



# 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.

October—December 2020

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# Defendant Summary

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## **Pennsylvania Wastewater Treatment Plant Operator Sentenced for Violations of Clean Water Act and Tampering with a Government Witness**

The United States Attorney's Office for the Middle District of Pennsylvania announced that David D. Klepadlo, age 65, of Clark Summit, Pennsylvania, was sentenced on October 28, 2020, to three years of supervised release, including one year of home detention, for violation of the Clean Water Act and tampering with a government witness.

According to United States Attorney David J. Freed, Klepadlo pled guilty to falsifying required Pennsylvania Department of Environmental Protection (PADEP) and the U.S. Environmental Protection Agency (EPA) documents over a period of several years. Klepadlo also pleaded guilty to tampering with a government witness at the onset of the criminal investigation by encouraging that witness to either not cooperate at all or lie to the FBI.

David D. Klepadlo & Associates, Inc. (Klepadlo's company) also pled guilty to falsifying PADEP and EPA docs and was sentenced to five years of probation and a \$10,000 fine.

Klepadlo was certified by the Commonwealth of Pennsylvania as a wastewater treatment plant operator. Klepadlo and his company contracted with local municipalities to operate and manage the municipalities' wastewater treatment plants in accordance with regulations and limitations in permits issued by the Pennsylvania Department of Environmental Protection (PADEP) and the U.S. Environmental Protection Agency (EPA).

The permits required that the permittee at all times maintain in good working order, and properly operate all facilities and systems installed and used to achieve compliance with the terms and conditions of the permits. For approximately two years, beginning in May 2012 and continuing through June 2014, Klepadlo and his company failed to properly operate and maintain the facilities (Greenfield Township Sewer Authority, Lackawanna County, and the Benton/Nicholson Sewer Authority, both Lackawanna and Wyoming Counties) and systems of treatment and control, in accordance with terms and conditions of the permits.

Klepadlo knowingly failed to take daily and weekly samples and measurements required for the purpose of monitoring pollutants discharged into waterways of the United States; knowingly created false test results and falsely reported those results in discharge monitoring reports submitted monthly to the PADEP and the EPA. Klepadlo also admitted to attempting to persuade a government witness to fabricate a false explanation for the Clean Water Act violations for the purpose of influencing testimony of a witness in an official proceeding involving the testing and registering requirements of the permits.

Wastewater from the Greenfield publicly-owned treatment plan is discharged into a tributary of Dundaff Creek, which flows into Tunkhannock Creek, which flows into the Susquehanna River. Wastewater from the Benton/Nicholson facility flows into a tributary of South Branch Tunkhannock Creek, which also flows into the Susquehanna River.

The charges were the result of a joint investigation by the EPA's Criminal Investigation Division, the Pennsylvania Department of Environmental Protection, and the Federal Bureau of Investigations. The case was prosecuted by a DOJ litigation team.



## Pennsylvania Biofuel Company and Owners Sentenced for Renewable Fuels Fraud Related Crimes

Two biofuel company owners were sentenced to prison on October 20, 2020, for conspiracy and making false statements to the U.S. Environmental Protection Agency (EPA), conspiracy to defraud the IRS and preparing a false tax claim.

Ben Wootton, 55 of Savannah, Georgia, was sentenced to 70 months and Race Miner, 51, of Marco Island, Florida, to 66 months, after a jury convicted both defendants and their company, Keystone Biofuels Inc. (Keystone), in April 2019. The company was originally located in Shiremanstown, Pennsylvania, and later in Camp Hill, Pennsylvania. Miner was the founder and chief executive officer of Keystone. Wootton was president of Keystone, and a former member of the National Biodiesel Board. The court ordered both men to pay restitution of \$4,149,383.41 to the IRS and restitution of \$5,076,376.07 to the Pennsylvania Department of Environmental Protection. Wootton and Miner will also have to serve a three-year term of supervised release after their term of imprisonment. Keystone was sentenced to five years' probation and ordered to pay restitution of \$4,149,383.41 to the IRS and restitution of \$5,076,376.07 to the Pennsylvania Department of Environment Protection criminal fine.

"The EPA and IRS renewable fuels incentive programs are important components of the Congressional program to increase the use of biofuels to benefit the environment," said Principal Deputy Assistant Attorney General Jonathan D. Brightbill of the Justice Department's Environment and Natural Resources Division. "Today's sentences are a strong reminder that the federal government will not allow supposed "green" conmen to illegally take advantage of federal and state programs that are meant to offer financial incentives to enhance the environment and energy sustainability."



"The complex fraud perpetrated by the defendants in this case struck directly at the heart of a government program that was specifically created to benefit the environment, business owners and the community at large," said U.S. Attorney David J. Freed of the Middle District of Pennsylvania. "Encouraging companies to develop and provide for sale clean renewable fuels is truly a win-win proposition for everyone. Unfortunately, the defendants used this program to benefit only themselves. Today's sentences send a clear message that my office, our federal partners and the United States Department of Justice will not tolerate renewable fuels fraud and related offenses."

"The defendants defrauded the IRS and sought to profit from a system intended to protect the environ-



ment,” said Principal Deputy Assistant Attorney General Richard E. Zuckerman of the Justice Department’s Tax Division. “The Tax Division will continue to aggressively investigate and prosecute with our partners such tax crimes.”

“Today’s sentencing demonstrates there are real penalties for those defrauding the Renewable Fuel Standard (RFS) program,” said Jessica Taylor, Director of the EPA’s criminal enforcement program. “With this action EPA and its enforcement partners are continuing to protect both the integrity of the RINs program and the American taxpayer.”

“Wootton and Miner actively engaged in a multimillion-dollar scheme designed to rob the government and line their own pockets. Today, they learned there is a steep price to be paid for such greed,” said Jim Lee, Chief, IRS Criminal Investigation (IRS-CI). “It is the partnerships between IRS-CI and other federal agencies like the EPA that allow cases like this to come to fruition, holding accountable those who seek to enrich themselves through fraudulent means.”

“The only green resource these two cared about was money, and they told lie after lie to perpetuate their fraud,” said Special Agent in Charge Michael J. Driscoll of the FBI’s Philadelphia Field Office. “Fair warning to anyone else seeking to scam the U.S. government and taxpayers like this: the FBI and our partners stand ready to investigate and hold you accountable as well.”

Wootton, Miner, and Keystone falsely represented that they were able to produce a fuel meeting the requirements set by the American Society for Testing and Materials (ASTM) for biodiesel (a renewable fuel) and adopted by the EPA, and as such were entitled to create renewable fuel credits, known as RINs, based on each gallon of renewable fuel produced. The fuel and the RINs have financial value and could be sold and purchased by participants within the federal renewable fuels commercial system.

Wootton and Miner were also convicted of fraudulently claiming federal tax refunds based on IRS’s Biofuel Mixture Credit. The Biodiesel Mixture Credit is a type of “blender’s credit” for persons or businesses who mix biodiesel with diesel fuel and use or sell the mixture as a fuel. Wootton and Miner caused Keystone to fraudulently claim tax refunds based on non-qualifying fuel and, in at least some instances, non-existent or non-mixed fuel. In an attempt to hide their fraud scheme, the men created false corporate books and records and sham financial transactions to account for the nonexistent and non-qualifying fuel, and to create the appearance of legitimacy.

