



# 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.

May 2019—July 2019

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## Defendant Summary

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## American Biodiesel Sentenced to Probation and Fines for Clean Water Act Violations

American Biodiesel, Inc. was sentenced on July 6, 2019, for violations of the Clean Water Act. American Biodiesel, Inc., registered in San Joaquin County as Community Fuels, manufactured biodiesel fuel on property leased from the Port of Stockton.

According to court documents, American Biodiesel, Inc. admitted to allowing the discharge of industrial wastewater into the City of Stockton sewer system in violation of Stockton permitting regulations and the federal Clean Water Act. American Biodiesel, Inc. also admitted to tampering with monitoring devices and methods designed to detect such violations. Specifically, employees tampered with pH recordings and flow meters for the purpose of underreporting acid and pollutant levels and volumes that would have exceeded the figures allowed under the City's regulations.

American Biodiesel was sentenced to three years' probation, including various reporting and monitoring conditions and also fined \$401,000 and ordered to pay restitution to the Port of Stockton and the City of Stockton in the amount of \$256,206. American Biodiesel was also ordered to develop and implement an effective compliance and ethics program, which will be submitted to the court for review.

The indictment in the case also charges Christopher Young, 41, of El Dorado Hills, with conspiracy, 12 counts of tampering with monitoring equipment, two counts of unlawful discharge of industrial wastewater, one count of false statements, and one count of witness tampering. Christopher Young was the Director of Operations at the Stockton plant. The same indictment charges his brother Jeremiah Young, 38, of El Dorado, with conspiracy, eight counts of tampering with monitoring equipment, and two counts of unlawful discharge of industrial wastewater. Jeremiah Young was Assistant Operator for Community Fuels from 2014 to 2016. The Youngs' cases remain pending before the court. The charges are only allegations; each defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

This case is the product of an investigation by the EPA's Criminal Investigation Division, San Joaquin County District Attorney's Office, City of Stockton Municipal Utilities Department, San Joaquin County Environmental Health Department, Port of Stockton, and California Department of Toxic Substances Control. The case is being prosecuted by a DOJ litigation team.

## Smyrna Georgia Chemical Plant Manager Sentenced for Polluting a Tributary of the Chattahoochee River

Carlos Conde was sentenced on July 24, 2019, for violating the Clean Water Act by instructing employees at the Apollo Industries chemical processing plant in Smyrna, Georgia, to wash carburetor fluid into a tributary of the Chattahoochee River.

“We must ensure that citizens can continue to enjoy the beautiful natural resources we have here in Georgia like the Chattahoochee,” said U.S. Attorney Byung J. “BJay” Pak. “Protecting those resources, and the environment, is part of our mission. We take this responsibility seriously, and we will prosecute those who have no respect for the laws that preserve them for all to use and enjoy.”

“The defendant in this case intentionally contaminated a tributary of the Chattahoochee River, killing fish and damaging the environment,” said Special Agent in Charge Andy Castro of EPA’s Criminal Investigation Division. “This sentencing demonstrates that EPA and its law enforcement partners are committed to protecting our natural resources and the communities that rely upon them.”



According to U.S. Attorney Pak, the charges and other information presented in court: on the evening of August 12, 2016, a batching tank at the Apollo Industries chemical mixing facility in Smyrna, Georgia, began leaking a carburetor cleaner containing naphthalene, a toxic and hazardous chemical. The following morning, two workers discovered the spill and called Carlos Conde, the plant manager.

Conde arrived at the plant and instructed the employees to wash the chemical away with water from multiple hoses. The chemical was washed into a tributary of Nickajack Creek and the Chattahoochee River. Conde then twice denied his role in interviews with a Special Agent of the U.S. Environmental Protection Agency. The carburetor cleaner turned the water milky white and opaque and killed the wildlife in the creek, including fish and frogs.

Carlos Conde, 37, of Smyrna, Georgia, was sentenced by Chief U.S. District Judge Thomas W. Thrash, Jr., to 12 months’ probation with the first four months to be served as home detention, a \$2000 fine, and a \$100 special assessment. Conde was convicted on these charges on January 24, 2019, after he pleaded guilty.

This case was investigated by the EPA’s Criminal Investigation Division and prosecuted by a DOJ litigation team.

## Alabama Trucking Company Ordered to Pay \$3 Million for Illegally Transporting Hazardous Materials from the Exide Battery Recycling Plant in Vernon, California

On June 11, 2019, Wiley Sanders Truck Lines, Inc., a Troy, Alabama based trucking company was ordered to pay \$3 million for illegally transporting more than 64 tons of hazardous, lead-contaminated plastic battery chips from the now-closed Exide Technologies battery recycling facility in Vernon to a company in Bakersfield.

The trucking company was ordered on June 11, 2019, to pay the money as part of a sentence that placed the company on probation for three years.

United States District Judge Percy Anderson imposed the sentence, describing the company's conduct as "an environmental disaster for Vernon and the surrounding area."

As part of the sentence, Judge Anderson ordered Wiley Sanders to pay a \$1.5 million fine – the statutory maximum – and a \$1.5 million community service payment to the Exide Residential Assistance Fund established by the Los Angeles County Department of Public Health to support residents affected by lead contamination near the facility.

