



# 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.

March - April 2022

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# Defendant Summary

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## Utility Company Pays \$2.4 Million for Violating Clean Water Act

Leonard C Boyle, United States Attorney for the District of Connecticut, Tyler Amon, Special Agent in Charge of EPA's Criminal Investigation Division for New England, and Commissioner Katie Scharf Dykes of the Connecticut Department of Energy and Environmental Protection announced that Marmon Utility LLC was sentenced on April 7, 2022 in Bridgeport, Connecticut, for violating the Clean Water Act by 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 Utility"), a subsidiary of Berkshire Hathaway, owns and operates the factory.

Marmon Utility will be under federal probation for three years and must pay \$2.4 million to the government: \$800,000 as a federal penalty and a \$1.6 million community service payment to remediate the Naugatuck River, as administered by the Connecticut Department of Energy and Environmental Protection ("CT DEEP"). Marmon Utility pleaded guilty to the offense on December 21, 2021.

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 Utility 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 Utility 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 Utility ran the system for at least 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 plant's ability to treat 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 Utility'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 Utility based on, among other evidence:

The Marmon Utility 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 Utility 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 Utility's CT DEEP permit.

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

EPA's investigation further disclosed that from at least April 24 to September 29, 2016, the Marmon Utility 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 did not even have access to the system's operational manuals.

In fact, these Marmon Utility 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 Utility's wastewater treatment system held 1,000 gallons of sludge.

In addition to improperly operating and maintaining the wastewater treatment system and sludge-processing equipment at the Seymour factory, Marmon Utility 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.

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

## Judge Orders Freon Smuggler to Pay \$250,000

On March 1, 2022, a Fort Worth, Texas man who smuggled freon into the U.S. was ordered to pay a \$250,000 fine.

Faiz Abdallahi, 56, pleaded guilty in October 2021 to the improper importation of a class II substance, a felony under the Federal Clean Air Act. He was also sentenced to three years' probation.

According to plea papers, Mr. Abdallahi admitted that he smuggled HCFC-22, also known as [R-22](#) refrigerant gas – an ozone-depleting chemical colloquially called freon – into the U.S. without an authorized permit in 2017.

The U.S. Environmental Protection Agency would later phase out production of R-22, which can no longer be produced or imported as of 2020. Only recovered, recycled, or reclaimed supplies of R-22 are currently available, though consumers are not required to stop using R-22 air conditioners.

Mr. Abdallahi admits he arranged for Chinese R-22 to be delivered to the port of Long Beach California and then transported via rail to the Dallas/Fort Worth area disguised as R32 to avoid seizure by the US Customs and Border Protection. His co-conspirator, 53-year-old Severo Zamora, then re-packaged and sold the R-22 to Heating, Ventilation and Air Conditioning (HVAC) companies in the U.S. (Mr. Zamora pleaded guilty in January 2022 to being an accessory after the fact and was sentenced to six months' probation.)



“The defendant’s intentional disregard for the environment included the illegal sale of hydrochlorofluorocarbon-22 (R-22), a restricted substance which not only damages the ozone layer that protects people from the harmful effects of ultraviolet radiation, but also contributes to climate change,” said Todd “Tony” Adams, Assistant Special Agent in Charge of the EPA’s Southwest Area criminal enforcement program. “EPA and our federal partners continue to hold accountable companies and individuals that place public safety and the environment at risk.”

The investigation was conducted by EPA’s Criminal Investigation Division and Homeland Security Investigations. A DOJ Litigation team prosecuted the case.

## Property Manager Pleads Guilty For His Role In The Failure To Properly Notify Tenants About Lead Hazards

On March 9, 2022, Richard Heil, 52, of Buffalo, NY, pleaded guilty to a misdemeanor charge of aiding and abetting the failure to provide lead paint hazard warning notice before U.S. Magistrate Judge Jeremiah J. McCarthy. The charge carries a maximum penalty of one year in prison and a \$100,000 fine.

Heil was a property manager acting on behalf of Williamsville Property Holdings LLC, a.k.a. Williamsville Properties. Between December 2015, and May 2018, Heil and the company were aware of lead-based paint and lead-based paint hazards at a Wick Street residence in Buffalo, a two-family house that was built in 1905. In April 2018, and again in June 2020, Heil and Williamsville Properties rented the residence to lessees. Heil provided a lead disclosure statement to those tenants, which falsely affirmed that the landlord “has no knowledge of lead-based paint and/or lead-based paint hazards in the housing,” and “has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.” Sentencing is scheduled for June 8, 2022

The case was investigated by EPA’s Criminal Investigation Division and the Department of Housing and Urban Development, Office of Inspector. The case is being prosecuted by a DOJ litigation team.