The prosecution of Wootton, Miner and Keystone is the first prosecution of a case under the federal renewable fuels program based on fuel that did not meet the program renewable fuel quality standards.

The case was investigated by EPA’s Criminal Investigation Division, IRS Criminal Investigation and FBI Philadelphia’s Harrisburg Resident. The case was prosecuted by a DOJ litigation team.

## Environmental Services Business Owner Sentenced to 36 Months for Mail Fraud Conspiracy, Theft from Employee Benefit Plans, and Unlawful Storage of Hazardous Waste

Aaron Micah Jamison, 45, who formerly resided in Lexington, South Carolina, was sentenced in federal court on September 24, 2020, to 36 months in prison for theft from an employee benefits plan, conspiracy to commit mail fraud, and unlawful storage of hazardous waste.

According to his plea agreement, Jamison was the CEO of Micah Group, LLC, which offered construction and remediation services to the energy and environmental sectors. Jamison admitted that from March 4, 2016 to October 30, 2016, he knowingly failed to remit employees' 401(k) contributions that had been withheld from their paychecks, totaling over \$30,000.00, and diverted them for his personal use and the use of his businesses. Jamison also admitted that from April 2, 2017 through April 28, 2017, he failed to remit withheld pre-tax health contributions of the Micah Group's employees to its health insurer, totaling \$4,843.73.

The Micah Group also performed abandonment of ground water monitoring wells at numerous sites around

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—US Attorney

the state of Kentucky, including gas stations, convenience stores, and other private property, and sought payment for such work from the Kentucky Energy and Environment Cabinet. On multiple occasions, Jamison admitted to signing documents falsely representing that the wells had been properly abandoned in order to bring income to the Micah Group and to ensure that him and other employees were paid. At sentencing, the court determined that between 2013 and 2017, the false representations made by Jamison and his co-conspirators caused approximately \$640,000 in loss to the state.

Finally, Jamison admitted to unlawfully storing hazardous waste at Micah Group's premises at various points in time between January 2016 and December 2017. Jamison pleaded guilty in January 2020.

“The defendant stole from his employees and lied to state authorities to further his own interests,” said Robert M. Duncan, Jr., United States Attorney for the Eastern District of Kentucky. “His conduct not only financially harmed his employees and caused the state to spend money to clean up his mess, but he also potentially put the public at risk by failing to properly monitor ground water wells and store hazardous materials. I commend the cooperation and work of the investigative agencies involved, as their efforts helped hold the defendant accountable for his actions.”

“The defendant was paid to transport hazardous waste as defined under the Resource Conservation and Recovery Act (RCRA). Mr. Jamison chose to illegally store the hazardous waste and place the public, and environment at risk” said Special Agent in Charge Charles Carfagno of the EPA's Criminal Investigation Division in Atlanta, GA.

“Criminal acts like this directly impact participants in employee benefit plans by compromising their hard-earned benefits and eroding confidence in those chosen to manage their trust. The U.S. Department of Labor's Employee Benefits Security Administration is committed to ensuring the integrity of employee benefit



programs,” said Employee Benefits Security Administration Regional Director Joe Rivers, in Cincinnati, Ohio.

Under federal law, Jamison must serve 85 percent of his prison sentence. Upon his release, he will be under the supervision of the U.S. Probation Office for 3 years. In addition, Jamison was ordered to pay \$640,638.31 in restitution.

U.S. Attorney Duncan, SAC Carfagno, and Director Rivers made the announcement.

The investigation was conducted by the United States Secret Service, EPA’s Criminal Investigation Division and Office of Inspector General, and the United States Department of Labor with assistance by the Kentucky Energy and Environment Cabinet. A DOJ litigation team prosecuted the case.

## Cin-Air Ordered to Pay \$90k Fine for Jet Fuel Spill in Ohio

Cin-Air LP pleaded guilty and was sentenced in U.S. District Court on October 6, 2020, for violating the Clean Water Act by causing and mishandling a jet fuel leak in March 2019 at Lunken Airport in Cincinnati, Ohio.

The company was sentenced to one year of probation and ordered to pay a \$90,000 fine. As part of its probation, the company will provide training to all employees on spill prevention and cleanup. It will also publish a full-page acknowledgment of its conduct in Business Air's FBO.

According to the plea document, on March 21, 2019, Cin-Air's fuel pump at the Lunken Airport airplane hangar was inadvertently left running overnight after a mechanic refueled an airplane.

A safety switch called the "dead man switch" had been previously altered with a zip tie, causing the switch to permanently stay in the open position.

When Cin-Air employees reported to work the morning of March 22, they discovered the fuel pump had been running all night and leaking. It was estimated that more than 3,000 gallons of fuel had spilled from the pump during the night.

Cin-Air never notified to the National Response Center and waited approximately six hours before notifying the Cincinnati Fire Department. Before calling the fire department, company employees washed down the spill area with water into a nearby storm sewer.

Emergency crews traced the fuel spill to a cove of the Little Miami River. No jet fuel was observed in the main river channel.

Efforts were made to contain and clean up the spill, and it is estimated 1,700 gallons of fuel were recovered. Cin-Air contributed approximately \$220,000 toward nearly \$440,000 in cleanup costs.



"The defendant's negligence resulted in a fuel spill that contaminated the Little Miami River, a tributary of the Ohio River," said Special Agent in Charge Jennifer Lynn of EPA's criminal enforcement program in Ohio. "Today's sentencing demonstrates that EPA and our law enforcement partners are committed to enforcing laws designed to protect the health of our communities and our natural resources."

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



## Former Sioux City, Iowa Wastewater Treatment Plant Shift Supervisor Sentenced for Violating the Clean Water Act - Rigged Environmental Testing for Years

Patrick James Schwarte, age 71, from Sioux City, Iowa was sentenced on November 9, 2020 for conspiring to rig environmental testing at the Sioux City Wastewater Treatment Plant (WWTP).

Schwarte received the sentence after a January 23, 2019, guilty plea to one count of conspiracy and one count of knowingly falsifying, tampering with, and rendering inaccurate a monitoring device or method required to be maintained under the Clean Water Act.

The evidence at the guilty plea and sentencing hearings showed that Schwarte was employed at the Sioux City Wastewater Treatment Plant for over 30 years, most recently as shift supervisor. Schwarte maintained a wastewater treatment certification from the State of Iowa's Department of Natural Resources (IDNR) and possessed extensive training and experience in municipal wastewater treatment.

