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.

November-December 2021

In This Edition:

- Marmon Utility LLC – Region 1
- Kristofer Landell, Stephanie Laskin – Region 2
- Bruce Evans Sr., Bruce Evans Jr. – Region 3
- Robert Yost, Jacob Reese—Region 3
- Filibuster Distillery and Sid Dilawri—Region 3
- Lee Vann Crawford, Eastern Electronics Recycling—Region 4
- John Affourtit—Region 4
- Aaron Rochester—Region 7
- US Minerals Inc – Region 8
- Summit Midstream Partners LLC – Region 8
- Kwong Yau Lam – Region 9
- Monsanto – Region 9
- Anthony Shand Gilstrap—Region 9
- Beta Operating Co LLC; Amplify Energy Corp; San Pedro Bay Pipeline Co – Region 9
- Seattle Barrel and Cooperage Company, Louie Sanft – Region 10
- Loren Kim Jacobson (KCCS Inc) —Region 10

Quick Links

Defendant Summary

Sentencings

Plea Agreements

Trials & Settlements

Indictments/ Informations

EPA United States Environmental Protection Agency

EPA Pub. 310-N-15-007

Defendant Summary

Region	Defendants	Case Type/Status
1	Marmon Utility LLC	Plea Agreement
2	Kristofer Landell Stephanie Laskin	Sentencing
3	Filibuster Distillery and Sid Dilawri	Plea Agreement
3	Bruce Evans Sr. Bruce Evans Jr.	Trial
3	Robert Yost, Jacob Reese	Indictment
4	John Affourtit	Plea Agreement
4	Lee Vann Crawford, Eastern Electronics Recycling USA	Plea Agreement
7	Aaron Rochester (Recycletronics)	Sentencing
8	US Minerals Inc	Sentencing
8	Summit Midstream Partners LLC	Sentencing
9	Kwong Yau Lam	Sentencing
9	Monsanto	Plea Agreement
9	Beta Operating Co LLC; Amplify Energy Corp; San Pedro Bay Pipeline Co	Indictment
9	Anthony Shane Gilstrap	Indictment
10	Seattle Barrel and Cooperage Company; Louie Sanft	Trial
10	Loren Kim Jacobson (KCCS Inc)	Sentencing

NY Project Monitor and Abatement Company Owner Sentenced to Jail and Fined $399,000 for Conspiring to Violate Asbestos Regulations

Kristofer Landell and Stephanie Laskin were sentenced on December 1, 2021 in Binghamton, New York, for conspiring to violate Clean Air Act regulations that control the safe removal, handling and disposal of asbestos.

Landell and Laskin were sentenced to eight months and ten months of incarceration respectively, as well as three years of supervised release, during which time the defendants must surrender any asbestos-related licenses. Co-defendants Roger Osterhoudt, Gunay Yakup and Madeline Alonge were all sentenced to three years' probation in early November. All five defendants were further ordered to pay approximately $399,000 in restitution to the Environmental Protection Agency (EPA) for its costs related to cleaning up the now-contaminated site in Kingston, New York, known as the "Tech City property." The defendants may also be ordered to pay additional monies to members of the community who were potentially exposed to hazardous air pollutants as a result of the defendants' conspiracy.

According to court-filed documents, Landell, Laskin, Yakup, and Alonge engaged in a year-long conspiracy to violate federal and New York State Department of Labor (NYSDOL) regulations intended to prevent human exposure to asbestos. More specifically, between 2015 and 2016, Landell and Laskin both permitted, and in some cases directed, abatement workers to remove asbestos from the TechCity Property illegally by stripping regulated asbestos containing materials without properly containing the work area and removing the asbestos dry, thus allowing airborne fibers to escape into the surrounding environment. In an effort to conceal those crimes, Landell, acting in his capacity as an air- and project-monitor, concealed these violations by fabricating and falsifying paperwork required by EPA and the State of New York. The conspirators also engaged in other efforts to deceive authorities, such as by failing to conduct air-monitoring and falsifying at least one NYSDOL-required "final air clearance." Despite the defendants' efforts to conceal their crimes, NYSDOL inspectors found numerous violations during the course of the year-long project and issued notices of violation. Conditions at the TechCity Property deteriorated until NYSDOL shut down operations in August 2016 and directed the defendants and their companies to cease all work. Notwithstanding this NYSDOL order, the defendants continued operations for a short time, prompting a criminal investigation.

In his plea agreement, Osterhoudt, the Vice President of Property Management for TechCity, admitted that as a

result of the defendants' illegal asbestos removal, there was likely a release of asbestos contamination into the environment that placed others at an increased risk of death or serious bodily injury. Asbestos has been determined to cause lung cancer, asbestosis and mesothelioma, an invariably fatal disease. Given that EPA has determined that there is no safe level of exposure to asbestos, the United States has endeavored to identify all those persons in close proximity to the illegal asbestos operations during the TechCity project and is seeking restitution on behalf of all those potentially exposed to airborne asbestos contamination during the relevant time period. That process is ongoing.

The investigation was handled by EPA's Criminal Investigation Division with assistance from the New York State Department of Environmental Conservation and information provided by the NYSDOL Asbestos Control Bureau and the federal Occupational Safety and Health Administration. The case was prosecuted by DOJ.

Tanker Company Owner Sentenced to Prison for Lying to OSHA and Violating DOT Safety Standards in Idaho

On November 19, 2021 , Loren Kim Jacobson, 65, of Pocatello, Idaho was sentenced to a month in federal prison, five months of home confinement, three years of supervised release, and a $15,000 fine for lying to the Occupational Safety and Health Administration (OSHA) and for making an illegal repair to a cargo tanker in violation of the Hazardous Materials Transportation Act. The crimes came to light through the investigation of an explosion.

Jacobson, who is the owner of a tanker testing and repair company, KCCS Inc., pleaded guilty to the above offenses. The case arose from an explosion that occurred at KCCS during a cargo tanker repair on Aug. 14, 2018, which severely injured a KCCS employee. According to the plea agreement, the KCCS employee's welder flame pierced the skin of the tanker, and ignited residual flammable material inside. After the explosion, an OSHA investigator interviewed Jacobson about the circumstances surrounding the accident, as part of an investigation into whether Jacobson had violated OSHA safety standards for cargo tanker repair work. Jacobson made a materially false statement to the OSHA investigator during that interview, namely that the welder was merely an "observer," not an employee, and that KCCS did not have any employees, as OSHA requirements only apply to "employers."

Jacobson lied about not having employees try to evade legal repercussions and penalties for his violation of various Occupational Safety and Health Act safety standards during the repair that resulted in the explosion. According to the sentencing memorandum, Jacobson also lied about several other points, including telling the OSHA inspector that he had used a lower explosive limit meter to test the tank for explosive fumes prior to welding. Using such a meter could have detected the fumes that resulted in the explosion.

