



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.

December 2018 — February 2019

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Biodiesel Fuel Company Sentenced for Releasing More Than 45,000 Gallons of Wastewater into Arthur Kill

An Elizabeth, New Jersey, biodiesel fuel company was sentenced on February 7, 2019 for discharging more than 45,000 gallons of wastewater from its commercial biodiesel fuel production facility into the Arthur Kill, a narrow waterway that separates New Jersey from Staten Island, New York, U.S Attorney Craig Carpenito announced.

Fuel Bio One LLC was sentenced to pay a criminal fine of \$100,000. The company was also sentenced to probation for a period of five years, during which the company must: provide biannual reports to the Court and the Government documenting its waste generation, handling and disposal practices; develop, implement, and fund an employee training program to ensure that all employees are aware of proper waste handling and disposal practices and to ensure that all storage, treatment and disposal of wastewater complies with the Clean Water Act; and allow U.S. Environmental Protection Agency full access to all offices, warehouses and facilities owned or operated by the company.



Fuel Bio One LLC previously pleaded guilty before U.S. Magistrate Judge James B. Clark 3rd to an information charging it with one count of violating the Clean Water Act, a statute that was enacted to prevent, reduce, and eliminate water pollution in the United States.

“Protecting the environment and our natural resources is one of the many ways this office works to keep New Jersey safe for everyone,” U.S. Attorney Carpenito said. “The sentence imposed today as a result of Fuel Bio One’s previous guilty plea ensures that the company will be punished for its past crimes, and the plea agreement puts in place a plan to ensure they don’t pollute our waterways in the future.”

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

Fuel Bio One generated wastewater that included methanol, biodiesel and other contaminants, as a byproduct of its biodiesel fuel production at its Elizabeth, New Jersey, plant. On Sept. 6, 2013, and Nov. 9, 2013, employees of Fuel Bio One released approximately 45,000 gallons of wastewater into a storm water pit at the Elizabeth plant, causing the pump to operate and, as a result, wastewater to be discharged into the Arthur Kill. A representative of Fuel Bio One admitted to this conduct in court.

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

Terminix Branch Manager Sentenced for Illegally Applying Restricted-Use Pesticide to Multiple Residence in the U.S. Virgin Islands

Jose Rivera, former Branch Manager of Terminix International USVI LLC, was sentenced on Jan. 17, 2019, to 12 months in prison for illegally applying fumigants containing methyl bromide in multiple residential locations in the U.S. Virgin Islands. Two of the applications were at the Sirenusa condominium resort complex on St. John where a family of four fell seriously ill in March 2015, after the unit below them was fumigated. In September 2018, Rivera pleaded guilty to four of the counts charged in an indictment charging violations of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) for application of a restricted-use pesticide in a manner inconsistent with its label.

According to the plea agreement, Rivera was certified as a pesticide applicator by the Virgin Islands Department of Planning and Natural Resources and received pesticide applicator training from the University of the Virgin Islands. Based on his training, Rivera knew that he was required to read the pesticide label and follow all instructions when using any pesticide. In short, the defendant was instructed that federal law requires applicators to follow the pesticide use instructions on the label. The label on methyl bromide states that its use is restricted to the location and manner on the label, and the label does not authorize application of methyl bromide in a residential unit. Rivera applied methyl bromide, a registered restricted-use pesticide, in a manner inconsistent with the use instructions on the label at the residences named in the counts of conviction.



In November 2017, the companies Terminix LP and Terminix, USVI, Rivera's employer, were sentenced for violations of FIFRA, based on their earlier guilty pleas. Terminix USVI, was sentenced to pay \$4.6 million in fines and \$1.2 million in restitution to the EPA for response and clean-up costs at the St. John resort. Terminix International Company LP was sentenced to pay a fine of \$4.6 million and will perform community service related to training commercial pesticide applicators in fumigation practices and a separate health services training program.

In 1984, the EPA banned the indoor use of methyl bromide products. The few remaining uses are severely restricted and largely limited to commodity applications for quarantine and pre-shipment purposes. Pesticides containing methyl bromide in the U.S. are restricted-use due to their acute toxicity, meaning that they may 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.

The case was investigated by EPA's Criminal Investigation Division working cooperatively with the Virgin Islands government and, the Agency for Toxic Substances and Disease Registry. The case was prosecuted by a joint DOJ/EPA litigation team.

Hanover Man Sentenced to 15 Months of Incarceration for Dumping Truckloads of Sewage into West Virginia Stream

Mike Blankenship of Hanover, West Virginia, was sentenced to 15 months in prison for Clean Water Act violations on January 16, 2019. A federal jury convicted Blankenship of two felony Clean Water Act violations in April 2018. United States Attorney Mike Stuart praised the work of the Environmental Protection Agency (EPA) and the West Virginia Department of Environmental Protection (WVDEP), who were also assisted by the Federal Bureau of Investigation (FBI) and the West Virginia State Police.

