

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 at <http://www2.epa.gov/enforcement/criminal-enforcement-policy-guidance-and-publications>.

March 2016

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Defendant Summary

Region	Defendants	Case Type/Status
Region 1	<u>Berkshire Power Plant</u>	CAA/Violated and conspired to violate the Clean Air Act by tampering with emissions equipment and submitting false information to both environmental and energy regulators
Region 2	<u>Anastasio "Taso" Kolokouris</u>	CAA/Violation of asbestos work practice standards
Region 2	<u>Terminix International Company LP, Terminix International USVI LLC</u>	FIFRA/Illegally applied fumigants containing methyl bromide in multiple residential locations in the U.S. Virgin Islands, including the condominium resort complex in St. John where a family of four fell seriously ill after the unit below them was fumigated.
Region 3	<u>William Michael Manclark</u>	RCRA/Aiding and abetting others in knowingly making false statements
Region 3	<u>Joseph L. Capano</u>	CWA/Knowingly discharged pollutants into wetlands without a permit; Directed workers to expand road into wetlands and place a water main pipe through the wetlands area after Army Corps of Engineers issued Cease and Desist letter.
Region 4	<u>Sunland Pest Control Services, Inc., Grenale Williams, Canarie Deon Currie</u>	FIFRA/Illegal application of a pesticide that resulted in injuries to a minor child
Region 4	<u>Briese Schiffahrts GmbH & Co. KG and Briese Schiffahrts GmbH & Co. KG MS "Extum"</u>	Act to Prevent Pollution from Ships/ Failure to maintain an accurate oil record book and tampering with witnesses by persuading them to provide false statements to the U.S. Coast Guard concerning a bypass hose on the vessel that was being used to discharge oil into the sea.
Region 4	<u>Timothy Howard</u>	CWA/Violated Pretreatment Standards of the Clean Water Act

Defendant Summary

Region	Defendants	Case Type/Status
Region 5	<u>Joel Andrews, Eric Andrews</u>	CWA/Swindled money from a fund administered by Illinois EPA to clean up sites contaminated by leaking underground storage tanks
Region 6	<u>Philip Joseph Rivkin</u>	CAA/Energy Independence and Security Act/ Generating and selling fraudulent biodiesel credits
Region 6	<u>Walter Oil & Gas Company</u>	RCRA/Failure to notify National Response Center of a hazardous discharge
Region 6	<u>Michael Wagner</u>	CAA/Failure to properly odorize gas or to verify the presence of odorant as required by state law; reckless handling of hazardous material; theft by fraudulent means and systematic practices, valued over \$1,500; and obstruction of justice
Region 10	<u>Angelakos (Hellas) S.A., Greca Shipping, LTD, Konstantinos Chrysovergis, Tryfon Angelou</u>	Act to Prevent Pollution from Ships/Inoperable oil water separator, bypassing safeguards that prevent discharge of oily water, false statements, omissions in ship's record book

Sentencings

Texas Man Sentenced to More Than 10 Years in Prison for Biodiesel Fraud Scheme -- On March 7, 2016, **PHILIP JOSEPH RIVKIN**, aka Felipe Poitan Arriaga, was sentenced in federal district court in Houston, Texas, to 121 months in prison, three years of supervised release and to pay more than \$87 million in restitution and was ordered to forfeit \$51 million for generating and selling fraudulent biodiesel credits in the federal renewable fuel program. In June 2015, Rivkin pleaded guilty to one count of mail fraud and one count of making a false statement under the Clean Air Act.

The Energy Independence and Security Act of 2007 created or extended several federally-funded programs that created monetary incentives for the production of renewable fuels, including biodiesel, and to encourage the use of such fuels in the United States. Authorized biodiesel producers and importers could generate and attach credits—known as renewable identification numbers (RINs)—to biodiesel they produced or imported. Because certain companies need RINs to comply with regulatory obligations, RINs have significant market value.

As admitted in the plea agreement, beginning around February of 2009, Rivkin operated and controlled several companies in the fuel and biodiesel industries, including Green Diesel LLC, Fuel Streamers Inc. and Petro Constructors LLC, all based in Houston. Rivkin claimed to produce millions of gallons of biodiesel at the Green Diesel's Houston facility and then generated and sold RINs based upon this claim. In reality, no biodiesel was ever produced at the Green Diesel facility. This scheme allowed the defendant to generate over 60 million RINs that were fraudulent, which were then sold to companies that needed to obtain them and resulted in millions of dollars in sales. Rivkin created false records and made false statements to conceal his fraudulent claims of biodiesel production, importation and RIN generation.

In reality, no biodiesel was ever produced at the Green Diesel facility. This scheme allowed the defendant to generate over 60 million RINs that were fraudulent.

The case was investigated by EPA's Criminal Investigation Division, the United States Secret Service, Internal Revenue Service-Criminal Investigation, Homeland Security Investigations and the Guatemalan Special Investigations Unit, which worked with federal investigators to uncover the fraudulent nature of Rivkin's Guatemalan citizenship, which led to his deportation back to the United States. It is being prosecuted by Trial Attorney Leslie E. Lehnert of the Environmental Crimes Section of the Justice Department's Environment and Natural Resources Division.

