



# 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.

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# Defendant Summary

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## **New York Man Sentenced to 87 Months for Multi-State Biodiesel Fraud Scheme**

Andre Bernard, 65, of Mount Kisco, NY was sentenced on February 6, 2018, to 87 months in federal prison for conspiracy to commit wire fraud, making false statements related to the Clean Air Act, and his participation in a multi-state scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel credits and fraudulently claiming tax credits. As part of his sentence, the court also entered a money judgment in the amount of \$10.5 million, the amount of proceeds of the charged criminal conduct that the defendant personally received. Two accounts already seized from the defendant worth more than \$1.5 million will be credited against the money judgment. Bernard was found guilty on August 2, 2017.

According to court documents, Bernard and his co-conspirators operated entities that purported to purchase renewable fuel, on which credits had been claimed and therefore was ineligible for additional credits, produced by their co-conspirators at Gen-X Energy Group (Gen-X), headquartered in Pasco, Washington, and its subsidiary, Southern Resources and Commodities (SRC), located in Dublin, Georgia. They then used a series of false transactions to transform the fuel back into feedstock needed for the production of renewable fuel, and sold it back to Gen-X or SRC, allowing credits to be claimed again. This cycle was repeated multiple times.

“Today’s sentencing shows that the Department of Justice will continue to vigorously prosecute those who defraud the federal government and the American taxpayer through unlawful schemes,” said Acting Assistant Attorney General Wood. “We applaud the work of DOJ, EPA, and our other federal law enforcement partners that sought and obtained justice in this case.”

“We will not tolerate environmental fraud in the Renewable Fuels Program, or anywhere else.” said EPA Administrator Scott Pruitt. “This case highlights EPA’s resolve in working with partners, nationally, to hold bad actors accountable.”

“The successful prosecution of these fraudsters is a testament to our commitment to combat crime at every level,” said U.S. Attorney Chapa Lopez. “We will continue to support our investigative partners in dismantling such criminal schemes.”

“Fraud against the United States and its citizens will continue to be targeted by the Secret Service,” said Resident Agent in Charge Jeff Kelly with the U.S. Secret Service. “These complex investigations are only successfully accomplished with the dedication and partnership of our partner agencies and the U.S. Attorney Office in bringing accountability.”

From March 2013 to March 2014, the co-conspirators, including Bernard, generated at least 60 million credits that were based on fuel that was either never produced or was merely re-processed at the Gen-X or SRC facilities. The co-conspirators received at least \$42 million from the sale of these fraudulent credits to third parties. In addition, Gen-X received approximately \$4.3 million in false tax credits for this fuel.

This case was investigated by EPA’s Criminal Investigation Division, the U.S. Secret Service, and the IRS. The case was prosecuted by DOJ.

## Fumigation Company Sentenced, Owner Imprisoned After Illegal Pesticide Applications

AAA Pest Protection Inc. d/b/a AAA Pest Control, Inc. (AAA Pest), and owner William Robles, 59, of Fort Lauderdale, Florida were sentenced on March 9, 2018 in federal court in connection with the illegal application of pesticides to treat homes and other buildings for termites over several years.

AAA Pest was sentenced to five years of probation, ordered to implement and enforce a comprehensive environmental compliance and employee training plan, and ordered to pay a \$35,000 criminal fine. AAA Pest was also ordered to pay restitution to the victims of the crimes. Robles was sentenced to the statutory maximum term of imprisonment of one year and ordered to pay a criminal fine of \$30,000. In a related matter, Pierce Long, 53, of Oakland Park, Florida was previously sentenced to a year in prison.

AAA Pest, Robles, and Long previously pled guilty to knowing violations of federal law stemming from their illegal applications of the restricted use pesticide, sulfuryl fluoride, contrary to the label's safety requirements.