On February 25, the company pleaded guilty to three felony counts of illegal transportation of hazardous materials.

At peak operation, Exide's facility received approximately 40,000 lead-acid batteries per day, according to the government's sentencing memorandum. During the battery recycling process at the facility, the batteries were crushed, broken apart in a hammer mill, then separated into their primary component streams – lead, acid and plastic. The lead and acid were dealt with separately, while the plastic chips were rinsed with water in an attempt to remove lead and other materials. Wiley Sanders then transported the wet battery plastic chips – usually 40,000 pounds at a time – to a facility in Bakersfield, where the chips were repurposed into resin-coated plastic pellets that could be used to manufacture new batteries and other products.



Wiley Sanders specifically admitted in its plea agreement that, on three occasions between November 2013 and March 2014, it willfully and recklessly transported a total of 128,840 pounds (64.42 tons) of lead-contaminated plastic chips from Vernon to Bakersfield. The company also admitted knowing that the trailers it used to transport the battery plastic chips did not contain any lining or inner packing material to prevent liquids and semi-solids from leaking through cracks and other openings in the trailers.

Because of its conduct, lead-contaminated residue leaked out of the trailers when Wiley Sanders drivers transported the battery chips from Vernon to Bakersfield. Wiley Sanders truck drivers occasionally transported the semi-trailers on public roads before the plastic chips had dried, despite the fact that the lead-contaminated chips and resulting lead-contaminated liquid residue would leak out of the trailers.

There is no known safe level of lead in human blood.

In 2015, Exide Technologies reached an agreement with the United States government that called for the battery manufacturing company to close its recycling facility in Vernon and pay an estimated \$50 million to clean-up the site and surrounding neighborhoods which have been affected by environmental toxins for decades.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Department of Transportation and the Office of Inspector General. The California Department of Toxic Substances Control provided assistance. The case is being prosecuted by a DOJ litigation team.

## Real Estate Property Owner Sentenced after Illegally Filling Federally Regulated Wetlands in Florida Keys Following Hurricane Irma

On June 11, 2019, Bonefish Holdings, LLC pled guilty and was sentenced in connection with the illegal filling of federally regulated wetlands without a federal permit following Hurricane Irma in 2017.

Bonefish Holdings, LLC (“Bonefish”), pled guilty to illegally discharging fill material, which is a pollutant, into federally regulated wetlands without a permit issued by the U.S. Army Corps of Engineers following Hurricane Irma in 2017, in violation of the Clean Water Act. Following acceptance of the guilty plea, Bonefish was sentenced to 3 years of probation, ordered to pay a \$50,000 criminal fine, and ordered to fully restore the impacted 3.73 acres of federal wetlands according to an approved Restoration Plan (estimated by the defendant to cost approximately \$189,000).

Court records and a joint factual statement indicate that Bonefish owned five parcels of ocean-side land totaling approximately 7.41 acres, containing approximately 3.73 acres of federally regulated wetlands in Upper Matecumbe Key, Monroe County. Bonefish wanted to develop the site into a luxury commercial property, however, due to the presence of federally protected wetlands and the existing Village of Islamorada’s Comprehensive Plan and Land Development Regulations, those plans were denied. The defendant sought and received a Jurisdictional Determination in 2009, reconfirmed in 2013, from the U.S. Army Corps of Engineers, confirming the presence of the federally protected



wetlands and making clear that fill activity could only occur with the required permits. On September 10, 2017, Hurricane Irma hit the Florida Keys as a major Category 4 hurricane. The defendant hired laborers with the intention, in addition to clearing storm debris, to clear and fill the site. The defendant’s actions were designed to intentionally take advantage of what it saw as an opportunity to remove significant additional vegetation and the filling of wetlands, in the hope of easing the path for future development of the site.

U.S. Attorney Ariana Fajardo Orshan stated, “The Clean Water Act serves to protect our wetlands and other natural resources in South Florida. Wetlands, in addition to improving water quality, are important for flood and storm protection. The illegal filling of designated wetlands violates the Act and exposes those who carry out their destruction to federal prosecution. Compliance with these regulations ensures that we can all continue to enjoy the natural beauty and important benefits of these protected areas.”

“Property owners can not engage in illegal conduct under the guise of hurricane response to further private development goals and circumvent the regulatory process. Property owners may remove debris from their land, but that does not allow them to go beyond cleanup and fill jurisdictional wetlands,” said Andy Castro, EPA-CID Special Agent in Charge. “Under this plea agreement the defendant will fully restore the high-quality wetlands it illegally destroyed.”

“Compliance and enforcement are an important component of the Corps’ Regulatory program and helps to

ensure the public's interest and our Nation's aquatic resources are protected, said Robert Halbert, USACE Chief of Jacksonville District's enforcement section. "We take violations and unauthorized activities very seriously."

"Today's result sends a strong message that our special agents take any and all allegations of criminal acts very seriously," said Frank Robey, Director of the U.S. Army Criminal Investigation Command's, Major Procurement Fraud Unit. "We work shoulder to shoulder with the Department of Justice and our fellow law enforcement agencies to prevent these types of violations and will aggressively continue to do so."