Jacobson also admitted in the plea agreement that he did not possess the necessary certification to conduct cargo tanker repairs, which he regularly conducted at KCCS. Under the Hazardous Materials Transportation Act, all repairs to the skin of a cargo tanker require that the repairperson hold an "R stamp," which can be obtained only after meeting extensive training requirements. The purpose of this requirement is to ensure that those conducting repairs on cargo tankers (which often haul flammable materials) have adequate training and expertise to do so safely. Jacobson admitted that he had a regular practice of making repairs requiring an R-stamp despite knowing he did not have one, and that he would send employees into cargo tankers to weld patches from the inside so that the illegal repairs would not be visible from the outside. Jacobson did not follow OSHA safety standards for protecting employees from such dangerous "confined space entries."

According to the plea agreement, Jacobson directed his employee to conduct a hidden repair of this type on the tanker that subsequently exploded, in violation of both OSHA safety standards and the R-stamp requirement.

According to the government's sentencing memorandum, Jacobson also had a routine practice of falsifying results for pressure testing that he conducted on behalf of cargo tank owners. Pressure testing is required under law and is intended to make sure that cargo tanks will automatically vent gases if pressure inside the tank gets too high, thereby preventing explosions. Instead of actually testing tank valves, Jacobson merely wrote plausible numbers on the test result forms. When confronted about this practice, Jacobson lied to a Department of Transportation inspector about it, attempting to hide the practice by producing fake test result forms with passing values. He later admitted his practice of falsifying pressure test results.

"This tragic accident could have been prevented had the defendant adhered to OSHA workplace safety requirements," said Acting U.S. Attorney Rafael M. Gonzalez, Jr. "It is vital that companies follow all health and safety guidelines and ensure a safe workplace for its employees. By callously focusing on financial gain, the defendant created the conditions that led to the explosion," Gonzalez added before commending the investigators at OSHA, the Department of Transportation, and the Environmental Protection Agency for uncovering the evidence in this case."

"Playing cat and mouse with inspectors, rather than complying with legal requirements that keep workplaces safe, is a dangerous game that can ruin lives," said Assistant Attorney General Todd Kim of the Justice Department's Environment and Natural Resources Division. "The Department of Justice will hold accountable those who mock the law this way."

"Loren Jacobson made material false statements to OSHA investigators regarding his failure to take safety precautions to protect his employees," said Special Agent-in-Charge Quentin Heiden of the U.S. Department of Labor Office of Inspector General's Los Angeles Region. "His actions put his employees at extreme risk and resulted in the explosion of a cargo tanker they were repairing. The sentencing affirms the U.S. Department of Labor Office of Inspector General's commitment to bring to justice those who lie to OSHA officials."

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

U.S. Minerals, Inc. Sentenced for Clean Air Act Violation that Exposed Employees to Arsenic at Former Montana Plant

U.S. Minerals, Inc., a corporation that admitted to exposing employees at its former Anaconda plant to elevated levels of arsenic, was sentenced on December 10, 2021, to a maximum probationary term, fined and ordered to enact a medical monitoring plan for workers at the Montana plant and a nationwide environmental health and safety plan at its five other plants, U.S. Attorney Leif M. Johnson said.

U.S. Minerals pleaded guilty in August to one count of negligent endangerment, a misdemeanor, under the Clean Air Act as charged in a criminal information.

U.S. District Judge Dana L. Christensen sentenced U.S. Minerals as recommended in a plea agreement to a maximum of five years of probation and to pay a $393,200 fine. The criminal fine is in addition to civil penalties totaling $106,800 imposed by the Occupational Safety and Health Administration in a related civil proceeding, bringing the total amount to be paid by U.S. Minerals to $500,000.

Probationary conditions require U.S. Minerals to implement a medical monitoring program for employees who were exposed to elevated levels of arsenic during their work at the Anaconda plant and a nationwide environmental health and safety plan at all five of its plants throughout the United States. The Anaconda plant ceased operations in June. The company operates plants in Illinois, Wisconsin, Kansas, Texas and Louisiana.

“Despite repeated warnings and enforcement actions from regulators, U.S. Minerals continued to poison its workers and put profits before the well-being of its employees. U.S. Minerals’ history of misconduct showed a lack of care for employee safety and an utter disregard for regulations intended to protect human health and the environment. This case ends U.S. Minerals’ criminal conduct in Montana and will hold it accountable at its other plants,” U.S. Attorney Johnson said. “I want to thank Assistant U.S. Attorney Ryan G. Weldon, Special Assistant U.S. Attorney Eric E. Nelson, the Environmental Protection Agency’s Criminal Investigation Division, the U.S. Department of Labor, Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and the Montana Department of Public Health and Human Services for investigating this case and bringing these wrongdoers to justice.”

“U.S. Minerals exposed its employees to toxic levels of arsenic, a hazardous air pollutant known to pose significant health risks,” said Special Agent in Charge Lance Ehrig of EPA’s Criminal Investigation Division in Montana. “The sentencing demonstrates that EPA and its partners will hold corporations accountable when they ignore environmental regulations and jeopardize the health of workers.”

“The continued dedication of the Environmental Protection Agency and the United States Department of Justice, working in collaboration with the Occupational Safety and Health Administration, achieved justice and improved health and safety working conditions for the employees of U.S. Minerals nationwide. By working together, we leveraged a multi-agency front and held U.S. Minerals accountable for violating multiple federal laws and overexposing employees to inorganic arsenic,” said Jennifer Rous, Regional Administrator for OSHA’s Denver Region.

The government alleged in court documents that U.S. Minerals manufactured silicate abrasive, a substance

sold to industrial and governmental customers. Raw materials used in the production process were obtained from a waste copper slag pile, located within the Anaconda Superfund site. Processing the slag generates dust, which releases inorganic arsenic into the air. The government further alleged that from July 2015 until February 2019, U.S. Minerals negligently released inorganic arsenic, a hazardous air pollutant, into the air and exposed employees. Exposure to arsenic is known to cause lung and skin diseases, including an increased risk of skin cancer, and may also cause cardiovascular effects and other cancers.

The government further alleged that in 2015, the National Institute for Occupational Safety and Health (NIOSH) and OSHA each inspected the site and found numerous violations of health and safety standards that resulted in $106,800 in OSHA penalties.

In 2018, the Montana Department of Public Health and Human Services learned of health-related issues affecting U.S. Minerals employees, visited the site and informed the company that its employees were exposed to “apparent inhalation hazards” from dust. A second inspection found the violations were unresolved. Montana shut down U.S. Minerals in February 2019. When the state allowed operations to resume in March 2019, employees continued to test high for arsenic and lead.

The case was investigated by EPA’s Criminal Investigation Division, OSHA, NIOSH, and the Montana Department of Public Health and Human Services. The U.S. Department of Labor’s Office of the Solicitor litigated the OSHA matter. The case is being prosecuted by a joint DOJ/EPA litigation team.

Pipeline Company Sentenced for Largest-Ever Inland Oil Spill—Pipeline Rupture Discovered After 143 Days and Discharge of 29 Million Gallons

On December 6, 2021, the pipeline company responsible for the discharge of 29 million gallons of oil-contaminated "produced water" – a waste product of hydraulic fracturing – was sentenced to pay a $15 million criminal fine and serve a three year period of probation.