The WWTP is a large regional sewage treatment plant for wastewater from industrial, commercial, and residential sources throughout Siouxland, including Sergeant Bluff, Iowa, South Sioux City, Nebraska, North Sioux City, South Dakota, and Dakota Dunes, South Dakota. The WWTP's more than 20 industrial users produce a large volume of high-strength wastewater. Under a Clean Water Act (CWA) permit, the WWTP was required to treat wastewater



before discharging it into the Missouri River, which has heavy local recreational use. Between March 15 and November 15 each year, when public use of the Missouri River was at its highest levels, the WWTP was also required to disinfect its wastewater to remove potentially dangerous human pathogens, including fecal coliform bacteria or *E. coli*.

The WWTP treated its wastewater with liquid chlorine, which kills bacteria but is potentially toxic to aquatic life. The WWTP's permit required WWTP to periodically test its wastewater not only for the presence of fecal coliform bacteria or *E. coli*, but also total residual chlorine (TRC) levels, to ensure that the Missouri River was not polluted.

From July 2012 through June 2015, Schwarte and his direct supervisor, the WWTP Superintendent, tampered with the monitoring methods at the WWTP in order to ensure the WWTP would pass all of its tests. Specifically, early in the morning on testing days for bacteria, Schwarte and the Superintendent instructed first-shift

operators at the WWTP to increase the rate of liquid chlorine supplied to the wastewater. After an hour or two passed, and an artificially high level of chlorine was fully mixed into wastewater, they ordered the WWTP's first-shift operators to use hand-held colorimeters to gauge the levels of chlorine. Only when the colorimeter "maxed out" would the Superintendent take a sample for fecal coliform bacteria or E. coli. This fraudulent procedure allowed for the chlorine in the wastewater to reach sufficient concentrations to avoid showing elevated levels of fecal coliform bacteria or E. coli, which would violate the WWTP's CWA permits. The WWTP never reported any exceedances of its CWA permit limits for bacteria or residual chlorine after July 2012.

The liquid chlorine rate was increased from about 2.5 gallons per hour, to somewhere between 70 to 120 gallons per hour, for up to two hours. On non-testing days, WWTP employees maintained the chlorine feed rate at minimal levels, well below the designed feed rate of the WWTP and at a rate clearly insufficient to ensure the WWTP consistently and adequately disinfected its wastewater, as the WWTP's CWA permits required. The engineering firm that designed the liquid chlorine feed system at the WWTP estimated that approximately 16.7 gallons of chlorine would need to be fed per hour to properly kill bacteria.

Then, in the afternoon on fecal coliform bacteria or E. coli testing days, well after the high amounts of chlorine had dissipated from the WWTP's chlorine contact basin, and when an insufficiently low rate of liquid chlorine was supplied to the basin, Schwarte and the Superintendent would test again for TRC. In the afternoon, they were certain the TRC would pass, because only a minimal rate of liquid chlorine was supplied to the chlorine contact basin at that time. Again, this minimal rate was clearly insufficient to ensure the WWTP consistently and adequately disinfected its wastewater, as required.

The WWTP was also not operated or maintained in good working order, which also violated the WWTP's permit. For example, the WWTP's computer system was not only insufficiently connected and inadequately programmed to work with the various parts of the WWTP, but also it worked only intermittently. Although the WWTP was designed to have two operational chlorine contact basins, for years the City operated the WWTP with only one operational chlorine contact basin. Because both chlorine contact basin gates were "old and very leaky," as reflected in an engineering report provided to the City in April 2012, wastewater constantly poured into the "offline" chlorine contact basin and later, out of the "offline" chlorine contact basin and into the Missouri River.

Schwarte was sentenced to two years of probation, including two months of home confinement, and fined \$5,000.

"Patrick Schwarte intentionally cheated on environmental tests, knowing he was violating the Sioux City Wastewater Treatment Plant's environmental permit and polluting the Missouri River," said United States Attorney Peter E. Deegan, Jr. "By doing so, he put recreational users at risk and endangered the river's aquatic life. This blatant disregard for the law and reprehensible treatment of one of our nation's treasured waterways was nothing short of outrageous."

The case was investigated by EPA's Criminal Investigation Division, EPA's Office of Inspector General and the FBI. The case was prosecuted by a DOJ litigation team.

### Former EPA Fugitive Sentenced on Wire Fraud Charges in Connection with Dumping of Radioactive Drilling Waste in North Dakota

James Kenneth Ward, 58, of Belgrade, Montana, was sentenced on October 22, 2020 to four months in prison (the time he had served in custody) and two years of supervised release, U.S. Attorney Kurt Alme said. Ward admitted dumping radioactive contaminants from oil drilling at an abandoned gas station in North Dakota, instead of properly disposing of the waste as hired to do, Ward pleaded guilty in July to wire fraud.

Chief U.S. District Judge Brian M. Morris presided. Chief Judge Morris also ordered Ward to pay a \$2,500 fine and \$9,977 restitution.

"Mr. Ward's actions not only defrauded a company that had hired him to properly dispose of oil drilling waste but they also put the environment and the public at risk by deliberately abandoning the contaminated materials at an unsecure, defunct gas station property. Those who poison the environment for personal gain will be caught and prosecuted," U.S. Attorney Kurt Alme said.

"The defendant in this case engaged in a fraudulent scheme that resulted in a serious threat to public health in the form of improperly disposed of radioactive waste." said Lance Ehrig, Assistant Special Agent in Charge of EPA's Criminal Enforcement Program in Montana. "Today's sentencing demonstrates the EPA's commitment to protecting public health and holding accountable those who defraud consumers."

The prosecution said in court documents that from 2011 until 2014, Ward contracted with Zenith Produced Water, LLC, to properly incinerate and dispose of filter socks, which are tubular nets that collect pollutants and radioactive materials from saltwater produced from drilling and developing oil. Zenith Produced Water, a Colorado company that owned and operated saltwater disposal wells, paid Ward \$9,977 to properly dispose of the filter socks. Instead of disposing the filter socks as agreed, Ward dumped the filter socks at an abandoned gas station in Noonan, N.D. Zenith Produced Water would never have paid Ward the money if it knew he was going to dump the filter socks in an abandoned gas station. Ward deposited some of the checks he received from Zenith Produced Water in a bank in Deer Lodge.

The case was investigated by EPA's Criminal Investigation Division. A joint DOJ/EPA litigation team prosecuted the case.





## Quincy, Massachusetts Man Pleads Guilty After Selling Lanyards with False Claims of Protection Against COVID-19 Virus and Other Bacteria

Jiule Lin, 38, pleaded guilty on December 20, 2020 to an Information charging him with one count of distribution and sale of an unregistered pesticide. Lin pleaded guilty in federal court in Boston to selling a lanyard that falsely claimed to protect against viruses.

“At the height of a raging pandemic killing thousands of people a day, this defendant tried to profit from conning people into believing that a pesticide-coated lanyard would protect them from viruses like COVID-19. This was dangerous, opportunistic fraud,” said United States Attorney Andrew E. Lelling. “We will always pursue these kinds of cases - I have zero tolerance for people who take advantage of the fears of others during a national health crisis.”