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California Man Sentenced for Violating EPA Regulations -- On March 7, 2016, **WILLIAM MICHAEL MANCLARK**, of Newport Beach, California, was sentenced in federal district court for the Northern District of Mississippi following a previous guilty plea to one felony count of aiding and abetting others in knowingly making false material statements in a record or report maintained or used for the purpose of compliance with regulations set forth by EPA. At the time of the offense, Manclark was the chief executive officer and sole shareholder of Leading Edge Aviation Services, Inc., a corporation headquartered in Costa Mesa, California. Leading Edge operated a commercial aircraft painting facility at Greenville's Mid-Delta Regional Airport until mid-2013. Leading Edge has previously entered a guilty plea to one felony count of treating, storing, or disposing of hazardous waste without a permit at Leading Edge's now shuttered Greenville, Mississippi, facility, and was ordered to pay monetary penalties in the total amount of \$1 million.



Plan in preparation for painting

Manclark was sentenced to a term of imprisonment of five months to be followed by five months of home confinement. Once his term of incarceration and home confinement is complete, Manclark will be on supervised release for a period of one year. In addition to the incarceration, Manclark was ordered to pay a fine of \$250,000. Manclark was ordered to report to prison on April 18, 2016.

The case was investigated by EPA's Criminal Investigation Division and the Mississippi

Department of Environmental Quality. It was prosecuted by Felicia C. Adams, United States Attorney for the Northern District of Mississippi.

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Sentencings

Texas Oil and Gas Company Fined \$400,000 for Failing to Provide Notification of a Hazardous Discharge --

On March 10, 2016, **WALTER OIL & GAS COMPANY**, a Texas corporation residing in Houston, Texas, was sentenced in federal district court for the Eastern District of Louisiana on a one-count Bill of Information which charged the company with failing to provide notification to the National Response Center of a hazardous discharge. This charge relates to the company's oil and gas production in the Grand Isle area of the Gulf of Mexico. The company previously entered a guilty plea on December 22, 2015.

The company was ordered to pay a total monetary penalty of \$400,000 and serve a two-year term of probation. The \$400,000 monetary penalty will be divided as follows: \$320,000 to the United States Treasury, \$40,000 to the Louisiana Department of Environmental Quality, \$30,000 to the Louisiana State Police Emergency Services Unit and \$10,000 to the Southern Environmental Enforcement Network.

The case was investigated by EPA's Criminal Investigation Division, the Criminal Investigation Division of the Louisiana Department of Environmental Quality, and the Coast Guard Investigative Service Gulf Region. Assistant United States Attorney Jon Maestri was in charge of the prosecution.

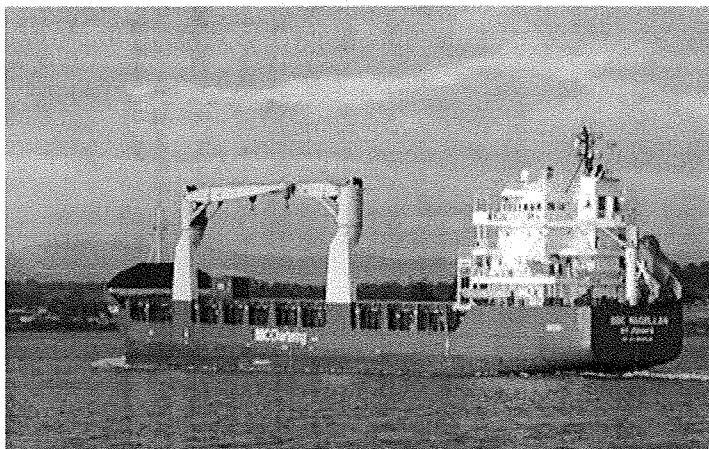
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Sentencings

German Shipping Companies Sentenced to Pay \$1.5 Million for Illegally Discharging Oil Into the Ocean --On March 15, 2016, the German shipping companies **BRIESE SCHIFFFAHRTS GMBH & CO.,** and **KG MS "EXTUM,"** who owned and operated the cargo ship *M/V BBC Magellan*, pleaded guilty in federal district court for the Northern District of Florida to failure to maintain an accurate oil record book, in violation of the Act to Prevent Pollution from Ships and tampering with witnesses by persuading them to provide false statements to the U.S. Coast Guard concerning a bypass hose on the vessel that was being used to discharge oil into the sea.

The two companies were sentenced to pay a total of \$1.25 million in fines and a \$250,000 community service payment to the National Fish and Wildlife Foundation to fund projects that enhance coastal habitats of the Gulf of Mexico and bolster priority fish and wildlife populations. In addition, the ship *M/V BBC Magellan* is banned from doing business in the United States for the next five years.



Marine Vessel BBC Magellan

The operation of a marine vessel, such as the *M/V BBC Magellan*, generates large quantities of waste oil and oil-contaminated waste water. International and U.S. law requires that these vessels use pollution prevention equipment to preclude the discharge of these materials. Should any overboard discharges occur, they must be documented in an oil record book, a log that is regularly inspected by the U.S. Coast Guard.