The case was investigated by EPA's Criminal Investigation Division, the U.S. Army Corps of Engineers, and the U.S. Army Criminal Investigative Command, Major Procurement Fraud. The case was prosecuted by a DOJ litigation team.



## Captain of Fishing Vessel “Alaskan Girl” Sentenced for Unlawful Discharge of a Pollutant into Sumner Strait

Cameraman for Reality TV Show Captured Footage of Unlawful Discharge of Sandblasting Waste into Ocean

Brannon Finney, 32, of Bellingham, Washington, was sentenced May 23, 2019 after pleading guilty to one count of unlawful discharge of a pollutant, a violation of the Clean Water Act. The Court ordered Finney to pay a fine of \$8,000, pay an additional \$2,000 to the National Fish and Wildlife Foundation as a community service payment; and perform 40 hours of community work service. Finney will be on probation for 18 months and is required to post a public apology.

According to court documents, Finney, as captain of the F/V Alaskan Girl, caused the crew to dump approximately 16,000 pounds of sandblast waste into Sumner Strait. Specifically, on June 15, 2017, F/V Alaskan Girl was in route from Wrangell to Petersburg, Alaska with four bags, known as super sacks or brailer bags, on board. Each bag weighed approximately 4,000 pounds and contained sandblast waste. The waste, generated from the recent re-painting of the F/V Alaskan Girl, was a mixture of the copper slag used to remove the paint from the vessel as well as approximately 15 gallons of paint chips removed in the sandblast process. The waste – totaling eight tons – had been loaded onto the vessel at the direction of Finney.



Along with Finney and two crewmembers, a cameraman was also on board the F/V Alaskan Girl, filming for a possible cable TV reality show. Video footage taken during the trip from Wrangell to Petersburg captured one of the brailer bags hanging overboard the vessel while two crewmembers on board sliced through the bag with a knife. Afterwards, black sandy waste spilled from the sliced bag into the water, while at least one of the crew audibly cheered.

Once the vessel arrived in Petersburg, video footage showed an interaction between an Alaska Wildlife Trooper and Finney. In the video, the Trooper informed Finney that he had received a complaint about the vessel leaving the shipyard in Wrangell with sandblasting waste. When he asked where it went, Finney replied, “We just dumped it.” The investigation revealed that Finney unlawfully discharged the waste into Sumner Strait with the goal of avoiding spending \$1,460 to dispose of it properly.

“Maintaining the pristine waters of Alaska is important to all residents and visitors to our state, said U.S. Attorney Schroder. “The quality of our waters is essential to Alaska’s fishing fleet. Fishing is one of the most important parts of our economy, and Alaska seafood is prized worldwide because of the quality of the catch. Protecting our waters is vitally to our economy, as well as the environment.”

“Illegal discharges of pollution pose a serious threat to our oceans,” said Jeanne Proctor, Special Agent in Charge of EPA's criminal enforcement program in Alaska. “Today’s sentencing demonstrates that EPA and its partner agencies are committed to protecting the marine environment and pursuing those whose illegal acts threaten our natural resources.”

The case was investigated by EPA’s Criminal Investigation Division, Alaska Wildlife Troopers, and the Alaska Department of Law, Office of Special Prosecutions. The case was prosecuted by Assistant U.S. Attorney Jonas M. Walker.

## **IAV GmbH Sentenced to Pay \$35 Million Criminal Fine for its Role in Volkswagen AG Emissions Fraud**

IAV GmbH (IAV), a German company that engineers and designs automotive systems, was sentenced in federal court in Detroit on May 22, 2019 to pay a \$35 million criminal penalty.

The penalty is the result of the company's guilty plea for its role in a long-running scheme for Volkswagen AG (VW) to sell approximately 335,000 diesel vehicles in the U.S. by using a defeat device to cheat on U.S. emissions tests mandated by the U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB). During the sentencing hearing, U.S. District Judge Sean F. Cox of the Eastern District of Michigan accepted the parties' plea agreement, which includes the appointment of an independent corporate compliance monitor for a period of two years.

Principal Deputy Assistant Attorney General John P. Cronan of the Justice Department's Criminal Division, U.S. Attorney Matthew J. Schneider of the Eastern District of Michigan, Deputy Assistant Attorney General Jean E. Williams of the Justice Department's Environment and Natural Resources Division, Assistant Administrator Susan Bodine of the EPA's Office of Enforcement and Compliance Assurance and Special Agent in Charge Timothy R. Slater of the FBI's Field Office made the announcement.

IAV pleaded guilty in December 2018 to participating in a conspiracy to defraud the United States and VW's U.S. customers and to violate the Clean Air Act by misleading the EPA and U.S. customers about whether certain VW- and Audi-branded diesel vehicles complied with U.S. emissions standards. IAV admitted that it and its co-conspirators knew the vehicles did not meet U.S. emissions standards and worked collaboratively to design, test and implement cheating software to cheat the U.S. testing process. IAV further admitted that it was aware the VW concealed material facts about its cheating from federal and state regulators and U.S. customers. Pursuant to the U.S. Sentencing Guidelines, IAV's \$35 million fine was set according to the company's inability to pay a higher fine amount without jeopardizing its continued viability.