Summit Midstream Partners LLC pleaded guilty to criminal charges that it violated the Clean Water Act, as amended by the Oil Pollution Act of 1990, by negligently causing the discharge into U.S. waters in 2014, and deliberately failing to immediately report the spill to federal authorities as required. More than 700,000 barrels were discharged thereby contaminating Blacktail Creek and nearby land and groundwater. By law, the federal fines in this case will go to the Oil Spill Liability Trust Fund used to respond and clean up future oil spills.

"Summit is being held criminally accountable for its crimes of negligently discharging more than 29 million gallons over more than 4 months and then knowingly failing to report the discharge," said Assistant Attorney General Todd Kim of the Justice Department's Environment and Natural Resources Division. "Summit gave misleading and incomplete statements to the government about the duration and size of the spill. Through the civil and criminal cases, Summit is being held responsible for its misconduct and must implement more rigorous environmental management to prevent and detect future spills as a condition of probation."

"The defendant in this case failed to take adequate measures to detect a spill of oil-contaminated water from their pipeline and provided incomplete and misleading information to government officials on the duration and volume of the spill," said Acting Assistant Administrator Larry Starfield of the EPA's Office of the Enforcement and Compliance Assurance. "Investigations revealed that the spill occurred over 143 days and released more than 29 million gallons of contaminated waters into the environment, including tributaries of the Missouri River. This case sends a clear message that EPA and our law enforcement partners will hold responsible companies that fail to take appropriate steps to detect and prevent spills."

A detailed statement of facts has been filed in court and is publicly available here. According to the factual admission agreed to by the company, "Summit's negligence included the design, construction and operation of the Marmon Water Gathering System pipeline, as well as the negligent failure to find and stop the spill after learning of objective signs of a leak." Summit started pipeline operations without meters at both ends of the pipeline to conduct "line balancing" or otherwise having a reliable leak detection system in place.

“Even after the company learned of major drops in pressure and volume – objective signs of a leak – the company negligently continued operations and thus caused millions of additional gallons to be discharged into U.S. waters without learning the cause or pausing operations,” according to the joint factual statement.

The criminal fine is in addition to a $20 million civil penalty imposed on Summit Midstream Partners LLC and a related company, Meadowlark Midstream Company LLC, to resolve civil violations of the Clean Water Act and North Dakota water pollution control laws. On Sept. 28, the civil consent decree was approved by the U.S. District Court for the District of North Dakota.

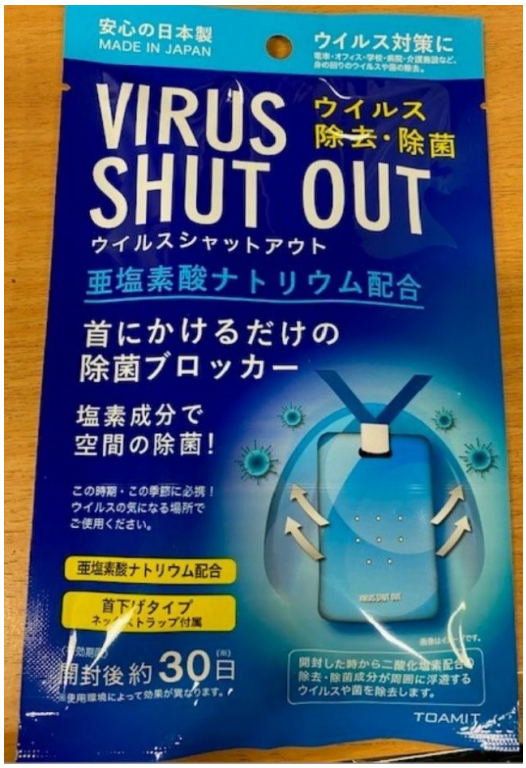
The criminal investigation was conducted by EPA’s Criminal Investigation Division. EPA’s Office of Enforcement and Compliance Assurance, EPA Region 8, the North Dakota Department of Environmental Quality, the North Dakota Industrial Commission, the U.S. Fish and Wildlife Service, the U.S. Department of Interior and the North Dakota Department of Game and Fish provided assistance to the criminal investigation.

The criminal case was prosecuted by Senior Litigation Counsel Richard A. Udell, Senior Trial Attorney Christopher J. Costantini, Trial Attorneys Stephen J. Foster and Erica H. Pencak of the Environmental Crimes Section of the Department of Justice’s Environment and Natural Resource Division and Assistant U.S. Attorney Gary Delorme.

Guam-Based Businessman Sentenced for Selling Illegal Products Claiming to Protect Against Viruses

On November 30, 2021, the U.S. Attorney for the Districts of Guam and the Northern Mariana Islands, announced that defendant Kwong Yau Lam, age 67, a citizen of Hong Kong and U.S. permanent resident of Guam, was sentenced in the U.S. District Court of Guam to one year probation for Distribution and Sale of an Unregistered Pesticide, and Conspiracy to Distribute and Sell an Unregistered Pesticide. The Court also ordered a mandatory $150.00 special assessment fee.

Beginning in March 2020, Kwong Yau Lam sold products marketed as "Virus Shut Out Cards" that were not registered and authorized by the United States Environmental Protection Agency (EPA). Upon hanging a card from a lanyard, it purportedly protected the consumer from viruses. On the contrary, it offered no proven protection from viruses, including COVID-19.



Lam sold 100 Virus Shut Out Cards to three merchants in Guam and told them that the product protected people from viruses. Lam ordered three more boxes containing 900 pieces from his relative in Hong Kong. U.S. Customs and Border Protection in Honolulu, Hawaii, seized two boxes from that order. After the seizure, agents with Homeland Security Investigations interviewed Lam. He told the agents that he did not get approval from any government agency to import the Virus Shut Out Cards from Hong Kong, and that he had not sold any cards in Guam. Lam lied when he made this statement because evidence showed that he sold the cards to merchants.

"This case is another shocking example of a false claim made to consumers during the initial stages of the pandemic," said U.S. Attorney Anderson. "The defendant preyed upon consumers who were justifiably concerned for their personal health and safety due to COVID-19. This was made worse by the potential harmful effects of the product itself."

"Public safety is a top priority for Homeland Security Investigations," said Special Agent in Charge John F. Tobon. "We will continue to pursue those who rob and hurt the people in our communities and make sure they are held accountable for exploiting a pandemic for profit."

"Unregistered pesticide products that make fraudulent COVID-19 protection claims pose serious public health dangers," said Special Agent in Charge Scot Adair of EPA's criminal enforcement program in Guam. The sentencing demonstrates that EPA and our law enforcement partners are committed to protecting the American people from harmful products."

Under 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, which includes 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. Lam imported the pesticide from China and later sold it to individuals in Guam.

This case was a joint investigation led by the U.S. Department of Homeland Security, Homeland Security Investigations in conjunction with U.S. Customs & Border Protection, U.S. Postal Inspection Service, Federal Bureau of Investigation, U.S. Environmental Protection Agency, Guam Customs & Quarantine Agency, and the Guam Environmental Protection Agency. The prosecution of this case was handled by the Assistant U.S. Attorney for the District of Guam.