In March 2015, during an inspection at the Port of Pensacola, the U.S. Coast Guard discovered an improperly attached rubber hose. Officials later determined that, between January and March 2015, the crew of the *M/V BBC Magellan*, acting on behalf of the vessel's owner, had installed and illegally used the rubber hose to remove oily wastes from the vessel's holding tanks and discharged them directly into the ocean. The crew also failed to make the required entries in the vessel's oil record book. When questioned about the hose's purpose and how oily wastes were discharged from the ship, the chief engineer instructed other crew members to lie to the Coast Guard.

The case was investigated EPA's Criminal Investigation Division, the U.S. Coast Guard Sector Mobile, and the U.S. Coast Guard Investigative Service. It was prosecuted by Assistant U.S. Attorney J. Ryan Love for the Northern District of Florida and Trial Attorney Brandy N. Parker of the Environmental Crimes Section of the Department of Justice Environmental and Natural Resources Division.

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Former Owners of Environmental Consulting Firm in Illinois Sentenced for Violations of Underground Storage Tank Program and Fraud Scheme

-- On March 30, 2016, brothers **JOEL** and **ERIC ANDREWS**, former principal owners of Environmental Management of Illinois, Inc. (EMI), Springfield, Ill., were sentenced in federal district court to three years and two and one-half years, respectively, in federal prison for a scheme that defrauded the Illinois Environmental Protection Agency of millions of dollars. Co-defendant Michael Keebler, who bought the business in 2006, was sentenced in August 2015 to five years in prison for the scheme, which, over a period of 12 years, from 2001 to 2013, swindled money from a fund administered by Illinois EPA to clean up sites contaminated by leaking underground storage tanks. Both men to remain on bond until they report to the federal Bureau of Prisons in July 2016. Following their release from prison, both were ordered to serve the first 12 months of a three-year term of supervised release under home confinement.

Joel Andrews, of New Berlin, Ill., Eric Andrews, of Shipman, and Michael Keebler, of Sherman, each share, jointly and severally, in the court's order to pay restitution of no more than \$13.36 million to the Illinois EPA minus any offsets agreed to by the government. Thus far, the three defendants have posted \$6.2 million with the court toward the total amount of restitution ordered, and any of their remaining assets, including EMI, are subject to forfeiture proceedings by the government.

Joel and Eric Andrews each pled guilty on March 2, 2015, to one count of conspiracy to commit mail fraud. Keebler entered pleas of guilty on February 27, 2015, to two counts of conspiracy to commit mail fraud.

The U.S. EPA has a cooperative agreement with the State of Illinois to administer the UST (underground storage tanks) program. IEPA and the Illinois Office of the state fire marshal share administration of the UST fund which assists tank owners and operators with the cleanup costs of petroleum leaks from USTs. The state fire marshal administers the preventative and permitting aspects of the program. If there is a spill or leak, IEPA is responsible for oversight of the cleanup investigation and the corrective action, in order to clear the property for use again. State taxes and fees paid on the purchase of gasoline fund the Leaking UST (LUST) program.

Joel Andrews founded EMI in 1997 and served as president, and Eric Andrews joined in 1999 as vice-president. In April of 2001, professional engineer Michael Keebler joined the firm. In 2006, the firm was sold to Michael Keebler, who remained as the firm's principal owner and president.

The environmental consulting firm, located in Springfield, worked with property owners to clean up sites contaminated by petroleum leaks, spills, or overfills from underground storage tanks. The firm then sought reimbursement of its costs to remediate the land from a fund administered by a designated section within Illinois EPA.

According to plea agreements filed by the parties and during court hearings, each of the men admitted that they conspired to defraud the LUST fund by artificially inflating expenses they incurred in remediating property. For example, agreements were made with vendors to submit two invoices for certain services; one that listed the actual costs of the service provided and the payment to be made by EMI, and a second invoice which inflated the amount of work performed and supplies used, the amount charged for the work, or both. The inflated invoice would then be provided to Illinois EPA for reimbursement. Certain vendors were also paid a reduced rate, but EMI misrepresented to the Illinois IEPA that they had been paid full price. At other times, invoices were created or existing invoices modified to reflect a higher charge than was actually paid before they were submitted to IEPA for reimbursement.

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Terminix Companies Agree to Pay \$10 Million for Applying Restricted-Use Pesticide to Residences in the U.S. Virgin Islands -- On March 29, 2016, the pest control corporation **TERMINIX INTERNATIONAL COMPANY LP (TERMINIX LP)** and its U.S. Virgin Islands operation **TERMINIX INTERNATIONAL USVI LLC (TERMINIX, USVI)**, were charged in federal district court for the District of the Virgin Islands with multiple violations of the Federal Insecticide, Fungicide and Rodenticide Act for illegally applying fumigants containing methyl bromide in multiple residential locations in the U.S. Virgin Islands, including the condominium resort complex in St. John where a family of four fell seriously ill last year after the unit below them was fumigated.

In a plea agreement, Terminix, USVI agreed to pay a total of \$10 million in criminal fines, community service and restitution payments. Except for completing one government contract at the Port of Baltimore, Terminix LP has stopped using pesticides containing methyl bromide in the United States and U.S. Territories. Under the agreement Terminix, USVI agreed will pay \$5 million in fines and \$1 million in restitution to the EPA for response and clean-up costs at the St. John resort. Terminix LP will pay a fine of \$3 million and will fund a \$1 million community service project in the U.S.V.I. The plea agreement is subject to approval by the district court.