## Former Pittsburgh Water and Sewer Authority Supervisor Pleads Guilty to Violating the Clean Water Act

Glenn Lijewski - A resident of Pittsburgh, Pennsylvania, pleaded guilty in federal court on April 12, 2022, to conspiring to violate the Clean Water Act. Lijewski, 71, of the City's Brookline neighborhood, pleaded guilty to one count before a United States District Judge.

In connection with the guilty plea, the court was advised that Lijewski was the supervisor at the Aspinwall Drinking Water Plant, which is operated by the Pittsburgh Water and Sewer Authority ("PWSA"). Between 2010 and 2017, Lijewski and another supervisor at the plant discharged clarifier sludge directly into Allegheny River in violation of a federal permit. Lijewski also directed PWSA employees to discharge sludge into the river. Lijewski also admitted to submitting reports containing false information about the amount of sludge it was to sending to ALCOSAN's waste treatment plant. Under the terms of an industrial user permit, the Aspinwall plant was permitted to send up to one million of sludge per day to the waste treatment facility. At one point, three of the five sludge flow monitors broke. Lijewski and others at the plant began using estimated sludge-flow figures. This information, in turn, was included in reports PWSA was required to submit to ALCOSAN pursuant to the industrial user permit. Sludge is generated during the process by which raw water is transformed into potable drinking water and consists of solid material removed from the water through the use of chemicals and sedimentation. Over time, an island formed in the river at the point where the discharges were taking place. According to the indictment, a number of employees at the plant referred to the buildup as "Glenn's Island."

Judge Stickman scheduled sentencing for August 16, 2022, at 1:30 pm. The law provides for a total sentence of 5 years in prison, a fine of \$250,000, or both. Under the Federal Sentencing Guidelines, the actual sentence imposed is based upon the seriousness of the offense and the prior criminal history, if any, of the defendant. Pending sentencing, the court continued Lijewski's bond.

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

## Asbestos Abatement Project Supervisor Pleads Guilty to Clean Air Act Violation

On March 11, 2022, The Justice Department and the U.S. Attorney's Office for the Middle District of Pennsylvania announced that Ty Allen Barnett, of Dover, Pennsylvania, entered a plea of guilty to the improper handling and removing of regulated asbestos containing material as required by federal law.

A ten-count indictment filed in January 2020, charged Lobar Inc., First Capital Insulation, Inc., Francis Richard Yingling Jr., Dennis Lee Charles Jr., M&J Excavation Inc., John August Sidari Jr., and Ty Allen Barnett, with various violations of the federal Clean Air Act arising from disturbing and removing asbestos in violation of the National Emission Standards for Hazardous Air Pollutants regulations. Lobar Inc. pleaded guilty on Feb. 9. The remaining defendants have pleaded not guilty and are currently scheduled for trial in June 2022 before U.S. District Court Judge Jennifer P. Wilson.

Asbestos was designated a hazardous air pollutant in 1971 which can become airborne and can be inhaled into the lungs. There is no known safe amount of exposure.

According to U.S. Attorney John C. Gurganus, the criminal charge is the result of Barnett's activity as the project supervisor for the asbestos abatement contractor, First Capital Insulation Inc., on the Berwick Area School District project in Berwick, Pennsylvania. The scope of the project was designed to safely remove environmentally hazardous materials from the site, demolish the former weaving mill building, and construct a new elementary school.

Prior to purchasing the mill in January 2014, the Berwick Area School District obtained an environmental assessment report that identified hazardous substances, including asbestos, located in the old facility. The existence of



asbestos was confirmed by an environmental consultant. The findings of both assessments were shared with Lobar, and its subcontractors responsible for asbestos removal and demolition. Despite this, the demolition went forward before the asbestos was properly removed until stopped by the Environmental Protection Agency (EPA).

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



## **New Orleans Oil Company Worker Guilty of Negligent Discharge of Hazardous Substances into The Gulf of Mexico**

On April 1, 2022 Patrick Huse, age 40, of Perkinston, Mississippi, pleaded guilty to charges related to a negligent discharge of hazardous substances into the Gulf of Mexico in violation of Title 33, United States Code, Section 1321(b)(3) and 1319(c)(1)(A).