Former Sioux City, Iowa Council Member Sentenced in Federal Court for Environmental Crimes

On November 9, 2021, Aaron Rochester, 47, from Sioux City, Iowa, was sentenced. Rochester pled guilty on March 19, 2021, to one count of unlawful storage of hazardous waste and one count of transportation of hazardous waste.

At various court hearings, evidence showed that from June 2015 through about January 2017, Rochester, as owner and operator of Recycletronics, knowingly and unlawfully stored and transported hazardous waste, namely CRTs (cathode ray tubes) and leaded glass from televisions and computers at various facilities in and around Sioux City, Iowa.

Sentencing was held before United States District Court Chief Judge Leonard T. Strand. Rochester was sentenced to three years' probation, fined $4,055,978.64, and must serve a term of three years of supervised release.

"Rochester's disregard for the laws governing proper hazardous waste transportation and storage posed significant risks to nearby communities," said Special Agent in Charge Lance Ehrig of EPA's criminal enforcement program in Iowa. "The sentencing demonstrates that EPA and our law enforcement partners are committed to enforcing laws designed to protect human health and the environment."

The case was investigated by EPA's Criminal Investigation Division. Prosecution was handled by a DOJ Litigation team.

Manufacturing Company in Seymour Connecticut Pleads Guilty to Violating Clean Water Act and Agrees to Pay $2.4 Million

On December 21, 2021, Marmon Utility LLC waived its right to be indicted and pleaded guilty before a U.S. District Judge in Bridgeport Connecticut to a felony violation of the Clean Water Act for knowingly failing to properly operate and maintain the industrial wastewater treatment system and sludge-processing equipment at the Kerite Power Cable & Pump Cable factory located at 49 Day Street in Seymour, Connecticut. Marmon Utility LLC ("Marmon"), a subsidiary of Berkshire Hathaway, owns and operates the factory.

Under the terms of its plea agreement, if accepted by the court, Marmon will be under federal probation for three years and must pay $2.4 million to the government: $800,000 as a federal penalty and $1.6 million to fund a Supplemental Environmental Project administered by the Connecticut Department of Energy and Environmental Protection ("CT DEEP") to remediate the Naugatuck River.

According to court documents and statements made in court, the Kerite Power Cable & Pump Cable ("Kerite") factory in Seymour manufactures large power cables and generates industrial wastewater containing heavy metals such as lead and zinc. Under its 2015 CT DEEP permit, Marmon was required to properly operate and maintain the wastewater treatment system at the factory to reduce the heavy-metal content by chemical precipitation before the wastewater could be discharged to the sewage treatment plant.

The investigation revealed that Marmon had been cutting back on its environmental compliance program for many years, and had not had an employee with an environmental background running its wastewater treatment system since February 2004. When the operator of the wastewater treatment system became ill in March 2016, Marmon ran the system for approximately five months with maintenance employees who lacked environmental training and training on the treatment system.

On September 7 and 8, 2016, the superintendent of the Seymour treatment plant observed unusual, rusty brown wastewater flowing into the plant and notified CT DEEP. This rusty brown influent was interfering with the decomposition of the sewage. The superintendent took samples and determined that the lead concentration of the rusty brown influent was approximately 127 times greater than the plant's normal lead measurement, and that its zinc concentration was over 10 times the typical zinc concentration. During the next several days, the superintendent had to order several truckloads of biologic microorganisms to break down the unprocessed sewage. It took two weeks for the treatment plant to return to usual operational capacity.

On September 27 and 29, 2016, CT DEEP and the plant superintendent inspected Marmon's Kerite facility and concluded that it had discharged the rusty brown influent with the high lead and zinc concentrations on September 7, 8, and 9, 2016. CT DEEP issued a Notice of Violation to Marmon based on, among other evidence:

The Marmon facility manager's statements (1) that the wastewater treatment operator had not been at the facility since the end of March 2016 due to medical reasons; (2) that no sludge had been processed in the filter press since this employee's departure; and (3) no other Marmon employee had been trained to process sludge as required under the CT DEEP permit.

The Kerite factory had discharged 5,725 gallons of industrial wastewater on September 7, 2016, and 5,225 gallons on September 8, 2016, which exceeded the daily discharge limit in Marmon's CT DEEP permit.

The lead concentration in water samples taken from Marmon's final discharge tank, which flows to the Seymour sewage treatment plant, was 69 times greater than the permissible limit in Marmon's CT DEEP permit. The zinc concentration was 8.5 times greater than the prescribed limit.

The EPA's investigation further disclosed that from at least April 24, 2016, and until September 29, 2016, the Marmon maintenance employees operating the wastewater treatment system did not know how to check and maintain the pH probe, operate the sludge filter press, check or change certain filters. These were all key components of the treatment system used to remove heavy metals from the factory's industrial wastewater. These employees also did not have access to detailed manuals for operating the system.

In fact, these Marmon employees informed investigators that, during this time period, when certain tanks became full and the system was imbalanced, they would empty the tank by opening certain valves to discharge the industrial wastewater without treating it. As of mid-October 2016, the 3,000-gallon holding tank in Marmon's wastewater treatment system held 1,000 gallons of sludge.

In addition to not properly operating and maintaining the wastewater treatment system and sludge-processing equipment at the Seymour factory, Marmon has also admitted to knowingly exceeding its maximum daily discharge limit in its CT DEEP permit on September 7 and 8, 2016, knowingly failing to notify CT DEEP promptly of the improper bypass, and that it had stopped processing the sludge using a sludge filter press as required under the CT DEEP permit.

"Any company operating a factory in Connecticut that ignores federal and state environmental laws does so at its own peril," said Acting U.S. Attorney Boyle. "Marmon failed to properly operate its industrial wastewater treatment system, thereby allowing unacceptably high levels of lead and zinc in its factory wastewater to flow to the Seymour sewage treatment plant – nearly knocking it offline. Although Marmon once had a robust environmental program, the company gradually eliminated its environmental compliance department and reassigned these duties to maintenance workers with minimal training. The prosecution under the CWA is the direct result of Marmon's penny-wise, pound-foolish approach. We recognize and thank the EPA and CT DEEP for their invaluable work in protecting the environmental integrity of Connecticut's rivers and the Long Island Sound."

"A town's publicly owned wastewater treatment plant disinfects incoming wastewater from industry so clean water can be safely returned to our creeks, rivers, and lakes," explained Special Agent in Charge Tyler Amon with EPA's Criminal Investigation Division for New England. "The criminal conduct of Marmon Utility compromised Seymour's operations and the company simply did not play by the rules. The criminal pleading demonstrates again the U.S. Attorney's Office and EPA's commitment to protecting Connecticut's environment."