“Bogus claims by sellers claiming to offer products that control viruses continues to pose a risk to consumers nationwide,” said Tyler Amon, Special Agent in Charge for U.S. Environmental Protection Agency (EPA) Criminal Investigation Division for New England. “EPA and our law enforcement partners will continue to focus efforts on stopping the sale of these illegal products. Consumers can help protect themselves by visiting [epa.gov/coronavirus](https://www.epa.gov/coronavirus) for a list of EPA approved disinfectant products.”

Beginning in March and April 2020, Lin listed for sale on eBay an unregistered pesticide, “Toamit Virus Shut Out,” to buyers across the United States. Based on Lin’s eBay listing, the pesticide took the form of a card-shaped device to be worn as a lanyard around the user’s neck. The eBay listing depicted the removal of germs or viruses through the wearing of the device. Other online listings for the same product included the explicit claim that the product would protect the buyer or wearer of the product from viruses or bacteria, stating that the product’s main ingredient was chlorine dioxide and showed images of the device’s purported removal of bacteria, germs and viruses.



Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the EPA regulates the production, sale, distribution and use of pesticides in the United States. A pesticide is any substance intended for preventing, destroying, repelling, or mitigating any pest, including viruses. Pesticides must be registered with the EPA. Toamit Virus Shut Out was not registered, and it is illegal to distribute or sell unregistered pesticides.

“HSI remains committed to investigating individuals and companies who seek to exploit our citizens through criminal means. Fraudulent schemes that have an effect on the health and safety of the public, especially during a national pandemic, are deplorable,” said David Magdycz, Acting Special Agent in Charge, Homeland Security Investigations (HSI), Boston. “Comprising legitimate trade and endangering American citizens is a serious offense. HSI will continue to work hand in hand with our federal partners and the United States Attorney’s Office to pursue this criminal activity.”



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The charging statute provides for a sentence of up to one year in prison and a fine of \$25,000. Sentences are imposed by a federal judge based on the U.S. Sentencing Guidelines and other statutory factors.

This case was investigated by EPA's Criminal Investigation Division, the U.S. Postal Inspection Service – Boston Division, Homeland Security Investigations, the U.S. Food and Drug Administration's Office of Criminal Investigation – New York Field Office, and the Quincy Police Department. The Assistant U.S. Attorney for DOJ's Major Crimes Unit is prosecuting the case.

## Providence, Rhode Island Ice Company to Plead Guilty to Longstanding Clean Air Act Violations

According to documents filed in U.S. District Court in Providence, an East Providence ice company is set to plead guilty to violating the Clean Air Act by repeatedly failing to implement a Risk Management Plan (RMP) to be executed in the event of an accidental release of anhydrous ammonia, an extremely hazardous substance.

According to court documents, J.P. Lillis Enterprises, Inc., D/B/A Cape Cod Ice, a cold storage warehouse and ice manufacturing facility that stores up over 10,000 pounds of anhydrous ammonia at its facility located on the banks of the Seekonk River, in an industrial area near a residential area, and in the vicinity of an elementary school, was assessed a civil penalty by the Environmental Protection Agency as far back as 2012 for failing to develop and submit an RMP, and since has been repeatedly found to contain equipment in need of repair to avoid a potential release of anhydrous ammonia.

Subsequent inspections by EPA, OSHA, and the East Providence Fire Department found the existence of corrosion on ammonia-carrying pipes and on the facility's high-pressure ammonia receiver, the failure of corrosion-preventing insulation on the pipes, and inadequate inspection, testing, and maintenance of the ammonia piping and receiver.

United States Attorney Aaron L. Weisman and Tyler Amon, Special Agent in Charge of the Environmental Protection Agency Criminal Investigation Division Boston Area Office, announced that Cape Cod Ice has agreed to pay a \$90,000 fine; serve a term of three years federal supervised release; and will, within 90 days of sentencing, engage a qualified independent ammonia refrigeration consultant to conduct an audit that (1) evaluates Cape Cod Ice's compliance with the Clean Air Act and address deficiencies identified by the EPA, OSHA, and East Providence Fire Department and (2) includes a required maintenance inspection program.

According to a Plea Agreement filed in this matter, Cape Cod Ice will submit to the United States Attorney's Office and to United States Probation within 30 days of the completion of the audit an action plan to address the findings of the audit and a timeline of completion of actions to be taken by the company.

According to court documents, in 2015, Cape Cod Ice repaired the corroded receiver and certified to OSHA that it had corrected the cited violations. Cape Cod Ice provided OSHA a preventative maintenance program contract with an outside consultant as evidence of its corrective actions; that contract was never signed or implemented.

Cape Cod Ice also sent to OSHA a process hazard analysis performed by an outside consultant which contained recommendations to prevent a catastrophic ammonia release; all recommendations were not implemented.

Outside consultants also performed an audit of the RMP Program and a mechanical integrity inspection which contained recommendations; all recommendations were not implemented.

In January of 2017, EPA sent a letter to Cape Code Ice, urging Cape Cod Ice to ensure compliance with the RMP requirements. In April of 2017, EPA inspected the facility and again observed numerous violations of the

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RMP and PSM regulations, including the existence of corrosion on ammonia-carrying pipes and on the facility's high-pressure ammonia receiver, and the failure of corrosion-preventing insulation on the pipes. In June of 2017, EPA also issued an Administrative Compliance Order to Cape Cod Ice.

In May of 2017, the East Providence Fire Department inspected the facility and issued a Notice of Violation finding, among other things, that ammonia piping was rusted and showed signs of excessive corrosion, with areas that had moldy insulation or no insulation; and that the ammonia receiver was corroded. The Fire Department ordered the facility to come into compliance. Cape Cod Ice has submitted reports to the East Providence Fire Department and to EPA indicating that it has taken steps to bring the facility into compliance.

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

## New York Man Admits Illegal Sale of Unregistered Pesticide Imported from Nigeria to Individuals Throughout United States

On November 10, 2020, a New York man admitted to knowingly distributing and selling to individuals throughout the United States, an unregistered pesticide imported from Nigeria, U.S. Attorney Craig Carpenito, announced.

Jude Chukwuebuka Amadike, 62, of Elmont, New York, pleaded guilty before U.S. Magistrate Judge Joseph A. Dickson in Newark federal court to an information charging him with one count of knowingly distributing or selling an unregistered pesticide in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

According to court documents filed in this case and statements made in court:

FIFRA provides for federal regulation of pesticide distribution, sale, and use to ensure that pesticides sold in the United States are safe, effective, and bear labeling containing true and accurate information. The Environmental Protection Agency (EPA) has responsibility under FIFRA to regulate the manufacture, labeling, and distribution of all pesticides shipped or received in interstate commerce. All pesticides must be registered with the EPA before the pesticide can be sold or distributed, and no person may distribute or sell a pesticide that has not been registered with the EPA.

From Sept. 15, 2016, through Nov. 14, 2018, Amadike sold an unregistered pesticide called Sniper DDVP on Amazon and eBay to customers in at least 22 states, including New Jersey. The investigation into these sales revealed that the defendant procured this pesticide by importing it from a Nigerian supplier. One such purchase in December 2017 revealed an import of approximately 798 pounds of Sniper DDVP.