According to court documents and statements, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) regulates the use of pesticides, including those designated for restricted use due to their potential adverse effects, including serious injury or death. Application of these pesticides is limited to certified applicators or those under the direct supervision of certified applicators. Sulfuryl fluoride, a commonly used antimicrobial agent in structural fumigations for termites, is one such restricted use pesticide, registered with the EPA. At the heart of the safe use of such pesticides is compliance with the product label, which includes written, printed, or graphic matter associated with the pesticides that dictates the safe application, aeration, testing, and clearance of the fumigant gas through the use of a properly functioning, maintained, and calibrated low-level fumigant detection device.

**“It is critical for the health and safety of building inhabitants that pest control companies follow manufacturer instructions when applying pesticides indoors”**

—Susan Bodine

The investigation revealed that on two separate occasions in 2016, AAA Pest and Long completed structural fumigations without providing residents with the proper warnings prior to introduction of the fumigant gases, did not use personal protective equipment for employees, failed to properly aerate the fumigated spaces, failed to post required hazard warnings, and failed to conduct clearance by ensuring that the fumigated space was free of the toxic gas before residents re-entered. In addition, Robles admitted that between March 21, 2013, and April 17, 2015, he failed to have the required, operable, and properly calibrated fumigant detection device for approximately 580 fumigations.

“Today’s sentencing sends an important message to companies, business owners, and employees that knowing violations of federal environmental laws will not be tolerated. Those who engage in such dangerous and reckless conduct will be prosecuted to the fullest extent of the law in light of the serious consequences for the consumer public,” said Benjamin G. Greenberg. “The Southern District of Florida values its partnership with the EPA, Criminal Investigation Division and the Florida Department of Agriculture and Consumer Services and is

committed to working together to investigate and prosecute these crimes to protect the public and ensure

that companies who comply with the law are not placed at a competitive disadvantage.”

“It is critical for the health and safety of building inhabitants that pest control companies follow manufacturer instructions when applying pesticides indoors,” said Susan Bodine, Assistant Administrator of EPA’s Office of Enforcement and Compliance Assurance. “This case demonstrates that EPA and its law enforcement partners are committed to making sure that businesses apply pesticides legally and safely.”

The sentencing includes the fourth individual defendant to be sentenced to the statutory maximum term of imprisonment in the District’s ongoing effort to address pesticide crimes. It is estimated that there were more than 25,000 structural fumigations in Miami-Dade and Broward counties in 2017. The Court noted that these companies and individuals hold themselves out to the community as specially trained and skilled experts, and that families put their trust – and their lives - in the fumigators hands and should be able to return to such “safe spaces” as one’s home, without concern about whether the device used to measure if toxic gas remained in the fumigated space, was working and maintained as required by law.

The case was investigated by EPA and the Florida Department of Agriculture and Consumer Services. The case was prosecuted by DOJ.

## Illinois Man Sentenced to Three Years in Prison for Violating Clean Air Act Related to Asbestos Removal at Former Pillsbury Plant

On February 5, 2018, Joseph J. Chernis, IV was sentenced to serve 37 months in federal prison for failure to adequately remove and dispose of asbestos material, violations of the Clean Air Act, at the former Pillsbury Mills facility in Springfield. Following his prison term, Chernis, 35, was ordered to remain on supervised release for a period of three years. Chernis was ordered to self-report to prison when directed by the Bureau of Prisons.



Chernis pled guilty on April 7, 2017, to three counts of violating the Clean Air Act. Chernis admitted that he hired an untrained worker to illegally remove dry asbestos pipe insulation from the Pillsbury Mills facility. From October 2014 to August 2015, dry asbestos-containing insulation was cut and stripped from pipes inside four buildings at the facility, including the structure known as the Dryer building.

“The defendant’s illegal and reckless acts endangered the health of those performing the asbestos removal and others,” stated U.S. Attorney John E. Childress, “and caused the U.S. EPA to assume clean-up efforts at a cost of millions of dollars.”



“Asbestos can cause cancer and other serious respiratory diseases, so it is important that it be handled legally,” said Brad Ostendorf, Assistant Special Agent in Charge of EPA’s criminal enforcement program in Illinois. “The defendant knew the rules regarding the legal removal of asbestos containing materials, but ignored them. In this way, he threatened not only the environment but the safety of his untrained workers and the general public. This case demonstrates that EPA and its partner agencies will not abide those who try to make money by breaking the law.”