"By disinvesting in environmental management and the proper operation and maintaining of its wastewater pretreatment systems, Marmon's conduct compromised the Town of Seymour's Publicly Owned Treatment Works' ability to properly treat all the wastewaters it receives from its community and protect the quality of the Naugatuck River for fishing and swimming, " DEEP Commissioner Katie Dykes said. "This action sends a

clear message – everyone has a role in protecting public health and our environment and there are significant consequences for not obeying our environmental laws and regulations. Funds that will be provided to DEEP as a result of the proposed settlement of this case will strengthen programs that preserve and improve the quality of the Naugatuck River and its aquatic ecosystem. This settlement was achieved through a strong partnership of the DEEP, the EPA and the U.S. Attorney's Office. DEEP is proud to have played a part in this effort."

This Clean Water Act offense carries a fine of not less than $5,000 but not more than $50,000 per day of the violation. Sentencing is scheduled for April 7, 2022.

This matter was investigated by EPA's Criminal Investigation Division and the Connecticut Department of Energy and Environmental Protection. The case is being prosecuted by a joint DOJ/Connecticut Attorney General litigation team.

North Carolina E-Waste Business Owner Pleads Guilty to Unlawfully Storing Hazardous Waste

On November 18, 2021, Lee Vann Crawford pleaded guilty to Knowing Storage of Hazardous Waste Without a Permit.

According to the Criminal Information, and information provided in open court, Crawford, 51, of Greenville, North Carolina, owned and operated Eastern Electronics Recycling, USA in eastern North Carolina. Eastern Electronics was a company that purported to be engaged in the responsible collection and disposal of e-waste, such as televisions, computer monitors, and other electronic equipment.

Old televisions and computer monitors contain cathode ray tubes (CRTs) which, when improperly maintained and stored, can release toxic levels of lead. Waste containing lead content of five milligrams per liter is considered "hazardous waste."

As early as 2012, Crawford began collecting and storing large volumes of e-waste, including large amounts of CRTs, at 800 W. Green Street in Robersonville, NC, within Martin County. Much of the waste at this location had been scrapped or otherwise broken down into smaller parts. CRTs had also been shattered, releasing lead. Crawford did not obtain or maintain a permit from the United States Environmental Protection Agency (EPA), or from the State of North Carolina, to store the CRTs at this location. Crawford also did not recycle or otherwise properly dispose of the CRTs.

In June of 2019, the EPA executed a search warrant at Crawford's storage location found a large quantity of shattered CRTs. Samples of waste were extracted from various locations on the property, yielding findings of hazardous amounts of lead -- 102 to 188 milligrams per liter.

The maximum punishment for Knowing Storage of Hazardous Waste Without a Permit is up to 5 years in prison and a fine of up to $50,000 per day of the violation. The sentencing for the Crawford is scheduled to occur in February of 2022.

"The illegal storage and disposal of Cathode Ray Tube waste (CRT) containing hazardous amounts of Lead contamination needlessly put the lives of the resident of Martin County, NC, and general public at an increased risk to Lead exposure," said Special Agent in Charge Charles Carfagno of EPA's Criminal Investigation Division in Atlanta, GA. "The plea agreement related to that illegal activity demonstrates that anyone who intentionally violates the law and puts the public at risk will be held responsible for their actions."

The investigation was conducted by EPA's Criminal Investigative Division and the North Carolina State Bureau of Investigation. Case prosecution is being handled by a DOJ litigation team.

Kentucky Man Pleads Guilty to Discharging Oil in Violation of Clean Water Act

On November 10, 2021, John Affourtit, 65, of Shelby County, Kentucky, pleaded guilty to knowingly discharging a harmful quantity of oil into a waterway of the United States.

According to his plea agreement, beginning in March 2017, Affourtit signed an agreement with a company to remove and dispose of the waste material at the company's abandoned zinc plating facility. In completing the contract, Affourtit admitted to pumping oil waste from the machinery pits into a large 500-gallon water trailer that he had rented. He then took the trailer to his residential property in Shelby County where he discharged it, and it went into a creek that ran through his property. The creek is a perennial stream that flows into waters that are part of the Salt River, a traditional navigable waterway. Affourtit had also disposed of other waste materials, including a container of hazardous waste, from the zinc plating facility on his property in an earthen berm.

Affourtit was indicted in August 2020.

"After agreeing to properly dispose of hazardous materials, the defendant instead chose to endanger the environment and the people that live nearby," said Carlton S. Shier, IV, Acting United States Attorney for the Eastern District of Kentucky. "Dangerous choices like this have consequences and the defendant must now face those. We appreciate the dedicated work of our law enforcement partners, whose efforts make this prosecution possible.

"The defendant's willful disregard of the Clean Water Act put nearby residents and the environment at unnecessary risk," said Special Agent in Charge Charles Carfagno of EPA's Criminal Investigation Division in Atlanta. "EPA will continue to hold accountable those that choose to deliberately violate our environmental laws."

Acting U.S. Attorney Shier; Special Agent in Charge Carfagno; and Anthony R. Hatton, Commissioner, Kentucky Department of Environmental Protection, jointly announced the guilty plea.

Affourtit is scheduled to be sentenced on February 17, 2022 at 3:30 p.m. He faces a maximum of three years in prison and a fine of not more than $250,000. However, any sentence will be imposed by the Court, after its consideration of the U.S. Sentencing Guidelines and the federal sentencing statutes.

The investigation was conducted by EPA's Criminal Investigation Division and the Kentucky Department of Environmental Protection. Case prosecution was handled by a DOJ litigation team.

Monsanto Agrees to Plead Guilty to Illegally Using Pesticide at Corn Growing Fields in Hawaii

Also Agrees to Pay Additional $12 Million and Plead Guilty to Felony Offenses Related to Previous Banned Pesticide Alleged in $10 Million Deferred Prosecution Agreement

In court documents filed on December 9, 2021, in Hawaii, Monsanto Company agreed to plead guilty to 30 environmental crimes related to the use of a pesticide on corn fields in Hawaii, and the company further agreed to plead guilty to two other charges related to the storage of a banned pesticide that were the subject of a 2019 Deferred Prosecution Agreement (DPA).

Monsanto admitted in a plea agreement that it committed 30 misdemeanor crimes related to the use of a glufosinate ammonium-based product sold under the brand name Forfeit 280. After using the product in 2020 on corn fields on Oahu, Monsanto allowed workers to enter the fields during a six-day "restricted-entry interval" (REI) after the product was applied.

The plea agreement calls for Monsanto to serve three years of probation, pay a total of $12 million and continue for another three years a comprehensive environmental compliance program that includes third-party auditor.

As a result of the conduct in which Monsanto allowed workers on 30 occasions to enter fields sprayed with Forfeit 280 during the REI, the company violated a 2019 DPA related to the storage of a banned pesticide. According to the documents filed, Monsanto will plead guilty to two felony charges filed in 2019 that the government would have dismissed if the company had complied with federal law. In conjunction with the DPA related to the two felony charges of illegally storing an acute hazardous waste, Monsanto pleaded guilty in early 2020 to a misdemeanor offense of unlawfully spraying a banned pesticide – specifically methyl parathion, the active ingredient in Penncap-M – on research crops at one of its facilities on Maui.

"Monsanto is a serial violator of federal environmental laws," said United States Attorney Tracy L. Wilkison. "The company repeatedly violated laws related to highly regulated chemicals, exposing people to pesticides that can cause serious health problems."