On Nov. 14, 2018, law enforcement executed a search warrant at the Amadike's home and recovered 1,728 bottles of the unregistered pesticide. Laboratory testing of samples taken from these bottles revealed each sampled bottle to contain the chemical dichlorvos, which has been classified by EPA as a probable human carcinogen.

The illegal sale of an unregistered pesticide carries a statutory maximum prison sentence of one year and a fine of up to \$25,000. Sentencing is scheduled for March 16, 2021.

U.S. Attorney Carpenito credited special agents of the U.S. Environmental Protection Agency, Criminal Investigation Division, under the direction of Special Agent in Charge Tyler C. Amon; special agents of the U.S. Department of Homeland Security, Homeland Security Investigations, New Jersey Division, under the direction of Special Agent in Charge Jason J. Molina; and officers of U.S. Customs and Border Protection, under the direction of Troy Miller, Director of Field Operations, New York Field Office, with the investigation leading to the guilty plea.

A DOJ litigation team is prosecuting the case.





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there had been no observed oil sheens at Hussey's outfalls for the prior thirteen months, when, in fact, as Hussey admitted, the company's internal logs reflected dozens of sheen observations during that time. Moreover, as part of its guilty plea, Hussey admitted that it did not make an affirmative, required report to regulatory authorities of the presence of oil sheens at its outfalls until June 2018—and even then its reporting was incomplete. To that end, Hussey's oil-sheen reporting in June 2018 referenced sheens observed on three specific days, despite the fact that Hussey's own internal logs documented observed sheens on fifteen additional days during the relevant month, including multiple sheens during the same week.

As a condition of Hussey's probation, the company is also required to enter into a civil Consent Decree within 180 days of judgment in this case in connection with a pending parallel civil investigation, pursuant to which Hussey will implement a comprehensive environmental compliance program at its Leetsdale facility. Upon entry of such Consent Decree, Hussey's probation in the criminal matter will terminate.

The EPA's Criminal Investigation Division conducted the investigation and the case is being prosecuted by a joint DOJ/EPA litigation team.

### **Pittsburgh Area Copper Processing Company Pleads Guilty to Felony Violations of the Clean Water Act—Ordered to Pay \$550,000 Criminal Fine**

On December 15, 2020, a copper-processing company headquartered in Leetsdale, Pennsylvania, pleaded guilty in federal court to three counts under the Clean Water Act, United States Attorney Scott W. Brady announced.

United States District Court Judge William S. Stickman, IV, accepted the guilty plea of Libertas Copper, LLC D/B/A Hussey Copper ("Hussey") to one count each of submitting a false discharge monitoring report, discharging a quantity of oil that may be harmful to the environment, and failing to make immediate, required notification of such discharge of oil. Judge Stickman also proceeded directly to sentencing and ordered Hussey to pay a \$550,000 fine and serve a three-year term of probation.

During the hearing, Hussey was represented by its Chief Executive Officer, who made admissions on behalf of the company. The Court was advised that Hussey operated a manufacturing facility on the Ohio River that produced flat-rolled copper products for the electrical distribution, industrial, and residential construction markets. Hussey also managed wastewater generated as a result of its copper processing via a wastewater treatment plant (WWTP). The WWTP discharged wastewater via designated internal and external outfalls, including outfalls on the Ohio River. Hussey further admitted that at all relevant times, it operated pursuant to the terms of a National Pollution Discharge Elimination System (NPDES) permit issued by the Pennsylvania Department of Environmental Protection (PADEP), as authorized by the federal Clean Water Act.

As part of its guilty plea, Hussey admitted that its NPDES permit set specific discharge limits for copper and oil, among other parameters. Hussey's NPDES permit also required the company to submit discharge monitoring reports (DMRs) on a monthly basis to PADEP, documenting the quantity and quality of the discharges authorized by its NPDES permit during the preceding month. Each DMR was required to be signed and certified as to its accuracy by a responsible corporate officer on behalf of Hussey. Hussey further acknowledged that between at least June 2012 and continuing through at least May 2017, the company knowingly submitted numerous falsified DMRs to PADEP, indicating that various discharges from its outfalls were within applicable permit limits, when in truth and in fact Hussey's own internal sampling data showed that such discharges had exceeded the relevant limits. Hussey also admitted reporting false values in monthly DMR submissions to PADEP as to at least 140 parameters subject to discharge limits, including a substantial number of copper discharges. The false parameter values reported to PADEP concealed permit exceedances on at least 21 monthly DMRs.

Separate from the alleged DMR falsifications, Hussey also admitted engaging in a years-long pattern of discharging oil in a quantity sufficient to generate oil sheens on the Ohio River, in violation of the Clean Water Act. Between at least January 2012 and continuing until at least 2018, Hussey admitted that it documented in internal logs hundreds of observed oil sheens at two of the company's outfalls on the Ohio River. Notwithstanding these documented observations, Hussey admitted that it did not report any of the observed oil sheens to EPA or PADEP, as required by the Clean Water Act. Further, after PADEP issued a notice of violation to Hussey in June 2015, following a citizen complaint of an oil sheen at the company's outfall, the company admitted that a responsible corporate officer responded to the state agency that Hussey would report any future oil sheens. The next year, in July 2016, a responsible corporate officer communicated to PADEP that

## Environmental Lab Analyst Pleads Guilty to Falsifying Test Results in Ohio

U.S. Attorney Justin Herdman announced that Andrew K. Ecklund, age 57, of Tallmadge, OH entered a plea of guilty to an indictment charging him with nine counts of wire fraud.

Joining U.S. Attorney Justin Herdman in the announcement were Jennifer Lynn, Special Agent in Charge of the EPA's Criminal Investigation Division in Ohio; Patrick J. Hegarty, Acting Special Agent in Charge of the DCIS Northeast Field Office; Special Agent in Charge L. Scott Moreland of the U.S. Army Criminal Investigation Command's (Army CID) Mid-Atlantic Fraud Field Office and Ohio Attorney General Dave Yost.

According to court documents, Ecklund was previously employed as a laboratory analyst with an environmental testing company operating in Northeast Ohio. The company was paid to analyze environmental samples for organizations and government agencies across the United States and to do so according to U.S. EPA regulations. As a laboratory analyst, Ecklund was responsible for testing the samples for the presence and concentration of hazardous substances using industry standards, methodology and quality control measures.

On nine separate occasions between on or about January 3, 2012, and on or about July 25, 2015, when conducting quality control testing measures, Ecklund took steps to make it appear that the samples had passed the testing measures, when in fact, they had failed. In particular, Ecklund manipulated the tune and calibration portions of the quality control process and, in doing so, invalidated the sample analysis. By disguising these invalid tests and making them appear valid, Ecklund was able to increase his productivity by avoiding having to shut down his instruments for repair and not retesting the samples, as required by EPA regulations. As a result of his actions, the test results provided by the company to their customers were invalid.

"Deliberately falsifying the test results of a process that is in place to keep people safe and healthy shows a reckless disregard for the well-being of your fellow man," said U.S. Attorney Justin Herdman. "We are grateful for the actions of our partner agencies in this investigation in order to catch this behavior and put an end to it."