According to the plea agreement, Huse was employed as a “Person-in-Charge” ( “PIC”) on Main Pass 310A (“MP-310A”), an oil and gas production platform. In July 2015, workers on MP-310A noticed a sheen on the surface of the surface of the water surrounding the platform. The sheen meant that the platform was discharging oil or other hazardous substances into the Gulf of Mexico. The workers alerted Huse, a PIC on MP-310A. The workers told Huse that they believed the sheen to be the result of sand buildup in filtration equipment on MP-310A. Huse ordered the workers to remove the sand buildup from the filtration equipment in lieu of a complete shut-in, hoping the sheen would dissipate. These measures failed to stop the platform from sheening, so the workers shut down the platform through an emergency shutdown of the entire platform.

Huse faces a maximum term of imprisonment of one year, a fine of \$2,500 to \$25,000 per day of violation, a maximum term of supervised release of up to one year, and a \$25 mandatory special assessment fee. Sentencing has been scheduled for July 7, 2022.

The case was investigated by EPA’s Criminal Investigation Division and the Department of the Interior Office of Inspector General, Energy Investigations Unit. A DOJ Litigation team is prosecuting the case.

## Two Diesel Trucking Companies Conspire to Violate Clean Air Act – Onboard Diagnostics Disabled on Approximately 100 Class 8 Trucks

The U.S. Attorney’s Office for the District of Colorado announced that Pro Diesel Inc. and Endrizzi Diesel, LLC. pleaded guilty to conspiring with a Colorado-based diesel shop to remove or alter the monitoring component of emissions control systems on Class 8, commercial heavy-duty diesel trucks and semi-trucks, thereby violating the Clean Air Act.

According to plea agreements, between July 2017 and May 2020, Iowa-based Pro Diesel Inc. paid a Colorado diesel shop identified as “E.D.” more than \$76,000 to disable on-board diagnostic systems on 34 Class 8 trucks. And, between January 2017 and December 2020, Missouri-based Endrizzi Diesel, LLC paid E.D. more than \$149,000 to disable the diagnostic systems on approximately 60 class 8 trucks. Both diesel shops pleaded guilty to one count of violating Title 18, United States Code, Section 371.

On-board diagnostics systems (OBDS) are monitoring devices required under the Clean Air Act to be installed on vehicles to monitor emissions control systems and to ensure they are functioning properly. Tampering an OBD is frequently referred to as “tuning.” One purpose for “tuning” an OBD is to allow the vehicles to continue to seemingly operate normally while the emissions control system is disabled. This reduces the high costs associated with maintaining or repairing components of the emissions control systems on heavy-duty diesel trucks. However, as a consequence, tampered vehicles spew substantially more deleterious pollutants such as nitrogen oxides, carbon monoxide, non-methane hydrocarbons and particulate matter into the air, presenting a risk to the environment and public health. Nitrogen oxides from tailpipe emissions are a major contributor to the creation of ozone on the front range. Tests conducted by the EPA have found that completely deleting a diesel pickup truck’s emissions controls can increase the truck’s tailpipe emissions of nitrogen oxide by a factor of approximately 310 times, carbon monoxide by a factor of approximately 120 times, and non-methane hydrocarbons by a factor of approximately 1,100 times. The pollutant increase is even greater when the emission controls on Class 8 vehicles, such as the ones tampered with here, are disabled.

Through a remote connection, individuals at E.D. would run software programs to reprogram or “tune” the vehicle’s on-board diagnostic systems. These programs would tamper with, render inaccurate, and disable the monitoring functions of the OBDS so they would no longer detect malfunctions in the emissions control systems.

Sentencing for Pro Diesel is scheduled for June 14, 2022. Sentencing for Endrizzi Diesel is scheduled for June 29, 2022.

The case was investigated by EPA’s Criminal Investigation Division. Prosecution is being handled by a DOJ litigation team.

## **PPEI and President Kory Willis Plead Guilty and Agree to Pay \$3.1 Million in Criminal Fines and Civil Penalties for the Manufacture and Sale of Illegal Delete Devices and Tunes for Diesel Trucks**

Louisiana-based company Power Performance Enterprises Inc. (PPEI) and its President and owner, Kory B. Willis, pleaded guilty to criminal charges on March 15, 2022 in federal court in Sacramento, California. Both defendants pleaded guilty to conspiracy to violate the Clean Air Act and to violating the Clean Air Act by tampering with the monitoring devices of emissions control systems of diesel trucks.