In 1984 EPA banned the indoor use of methyl bromide products. The few remaining uses are severely restricted. Pesticides containing methyl bromide in the U.S. are restricted-use due to their acute toxicity, meaning that they must only be applied by a certified applicator. Health effects of acute exposure to methyl bromide are serious and include central nervous system and respiratory system damage. Pesticides can be very toxic and it is critically important that they be used only as approved by EPA.

"All TERMINIX Locations Have Ceased Using Pesticides Containing Methyl Bromide in the United States. Employees Illegally Applied Pesticides Containing Methyl Bromide to Residences in St. John, St. Croix, and St. Thomas, U.S.V.I. "

-March 2016 DOJ Press Release

After the government began its investigation, Terminix LP voluntarily ceased its use of methyl bromide in the U.S. and in U.S. territories, except for one remaining supervised government contract.

According to the information filed in federal court in the U.S. District Court of the Virgin Islands, the defendants knowingly applied restricted-use fumigants at the Sirensa resort in St. John for the purpose of exterminating household pests on or about Oct. 20, 2014, and on or about March 18, 2015. The companies were also charged with applying the restricted-use pesticide in 12 residential units in St. Croix and one additional unit in St. Thomas between September 2012 and February 2015. Terminix, USVI

According to the factual basis of the plea agreement, Terminix, USVI provided pest control services in the Virgin Islands including fumigation treatments for Powder Post Beetles, a common problem in the islands. These fumigation treatments were referred to as "tape and seal" jobs, meaning that the affected area was to be sealed off from the rest of the structure with plastic sheeting and tape prior to the introduction of the fumigant. Customers were generally told that after a treatment persons could not enter the building for a two to three-day period.

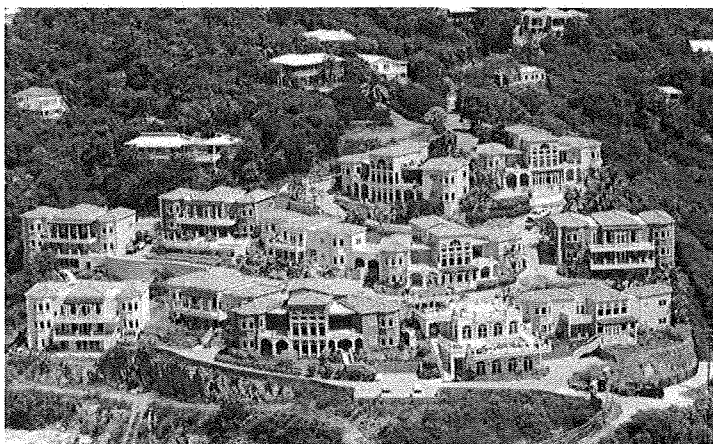
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On or about March 18, 2015, two employees of **Terminix, USVI** performed a fumigation pesticide treatment at the lower rental unit of Building J at Sirenusa in St. John. The upper unit in Building J was occupied by a Delaware family of four. Via various means, methyl bromide from the lower unit migrated to the upper unit of Building J, causing serious injury to and hospitalization of the entire family.

EPA regional staff responded immediately to the incident in St. John, securing the scene, performing testing and addressing the contamination. Within days, the EPA sent out a pesticide use warning to pesticides applicators in Puerto Rico and the U.S. Virgin Islands, followed by a broader pesticide notice to regulators in all states, the British Virgin Islands, and to other Caribbean and Latin American countries.



Sirenusa Condo Complex, St. John, USVI

As a special condition of the companies' three year probation, the defendants shall make good faith efforts to resolve past and future medical expenses for the family through separate civil proceedings. If they do not do so before the end of the probationary period, they would be subject to an order of restitution and the government may petition the District Court to reopen the sentencing proceedings to seek recovery of past and future medical and other expenses.

The \$10 million penalty includes \$8 million in criminal fines, \$1 million in restitution to the EPA for response and clean-up costs, and a \$1 million community service payment to the National Fish and Wildlife Foundation for the purpose of engaging a third party to provide training to pesticide applicators in the U.S. Virgin Islands.

The case was investigated by EPA's Criminal Investigation Division working cooperatively with the Virgins Islands government and, the Agency for Toxic Substances and Disease Registry. It is being prosecuted by Senior Litigation Counsel Howard P. Stewart of the Department of Justice, Environmental Crimes Section, and Assistant U.S. Attorney Kim L. Chisholm of the District of the Virgin Islands with assistance of Patricia Hick, EPA Region II Regional Criminal Enforcement Counsel.

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New York Property Developer Pleads Guilty to Exposing Workers to Asbestos During Removal Operations -

- On March 2, 2016, ANASTASIOS "TASO" KOLOKOURIS, of Avon, New York, pleaded guilty in federal district court for the Western District of New York to violating the Clean Air Act asbestos work practice standards involving asbestos removal and disturbance. The charge carries a maximum sentence of five years in prison and a \$250,000 fine. Sentencing has been set for June 1, 2016.