The case was investigated by the FBI and EPA's Criminal Investigation Division. The prosecution is being handled by a DOJ litigation team with assistance from the Criminal Division's Office of International Affairs and the Office of the Public Prosecutor in Braunschweig, Germany.

## \$4 Million Fine for Greek Shipping Companies After Illegally Discharging Oil into Texas Port Waters

Two Greek shipping companies, Avin International LTD and Nicos I.V. Special Maritime Enterprises, were sentenced on May 3, 2019 in the Eastern District of Texas on charges stemming from several discharges of oil into the waters of Texas ports by the oil tanker *M/T Nicos I.V.*, announced Assistant Attorney General Jeffrey Bossert Clark for the Justice Department's Environment and Natural Resources Division and United States Attorney Joseph D. Brown for the Eastern District of Texas.

Avin International was the operator and Nicos I.V. Special Maritime Enterprises was the owner of the *Nicos I.V.*, which is a Greek-flagged vessel. The Master of the *Nicos I.V.*, Rafail-Thomas Tsoumakos, and the vessel's Chief Officer, Alexios Thomopoulos, also pleaded guilty to making material false statements to members of the United States Coast Guard during the investigation into the discharges.

Both companies pleaded guilty to one count of obstruction of an agency proceeding, one count of failure to report discharge of oil under the Clean Water Act, and three counts of negligent discharge of oil under the Clean Water Act on Nov. 26, 2018. Under the plea agreement, the companies will pay a \$4 million criminal fine and serve a four-year term of probation, during which vessels operated by the companies will be required to implement an environmental compliance plan, including inspections by an independent auditor. Mr. Tsoumakos and Mr. Thomopoulos both pleaded guilty to one count of making a material false statement and were sentenced to pay fines of \$10,000 each on Dec. 20, 2018.



"Our nation, including the State of Texas, rely on America's ports and coastal waters for trade, recreation, and environmental enjoyment. Foreign companies acting in defiance of the laws and regulations that protect these valued resources threaten adjacent communities as well as marine ecosystems more broadly," said Assistant Attorney General Clark. "The Division remains committed to pursuing justice for these offenders, and today's action stands as proof of that commitment."

"Our coastal waterways are critically important," said United States Attorney Joseph D. Brown. "Companies that use them are expected to help maintain them by abiding by the Clean Water Act. When they do not, there will continue to be investigations and consequences for those violations. Furthermore, individuals are always expected to tell the truth when investigations are required, and failure to deal truthfully with investigators always makes a situation worse."

"We are very grateful for the opportunity to work with the Coast Guard Investigative Service, the United States Department of Justice's Environmental Crimes Section, and the United States Attorney's Office, who were all instrumental in achieving this significant outcome," said Captain Jacqueline Twomey of U.S. Coast

Guard Sector MSU Port Arthur. “We believe that the results of this case will serve as a deterrent that will ultimately prevent or reduce the damage to the environment. By demonstrating the consequences of this vessel’s illicit actions, the intense collaboration and attention to detail of all team members ensured this vessel and others, with similar intentions that conduct trade in the United States, comply with domestic and international environmental laws intended to eliminate marine pollution around the globe.”

According to documents filed in court, the *Nicos I.V.* was equipped with a segregated ballast system, a connected series of tanks used to control the trim and list of the vessel by taking on or discharging water, the latter involving an operation called deballasting. At some point prior to July 6, 2017, the ballast system of the *Nicos I.V.* became contaminated with oil and that oil was discharged twice from the vessel into the Port of Houston on July 6 and July 7, 2017, during deballasting operations. Both Tsoumakos and Thomopoulos were informed of the discharges of oil in the Port of Houston. Tsoumakos failed to report the discharges, which, as the person in charge of the vessel, he was required to do under the Clean Water Act. Neither discharge was recorded in the vessel’s oil record book, as required under MARPOL and the Act to Prevent Pollution from Ships.

After leaving the Port of Houston, en route to Port Arthur, Texas, oil was observed in several of the ballast tanks. After arriving in Port Arthur, additional oil began bubbling up next to the vessel, which was then reported to the U.S. Coast Guard. During the ensuing investigation, both Tsoumakos and Thomopoulos lied to the Coast Guard, stating, among other things, that they had not been aware of the oil in the ballast system until after the discharge in Port Arthur, and that they believed that the oil in the ballast tanks had entered them when the vessel took on ballast water in Port Arthur.

The case was investigated by the U.S. Coast Guard Investigative Service, with assistance from the U.S. Coast Guard Sector MSU Port Arthur, which conducted the inspection of the ship. Additional assistance was provided by EPA’s Criminal Investigation Division, the Jefferson County Sheriff’s Office Marine Unit, and the Beaumont Police Department. The prosecution was handled by a DOJ litigation team.

## Virginia Beach Pump Company Pleads Guilty to Clean Water Act Violations

A Virginia Beach company pleaded guilty on July 24, 2019 to violating the Clean Water Act on July 24, 2019.