Under provisions of the Clean Air Act, the EPA has promulgated rules, regulations and requirements to control the removal, handling and disposal of asbestos, a hazardous air pollutant. Any owner or operator of a renovation or demolition activity which involves removal of specified amounts of asbestos-containing material must comply with the EPA regulations.

The case was investigated by EPA’s Criminal Investigation and prosecuted by EPA and DOJ attorneys.

## Tyson Poultry Fined \$2 Million for Violating the Clean Water Act

Tyson Poultry Inc. was sentenced in federal court in Springfield, Missouri, on February 27, 2018 to pay a \$2 million criminal fine, serve two years of probation, and pay \$500,000 to directly remedy harm caused when it violated the Clean Water Act. The charges stemmed from discharges at Tyson's slaughter and processing facility in Monett, Missouri that led to a major fish kill event.

Tyson Poultry, the nation's largest chicken producer, is headquartered in Springdale, Arkansas, and is a subsidiary of Tyson Foods Inc. According to court records, Tyson Poultry's conviction arose out of a spill at its feed mill in Aurora, Missouri, where it mixed ingredients to produce chicken feed. One ingredient was a liquid food supplement called "Alimet," which is a very strong acid with a pH of less than one. In May 2014, the tank which was used to store Alimet at the Aurora feed mill sprang a leak. Tyson had the spilled substance transported to its Monett plant where it was then discharged into the sewers and flowed into the City of Monett municipal waste water treatment plant. The Alimet killed bacteria used to reduce ammonia in discharges from the treatment plant. As a result, more ammonia was released from the plant into Clear Creek, and approximately 108,000 fish were killed.

Under the terms of the plea agreement, Tyson Poultry also agreed to retain an independent, third-party auditor to examine environmental compliance at Tyson Poultry facilities across the country; conduct specialized environmental training at all of its poultry processing plants, hatcheries, feed mills, rendering plants, and waste water treatment plants; and implement improved policies and procedures to address the circumstances that gave rise to these violations.

"Good corporate practices are vital to protecting public health and our nation's natural resources," said Acting Assistant Attorney General Jeffrey H. Wood for the Environment & Natural Resources Division. "When corporate misconduct disregards human safety or the environment in violation of federal laws, the Department of Justice and EPA stand ready to pursue all necessary legal relief, including criminal penalties, to ensure that these acts do not go unpunished. We hope that the outcome of this case will be a lesson for all companies that deal with dangerous wastes."

"Today's sentence not only remedies the harm Tyson Poultry caused locally, but puts safeguards in place to prevent similar occurrences at Tyson Poultry facilities across the country," said U.S. Attorney Timothy A. Garrison for the Western District of Missouri. "Tyson's \$2.5 million fine and restitution payment reflects the seriousness of this offense and our commitment to protect Missouri's natural resources."

"Today's sentencing not only holds Tyson Poultry accountable for their illegal actions, it includes important requirements for the company to improve compliance with the law to prevent future violations," said Assistant Administrator Susan Bodine for EPA's Office of Enforcement and Compliance Assurance. "This case exemplifies EPA's commitment to protect clean water by pursuing the most egregious violations."

The case was investigated by EPA's Criminal Investigation Division. The case was prosecuted by DOJ ENRD and Western District of Missouri litigation team.

## Colorado Company Sentenced for Violating the Clean Air Act

On March 27, 2018, OE Construction Corporation, a Golden-based excavation and underground utility company, pled guilty to being an accessory after the fact to violating the Clean Air Act. OE was sentenced to pay a \$15,000 fine and up to \$55,000 in restitution to companies that purchased modified trucks from OE. The company was also sentenced to three years of supervised probation, during which time the government will closely monitor OE's trucks to ensure that their emissions systems are in compliance with state and federal law.

