-owner of Explo Systems Inc. pleaded guilty to conspiracy and false statements concerning the storage of munitions at Camp Minden that led to an explosion.

Explo Systems Inc. is a private company whose primary business operations involved the demilitarization of military munitions and the subsequent resale of the recovered explosive materials for mining operations. According to the guilty plea, the U.S. Army awarded Explo a contract on March 24, 2010 to dispose of 450,000 155 mm artillery propelling charges designated as M119A2 for \$2,902,500. The Army and Explo officials later amended the contract on March 6, 2012 to dispose of 1,350,000 charges for \$8,617,500. The contract required Explo to properly store and dispose of the demilitarized M6. The contract also required Explo to document the sale of the demilitarized M6 by completing an End User Certificate (EUC). On the EUC, the purchaser of the demilitarized M6 certified the purchase and compliance with applicable federal laws. Once the EUCs were certified, Explo submitted the EUCs to the Army.



*Debris from explosion*

On October 15, 2012, an explosion occurred at a munitions storage igloo on Camp Minden. The explosion contained approximately 124,190 pounds of smokeless powder and a box van trailer containing approximately 42,240 pounds of demilitarized M6. The damage destroyed the igloo and trailer, shattered windows of dwellings within a four-mile radius, and derailed 11 rail cars near the storage igloo.

As part of the guilty plea, Smith agreed that he conspired with others to defraud the United States by impeding federal, state and local authorities from properly monitoring the operations at Explo's Camp Minden facility. Smith also agreed that he conspired with others to submit false end use certificates in order to obtain money to which he was not entitled.

Smith faces five years in prison, three years of supervised release and a \$250,000 fine for each count. As part of the plea agreement, Smith agreed that he owes restitution in the amount of \$35,398,761.

EPA's Criminal Investigation Division, U.S. Army Criminal Investigation, DoD Criminal Investigative Service, FBI and the Louisiana State Police-Emergency Service Unit investigated the case. The case is prosecuted by DOJ.

## Owner Of East Bay Shipping Company Pleads Guilty To Felony Transportation Of Hazardous Material—Company Enters Into Deferred Prosecution Agreement As Part of Owner’s Felony Plea Deal

Peiwen Zhou, pleaded guilty in federal court in San Francisco on December 20, 2017, to illegally transporting hazardous materials and failing to properly declare imports of toxic substances.

In pleading guilty, Zhou, 55, of Palo Alto, admitted he did not adequately train employees at his company, AK Scientific, Inc., currently located in Union City, Calif., on the requirements of the Hazardous Materials Transportation Act, or HMTA. Zhou further admitted that as a result of his failure, he caused AK Scientific employees to ship hazardous materials on a number of occasions without properly labeling, marking, and identifying the packages as containing such materials, in violation of the HMTA. Zhou also admitted that he caused AK Scientific employees to fail to comply with the rules and regulations set forth in the Toxic Substances Control Act, or TSCA. Specifically, Zhou admitted that he caused AK Scientific employees to not file TSCA import certifications on a number of occasions when the company imported chemical substances into the United States, including on one occasion when the chemical substance 1,2-dibromoethane was shipped to AK Scientific from China under a different name. In sum, Zhou and AK Scientific each were charged by superseding information with one count of violating the HMTA, in violation of 49 U.S.C. § 5124, and one count of violating the TSCA, in violation of 18 U.S.C. § 2.

As part of the agreement, Zhou pleaded guilty to a felony violation of the HMTA and a misdemeanor violation of TSCA. He also agreed to step down as CEO of AK Scientific and to play no role in the company’s shipping or regulatory functions. The company, meanwhile, entered into a deferred prosecution agreement in which it agreed to pay a \$100,000 fine and retain an independent monitor to oversee compliance. Pursuant to the deferred prosecution agreement, the charges against the company will be dismissed if AK Scientific abides by the terms of the agreement for three years, including by maintaining compliance with safety and labelling requirements.

“The rules and regulations the defendant violated are designed to keep the public safe from hazardous materials and toxic substances, and we are committed to prosecuting those who flaunt them,” said U.S. Attorney Stretch.

“Americans must be protected from those who skirt laws designed to protect workers and the public from mismanagement of toxic substances,” said EPA Administrator Scott Pruitt. “The illegal importation and shipment of toxic substances in this case represents a clear threat to public safety and we will hold the responsible parties accountable under the law.”

"The plea agreement reached today demonstrates that ensuring the safety of the Nation's transportation systems remains a high priority for both the Office of Inspector General (OIG) and the Department of Transportation (DOT)," said William Swallow, DOT-OIG Regional Special Agent-in-Charge. "Working with our law enforcement and prosecutorial partners, we will continue our efforts to prevent and punish those who seek to compromise the integrity and safe transportation of hazardous materials."

## Plea Agreements

Zhou's sentencing hearing is scheduled for April 18, 2018. The maximum statutory penalty for Zhou for violating the HMTA is five years in prison and a fine of up to \$250,000; the maximum statutory penalty for Zhou for violating TSCA is up to one year in prison and a fine of up to \$50,000 for each day of violation. However, any sentence will be imposed by the court only after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

The prosecution is the result of an investigation by EPA's Criminal Investigation Division, the U.S. Department of Transportation's Office of Inspector General, and the U.S. Department of Homeland Security's Homeland Security Investigations.