In addition to the criminal charges, the United States also filed a civil complaint against PPEI and Willis on March 15, 2022 in federal court in the Western District of Louisiana, alleging violations of the Clean Air Act's prohibition against the sale or manufacture of devices that bypass, defeat, or render inoperative emissions controls. Under the criminal plea agreements and a proposed civil consent decree, PPEI and Willis agreed to pay a total of \$3.1 million in criminal fines and civil penalties. Under the civil settlement, both Willis and the company agree not to manufacture, sell or install any device that defeats emissions controls.

"The manufacture and sale of illegal delete devices and tunes such as the ones targeted by today's actions put at risk decades of progress in controlling harmful pollution from motor vehicles in this country," said Assistant Attorney General Todd Kim of the Justice Department's Environment and Natural Resources Division. "As the plea agreements and civil settlement show, we will vigorously enforce the prohibitions on delete devices and tunes, using all appropriate enforcement tools."

"The defendants sold products nationwide that allowed drivers to illegally tamper with emissions controls in a manner that caused dramatic increases in emissions," said U.S. Attorney Phillip A. Talbert for the Eastern District of California. "Environmental laws that control diesel pollution protect the environment and the health of the general public and are especially important to protect sensitive populations such as the young, the elderly, and people who suffer from respiratory conditions. Thanks to the work of the EPA, these guilty pleas will send a message to the delete device industry that disregarding federal environmental laws will result in federal charges. The U.S. Attorney's Office will continue to vigorously prosecute those who place profit above the public's health and the environment."

"The actions of Power Performance Enterprises Inc. and its President and owner, Kory B. Willis, that advanced them to the top of the delete tuning market have caused and will continue to cause the emissions of dangerous compounds into the environment which could contribute to serious health issues," said U.S. Attorney Brandon B. Brown for the Western District of Louisiana. "This proposed civil settlement sends a clear message that these types of violations will not be tolerated and those who violate these environmental laws will be held accountable."

"EPA estimates that the defeat devices illegally sold by the defendants are expected to cause the release of over 100 million pounds of excess air pollutants over the life of the diesel trucks in which they were installed," said Acting Assistant Administrator Larry Starfield for EPA's Office of Enforcement and Compliance Assurance. "This case clearly demonstrates the negative environmental impact of defeat devices and EPA's commitment to vigorously enforcing laws designed to protect public health and the environment."

According to court documents, from PPEI's incorporation in 2009 until 2019, PPEI and Willis were among the



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nation's most prominent developers of custom software known as "tunes," and in particular, "delete tunes." Generally, tunes can alter a diesel truck's fuel delivery, power parameters and emissions. PPEI and Willis were well known for their custom delete tunes, software which allows a "deleted" truck to appear to run normally. A deleted vehicle is one that has had emissions controls removed or disabled, resulting in vastly increased emissions of air pollution.

Willis and PPEI reached the top of the illegal delete tuning market, tuning over 175,000 vehicles according to Willis. Willis also stated that PPEI was the biggest custom tuning company in the world, had over 100,000 customers, and tuned more than 500 vehicles a week. According to internal PPEI records, PPEI typically sold well over \$1 million dollars of product a month. According to EPA calculations of the estimated emissions impact, PPEI's sales of delete tunes between 2013 and 2018 alone are anticipated to cause over 100 million excess pounds of nitrogen oxides (NOx) emissions over the life of the diesel trucks equipped with those products.

Deleting a diesel truck causes its emissions to increase dramatically. For example, for a fully deleted truck, which has had all emissions equipment removed or disabled, EPA testing quantified the increased emissions as follows: NOx increased 310 times, non-methane hydrocarbons increased 1,400 times, carbon monoxide increased 120 times, and particulate matter increased 40 times. EPA's Air Enforcement Division released a report in November 2020 finding that more than half a million diesel pickup trucks in the United States — approximately 15% of U.S. diesel trucks that were originally certified with emissions controls — have been illegally deleted.

Diesel emissions include multiple hazardous compounds and harm human health and the environment. Diesel emissions have been found to cause and worsen respiratory ailments such as asthma and lung cancer. One study indicated that 21,000 American deaths annually are attributable to diesel particulate matter. Exposure to polluted air in utero also has been associated with a host of problems with lifelong ramifications including low birth weight, preterm birth, autism, brain/memory disorders and asthma.