Kolokouris was one of the owners of a warehouse located at 920 Exchange Street in Rochester, New York. Acting on a complaint, an inspector from the New York State Department of Labor, Asbestos Control Bureau visited the Exchange Street warehouse on December 13, 2011. Upon arrival, the inspector observed people, including a 16-year-old child, working in a large dumpster next to a loading dock. The inspector observed large quantities of white fibrous material, later confirmed to be asbestos, in and around the



Dumpster containing friable asbestos. NYS-DOL inspector observed two unprotected workers inside this dumpster, including a 16 year old.



Inside warehouse —bags full of friable asbestos. The asbestos in the dumpster was bagged by workers, then moved into warehouse.

dumpster. He also noted that the people working in the dumpster did not have proper personal protective equipment, and that there was no asbestos warning signs on the dumpster. The warehouse sits directly adjacent to residential homes on both the Exchange Street and Violetta Street sides, and there is a school bus stop directly outside its main gate.

When the Asbestos Control Bureau inspector made contact with the workers, they called Kolokouris to tell him about the inspection. However, Kolokouris told the workers not to speak with the inspector, and instead directed them to leave the area and lock the gate, which they did. While on site, however, the inspector took samples of the white fibrous material from in and around the dumpster. A lab later confirmed these samples to contain high levels of friable asbestos.

Criminal investigators from U.S. EPA and the New York Department of Environmental Conservation (DEC) were notified and responded to secure the scene. A federal search warrant was obtained and federal and state agents entered the property wearing full containment suits. When agents entered the warehouse, they discovered over 90 bags of dry, friable asbestos inside the loading dock area. Agents also discovered evidence of unlawful abatement inside the warehouse involving asbestos contamination of more than

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150,000 square feet. Agents took multiple samples from in and around the warehouse. These samples were analyzed by a lab, and they all tested positive for high levels of asbestos. Additional evidence located inside the warehouse connected Kolokouris to the illegal asbestos activities.

During the investigation, workers were interviewed and indicated that they knew Kolokouris from other odd jobs he had hired them to perform at other properties he is connected to. They reported that the defendant told them that he would pay cash to remove asbestos from the dumpster outside the warehouse because the container company would not remove the dumpster while it was full of asbestos. None of the workers that Kolokouris used were certified or trained to work with asbestos. They also confirmed that one of the workers was only 16 years old; and that Kolokouris had picked the child and his mother up from home and drove them to Rochester where he paid them to remove asbestos from the dumpster. Kolokouris never provided any of the workers with proper masks, protective suits, or other personal protective equipment. Instead Kolokouris only gave them simple dust masks.

In 1971, EPA designated asbestos as a hazardous air pollutant. There is well established scientific data documenting the harmful effects of asbestos. Exposure to asbestos can cause a debilitating lung disease called asbestosis; a rare cancer of the chest and abdominal lining called mesothelioma; and cancers of the lung, esophagus, stomach, colon, and other organs. Congress has found independently that "medical science has not established any minimum level of exposure to asbestos fibers which is considered safe to individuals exposed to fibers."

The case was investigated by EPA's Criminal Investigation Division, investigators of the New York State Department of Environmental Conservation Police, BECI, the New York State Department of Labor, Asbestos Control Bureau, and officers from the city of Rochester Police Department. It is being prosecuted by Assistant U.S. Attorney Craig R. Gestring.

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Florida Fumigation Company and Two Individuals Pled Guilty in Connect with Illegal Pesticide Application Resulting in Injuries to a Minor

-- On March 10, 2016, **SUNLAND PEST CONTROL SERVICES, INC., GRENALE WILLIAMS**, of South Bay, Florida, and **CANARIE DEON CURRY** pleaded guilty in federal district court for the Southern District of Florida in connection with the illegal application of a pesticide that resulted in injuries to a minor child.

Sunland, Williams, and Curry, pled guilty for their involvement in the illegal application of sulfuryl fluoride (a pesticide), contrary to the label's safety requirements. Sunland also pled guilty to making false statements in connection with the investigation. Williams and Curry face a statutory maximum sentence of up to one year in prison and a fine of up to \$100,000, to be followed by and a period of supervised release. In addition, Sunland faces up to five years of probation and a \$500,000 fine for the false statements conviction. Sentencing is scheduled for May 11.

According to court documents, the Federal Insecticide, Fungicide, and Rodenticide Act regulates the use of pesticides, including those designated for restricted use due to their potential adverse effects, including serious injury. Application of restricted use pesticides is limited to certified applicators or those under the direct supervision of certified applicators. Sulfuryl fluoride, a commonly used antimicrobial in structural fumigations for termites, is one such restricted use pesticide that is registered with the EPA. At the heart of the safe use of such pesticides is compliance with the product label, which includes the written, printed, or graphic matter associated with the pesticide. Under FIFRA, the label is the law, and strict compliance with it is critical to the safe application of the restricted use pesticide. Federal law also prohibits the making of material false statements in a matter within the jurisdiction of the EPA.

Court records and a joint factual statement indicate that in June 2015, residents contracted with Terminix for a home fumigation for termites under an existing warranty. Terminix, without warning or approval, subcontracted the job to Sunland. The fumigation occurred over a weekend and the residents returned to their home on Sunday, August 16, 2015 to find a clearance tag on the front door indicating that it was safe to enter. During the evening several family members became ill, and medical attention was sought for their nine year old son. It was determined that the family's symptoms were consistent with pesticide poisoning.