Forrest Sewer Pump Service, Inc., a family owned and operated business headquartered in Virginia Beach, violated the Clean Water Act (CWA) in 2015 and 2016 by illegally discharging pollutants into unauthorized manholes and pump stations. Court records indicate Forrest Sewer has been a Virginia licensed wastewater hauler and provider of sewer pumping services and grease hauling for more than 20 years. Forrest Sewer maintained an industrial user wastewater discharge permit to discharge into the Hampton Roads Sanitation District (HRSD) sewage treatment system. However, the records indicate that Forrest Sewer discharged at the unauthorized locations to, among other things, avoid paying dumping fees to HRSD.

The knowing introduction of trucked pollutants into undesignated locations is specifically prohibited by the CWA pretreatment prohibitions and the local HRSD Industrial Wastewater Discharge Regulations. Forrest Sewer was caught on video dumping the pollutants at an undesignated location in the Virginia Beach area.

Forrest Sewer faces a maximum sentence of five years of probation, as well as fine of up to \$50,000 per day of violation for the Clean Water Act violations when sentenced on October 24. Actual sentences for federal crimes are typically less than the maximum penalties. A federal district court judge will determine any sentence after taking into account the U.S. Sentencing Guidelines and other statutory factors.

The case is being investigated by EPA's Criminal Investigation Division and prosecuted by a DOJ litigation team.

## Washington DC Development Company and Owner Plead Guilty to Lead-Based Paint Crimes

Mohammad Sikder, 60, of Washington, D.C., pleaded guilty on June 20, 2019 to two counts of violating the Toxic Substances Control Act for his role in renovating a Washington, D.C., property without following lead-safe work practices and lead disclosure requirements.

Sikder's solely held company, District Properties LLC, also pleaded guilty to making false statements in 25 building permit applications to the District of Columbia Department of Consumer and Regulatory Affairs (DCRA). These applications understated the age of the homes being renovated, with the intent to avoid regulatory scrutiny of inadequate lead-based paint safety measures at those properties.

The Honorable Amy Berman Jackson scheduled sentencing for Nov. 22, 2019. The charges against Mr. Sikder carry a statutory maximum of twelve months in prison and potential financial penalties. He and the government will jointly recommend a \$50,000 fine in addition to any prison time imposed. The company has agreed to pay a \$150,000 criminal fine, and to put another \$25,000 towards funding lead-based paint compliance trainings in the District of Columbia, Maryland, and Virginia.

"Lead poisoning is a major environmental health problem, and the deliberate actions taken by the defendant posed an unnecessary risk to his employees and the public at large," said Assistant Attorney General Jeffrey Bossert Clark for the Justice Department's Environment and Natural Resources Division. "The Department of Justice will not allow to go unchallenged such flagrant disregard for the rule of law and will continue to work with its partners to protect the health of communities here in Washington, D.C., and beyond."

"By using unlicensed and untrained workers to renovate older buildings, the defendant threatened the health of his workers and the general public," said Jennifer Lynn, Acting Special Agent in Charge for EPA's Mid-Atlantic criminal enforcement program. "Today's guilty pleas demonstrate that EPA and its partner agencies are committed to enforcing laws protecting public health."

Lead poisoning continues to be a major environmental health problem in the United States, although it is completely preventable. The most common source of childhood lead poisoning is lead-based paint in older homes, and the primary exposure pathway is ingestion of lead-contaminated dust. Lead is a toxic substance that can cause permanent damage, and is regulated under the Toxic Substances Control Act. Under the Renovation, Repair and Painting Rule (RRP Rule), contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination.

According to a Statement of Offense filed along with the plea agreements, Sikder and District Properties LLC purchased and renovated a property in Washington, D.C., without following the requirements of the RRP Rule. In 2014, the company submitted a building permit application to DCRA for addition, alteration, and repair of the property. At Sikder's instruction, the employee submitting the permit application, under the section of the application titled "Lead Abatement," falsely indicated that the property was built after 1978. During the summer and fall of 2014, a contractor conducted demolition at the property without following RRP Rule safe work practices. The demolition work included removing windows, removing interior and exterior painted surfaces, and removing floor and ceiling joists.

## Plea Agreements

A Sept. 24, 2015, Occupational Safety and Health Administration inspection revealed multiple hazards, including (1) employees performing manual demolition on a wall surface that had paint containing lead; (2) the lack of an employee exposure assessment to determine actual employee exposure; (3) the lack of lead training to employees; and (4) proper sanitation practices not being followed. Sampling analysis showed lead present on the dump truck and employees' hands. When the property was properly remediated and sold, Sikder and District Properties LLC did not provide the purchasers this information and with a report documenting the prior existence of lead-based paint at the property.

Between 2011 and 2017, District Properties LLC submitted 25 renovation permit applications for properties in Washington, D.C., on which the company falsely represented that the properties had been built after 1978, thereby circumventing additional permitting requirements and avoiding EPA oversight with respect to RRP Rule compliance, which would be triggered by an accurate permit application.

In announcing the plea, Deputy Assistant Attorney General Williams and Acting Special Agent in Charge Lynn expressed appreciation for the work performed by Special Agent Allison Landsman from EPA-Criminal Investigations Division, in partnership with the Metropolitan Police Department Environmental Crimes Unit. The case is being prosecuted by a DOJ litigation team.