According to the plea agreement, an employee at OE worked with a Canadian company called J-Ball Electronics to falsify the monitoring devices required by the Clean Air Act on at least six OE Construction-owned vehicles. The OE Construction employee purchased kits from J-Ball that allowed him to alter the vehicles' emission control systems. The effect of these modifications was to dramatically increase the release of dangerous pollutants from these vehicles, including particulate matter, NOx (mono-nitrogen oxides), and hydrocarbons.



When contacted by the government concerning these Clean Air Act violations, OE Construction admitted that four vehicles had been modified, and assured the government that only the four vehicles had been tampered with and that it had repaired the four vehicles. However, OE Construction did not reveal that J-Ball and OE's employee had modified at least two other vehicles that OE Construction intended to put up for auction. In this way, OE attempted to avoid detection, prosecution, and punishment for the additional vehicles that the OE employee had modified.

"We take seriously our job of protecting the environment in Colorado, and we won't hesitate to prosecute corporations or individuals committing environmental crimes," said U.S. Attorney Bob Troyer.

"Emission control devices for vehicles are required to ensure public health and safety," said Jeffrey Martinez, special agent in charge of EPA's criminal enforcement program in Colorado. "The illegal actions in this case were not isolated incidents or mistakes; they were deliberately and carefully planned. Today's sentencing shows that EPA and its law enforcement partners will hold responsible those who violate laws designed to protect the health of our communities."

This case was investigated by the EPA's Criminal Investigation Division. The prosecution was handled by DOJ Assistant U.S. Attorneys.



## Former Santa Clara Waste Water Vice President of Environmental Compliance Sentenced

On March 14, 2018, Charles Ray Mundy was sentenced to serve two years in the Ventura County jail for his role in causing a 2014 explosion at Santa Clara Waste Water Company ("SCWWC"). Mundy previously pleaded guilty to felony offenses of knowing failure to warn of a serious concealed danger, disposal of hazardous waste, filing a forged instrument, and reckless disregard for handling hazardous waste causing unreasonable risk. Mundy also pled no contest to the felony offense of causing great bodily injury by emitting an air contaminant, and to the misdemeanor offenses of repeated violation of labor safety standards, and failure to update a business plan. This case was jointly prosecuted by the Ventura County District Attorney's Office and the California Attorney General's Office.

On November 18, 2014, an explosion occurred at 815 Mission Rock Road, Santa Paula, a wastewater treatment facility owned and operated by SCWWC. Mundy was the former vice president of Environmental Compliance and Facilities Operations at SCWWC. The explosion was caused by the reckless disposal of hazardous chemicals with incompatible materials in a vacuum truck. Numerous employees and first responders were injured either by the initial explosion or by inhaling toxic fumes.



*Photo Courtesy—Ventura County Fire Department*

While employed by SCWWC, Mundy was instrumental in obtaining 255 gallons of the chemical sodium chlorite, a regulated hazardous material. SCWWC was required to report the presence of sodium chlorite in their Hazardous Materials Business Plan (HMBP). Mundy failed to report that sodium chlorite was present at the Santa Paula location. Further, Mundy failed to disclose the presence of sodium chlorite to first responders immediately after the explosion. In addition, Mundy provided false HMBP submissions by not reporting 5,500 gallons of Petromax, a hazardous chemical.

While executing search warrants in November 2014, police recovered forged analytical results in Mundy's SCWWC office and later confirmed he prepared these forged results and submitted them to the City of Oxnard. Mundy also failed to provide adequate training and personal protective equipment to employees working on site.

In addition to the jail sentence, Mundy was ordered to pay victim restitution and will be placed on formal probation for three years. As a term of probation, Mundy is prohibited from employment in any capacity in the waste water treatment industry.

The case was investigated by EPA's Criminal Investigation and prosecuted by the Ventura County District Attorney's Office.

## Tank Vessel Operator and Master Convicted for Oil and Garbage Offenses

Sea World Management & Trading Inc. and Edmon Fajardo were convicted on February 26, 2018 for maintaining false and incomplete records relating to the discharge of oil and garbage from an oil tanker that was operating off the coast of Texas.