Under the proposed civil settlement, defendants PPEI and Willis will pay \$1,550,000 in civil penalties and agree not to manufacture, sell, or install any device that bypasses, defeats, or renders inoperative motor vehicle emissions controls. The defendants will not sell or transfer the intellectual property associated with these products, and will destroy illegal products still in inventory, cease warranty support for previously sold products, revise marketing materials, notify customers and dealers of the law and the settlement, and train employees and contractors. According to civil court documents, Willis and PPEI halted sales of specified delete devices in the fall of 2019 following enforcement activity by EPA.

The defendants are scheduled to be sentenced in the criminal case by U.S. District Judge John A. Mendez on Aug. 23. Willis faces a maximum statutory penalty of five years of incarceration on the conspiracy count, two years of incarceration on the tampering count, and for each count a maximum fine of \$250,000 or twice the gross pecuniary gain derived from the offense. PPEI faces for each count a maximum fine of \$500,000 or twice the gross pecuniary gain derived from the offense. Under the plea agreements, the defendants agree to jointly and severally pay a \$1,550,000 criminal fine. The sentences will be determined at the discretion of the court after consideration of all applicable statutory factors and the Federal Sentencing Guidelines, which take into account a number of variables.



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The criminal case was the product of an investigation by the EPA's Criminal Investigation Division. Criminal prosecution is being handled by a DOJ litigation team and the federal civil case is being handled by a joint DOJ/EPA litigation team.

Stopping the manufacture, sale and installation of illegal delete devices is a priority for EPA. To learn more, visit: <https://www.epa.gov/enforcement/national-compliance-initiative-stopping-aftermarket-defeat-devices-vehicles-and-engines>.

## Nevada Apartment Complex Manager Pleads Guilty to Violating Clean Air Act Asbestos Regulations at Two Facilities

Bobby Babak Khalili, 46, of Los Angeles, entered a guilty plea to two counts of violating the Clean Air Act on March 14, 2022 in Las Vegas, Nevada. Sentencing is currently scheduled for June 15, 2022. Khalili faces up to five years in prison and a \$250,000 fine for each count, and up to three years of supervised release.

Khalili was indicted by a grand jury sitting in the District of Nevada in September 2019, in connection with asbestos-related Clean Air Act violations at a Las Vegas apartment complex. The grand jury later returned a superseding indictment against Khalili in July 2021, in connection with new Clean Air Act asbestos violations at a second apartment complex, which Khalili now admits he committed while on pretrial release for the first set of charges.

As part of his guilty plea, Khalili acknowledged that, on behalf of his company Las Vegas Apartments LLC, he oversaw renovation activities at both apartment complexes. He further admitted that he was aware of asbestos-containing materials at both buildings, and that he hired untrained individuals to tear out those materials without following asbestos work practice standards prescribed by the Clean Air Act. Those work practice standards require that asbestos-containing materials be safely removed prior to general renovation activity taking place. Asbestos-containing materials must be kept wet at all times to prevent dust escaping, sealed in leak-proof bags and disposed of at facilities authorized to accept asbestos waste. At both apartment buildings, untrained laborers removed asbestos-containing drywall and ceiling texture without wetting or containment, releasing asbestos fibers into the surrounding atmosphere.



Khalili also admitted to taking steps to evade law enforcement at each site. At the first apartment complex, Khalili attempted to have a dumpster filled with asbestos waste removed from the site when inspectors from the Clark County Department of Air Quality discovered asbestos-related violations. At the second complex, where he oversaw illegal renovations while on pretrial release, he instructed the contractor in charge of the renovation to lie to inspectors about who owned and oversaw the project, in an attempt to blame another person for the Clean Air Act violations he knowingly committed.



Inhalation of airborne asbestos fibers has been determined to cause lung cancer, asbestosis, and mesothelioma, an invariably fatal disease. Congress and the EPA have determined that there is no safe level of exposure to asbestos.

“The defendant placed workers and community members in harm’s way when he knowingly violated Clean Air Act requirements for the safe handling of asbestos, and then did it again while already under indictment,” said Assistant Attorney General Todd Kim of the Environment and Natural Resources Division. “The Depart-



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ment of Justice will continue to hold accountable those who defy federal law aimed at protecting the public from adverse health effects of asbestos.”