## Washington Husband and Wife and Their Trucking Companies Plead Guilty to Renewable Energy Fraud

On June 10, 2019, Hector M. Garza, Jr., age 48, his wife, Tammy L. Garza, age 37, of Richland Washington, and their companies, HTG Trucking, LLC, and Freedom Fuel, Inc., pled guilty to fraud and false statement charges in connection with a renewable energy fraud scheme.

According to information disclosed during the court proceedings, Hector Garza, HTG Trucking, and Freedom Fuel were participants in a conspiracy involving Gen-X Energy Group, Inc. (Gen-X), a renewable energy company formerly located in Pasco and Moses Lake, Washington. Between January 2013 and April 2013, Hector Garza and his co-conspirators falsely claimed the production of hundreds of thousands of marketable renewable energy credits, which they then sold for more than \$296,000, and filed false claims with the IRS for \$284,546 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. Hector Garza, HTG Trucking, and Freedom Fuel pled guilty to conspiring to defraud the United States with respect to the false claims made upon the IRS, through the use of the trucking companies, which were used to “round” supposed renewable fuel by driving the same material back and forth between Gen-X’s Moses Lake facility and the Garzas’ businesses in Othello, Washington, and generating fraudulent renewable energy credits and tax credits each time the material was “rounded.” Tammy Garza pled guilty to aiding and abetting the use of false statements in connection with the renewable energy credits that were claimed and sold as part of the scheme, a separate offense.

Joseph H. Harrington said, “Defrauding the public by scamming renewable energy incentive programs will not be tolerated. I commend the tenacious and thorough efforts of investigators from IRS-Criminal Investigation and the Environmental Protection Agency’s Criminal Investigation Division. The United States Attorney’s Office will continue to work closely with our law enforcement partners to aggressively prosecute fraud and other white collar crimes in the Eastern District of Washington.”

A number of other conspirators have previously pled guilty and been sentenced in connection with their role in the fraud. In June 2017, Scott Johnson, the former CEO of Gen-X, was sentenced to a 97-month term of imprisonment in connection with his role in the fraud scheme. Most recently, in June 2018, Jin Chul “Jacob” Cha of Tustin, California, was sentenced to 51 months of imprisonment in connection with his role in the fraud.

“The United States tax system is designed to provide vital government services to American citizens. It is not a slush fund for fraudsters,” said Acting Assistant Special Agent in Charge Carrie Nordyke of IRS Criminal Investigation. “The IRS will continue to work with federal law enforcement agencies to prosecute scammers like Hector and Tammy Garza who illegally claim thousands in tax credits for personal financial gain.”

The guilty pleas were accepted by United States District Judge Salvador Mendoza, Jr. The conspiracy offense to which Hector Garza pled guilty carries a maximum term of imprisonment of 10 years, while the false statement charge to which Tammy Garza pled guilty has a maximum imprisonment term of 2 years. Each corporation faces a maximum fine of \$500,000, or of double the loss to the victim or the gain to the defendant, whichever is greater. All four defendants are scheduled to be sentenced on October 17, 2019, at 9:00 a.m. in

## Pleas Entered By Santa Clara Waste Water and Green Compass Environmental Solutions For 2014 Explosion and 2015 Possession of Unreported Chemicals

On June 6, 2019, Santa Clara Waste Water Company and Green Compass Environmental Solutions, LLC (corporate defendants) entered pleas for their roles in a November 2014 explosion at 815 Mission Rock Road in Santa Paula that injured numerous employees and first responders, and for the subsequent storage of undisclosed hazardous chemicals on site.

On November 18, 2014, at approximately 3:45 a.m., an explosion occurred at 815 Mission Rock Road, Santa Paula, California, a wastewater treatment facility owned and operated by the corporate defendants. The investigation revealed the blast was caused by the mixing and disposal of hazardous chemicals into a 5,040-gallon vacuum truck not rated to hold nor transport such chemicals. Numerous employees of the corporate defendants as well as firefighters and paramedics who responded to the scene and rendered aid were injured either by the initial explosion or by inhaling toxic vapors which developed on site shortly afterwards from the chemicals that exploded out of the vacuum truck.

In November 2015, a search warrant was served at the corporate defendants' facility in Santa Paula which led to the discovery of approximately 5,500 gallons of sodium hydroxide, also known as Petromax, stored within a locked shipping container. These chemicals were required by law to be reported into the California Environmental Reporting System (CERS), yet the corporate defendants' officials had not reported their possession of Petromax since 2013.

The corporate defendants pled no contest to eight crimes in the consolidated indictment, including four felonies: conspiracy to impede an environmental enforcement official; knowing failure to warn of a serious concealed danger, specifically sodium chlorite; filing a false or forged instrument for recording in a public office; and dissuading a witness from reporting a crime. The corporate defendants also pled no contest to four misdemeanors: impeding an environmental enforcement official; failure to update the hazardous materials business plan; failure to update the hazardous materials inventory, and submission of false records or statements to the California Environmental Reporting System. As a result of their pleas today, the corporate defendants will be ordered to pay \$2,797,621 in restitution. This is in addition to \$800,000 of restitution previously paid by other convicted co-defendants; for a total amount of court-ordered victim restitution of \$3,597,621 in this case.