A subsequent investigation revealed that contrary to the label requirements for use of the potentially deadly gas, the defendants failed, among other violations, to: provide the Fact Sheet for the pesticide being used; have the required number of properly trained personnel on site following the application of the pesticide; properly aerate the fumigated space; and conduct clearance testing with an approved and calibrated Low Fumigant Level Detection Device. In addition, a clearance tag was left at the premises indicating it was safe to enter when in fact the requisite procedures had not been completed. The family was falsely assured by Terminix and Sunland that the aeration and clearance requirements had been met. Additionally, Sunland representatives misrepresented the specific brand of pesticide that was used and indicated that the fumigation, aeration, and clearance of the home was in accordance with the law when in truth and fact, the defendants were not in compliance.



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The case was investigated by EPA's Criminal Investigation Division, the Florida Department of Agriculture and Consumer Services, Bureau of Pesticide and Incident Response, and the Florida Office of Agricultural Law Enforcement. It was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer and Assistant U.S. Attorney Thomas Watts-FitzGerald of the Economic & Environmental Crimes Section.

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Delaware Real Estate Developer Pleads Guilty to Bank Fraud and Environmental Violation -- On March 28, **JOSEPH L. CAPANO**, of Middletown, Delaware, pled guilty in federal district court for the District of Delaware to one count of bank fraud and one count of knowingly violating the Clean Water Act. Capano faces up to 30 years of imprisonment and a \$1,000,000 fine for the bank fraud charge, and three years of imprisonment and a \$250,000 fine for the Clean Water Act charge.

According to the charging document and information provided in open Court, both charges relate to Capano's conduct during construction of the Riverbend at Old New Castle development in New Castle, Delaware (Riverbend Development). The Riverbend Development was funded in part by a \$1.5 million commercial line of credit from Cecil Bank, headquartered in Elkton, Maryland. In October 2007, Capano signed an agreement for a line of credit on behalf of his company Riverbend Community, LLC, wherein and he represented that the purpose of the line of credit was to fund construction and other costs associated with the Riverbend Development.

From October 2007 until August 2008, Capano signed and submitted funding requests, referred to as draw requests, to Cecil Bank which contained false representations and statements concerning the reasons for the requests. In reliance on those false representations, Cecil Bank continued to lend Capano money. Capano used some of the funds released by Cecil Bank for his personal use and not for construction of the Riverbend Development. For example, on December 21, 2007, Capano submitted a draw request seeking \$300,000 for various Riverbend Development expenses. Instead of using those funds for Riverbend Development expenses, Capano used some of the funds for personal expenses, including approximately \$63,000 to pay for a jewelry purchase. As part of his guilty plea, Capano has admitted that he converted at least \$146,909.96 in loan proceeds to his personal use.

Capano also directed contractors and employees to place a water main pipe through the causeway wetlands area, **even after the Army Corps of Engineers instructed Capano to stop performing construction in wetland areas and issued Capano a Cease and Desist letter to that effect.**

In addition to his misrepresentations regarding bank loan funds, the information states that Capano knowingly discharged pollutants into wetlands without a permit during the Riverbend Development. Capano directed employees and contractors of his company to perform earthmoving, construction and excavation activities in wetlands areas. Specifically, Capano directed contractors and employees to expand the entrance road to the development, referred to as the causeway, into wetlands subject to federal jurisdiction. Capano also directed contractors and employees to place a water main pipe through the causeway wetlands area, even after the Army Corps of Engineers instructed Capano to stop performing construction in wetland areas and issued Capano a Cease and Desist letter to that effect.

The case was investigated by EPA's Criminal Investigation Division, the Federal Bureau of Investigation, and the Office of the Special Inspector General for the Troubled Asset Relief Program. It is being prosecuted by Assistant U.S. Attorney Jennifer K. Welsh.

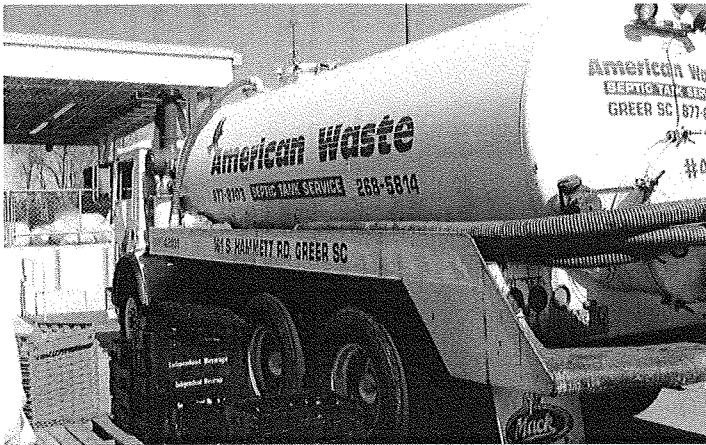
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South Carolina Man Pleads Guilty to Illegal Dumping in Violation of Clean Air Act -- On March 3, 2016, **TIMOTHY HOWARD**, of Greer, South Carolina, entered a guilty plea in federal district court for the District of South Carolina to two counts of violating Pretreatment Standards of the Clean Water Act.