"Both environmental regulators and the regulated community rely on accurate laboratory results to make important decisions on the protection of human health and the environment," said Special Agent in Charge Jennifer Lynn of EPA's Criminal Investigation Division in Ohio. "Quality control is one of the most important aspects of sample analysis. This plea demonstrates that analysts who cover up failed quality control measures and then misrepresent test results will be held accountable."

"The integrity of the DoD procurement process is a top priority for the Defense Criminal Investigative Service (DCIS)," stated Acting Special Agent in Charge Patrick J. Hegarty, DCIS Northeast Field Office. "The defendant's guilty plea is the result of a joint investigative effort and demonstrates the DCIS' commitment to work with the USAO-NDO, the EPA-CID and the Army CID, to ensure that claims submitted to the U.S. Department of Defense for the testing of environmental samples are valid and supported by accurate documentation."

After the laboratory testing was complete, the company was required to submit an analysis report to its customers detailing the results. Each report identified the laboratory analyst who conducted the testing and described any deviations from the testing methodology, including the quality control measures. On his analysis reports, Ecklund failed to disclose that the samples had not passed the quality control measures and the ac-

tions he took to make it appear that they had passed. Ecklund is scheduled to be sentenced on March 8, 2021.

The investigation preceding the indictment was conducted by EPA’s Criminal Investigation Division, The U.S. Army Criminal Investigation Command Major Procurement Fraud Unit, The Department of Defense Criminal Investigative Service, Ohio EPA and the Ohio Attorney General’s Office. The case was prosecuted by DOJ.



## Idaho Dairy Farm and Its Owner Plead Guilty to Clean Water Act Violation

4 Brothers Dairy, Inc. (4 Bros.) and its owner, Andrew Fitzgerald, 60, of Shoshone, Idaho, pleaded guilty on October 30, 2020 to unlawful discharge of pollutant into a water of the United States, a misdemeanor violation of the Clean Water Act, announced U.S. Attorney Bart M. Davis.

According to court records, 4 Bros. is a dairy and concentrated animal feeding operation (CAFO) operating in Shoshone with at least 1,000 head of cattle. It maintains waste-water lagoons that are adjacent to the Milner-Gooding Canal, which flows to the Malad River and on to the Snake and Columbia Rivers. In the winter season of 2017, record precipitation, record snowpack, and flooding occurred, leading to extreme runoff at the 4 Bros. property. In February 2017, during this period of flooding, 4 Bros. and Fitzgerald negligently caused discharges of manure laden water into the Milner Gooding Canal at three locations.

“My office takes very seriously the responsibility of protecting Idaho’s precious natural resources,” said U.S. Attorney Davis. “We will not hesitate to hold accountable any company or individual that pollutes United States waterways located in Idaho. This prosecution reflects what can be accomplished by working collaboratively with the EPA and our partner agencies in the State of Idaho.”

For the violation, 4 Bros., faces up to five years of probation and a fine of up to \$25,000 per day of violation. Fitzgerald faces up to one year in prison and up to one year of supervised release or up to five years of probation and a fine of up to \$25,000 per day of violation.

As part of the plea agreements, the parties have jointly recommended that 4 Bros. pay a fine of \$95,000 and that Fitzgerald pay a fine of \$35,000. In addition, 4 Bros. has agreed to submit a Notice of Intent to seek coverage under the Environmental Protection Agency’s CAFO National Pollution Discharge Elimination System permit program for Idaho.

“We are all responsible for keeping our communities safe and protecting our natural resources. 4 Brothers’ Dairy and its owner, Andrew Fitzgerald, failed in this regard when they allowed hundreds of thousands of gallons of manure to enter the Milner-Gooding Canal, a tributary to some of Idaho’s most treasured waterways,” said Scot Adair, Special Agent in Charge of EPA’s Criminal Investigation Division in the Northwest. “Today’s guilty plea demonstrates that we will hold violators accountable for breaking our environmental laws.”

This case was investigated by EPA’s Criminal Investigation Division, the Idaho Department of Environmental Quality, the Idaho Department of Agriculture, and the Lincoln County Sheriff’s Office. The case is being prosecuted by DOJ.



## Oregon Dairy Pleads Guilty to Violating Clean Water Act

Myrtle Point, Oregon based Valley Crest Foods, Inc. (Valley Crest), a creamery, pleaded guilty on October 8, 2020 to repeatedly discharging milk and other pollutants into the public water treatment facility which caused waste water with elevated E Coli bacteria to enter the South Fork of the Coquille River, resulting in a public health advisory, announced U.S. Attorney Billy J. Williams.

“The United States Attorney’s Office takes seriously any business, corporation, or individual that bypasses federal environmental laws to maximize profits.” said Billy J. Williams, U.S. Attorney for the District of Oregon. “We will continue to aggressively prosecute individuals and corporations whose illegal conduct threatens our region’s natural resources and public health.”

“We are all responsible for keeping our communities safe and protecting our natural resources, and you can’t send significant amounts of corrosive wastes down the drain and expect the sewage treatment process to work properly – especially after being told repeatedly that it would not. Today’s guilty plea demonstrates that we will hold violators responsible – even criminally responsible where that is warranted – for breaking our environmental laws” said Jessica Taylor, Director of EPA’s Criminal Investigation Division.

According to court documents, in 2017 and 2018, Defendant Valley Crest Foods, Inc. was regularly discharging wastewater to the sewer system that caused disruptions at the City of Myrtle Point’s publicly owned treatment works (POTW). These disruptions resulted in the POTW’s inability to effectively process the waste it received from the local community.



Specifically, Valley Crest turns raw milk into finished milk products such as half and half, whole milk (4%), and different percentages there after 2%, 1%, and skim (0%). The investigation determined the equipment at the facility would occasionally “back up” or “clog.” When such clogs occurred, employees would drain the milk products from the equipment and then clean the system. During cleaning, the clogs would break free. Clogs based on the investigation, ranged up to several hundred gallons or more at a time. When the clogs were dislodged, a “slug” or “slug load” of milk would flow directly into the sewer system and the sewage treatment plant where it overwhelmed the treatment process.

The Defendant was regularly discharging slugs of milk that interfered with the normal disinfectant process, causing the POTW to discharge waste with elevated bacteria (E. coli) levels to the South Fork of the Coquille River, in violation of the City’s Clean Water Act discharge permit. As a result, on several of those occasions, the levels of bacteria were significant enough that it led to public service announcements warning the community to avoid using the river.

# Plea Agreements

On October 7, 2020, Valley Crest appeared before Magistrate Judge Mustafa Kasubhai, and entered a plea of guilty to the criminal information charging four counts of violating title 33 of the Clean Water Act. Valley Crest was ordered to pay a fine of \$20,000 per count.

The investigation was conducted by EPA's Criminal Investigation and is being prosecuted by a joint DOJ/EPA litigation team.

## Pesticide Smuggler Convicted by Federal Jury in California

On November 5, 2020, a federal jury found Veronica Perez of Hemet, California, guilty of smuggling an unregistered Mexican pesticide into the United States.