"The defendant in this case failed to follow regulations governing the storage of hazardous wastes and the application of pesticides, putting people and the environment at risk," said Scot Adair, Special Agent in Charge of the Environmental Protection Agency's criminal enforcement program in Hawaii. "The plea agreement shows that EPA will hold responsible those who violate laws designed to protect communities from exposure to hazardous chemicals."

In the new case filed , Monsanto admitted that "due to a lack of oversight and supervision by Monsanto," its workers violated a change to the REI period after the spraying of Forfeit 280 "by entering the fields 30 times to perform field-corn scouting within six days of spraying." ("Corn scouting" consists of checking the corn for things such as weeds, insects and disease.) The REI change for Forfeit 280 – which was extended from 12 hours to six days – was part of an industry-wide change for products containing glufosinate ammonium prompted by an EPA decision in late 2016.

Monsanto admitted that it violated the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which

regulates the registration, sale, distribution and use of pesticides, by failing to comply with Forfeit 280's labeling. The label for Forfeit 280 stated: "It is a violation of Federal law to use Forfeit 280 in a manner inconsistent with its label." Monsanto illegally used Forfeit 280 on Oahu facilities known as Lower Kunia and Haleiwa.

In the 2019 case related to Penncap-M, Monsanto pleaded guilty to a misdemeanor offense of unlawfully spraying the banned pesticide on corn seed and research crops at its Valley Farm facility on Maui in 2014. Monsanto admitted using Penncap-M in violation of FIFRA, even though the company knew its use was prohibited after 2013 pursuant to a "cancellation order" issued by the EPA. The company further admitted that, after the 2014 spraying, it told employees to re-enter the sprayed fields seven days later – even though Monsanto knew that workers should have been prohibited from entering the area for 31 days.

The felony offenses covered by the DPA – the two charges to which Monsanto will plead guilty – are the unlawful storage of an acute hazardous waste in violation of the Resource Conservation and Recovery Act (RCRA). Penncap-M was a "restricted use pesticide" that could not be purchased or used by the public, and it could only be used by a certified applicator because of the possible adverse effects to the environment and injury to applicators or bystanders that could result.

From March 2013 through August 2014, even though the pesticide was on the company's lists of chemicals that needed disposal, Monsanto stored 160 pounds of Penncap-M hazardous waste at a facility on Molokai, which made Monsanto a "Large Quantity Generator" of hazardous waste under RCRA. "Monsanto knew that Penncap-M had the substantial potential to be harmful to others and to the environment," it admitted in the documents filed.

In addition to spraying the banned pesticide at one of its three facilities on Maui, Monsanto also stored a total of 111 gallons of Penncap-M at Valley Farm and two other sites known as Maalaea and Piilani. Just like on Molokai, the storage of Penncap-M at the three Maui sites made Monsanto a "Large Quantity Generator" of acute hazardous waste at the three locations, according to court documents.

Furthermore, when it transported Penncap-M to its Valley Farm site in 2014, the company violated federal law when it failed to use a proper shipping manifest to identify the hazardous material and when it failed to obtain a permit to accept hazardous waste at that site.

In relation to the DPA and the prior guilty plea, Monsanto paid $10.2 million – a $6 million criminal fine under the DPA, a $200,000 fine for the FIFRA offense, and $4 million in community service payments to Hawaiian government entities.

In the plea agreement filed on December 9, 2021, Monsanto agreed to pay another $6 million criminal fine, as well as an addition $6 million in community service payments. Four Hawaiian agencies will receive $1.5 million payments:

- The Department of Agriculture, Pesticide Use Revolving Fund – Pesticide Disposal Program/Pesticide Safety Training;

- The Department of the Attorney General, Criminal Justice/Investigations Division;
- The Department of Health, Environmental Management Division, to support environmental-health programs; and
- The Department of Land and Natural Resources, Division of Aquatic Resources.

As a result of the two actions taken by the Justice Department, Monsanto has agreed to pay a total of $22.2 million for the two RCRA felonies and the 31 FIFRA misdemeanor offenses.

Monsanto has agreed to have representatives appear in United States District Court in the near future to enter guilty pleas to a total of 32 offenses. The sentence detailed in the court documents are subject to the approval of United States District Judge J. Michael Seabright.

This case is the result of an investigation by EPA's Criminal Investigation Division.

This matter is being prosecuted by a litigation team in DOJ's Environmental and Community Safety Crimes Section. In this case, these prosecutors are acting as special attorneys appointed by the Attorney General pursuant to 28 U.S.C. § 515. The United States Attorney's Office for the District of Hawaii was recused from the investigation.

Filibuster Distillery and Sid Dilawri Plead Guilty to 40 Counts of Violating Virginia's State Water Control Law and Agree to Pay $700,000 in Penalties

Following charges brought by Attorney General Mark R. Herring and the Virginia Department of Environmental Equality (DEQ), Filibuster Distillery, LLC (Filibuster), Filibuster Barrels, LLC, and Sid Dilawri pled guilty on November 5, 2021, to 40 counts of violating Virginia's State Water Control Law for dumping over 40,000 gallons of industrial waste and discharging cooling water outside of the terms of their permit into a stream in Shenandoah County. Collectively, the two corporations and Dilawri have agreed to pay a $700,000 penalty, a majority of which will be redirected back into the Shenandoah County community through education and infrastructure support.

As part of the agreement, Filibuster agrees to maintain compliance at the distillery and invest in equipment upgrades to prevent future environmental impacts. These guilty pleas are the first criminal pleas related to environmental violations brought by the Office of the Attorney General and DEQ and came after a multiyear investigation conducted by the U.S. Environmental Protection Agency, the Shenandoah County Fire Marshal, and DEQ into Filibuster.

"Filibuster Distillery illegally dumped tens of thousands of gallons of industrial waste into a stream, not only violating state environmental protection laws, but also putting the health of its community at serious risk," said Attorney General Herring. "All Virginia businesses both big and small must abide by state and federal environmental protections, and if they fail to do so I will make sure they are held accountable. I want to thank the Shenandoah Fire Marshal and DEQ for their partnership on this case and their continued dedication to protecting our environment."

"DEQ takes our mission to protect the environment very seriously, and this case demonstrates that mission in action," said DEQ Director David Paylor. "OAG's prosecution of this case not only led to directing funds back into the impacted community, but sent a strong message that environmental crimes will not be tolerated."

EPA's Criminal Investigation Division jointly investigated this matter with the Virginia Department of Environmental Quality.

Former Greenfield Township, Pennsylvania Sewer Authority Manager Found Guilty Of Clean Water Act Violations And Wire Fraud

The United States Attorney's Office for the Middle District of Pennsylvania announced that Bruce Evans, Sr., age 68, and Bruce Evans, Jr., age 40, both of Greenfield Township, were found guilty on December 17, 2021, after trial of multiple counts of Clean Water Act violations that occurred at the Greenfield Township wastewater treatment plant beginning in 2013 through 2017. Evans, Sr. was also found guilty of multiple counts of wire fraud and obstruction of correspondence. The trial took place before United States District Court Judge Malachy E. Mannion.