Eight other individually charged co-defendants have entered pleas in this case. A sentencing hearing for the corporate defendants is scheduled for August 23, 2019. The investigation and prosecution of this case is the result of a joint effort by the California Attorney General's Office; the Ventura County District Attorney's Office, EPA's Criminal Investigation Division, the US Department of Transportation (USDOT); the State Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA); and the Ventura County Environmental Health Division. The case is being prosecuted by the Ventura County, CA District Attorney's Office.

## Former Superintendent of Oswego, New York Wastewater Treatment Plant Pleads Guilty to Clean Water Act Violation

Gary Hallinan, age 61, of Oswego, New York, pled guilty on May 25, 2019 in federal court in Syracuse, New York to negligently discharging wastewater from the City of Oswego Wastewater Treatment Plant into Lake Ontario in violation of the Clean Water Act on three dates between March 2015 and June 2015, announced United States Attorney Grant C. Jaquith, Tyler Amon, Special Agent in Charge of the U.S. Environmental Protection Agency's Criminal Investigation Division (EPA-CID) in New York, and Bernard Rivers, Director of Law Enforcement, New York State Department of Environmental Conservation (DEC).

In pleading guilty, Hallinan admitted that in December 2014, while he was the Superintendent of the Oswego Wastewater Treatment Plant, the plant's centrifuge, an essential piece of equipment to process wastewater and remove untreated or improperly treated sewage, stopped operating. As a result, the plant could no longer properly remove sewage from its wastewater. Over the next five months, Hallinan, as the superintendent of the plant, failed to take action to remove sewage from the plant's wastewater or to report the broken centrifuge to the New York State Department of Environmental Conservation. As a result of the defendant's negligence, the Oswego Wastewater Treatment Plant discharged wastewater containing solid sewage in violation of its permit under the Clean Water Act. These discharges took place on March 1, 2015; June 19, 2015; and June 23, 2015. The concentration of solid matter in the water discharged into Lake Ontario on June 23, 2015, was approximately 60 times higher than allowed by the plant's permit.



*Video Still Image: Improper/Illegal discharge of untreated wastewater/raw sewage at the Oswego Eastside WWTP effluent outfall*

The charge to which Hallinan pled guilty yesterday carries a maximum penalty of up to 1 year in prison, a fine of up to \$100,000, and a term of supervised release of up to 1 year. The defendant will be sentenced on September 24, 2019 by United States Magistrate Judge David E. Peebles. 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 the EPA's Criminal Investigation Division, the New York State DEC, Division of Law Enforcement and Bureau of Environmental Crimes Investigation Unit (BECI), and is being prosecuted by Assistant United States Attorney Michael F. Perry.

## Connecticut Property Owner Pleads Guilty to Illegal Asbestos Removal

John H. Durham, United States Attorney for the District of Connecticut, and Tyler C. Amon, Special Agent in Charge of EPA's Criminal Investigation Division in New England, announced, that Aleks Rakaj, 46, pleaded guilty on May 23, 2019, in New Haven federal court to one count of illegal asbestos removal in violation of the Clean Air Act.

According to court documents and statements made in court, Aleks Rakaj and his two cousins purchased a commercial property located at 206-220 Wallace Street in New Haven. Prior to purchasing the property, the realtor informed Rakaj and his cousins that the property contained asbestos. Shortly after the purchase was completed, Rakaj and his cousins failed to abide by laws and regulations concerning asbestos removal, resulting in exposure of those who were at the site to the negative health effects of asbestos.

On November 20, 2015, inspectors from the City of New Haven Health Department, conducting an unannounced inspection, discovered the illegal asbestos removal project at 206-220 Wallace Street. The inspection revealed multiple instances of illegal removal of asbestos-containing "air cell" pipe wrap and asbestos-containing "mag block" tank and boiler insulation. The workers failed to abide by legally required safety measures, failed to perform necessary wetting and failed to dispose of the asbestos-containing waste material at appropriate disposal sites. Inspectors also observed and photographed 100-150 standard garbage bags filled with unlabeled, unwetted asbestos-containing material.



Rakaj is scheduled to be sentenced by U.S. District Judge Janet Bond Arterton on August 14, 2019, at which time Rakaj faces a maximum term of imprisonment of five years, as well as various fines.

Rakaj's cousins, Rezart Rakaj, of Ansonia, and Kliton Rakaj, of Monroe, previously pleaded guilty to the same offense. On April 1, 2019, they were each sentenced to one year of probation, a fine of \$9,500, and 50 hours of community service.

"The illegal removal of asbestos insulation and the associated removal of scrap pipe and boilers from old buildings continues to be a problem throughout the Northeast," said EPA-CID Special Agent in Charge Amon. "Inhalation of asbestos fibers can result in lung cancer and it therefore poses significant health risks to all exposed. EPA will continue to hold accountable those who commit such offenses."

This investigation is being conducted by the EPA's Criminal Investigation Division, with the assistance of the City of New Haven Health Department and U.S. Department of Labor, Occupational Safety and Health Administration. The case is being prosecuted by a DOJ litigation team.