Evidence presented at the change of plea hearing established that on April 2, 2011, Howard used an American Waste hauling truck to dump waste into a grease trap outside of a Publix in Greenville County, South Carolina. The grease trap was connected to the ReWa - Renewable Water Resources system. The site was not a designated waste disposal discharge point, and the illegal dumping violated both the Clean Water Act and Howard's permit with ReWa.



American Waste hauling truck

On June 18, 2013, Howard again was caught illegally dumping into another grease trap. The grease trap on this date was located behind a closed restaurant in Lyman, South Carolina, and was connected to the town of Lyman system. Again, this was not a designated discharge point, and dumping at this site violated both the Clean Water Act and the town of Lyman regulations. At all times relevant to the charges, Howard was the owner and operator of American Waste, Inc., also known as American Waste Septic Tank Service. The maximum penalty for each

count of violating Pretreatment Standards of the Clean Water Act is imprisonment for three years and/or a fine of \$50,000 per day of the violations.

The case was investigated by EPA's Criminal Investigation Division, the Office of Criminal Investigations for South Carolina Department of Health and Environmental Control, the Greenville County Sheriff's Office, the Duncan Police Department, and the Lyman Police Department. It is being prosecuted by Assistant United States Attorney Jamie Lea Schoen.

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Plea Agreements

Western Massachusetts Power Plant Owner and Management Companies Agree to Plead to Tampering and False Reporting; Operations and Maintenance Company Enters into Consent Judgement. Companies to Pay \$8.5 Million to Resolve Allegations

-- On March 30, 2016, **BERKSHIRE POWER PLANT'S** owner and management company agreed to plead guilty in federal district court for the District of Massachusetts to tampering with emissions equipment and submitting false information to both environmental and energy regulators. The former plant operation and maintenance company also agreed to pay a state civil penalty.

The resolution follows a joint federal and state investigation into allegations that Berkshire Power Plant in Agawam, Massachusetts, tampered with its air pollution monitoring equipment and falsely reported data to environmental and energy regulators regarding its emissions levels and its availability to produce power.

Berkshire Power Co., the owner of Berkshire Power Plant and Power Plant Management Services the plant manager, agreed to plead guilty to felony charges that they violated and conspired to violate the federal Clean Air Act. These charges arose from air pollution monitoring equipment tampering and related false emissions reporting between 2009 and 2011. PPMS also agreed to plead guilty to charges that it violated the Federal Power Act, the first ever criminal charges under this statute, for making false statements to the regional power grid administrator, ISO-New England, regarding the plant's availability to produce power.

Under the terms of the plea agreements, BPC and PPMS agree to pay a total of \$4.25 million related to the criminal charges. BPC will pay \$2.75 million in criminal fines for the Clean Air Act violations and make a \$750,000 community service payment to the American Lung Association to fund a program for the replacement of polluting wood burning stoves in western Massachusetts. PPMS will pay \$500,000 in criminal fines for the Clean Air Act and Federal Power Act violations and make a \$250,000 community service payment to the American Lung Association's wood stove change-out program. The wood stove program payments would be established only after sentencing.

Between them, BPC, PPMS, and the plant's former operation and maintenance company, EthosEnergy Power Plant Services, LLC (formerly Wood Group Power Plant Services, LLC), will also pay over \$4 million in civil penalties. EthosEnergy agreed to resolve allegations that it violated sections of the Commonwealth's Public Health Law dealing with air pollution stemming from its employees' involvement with the air pollution monitoring equipment tampering at the plant. Under the terms of the state Consent Judgment, EthosEnergy will pay a \$1.1 million civil penalty, and make a \$200,000 payment to fund the installation of electric vehicle charging stations in the Commonwealth.

In addition to the criminal fines outlined above, BPC and PPMS have agreed to pay \$3,042,563 plus interest to the Federal Energy Regulatory Commission in civil penalties and disgorgement for their misrepresentations to ISO-New England regarding the Plant's availability to produce power.

According to documents filed in federal and state court, between January 2009 and March 2011, BPC engaged PPMS to manage the Plant, including overseeing day-to-day operations and maintenance and to act



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as the owner's representative for the plant. A PPMS employee served as the plant general manager and as BPC's on-site representative. BPC also retained Wood Group during this same time to provide the day-to-day plant operation and maintenance.

PPMS and BPC caused the Wood Group employees at the plant to tamper with the plant's air pollution monitoring equipment to conceal the fact that the plant was emitting air pollutants in excess of permitted levels. This tampering was accomplished by intentionally biasing the plant's Continuous Emissions Monitoring System so it would show lower emissions levels than were actually being produced by the plant. BPC and PPMS then used this inaccurate data in filing required emissions reports with United States Environmental Protection Agency and the Massachusetts Department of Environmental Protection. The purpose of the tampering was to avoid lost revenues that would have resulted from reducing power production to stay within the plant's air pollution emissions limits, or by taking the plant out of service to implement needed repairs of the plant's pollution control and other equipment.

Excess nitrogen oxide emitted from fossil-fuel-burning power plants and mobile sources, like cars and trucks, combines in the atmosphere with volatile organic compounds emitted from industrial and residential sources to form ground-level ozone. At ground level, ozone is a respiratory pollutant that can cause many human respiratory effects, and even premature mortality, especially in vulnerable elderly persons and young children. NO_x emissions also cause environmental damage to coastal waters, aquatic life, and other property, and contribute to the formation in the atmosphere of fine particulates that also harm humans, aquatic life, and vegetation.