## Subsidiary of Caterpillar, Inc. Pleads Guilty to Federal Offense of Dumping Parts into Ocean after Performing Improper Railcar Repairs

On December 8, 2017, a company that repaired railcars at a Terminal Island facility pleaded guilty to a federal environmental offense of dumping parts into the ocean to conceal that it was performing unnecessary and improper repairs for several railcar operators.

United Industries LLC – a subsidiary of Progress Rail Services, Inc., which itself is a subsidiary of Caterpillar, Inc. – appeared yesterday afternoon in United States District Court and pleaded guilty to the federal water pollution charge.

Immediately after the guilty plea, United States District Judge Dolly M. Gee imposed a sentence that required United Industries to pay a \$5 million criminal fine. Judge Gee also ordered United Industries to pay \$20 million in restitution to three victim companies – TTX Company, Pacer International, and Greenbrier Company, all of whom owned and operated railcars that were improperly serviced and repaired.

United Industries admitted in a plea agreement filed in federal court that its employees “knowingly conducted inadequate inspections” on railcars the company serviced. United Industries employees improperly replaced functioning parts that did not need to be removed in a process known as making repairs to “green parts.” Employees also made random repairs on the railcars without conducting a proper inspection. The victim companies were then charged for the unnecessary and improper repairs.

“In order to conceal their unnecessary and improper repairs, United Industries’ employees, operating within the scope of their employment and motivated by an intent to benefit the company, concealed the replacement of ‘green’ railcar parts by throwing such parts into the Port of Long Beach (also known as Long Beach Harbor), a navigable water of the United States, from the shore alongside the Terminal Island repair facility,” according to the plea agreement.

After receiving a tip about the improper dumping, Port authorities conducted underwater dives that led to the discovery of a “large debris field” and the recovery of railcar parts that did not show any signs of mechanical wear that would have required replacement.



# Plea Agreements

As a result of illegal conduct that spanned the years 2008 through 2014 – including the unnecessary and improper repairs on railcar adapters, brake beams, grating platforms, brake shoes, friction castings, hand brakes, roof liners and side bearings – United Industries earned at least \$5 million.

After the investigation was initiated, United Industries exited the intermodal railcar repair business and no longer operates intermodal repair facilities on Terminal Island or elsewhere.

United Industries pleaded guilty to a misdemeanor offense of depositing refuse in navigable waters, specifically the Port of Long Beach.

The investigation into United Industries' improper repairs did not uncover any rail accidents attributable to the company's illegal activities.

The investigation was conducted by EPA's Criminal Investigation Division, the FBI, the Federal Rail Administration, and the Los Angeles Port Police, Hazardous Materials Investigations Unit. This case was prosecuted by DOJ.

## Jefferson City Man Indicted on Mail Fraud Charges

on January 10, 2018, Dale Johansen was indicted by a federal grand on four felony counts of mail fraud as part of a scheme to defraud residents of Rogue Creek in Potosi, Missouri.

According to the Indictment, Johansen owned Johansen Consulting Services LLC and was appointed as the receiver for Rogue Creek Utilities, Inc. which provided all sewer, water services and management to Rouge Creek. Rouge Creek was a vacation community containing three lakes located in Potosi and composed of approximately 90 active connections to the drinking water and sewer systems. Johansen's duties as receiver was to collect samples and provide proper operation at Rogue Creek, including the oversight and maintenance of the water softener system

On March 9, 2016, the Missouri Department of Natural Resources (MDNR ) learned that the water softener system at Rogue Creek was not operational and thus for at least six months, the residents were receiving well water that was not treated for lead removal. On March 10, 2016, the water softener system was brought back on-line so that the water was again being treated to remove lead. On March 11, 2016, the MDNR performed testing on the drinking water which resulted three of five samples testing high for lead.

Johansen issued invoices to customers for water services and falsely represented to residents of Rogue Creek that their well water was clean, disinfected and safe for human consumption. He also issued monthly invoices for water services, including the removal of lead in their well water, with the knowledge that the well water was not being treated for lead removal.

"EPA's Criminal Investigation Division takes any allegations involving a public drinking water system very seriously," said Justin Oesterreich, Assistant Special Agent in Charge of EPA's criminal enforcement program in Missouri. "We will continue to aggressively investigate and seek prosecution of those whose actions put public health at risk."

If convicted, Johansen faces up to 20 years' imprisonment, a fine of \$250,000 or both on each count. Restitution to the victim is also mandatory. In determining the actual sentences, a Judge is required to consider the U.S. Sentencing Guidelines, which provide recommended sentencing ranges.

This case was investigated by the U.S. Environmental Protection Agency. Assistant United States Attorney Dianna Collins is handling the case for the U.S. Attorney's Office.

An indictment merely alleges that crimes have been committed. The defendants are presumed innocent until proven guilty beyond a reasonable doubt.