“Exposure to asbestos is associated with life-threatening illnesses and serious respiratory diseases,” said Acting U.S. Attorney Christopher Chiou for the District of Nevada. “By failing to follow required standards for properly handling asbestos, the defendant put the health of our communities — including workers at two apartment renovation sites — at risk. This case reflects our office’s commitment to working with our state and federal partners to enforce environmental laws that protect Nevadans from hazardous pollutants.”



“By not removing asbestos – a known carcinogen – safely from the buildings he was working on, the defendant placed the health of his apartment residents and the surrounding community at risk,” said Special Agent in Charge Scot Adair of the EPA’s Criminal Enforcement Program in Nevada. “Today’s agreement demonstrates that those who violate those laws will be held responsible.”

The case was investigated by EPA’s Criminal Investigation and the Clark County Department of Air Quality. Prosecution is being handled by a DOJ litigation team.

## Charges Filed in Connection with Texas Oilfield Deaths

On March 8, 2022, a federal grand jury in Midland, Texas returned an indictment charging an oilfield company and an executive of the company with worker safety and environmental crimes.

According to court documents, Aghorn Operating Inc. owns and operates oil wells and leases in Texas. Aghorn and Trent Day, Vice President of Aghorn, were indicted for violating the Clean Air Act relating to releases of hydrogen sulfide from an Aghorn facility, as well as obstructing an Occupational Safety and Health Administration (OSHA) investigation. Aghorn was also charged with three worker safety OSHA crimes for causing the death of an Aghorn employee. In addition, Aghorn and Day, along with another corporation, Kodiak Roustabout Inc., were charged with violating the Safe Drinking Water Act and making false statements regarding the mechanical integrity of Aghorn injection wells in forms and pressure charts filed with the State of Texas Railroad Commission.

The charges are the result of an investigation of the Oct. 26, 2019, death of Aghorn employee, Jacob Dean and his wife, Natalee Dean. Both were overcome by hydrogen sulfide, a poisonous gas, at an Aghorn facility in Odessa.

“The Justice Department will protect and defend the right to a safe workplace, and we will prosecute those who violate federal law aimed at keeping workers safe,” said Assistant Attorney General Todd Kim for the Justice Department's Environment and Natural Resources Division.

“Our nation's environmental laws are designed to protect our communities and workers from hazardous pollutants,” said Assistant Special Agent in Charge Todd “Tony” Adams of EPA's Southwest Area Criminal Investigation Program. “Today's indictments demonstrate that companies intentionally violating those laws and endangering others will be held responsible for their crimes.”

According to the allegations in the indictment, on the night of the incident, Jacob Dean responded to a call to check the pump house at the facility, an enclosed building with two bay doors. His wife, Natalee Dean, knew where Jacob had gone, and started calling him when he did not return in a timely manner. When those calls went unanswered, Natalee drove to the station with her two children, aged nine and six. A pump had failed in the pump house, causing a leak of produced water containing hydrogen sulfide. Jacob had been overcome by hydrogen sulfide in the pump house, and when Natalee arrived at the station, she exited the vehicle and proceeded to the pump house, where she too was overcome by the gas. Both Jacob and Natalee were found dead by the first responders to the scene.

The indictment stated that: “Aghorn was aware that its produced water contained high amounts of H<sub>2</sub>S as well as the deadly nature of the gas.” Aghorn and Trent Day allegedly “knowingly violated their general duty to prevent the accidental release” of hydrogen sulfide and also knowingly “placed another person in imminent danger of death or serious bodily injury.”

OSHA began an investigation two days later. The indictment alleges that Aghorn and Day obstructed the OSHA investigation, arising out of statements made by Day to OSHA in two separate interviews.

The mechanical integrity of an injection well must be evaluated by conducting pressure tests or alternative

testing methods approved by the Railroad Commission. In evaluating the results of a pressure test, the Railroad Commission considers the level of pollution risk that loss of well integrity would cause. Aghorn operated numerous produced water injection wells, and submitted purported well pressure test results to the Railroad Commission. The indictment alleges that the defendants made false statements regarding the mechanical integrity of Aghorn injection wells in forms and pressure charts filed with the Railroad Commission.

If convicted, a federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

The case was investigated by the EPA's Criminal Investigation Division. A DOJ litigation team is prosecuting the case.

*An indictment is merely an allegation and all defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.*