During the course of the tampering investigation, criminal investigators also learned that PPMS made and caused staff at the plant to make false statements to the ISO-New England, about the plant's availability to produce power for the New England grid. They also caused staff at the plant to falsely claim to the ISO that the plant was available to produce power when it was not. PPMS did this to maximize the plant's revenues and to minimize repair expenditures.

In February 2015, Ortiz's office filed charges against Frederick Baker and Scott Paterson, respectively, a former Wood Group manager and instrument control technician at the plant at the time the tampering occurred. It is alleged that Baker had, at the direction of the PPMS on-site General Manager, directed Wood Group employees at the plant, including Paterson, to tamper with the Continuous Emissions Monitoring System. In light of the fact Wood Group spearheaded the disclosure of the tampering conduct to USEPA and MassDEP, and provided a high level of cooperation during the case, the case against EthosEnergy is being resolved with a civil settlement.

The case was investigated by EPA's Criminal Investigation Division, the Massachusetts Environmental Crimes Strike Force (an interagency investigative team dedicated to developing the most significant environmental enforcement cases) and the Massachusetts Environmental Police, with the technical assistance of attorneys, analysts and engineers from MassDEP and EPA Region 1.

The federal criminal case is being prosecuted by Sara Miron Bloom of Ortiz's Economic Crimes Unit



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and Daniel Licata, an Assistant Attorney General with the Massachusetts Attorney General's Office working as a Special Assistant United States Attorney, with the assistance of Dianne Chabot, USEPA Criminal Enforcement Counsel. The state civil case is being handled by Assistant Attorney General Frederick Augenstern of Attorney General Healey's Environmental Protection Division, with assistance from attorneys from MassDEP's Office of General Counsel, and engineers in MassDEP's Boston Office.

The details contained in the criminal information and civil complaint are allegations. The defendants in the criminal cases are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law. By entering into the Consent Judgment, EthosEnergy does not admit to the truth of the allegations contained in the Complaint.

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Shipping Companies and Engineers Indicted for Concealing Oil Pollution -- On March 10, 2016, a grand jury in federal district court for the Western District of Washington indicted two shipping companies and two engineers for crimes related to the illegal discharge of oily wastewater from a cargo ship known as the M/V Gallia Graeca. The ship's operator, **ANGELAKOS (HELLAS) S.A.**, its owner, **GALLIA GREACA SHIPPING, LTD**, and engineers **KONSTANTINOS CHRYSOVERGIS** and **TRYFON ANGELOU** were scheduled to be arraigned on the indictment on March 24, 2016. ANGELAKOS (HELLAS) S.A. is a Panama company. GALLIA GREACA SHIPPING, LTD is a Cyprus company.

According to the indictment, the M/V Gallia Graeca travelled from China to Seattle in October 2015. During the voyage, a pollution-control device known as an oil water separator was inoperable, resulting in the accumulation of untreated oily water. On October 16, 26 and 27, 2015, the defendants operated the equipment in a way that bypassed safeguards that prevent the discharge of oily water, resulting in the discharge of more than 5,000 gallons of contaminated water. The indictment alleges that the defendants concealed these incidents from the Coast Guard by making false statements to inspectors, and making false statements and omissions in the ship's record book. When Coast Guard inspectors asked the engineers to operate the oil water separator during the inspection, the engineers did so in such a way that the equipment appeared to be working properly even though it was not.

The two engineers and the two companies operating the ship are charged with Falsification of Records in a federal investigation, which is punishable by up to 20 years in prison, with concealment of material information from the United States, which is punishable by up to 10 years in prison, and with violating the Act to Prevent Pollution from Ships, which is punishable by up to five years of imprisonment. Each count of conviction is also punishable by a \$500,000 fine.

The case is being investigated by EPA's Criminal Investigation Division and the U.S. Coast Guard. It is being prosecuted by Assistant United States Attorneys Seth Wilkinson and Matthew Diggs and by Special Assistant Attorney Stephen Bor. Mr. Bor is an attorney with the United States Coast Guard specially appointed to prosecute criminal cases in federal court.

The charges contained in the indictment are only allegations. A person or entity is presumed innocent unless and until he or she is proven guilty beyond a reasonable doubt in a court of law.

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Louisiana Man Arrested and Charged with Environmental Crimes -- On March 18, 2016, the Louisiana Attorney General's Office announced that **MICHAEL WAGNER** of Metairie, Louisiana, was arrested for willful or knowing violation of a rule or regulation of the Louisiana Petroleum Gas Commission; failure to properly odorize gas or to verify the presence of odorant as required by state law; reckless handling of hazardous material; theft by fraudulent means and systematic practices, valued over \$1,500; and obstruction of justice. Wagner was booked into the Jefferson Parish Correctional Center on March 17, 2016. Wagner is accused of selling a product intended as a substitute for HCFC-22 (R-22), a refrigerant widely used in home air conditioning systems. However, Wagner's product, called Super-Freeze 22A, contained propane and since home air conditioning systems are not designed to handle propane, the use of this product poses a risk of fire and explosion. In at least once instance, an air conditioning service technician was injured when Super-Freeze 22A caught fire and burned.

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