After a three-day trial, the jury found that Perez concealed twenty containers of Fosfuro de Zinc (zinc phosphide) in her purse, and failed to declare them at the border when she attempted to cross into the United States from Mexico on July 11, 2019. The jury returned its verdict late yesterday.

According to the EPA, zinc phosphide is an extremely toxic rodenticide, and the ingestion of small amounts can cause death in animals and humans. In fact, consumption of a single bait zinc phosphide pellet can be lethal to a small bird or mammal. Ingestion of seven drops to one teaspoon of zinc phosphide would likely kill a 150-pound person. After it is ingested, the zinc phosphide reacts with acid in the stomach, producing phosphine gas, which blocks cells from making energy, killing the cells. Phosphine gas can also be produced in the stomach if zinc phosphide dust is inhaled and swallowed after clearing from the lungs. Phosphine gas is extremely toxic and damages the heart, brain, kidney, and liver.

“There’s a reason these toxic chemicals are restricted in the United States,” said U.S. Attorney Robert Brewer. “This verdict serves as a warning that violators will be prosecuted as part of our best effort to protect people and the environment from deadly pesticides.” Brewer commended prosecutors Melanie Pierson and Steve DaPonte, and federal agents with Homeland Security Investigations and the U.S. Environmental Protection Agency, Criminal Investigations Division, for their excellent work to achieve justice in this matter.



“Illegal pesticides contain very dangerous and toxic chemicals, and their use jeopardizes public safety, pollutes the environment, and puts people’s health at risk,” said Cardell T. Morant, Special Agent in Charge of Homeland Security Investigations (HSI).

“These unregistered substances can be very harmful, and HSI and our partners at EPA-CID, CBP, and the U.S. Attorney’s Office are committed to working together to stop these deadly pesticides from entering the United States.”

“The pesticides involved in this case pose serious public health and environmental dangers,” said Special Agent in Charge Scot Adair of EPA’s Criminal Investigation Division in California. “The verdict in this case demonstrates that individuals who intentionally violate smuggling and environmental protection laws will be held responsible for their crimes.”

The case was investigated by EPA’s Criminal Investigation Division and Homeland Security Investigations. This case was prosecuted by DOJ.

### Managers Of Queens, New York Business Charged with Selling Ineffective Covid-19 Air Sanitizer

On November 2020, in federal court in Brooklyn, New York, Po Shan Wong and Zhen Wu of JCD Distribution Inc. (JCD) made their initial appearances before United States Magistrate Judge Sanket J. Bulsara on a criminal complaint charging the defendants with selling “Virus Shut Out Cards,” which they marketed as air sanitizers designed to kill the novel coronavirus (COVID-19), but which have not been demonstrated to be effective in treating or preventing the virus. Specifically, the defendants are charged with conspiring to distribute and sell one or more pesticides that are not registered with the United States Environmental Protection Agency (EPA) and that are adulterated or misbranded. The defendants surrendered to authorities this morning.

Seth D. DuCharme, Acting United States Attorney for the Eastern District of New York, Philip R. Bartlett, Inspector-in-Charge, United States Postal Inspection Service, New York Division (USPIS), and Tyler Amon, Special Agent-in-Charge, United States Environmental Protection Agency, New York Region (EPA), announced the arrests.

As alleged in the complaint, between May 2020 and July 2020, Po Shan Wong served as the General Manager, and Zhen Wu served as Sales Manager at JCD which maintained a business address in College Point, Queens. During that time, the defendants and JCD advertised “Virus Shut Out Cards” on the company’s website and Facebook page, and marketed and sold these products to customers by phone, making various untested claims regarding the effectiveness of the cards. For example, JCD’s Facebook page claimed that the cards emit chlorine dioxide and, thereby, serve as “portable space disinfection and sterilization cards” with a “sterilization rate at 99%.” In fact, chlorine dioxide—a gas—is a bleaching agent and a pesticide as defined by Federal Insecticide, Fungicide and Rodenticide Act.

JCD’s Facebook page also contained images that depicted a blue card, approximately the size of a credit card, being used by children and adults. For example, the images showed the blue card worn on a lanyard around a woman’s neck, hung from the lapel of a man’s suit jacket, hung from the pocket of a medical doctor’s white coat, attached to a boy’s backpack and a girl’s stroller, and attached to computer monitors. JCD’s Facebook page also claimed that the cards “replace masks.” JCD sold the cards in minimum quantities of 50, charging \$9.50 per card.

Random samples of the “Virus Shut Out Cards” were tested by the EPA’s National Enforcement Investigations Center and found to contain sodium chlorite in amounts sufficient to convert into chlorine dioxide when exposed to the water vapor and carbon dioxide in the air. Breathing air with sufficiently high concentrations of chlorine dioxide may cause difficulty breathing, irritation in the nose, throat and lungs, shortness of breath, chronic bronchitis and other respiratory problems.

“The brazenly false claims allegedly promoted by the defendants about their product potentially endangered the public not only by claiming to protect against the Covid-19 virus, but also by exposing users to the health hazard posed by a misbranded pesticide,” stated Acting U.S. Attorney DuCharme. “The Department of Justice is working closely with its law enforcement partners to protect the public from those who exploit the global pandemic to enrich themselves.”

“The COVID-19 pandemic has opened a flood gate of fraudsters whose only goal is to take advantage of the





public with bogus and unsubstantiated claims of virus protection products, such as this one. Consumers should be skeptical of any device, elixir, lotion or potion claiming to prevent or cure COVID-19 because to date, there is no such product. Postal Inspectors are working hard to stop these fraudsters in their tracks,” stated USPIIS Inspector-in- Charge Bartlett.

“American consumers continue to be at risk from the illegal sale of products making bogus claims about effectiveness against viruses,” stated EPA Special Agent-in-Charge Amon. “EPA and our law enforcement partners will continue focusing our efforts on stopping these illegal sales and holding criminal opportunists accountable for their actions. Consumers can help protect themselves by visiting [epa.gov/coronavirus](https://epa.gov/coronavirus) for a list of EPA-approved disinfectant products.”

The charge in the complaint is an allegation, and the defendants are presumed innocent unless and until proven guilty. If convicted of the charge, they face up to one year in prison.

The investigation of this matter was conducted by EPA’s Criminal Investigation Division. The prosecution is being handled by DOJ’s General Crimes Section.

### **Pittsburgh Water and Sewer Authority to Plead Guilty to Clean Water Act Violations; Former Treatment Plant Supervisor Indicted**

The Pittsburgh Water and Sewer Authority (PWSA), headquartered in downtown Pittsburgh, Pennsylvania, was charged by criminal information in federal court and a former supervisor has been indicted for violating the Clean Water Act, United States Attorney Scott W. Brady announced on November 18, 2020.