Sea World Management & Trading Inc. is a tank vessel operating company, and Fajardo is the master of the tank vessel Sea Faith. Both admitted that oil cargo residues and machinery space bilge water were illegally dumped from the Sea Faith directly into the ocean while the vessel was transiting to Corpus Christi without the use of required pollution prevention equipment. They also admitted that these discharges were not recorded in the vessel's Oil Record Book as required. Specifically, on five different occasions between March 10, 2017, and March 18, 2017, Fajardo ordered crew members to illegally discharge oily waste from various locations of the vessel's cargo/deck spaces. These oily waste discharges bypassed the use of the vessel's required oil discharge monitoring equipment and were done while the vessel was in the Caribbean Sea and the Gulf of Mexico.

**F**ajardo ordered crew members to throw plastics, empty steel drums, oily rags, batteries and empty paint cans directly overboard into the ocean.

Sea World Management & Trading Inc. and Fajardo further admitted that on March 10, 2017, and March 15, 2017, Fajardo ordered crew members to throw plastics, empty steel drums, oily rags, batteries and empty paint cans directly overboard into the ocean. None of these garbage discharges were recorded as required in the vessel's Garbage Record Book.

Sea World Management & Trading Inc. and Fajardo pleaded guilty to two felony violations of the Act to Prevent Pollution from Ships for failing to accurately maintain the Sea Faith's Oil Record Book and Garbage Record Book. Under the terms of the plea agreement, the company will pay a total fine of \$2.25 million and serve a three-year term of probation during which all vessels the company operated and calling on U.S. ports will be required to implement a robust Environmental Compliance Plan. Fajardo was also sentenced to six months in prison

to be followed by two years of supervised release. He was also ordered to pay a \$2,000 fine.

The case was investigated by the U.S. Coast Guard Corpus Christi Sector, U.S. Coast Guard Investigative Service and EPA's Criminal Investigation Division. The case was prosecuted by DOJ's Environmental Crimes Section litigation team.

## Dyno-Nobel, Inc. Pleads Guilty for Failing to Notify Federal Authorities of Anhydrous Discharges Near St. Helens

On February 23, 2018, Dyno Nobel, Inc., pleaded guilty to one count of violating the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), following a series of large-scale ammonia discharges from a urea-manufacturing plant outside St. Helens, Oregon, in July and August 2015.

“Many of the nation’s environmental laws exist specifically to minimize the dangers essential industries pose to surrounding communities,” noted Billy J. Williams, U.S. Attorney for the District of Oregon, “and this criminal conviction will serve as an important reminder that the EPA and the United States Attorney’s Office will work together to ensure that violations of those laws do not go unpunished.”

“Not only did this defendant release over six tons of anhydrous ammonia, impacting the neighboring community, they impeded response actions by failing to report the release,” said Jeanne Proctor, EPA’s special agent in charge of the Criminal Investigation Division in Seattle. “EPA will not tolerate this blatant disregard for public safety.”

According to Dyno Nobel’s plea agreement with the government, the company’s St. Helens plant discharged more than six tons of anhydrous ammonia vapor—a hazardous substance—into the air over the course of a three-day period starting on July 30, 2015. A subsequent investigation revealed that several failed attempts to restart the urea plant had caused a series of massive discharges from the facility, triggering numerous complaints of foul odors, eye irritation, and difficulty breathing from citizens of nearby Columbia City, Oregon.



Although Dyno Nobel personnel knew that excessive ammonia emissions were occurring, no effort was made to alert the authorities at the National Response Center until August 7, 2015—more than a week after the first discharge. Federal law requires such reports to be made “immediately.”

Dyno Nobel, Inc. is a Delaware corporation and wholly owned subsidiary of IPL Group. The plea agreement proposes a stipulated criminal sentence of two years’ probation, requiring remedial steps to better measure and detect future emissions, and a \$250,000 criminal fine. Ultimately, however, the Court may reject the parties’ stipulation and impose a different sentence.

This case was investigated by EPA’s Criminal Investigation Division and prosecuted by DOJ.

## Missouri 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.