According to United States Attorney John C. Gurganus, Evans, Sr. and Evans, Jr. knowingly failed to operate and maintain the municipality's wastewater treatment plant in accordance with regulations and limitations specified in a permit issued by the Pennsylvania Department of Environmental Protection (PADEP) and the United States Environmental Protections Agency (EPA). The permit requires that the permittee at all times maintain in good working order, and properly operate and maintain all facilities and systems, which were installed and used by the permittee to achieve compliance with the terms and conditions of the permits. As a result of the defendants' failures, pollutants were discharged in violation of the permit on multiple occasions.

Prosecutors from the U.S. Attorney's Office and the EPA presented testimony from 34 witnesses over the course of a trial that began on November 15, 2021 and ended on December 17, 2021. Witnesses included Greenfield Township Sewer Authority (GTSA) board members, Greenfield Township Supervisors, FBI and EPA Special Agents, and multiple PADEP inspectors and supervisors.

Throughout the time covered by the charges, Evans, Sr. was a Greenfield Township Supervisor, a Greenfield Township employee, a GTSA Board Member, and Manager of the GTSA. Evans, Jr. was an employee of Greenfield Township and the GTSA. Evans, Sr. was convicted of twenty (20) counts of Clean Water Act violations; four (4) counts of wire fraud involving the misappropriation of GTSA funds for his personal benefit and the benefit of his family; and four (4) counts of obstruction of PADEP certified mail addressed to his fellow GTSA board members but intercepted by Evans, Sr. Evans, Jr. was convicted of four (4) counts of Clean Water Act violations, and one (1) count of submitting a false statement to the PADEP related to representations and certifications made by Evans, Jr. regarding his professional work experience.

The evidence presented at trial established that after many years of permit non-compliance at the GTSA, the EPA and FBI initiated a criminal investigation in late 2013, which involved the use of covert cameras positioned to surveil activity at the actual GTSA facility and a pump station located on Route 106 in Greenfield Township. The investigation uncovered repeated warnings about deficient facility inspections, permit non-compliance, community complaints about foul odors and visible raw sewage routinely overflowing from the Route 106 pump station, and false statements reported to the PADEP by both Evans Sr. and Evans, Jr. It was also learned that information concerning deficient plant operations and clean water act violations was routinely conveyed directly to Evans, Sr. as the GTSA's responsible corporate officer from the PADEP, but Evans, Sr. concealed that information from his fellow GTSA board members over a period of many years.

The maximum penalty under federal law for wire fraud is 20 years' imprisonment, a term of supervised re-

lease following imprisonment, and a fine. The Obstruction of Correspondence violations carry a maximum of 5 years imprisonment. The Clean Water Act violations carry a maximum of 3 years imprisonment. Under the Federal Sentencing Guidelines, the Judge is also required to consider and weigh a number of factors, including the nature, circumstances and seriousness of the offense; the history and characteristics of the defendant; and the need to punish the defendant, protect the public and provide for the defendant's educational, vocational and medical needs. For these reasons, the statutory maximum penalty for the offense is not an accurate indicator of the potential sentence for a specific defendant.

The investigation was jointly conducted by EPA's Criminal Investigations Division, the FBI, and the Pennsylvania Department of Environmental Protection - Northeast Region. Prosecution is being handled by a DOJ litigation team.

Seattle Barrel Reconditioning Company and Owner Convicted of 10-Year Water Pollution Scheme

On December 23, 2021, following a three-week jury trial, Seattle Barrel and Cooperage Company, and its owner, Louie Sanft, 55, were convicted of conspiracy, making false statements, and 33 Clean Water Act violations. EPA Investigators documented a conspiracy to illegally dump caustic waste into the King County sewer system, which ultimately empties into Puget Sound. The company used a hidden drain, and over ten years, lied to regulators to carry out their illegal dumping. Sentencing for Sanft and the company is scheduled in front of U.S. District Judge Richard A. Jones on March 25, 2022.

"While publicly claiming to follow environmental best practices, in private the company was illegally sending thousands of gallons of caustic wastewater into the sewer system," said U.S. Attorney Nick Brown. "The highly corrosive wastewater can damage equipment that cleans wastewater, and further pollutes our fragile Puget Sound. I commend the investigators with EPA and King County, who uncovered this conspiracy and our team who successfully held Mr. Sanft and the company accountable."

Seattle Barrel's business involves collecting used industrial and commercial drums and reconditioning and reselling them. Part of the reconditioning process involved washing the barrels in a highly-corrosive chemical solution. The caustic solution had a very high pH level. According to the indictment, since at least 2009, Seattle Barrel has operated under a discharge permit that prohibits it from dumping effluent with a pH exceeding 12 to the sewer system. Effluent above pH 12 will corrode the sewer system and treatment plant, and potentially cause pass-through pollution to Elliott Bay and Puget Sound.

In 2013, King County conducted covert monitoring of Seattle Barrel, and discovered the company was illegally dumping effluent with a pH above 12 in violation of its permit. King County fined the company $55,250, but later agreed to reduce the fine when Seattle Barrel installed a pretreatment system for its wastewater. Beginning in 2016, Louie Sanft represented to King County in written monthly certifications that the company had become a "zero discharge" facility and was not discharging any industrial wastewater to the sewer.

In fact, in 2018 and 2019, additional covert monitoring by the EPA inspectors revealed that Seattle Barrel was continuing to routinely dump wastewater with a pH above 12 into the sewer system despite telling local regulators that no industrial wastewater was being discharged. Agents then installed real-time monitoring equipment that allowed them to determine when the dumping was taking place and obtained a search warrant.

Early on the morning of March 8, 2019, the covert monitors indicated Seattle Barrel was dumping high-pH material into the sewer. Agents immediately executed the warrant and entered the building. Inside, they discovered a portable pump on the floor near the tank of caustic solution. They then discovered that the pump was being used to pump solution to a nearby hidden drain that had never been disclosed to King County. The drain led directly to the sewer system. The company claims that since mid-2019, following the criminal conduct in this case, it no longer uses the caustic solution.

Louie Sanft, the owner and operator of Seattle Barrel, was convicted of conspiracy, 29 violations of the Clean Water Act for discharging pollutants to the sewer, four counts of submission of False Clean Water Act Certifications and making a false statement to EPA Special Agents. Louie Sanft faces up to 5 years in prison on the

conspiracy and false statement counts, and up to three years in prison for each violation of the Clean Water Act. His cousin, John Sanft, 53, of Issaquah, WA, the plant manager, is scheduled for a separate trial on the charges in March 2022.

U.S. District Judge Richard A. Jones will determine the sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

The case was investigated by EPA's Criminal Investigation Division with significant assistance from King County Industrial Waste. The case is being prosecuted by a joint DOJ/EPA litigation team.

Three Companies Face Charges of Negligent Conduct During Offshore Oil Leak that Damaged Southern California Coastline

On December 15, 2021, a federal grand jury accused three companies with illegally discharging oil during a pipeline break in early October by acting negligently in at least six ways, including failing to properly respond to eight separate leak alarms over the span of more than 13 hours and improperly restarting the pipeline that had been shut down following the leak alarms.