The Pittsburgh Water and Sewer Authority has been charged and will plead guilty to one count of violating its National Pollutant Discharge Elimination System Permit (the NPDES Permit) by discharging sludge into the Allegheny River. The Authority will also plead guilty to seven counts of making false statements in written reports about the amount of sludge it was sending the ALCOSAN's waste treatment facility. Under the terms of the plea agreement, PWSA will agree to adhere to the terms of a comprehensive Environmental Compliance Program to correct the violations of federal law and to prevent further unlawful pollution of the Allegheny River.

In a related matter, former Aspinwall Drinking Water Treatment Plant supervisor Glenn Lijewski, 69, of Pittsburgh, was indicted on November 12, 2020, and charged with one count of conspiracy to violate the Clean Water Act and two counts of violating the PWSA's Clean Water Act Industrial User Permit. The indictment alleges that Lijewski was directly responsible for the unauthorized discharge of clarifier sludge into the Allegheny River in violation of the PWSA's NPDES Permit. It further alleges Lijewski directed other plant employees to discharge sludge into the river. Finally, the indictment alleges Lijewski directed employees to use estimated sludge flow numbers instead of actual numbers, and that the use of these estimated numbers violated PWSA's Industrial User Permit.

"For seven years, the Pittsburgh Water and Sewer Authority has failed to meet its public trust obligations in complying with the Clean Water Act during the production of drinking water for the citizens of Pittsburgh," said U.S. Attorney Brady. "Today's criminal charges shed light on years of mismanagement and malfeasance. The Department of Justice and the Environmental Protection Agency are committed to protecting you and your families by ensuring that the water you drink is produced safely and that the area's rivers are not polluted with waste."

"The people of Pittsburgh deserve and expect local utilities to obey environmental requirements that protect natural resources," said EPA Special Agent in Charge Jennifer Lynn. "The defendants in this case are accused of dumping sludge into the Allegheny River. Today's charges show that EPA and our law enforcement partners are committed to enforcing regulations that help protect our communities from environmental and health hazards."

The Criminal Information filed alleges that PWSA violated its NPDES Permit when its employees at the Aspinwall Drinking Water Treatment Plant discharged sludge generated during the drinking water treatment process into the Allegheny River. During this process various chemicals are added to water drawn from the Allegheny River. These chemicals cause small particles suspended in the water to clump together. Afterwards, the partially treated water is transferred to two large sedimentation basins where solids and debris settle out. The water is then transferred back to the Aspinwall Plant where it was subjected to a clarification process. This took place in a facility known as the Clarifier Building, which contains four large concrete basins known as clarifiers. The addition of chemicals to the water promoted the generation of additional clumps of



solids which settled on the bottom of each clarifier and were pumped to a large concrete structure located near the banks of the Allegheny River. The solids were referred to as sludge and the large concrete pit was referred to as "the sludge pit," "the ALCOSAN pit," or "FM-5." FM-5 had pipes that led to the Allegheny River and sewer line.

Under the terms of its NPDES Permit, PWSA was only permitted to discharge storm runoff water and partially treated drinking water that needed to be emptied out of a clarifier prior to cleaning and repairs. That water was referred to as "clarifier blowdown." PWSA was not permitted to discharge clarifier sludge into the Allegheny River.

Instead, between 2010 and May 2017, PWSA employees and supervisors at the Aspinwall Plant diverted and discharged sludge into the Allegheny River. By using electronic or manual controls at FM-5, the employees caused the sludge to flow from FM-5 to a discharge point known as Outfall 012 and then into the Allegheny River.

At various points, plumes of discolored water, some of which were several hundred feet long, and solids were visible in the river. Over time, the sludge discharge resulted in a buildup of solids. Employees at the Aspinwall Plant referred to the buildup as an island. Birds were also observed walking on the island when the river levels were low. The river's currents dissipated the island over time, but the island would reappear when new discharges occurred.

PWSA had also been issued a Clean Water Act Industrial User Permit by ALCOSAN. Under the terms of this permit, PWSA was permitted to ship one million gallons of sludge per day to ALCOSAN's waste treatment facility. The permit required PWSA to determine the daily amount of sludge through the use of a meter. PWSA installed flow meters at FM-5 and at the clarifier basins. The readings from the meters had to be included in bi-annual reports PWSA was required to submit under the penalties of perjury to ALCOSAN.

The flow meters at two of the clarifier basins broke in or around late December 2014 or early January 2015. The meter at FM-5 also broke and was inactive by early 2015. As a result, PWSA supervisors at the plant instructed the plant's operators to estimate the amount of sludge flowing from the clarifier basins to FM-5 and from there to the ALCOSAN facility. These estimates were also included in the reports PWSA sent to ALCOSAN. These reports also represented that PWSA's employees periodically checked the calibration of the sludge flow meters to ensure they were within factory limits.

Each report was signed by a PWSA representative as being "true, accurate, and complete."

In July 2019, PWSA's management obtained approval from PWSA's Board of Directors for funds in "the amount of \$47,852,71 to furnish and install four new flow meters for the sludge valves associated with each of the four clarifiers at the Aspinwall Water Treatment Plant." On January 15, 2020, investigators from the EPA, an attorney from the United States Attorney's Office, and an attorney from EPA, Criminal Enforcement visited the Aspinwall Plant to interview employees and tour the facility. Part of the tour included a walk through the Clarifier Building and past the meters. No mention as to the inoperability of the meters was made. The following day, two of PWSA's employees informed the investigators and the prosecutors that two of the meters were broken and had been for years. In February 2020, PWSA replaced the sludge flow meters, more than five years after they had broken.

Under the terms of the plea agreement PWSA will be placed on probation for a period of three years. In lieu of a fine, PWSA will be required to pay \$500,000 into a self-funded Compliance Fund. Under the terms of the plea agreement, PWSA is not permitted to use the fund's cost as a justification for any rate increase proposal it may submit to the Pennsylvania Public Utility Commission. The fund will be used to pay for comprehensive environmental compliance program to which PWSA must adhere. This program will be subject to the approval of the United States Attorney's Office and will focus on the production of drinking water; PWSA's compliance with its NPDES and Industrial User Permits; and the proper storage of chemicals at the plant. The United States Attorney's Office and the EPA will monitor implementation of the plan during PWSA's period of probation. PWSA will also be required to provide annual environmental audits to the United States Attorney's Office and the EPA. These audits will also be available on the Authority's website for the public's benefit. PWSA will also be required to install an Environmental Compliance Manager at the Aspinwall Plant. This individual will be authorized to receive complaints and conduct investigations concerning environmental issues occurring at the plant.

For Lijewski, the law provides for a maximum term of imprisonment of five years as to the Conspiracy count and three years for a violation of a Clean Water Act Industrial User Permit. There are also potential fines associated with these crimes. Under the Federal Sentencing Guidelines, the actual sentence imposed would be based upon the seriousness of the offense and the prior criminal history, if any, of the defendants.

Assistant United States Attorney Michael Leo Ivory and Martin Harrell, a criminal enforcement attorney with EPA Region 3 Office of Regional Counsel, are prosecuting this case on behalf of the government.

The Environmental Protection Agency conducted the investigation that led to the prosecution of the Pittsburgh Water and Sewer Authority.