## Kansas Developer Convicted for Violating Asbestos Disposal Laws

In Topeka, Kansas, on July 30 2019, a jury found a Lawrence, Kansas developer Thomas S. Fritzel guilty on charges of disposing of asbestos in violation of the Clean Air Act.

Fritzel was convicted on the three counts:

- Failing to notify authorities before removing asbestos;
- Failing to keep asbestos wet during demolition to prevent air contamination; and
- Failing to dispose of asbestos in leak-tight containers.

During trial, the government presented evidence that Fritzel violated federal laws for handling asbestos during demolition and renovations at the Alvarado Country Club in Lawrence. The government presented evidence to show that Fritzel knew that the roof of the country club contained 75 percent chrysotile asbestos. The previous owners, who sold the club to Fritzel in January 2016, had decided not to replace the roof because of the cost of abating the asbestos.



On October 19, 2016, the Kansas Department of Health and Environment told Fritzel to get a licensed asbestos contractor to remove asbestos from the site and dispose of it properly. On Oct. 25, 2016, KDHE inspected the site and determined asbestos debris had been removed and hauled to Hamm Landfill in Perry, Kan., which is not approved for asbestos disposal.

Sentencing will be set for a later date. Fritzel faces a penalty of up to two years in federal prison and a fine up to \$250,000 on count two and up to five years and a fine up to \$250,000 on counts three and four. The case was investigated by EPA's Criminal Investigation Division and is being prosecuted by a DOJ litigation team.

## Green Energy Fraudster Convicted at Trial for Scamming Multiple Federal Agencies, Customers

On May 1, 2019, a federal jury in Reading, Pennsylvania convicted David M. Dunham, Jr. of conspiracy to commit wire fraud and defraud the United States, wire fraud, filing false tax documents and obstruction of justice. The conviction stemmed from Dunham hatching and executing a scheme to defraud the Environmental Protection Agency, the Internal Revenue Service, the United States Department of Agriculture, and his customers to obtain renewable fuel credits in his “green energy” business. The government is also seeking forfeiture of approximately \$1.7 million in fraudulently obtained revenue and several parcels of real estate. The trial lasted four weeks before United States District Judge Jeffrey L. Schmehl.

In Dunham’s green energy scam, he fraudulently applied for, received, and sold “credits” for selling renewable biofuels that he, in fact, did not sell and, in many instances, had never possessed in the first place. He obtained these credits from government agencies, which resulted in Dunham obtaining \$50 million in fraudulent revenue. Dunham ran the scam from approximately 2010 to 2015, using his business, Smarter Fuels, and that of his co-defendant, Ralph Tomasso, who previously pleaded guilty to conspiracy to defraud federal programs.

“Though this defendant tried to deflect blame on others, his years of scamming the government and his customers has finally caught up to him,” said U.S. Attorney McSwain. “And the truth is as simple as this: Everyone has to follow the rules. You cannot lie, steal, or cover up your misdeeds. If you do, we will hold you accountable. Experience shows that fraudsters like Dunham are always looking for the next best scam. As American consumers become increasingly more concerned with energy conservation, green energy scams like the one in this case provide criminals with an easy angle. We are grateful that the jury saw through Dunham’s lies and reached the correct result.”

“Today’s conviction sends a clear message to any future fraudsters out there: crime does not pay. Especially when that crime involves defrauding American customers and multiple federal agencies,” said Assistant Attorney General Clark. “When the defendant knowingly cheated a federal government program aimed at energy conservation, he gave himself an unfair advantage over his competitors and stole millions of dollars from the American taxpayer in the process. The Department of Justice will not tolerate this type of deception and will continue to work with its law enforcement partners to root out this unlawful conduct.”

“David Dunham created an elaborate scheme that served no purpose other than to mislead and defraud the government,” said IRS Special Agent in Charge Guy Ficco. “Unfortunately for him, our special agents were able to track the movement of paperwork and uncover the deceit behind his actions. We, along with our fellow law enforcement partners and the Department of Justice, will continue to investigate and prosecute those who commit similar crimes.”

“The defendant made numerous fraudulent claims to illegally profit from the Renewable Fuel Standard (RFS) Program,” said Jessica Taylor, Director of EPA’s Criminal Investigation Division. “Today’s conviction should send a clear signal that EPA and our law enforcement partners are committed to protecting the integrity of the Energy Independence and Security Act of 2007.”

USDA-OIG Special Agent-in-Charge Bethanne M. Dinkins said, “We appreciate the commitment of the Department of Justice and the cooperative efforts of our law enforcement partners throughout this significant investigation. Mr. Dunham’s conviction at trial sends a strong message regarding the benefit of working across agency lines to protect the integrity of Government programs like the USDA Advanced Biofuel Payment Program, established in the 2008 Farm Bill as an incentive for companies to produce and use alternative fuel sources. The USDA Office of Inspector General will continue to dedicate resources to protect the Department’s programs and assets by investigating those who commit fraud and compromise the integrity of USDA programs.”

The case was investigated by EPA’s Criminal Investigation Division, the Internal Revenue Service’s Criminal Investigation Division, and the United States Department of Agriculture’s Office of Inspector General. The case is being prosecuted by a DOJ litigation team.