The indictment charges the companies that own and operate the 17-mile-long San Pedro Bay Pipeline with one misdemeanor count of negligent discharge of oil. The charged defendants are Amplify Energy Corp.; Beta Operating Co. LLC (a wholly owned subsidiary of Amplify doing business as Beta Offshore); and San Pedro Bay Pipeline Co. (a wholly owned subsidiary of Amplify).

The pipeline, which was used to transfer crude oil from several offshore facilities to a processing plant in Long Beach, began leaking on the afternoon of October 1, but the defendants allegedly continued to operate the damaged pipeline, on and off, until the next morning. As a result of the allegedly negligent conduct, what is estimated to be about 25,000 gallons of crude oil were discharged from a point approximately 4.7 miles west of Huntington Beach from a crack in the 16-inch pipeline.

The indictment alleges that the defendants acted negligently by:

- Failing to properly respond to eight alarms from an automated leak detection system that were activated between 4:10 p.m. on October 1 until the final alarm at 5:28 a.m. the following day;
- Shutting down and then restarting the pipeline five times after the first five alarms were triggered on October 1, resulting in oil flowing through the damaged pipeline for a cumulative period of more than three hours;
- Despite the sixth and seventh alarms, pumping oil for three additional hours late on October 1 into the early morning hours of October 2 while a manual leak test was performed;
- Despite the eighth alarm, operating the pipeline for nearly one hour in the predawn hours of October 2 after a boat they contacted failed to see discharged oil in the middle of the night;
- Operating the pipeline with crewmembers who had not been sufficiently trained on the automated leak detection system; and
- Operating the pipeline with an understaffed and fatigued crew.

For a corporate defendant, the charge of negligently discharging oil carries a statutory maximum penalty of five years of probation, as well as fines that potentially could total millions of dollars.

The case is being investigated by EPA's Criminal Investigation Division, The Coast Guard Investigative Service; the U.S. Department of Transportation, Office of Inspector General; and the FBI. The case is being prosecuted by a DOJ litigation team.

An indictment is merely an accusation that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

Pennsylvania Farmer and Employee Charged with Using Toxic Pesticide to Kill Migratory Birds

On November 8, 2021, two residents of western Pennsylvania were charged with offenses related to the unlawful killing of migratory birds. The three-count Information filed in federal court named Robert Yost, 50, of New Galilee, PA, and Jacob Reese, 25, of Enon Valley, PA, as defendants.

According to the Information, Yost operated Yost Farms in Beaver County, PA. In June 2020, Yost and one of his employees, Reese, allegedly conspired to kill migratory birds present on leased farmland operated by Yost Farms, using carbofuran, a registered restricted-use pesticide. As alleged, the Environmental Protection Agency concluded no later than 2009 that the dietary, worker, and ecological risks for all uses of carbofuran were unacceptable and that all products containing carbofuran generally caused unreasonable adverse effects on humans and the environment. According to the Information, on June 22, 2020, Yost directed Reese to spread whole kernel corn coated in carbofuran in and around a leased field used for soybean cultivation where children were regularly present. The tainted corn allegedly attracted protected migratory birds that were killed within a short distance of where they ingested the corn. Yost and Reese thereafter took steps to conceal their efforts to poison and kill migratory birds, including by destroying the feed bag containing the carbofuran-laced whole corn kernel. In total, Yost and Reese are alleged to have killed approximately seventeen (17) Canada geese, ten (10) red-winged blackbirds, and one (1) mallard duck.

Yost and Reese are charged with one count of conspiracy, one count of violating the Federal Insecticide, Fungicide, and Rodenticide Act, and one count of violating the Migratory Bird Treaty Act. The defendants face a total maximum term of imprisonment of 13 months and a total fine of $31,000. The actual sentence imposed would be based upon a consideration of statutory sentencing factors and the prior criminal history, if any, of the defendants.

This matter was investigated by EPA's Criminal Investigation Division, the U.S. Fish and Wildlife Service - Office of Law Enforcement, the Pennsylvania Game Commission and the Pennsylvania Department of Agriculture. Prosecution is being handled by DOJ.

An indictment is merely an accusation that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

Previously Convicted Felon Indicted for Illegally Transporting and Storing Hazardous Waste, Falsifying a Hazardous Waste Manifest and Obstructing an Agency Proceeding

On November 5, 2021, a federal grand jury in Hawaii returned an indictment against Anthony Shane Gilstrap, 54, for violating the Resource Conservation and Recovery Act (RCRA) by transporting hazardous waste without a required manifest, falsifying a hazardous waste manifest, and storing hazardous waste without a permit. He is also charged with obstructing an agency proceeding. On Oct. 5, Gilstrap was indicted in the District of Kansas for Possession of a Firearm by a Previously Convicted Felon.

In January 2017, Gilstrap, who has lived in Hawaii, Georgia and Kansas, agreed to remove drums of the RCRA-listed hazardous waste perchloroethylene (perc) from Young Laundry & Dry Cleaning (YLD), owned by U.S. Dry Cleaning Corp. (USDC). YLD's Regional Manager hired Gilstrap to remove the drums for $15,000, which was less than half the price that legitimate hazardous waste disposal companies had quoted to YLD. Gilstrap removed the drums to his warehouse, which was not a permitted storage or treatment site, without required RCRA manifests. Furthermore, both Gilstrap and USDC produced false manifests to put the Hawaii Department of Health (HDOH) off the trail. When an HDOH inspector later tried to locate the missing drums, Gilstrap lied about their whereabouts. The YLD Regional Manager who hired Gilstrap has pleaded guilty before the U.S. District Court of the District of Hawaii to causing the transportation of hazardous waste without a manifest and received a sentence of probation.

"Perc is a dangerous toxic substance, and stashing drums of it at a cut rate price with no plan for proper final disposal, is a gross dereliction of care and violates the law," said Assistant Attorney General Todd Kim of the Justice Department's Environment and Natural Resources Division. "With hazardous waste, the department will aggressively prosecute a knowing failure to do what is right."

"Hazardous waste manifests are the receipts that track how dangerous wastes are handled," said the Acting U.S. Attorney Judith A. Philips for the District of Hawaii. "Here, their absence, and the efforts of HDOH and EPA to close the loop, led to the accountability we see today. We will follow through and hold the defendant to account for his illegal transportation and storage as well as his attempts to cover that up."

"The hazardous waste involved in this case posed serious public health and environmental dangers," said Acting Assistant Administrator Larry Starfield for EPA's Office of Enforcement and Compliance Assurance. "EPA and our law enforcement partners are committed to holding responsible parties accountable for actions that put communities at risk."

Gilstrap will be scheduled for his initial court appearance before a U.S. Magistrate Judge in the U.S. District Court for the District of Hawaii. If convicted, he faces a penalty of up to 13 years in prison. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

This case was investigated by the EPA's Criminal Investigation Division. Prosecution is being handled by a DOJ Litigation Team.

An indictment is merely an accusation that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.