“No one wants crap in their creek but that’s exactly what they got in this case,” said United States Attorney Mike Stuart. “Clean water and public sewage - especially in West Virginia- is still much too hard to come by in some of our more rural communities. Blankenship operated his business with total disregard of environmental laws putting raw sewage in the very water sources our good people depend on.”



On September 29, 2015, a sewage truck owned by Blankenship was seen dumping untreated sewage into Little Huff Creek, a tributary of the Guyandotte River in Southwestern West Virginia. Inspectors with the West Virginia Department of Environmental Protection (WVDEP) responded to the truck’s location in Hanover, West Virginia. They saw the sewage truck with a hose placed in the creek, observed sewage in the water and on the ground, and quickly requested the assistance of the West Virginia State Police. Returning to the truck, WVDEP agents were able to take samples from the truck and pad. Lab tests confirmed the presence of fecal coliform, an indicator of raw or untreated sewage. Later, agents with the FBI, EPA, and WVDEP spoke to Mike Blankenship. Blankenship owns a porta-john and sewage business under the name Hanover Contracting Company. Blankenship admitted that it was his sewage truck dumping sewage into the water on the day the WVDEP inspectors observed it. Blankenship also admitted to dumping sewage into Little Huff Creek on other occasions. Neighbors provided photographic evidence that they testified showed Blankenship’s trucks dumping sewage and porta-john waste into the creek on various dates in 2015 and 2016. The April 2018 federal jury also heard testimony from the law enforcement agents and experts in water quality assessment.

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

Contractor Who Put His Workers at Risk of Asbestos Exposure Sentenced in Federal Court: Algona Man Who Was Also a Housing Inspector Failed to Thoroughly Inspect for Asbestos Before Beginning a Renovation

An experienced Algona contractor who purchased and renovated the former Kossuth County Home without thoroughly inspecting for asbestos was sentenced February 13, 2019, to two years of probation.

Steven A. Weaver, age 61, from Algona, Iowa, received his sentence after an October 11, 2018 guilty plea to one count of violating clean air work practice standards.

In a plea agreement, Weaver admitted he was an experienced contractor and building inspector who had worked for various Iowa municipalities since the early 2000s. During this time, Weaver performed work for the municipalities that was financed by the United States Department of Housing and Urban Development through the Iowa Finance Authority. Weaver was responsible for conducting initial inspections of residential properties to determine whether it was cost-effective to rehabilitate each home. In conjunction with this work, Weaver gained experience working with lead and asbestos.

In November 2013, Weaver purchased the former Kossuth County Home in the Algona area. Weaver intended to convert the building into apartments to be known as “The Oasis.” Weaver hired workers to renovate the building. None of these workers were licensed to remove asbestos. Prior to beginning the renovation, Weaver failed to thoroughly inspect the building for asbestos to determine whether it was subject to regulation.



In November 2014, EPA agents searched Weaver’s property and determined piping in the basement contained regulated asbestos. Weaver’s workers had already removed the piping. An EPA agent asked Weaver whether he had notified the Iowa Department of Natural Resources (“IDNR”) before the renovation and, when Weaver indicated he had not, the EPA agent instructed Weaver to report to IDNR. However, Weaver did not notify IDNR. Instead, Weaver continued the renovation operation in late 2014 without properly notifying IDNR.

Weaver was sentenced in Sioux City by United States District Court Chief Judge Leonard T. Strand. Chief Judge Strand indicated the offense was “aggravating” because Weaver had cut corners on his own renovation project and potentially put his workers at risk of asbestos exposure. Weaver was sentenced to two years of probation, fined \$10,000, and ordered to pay costs of prosecution in the amount of \$1,573.35.

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

Lab Owner Ordered to Pay \$544,000 For Environmental Violation

On January 30, 2019, the owner of the now-closed Beta Chem Laboratory in Lenexa, Kansas was ordered to pay \$544,287 in restitution for storing hazardous waste without a license.

Ahmed El-Sherif, of Leawood, Kansas was found guilty in a bench trial of storing hazardous waste without a license. El-Sherif started Beta Chem in the mid-1990s, which he owned and operated. On October 4, 2013, after issuing an Emergency Order to Seize and Secure Radioactive Materials, KDHE took control of Beta Chem and secured the facility.

EPA agents executed a search warrant at Beta Chem on Jan. 22, 2014, where they discovered numerous containers of hazardous wastes contaminated with radiation.

During trial, U.S. District Court Judge Julie A. Robinson found that by 2012 Beta Chem had become a defunct operation and hazardous chemicals were being stored at the facility in lieu of a thorough decommissioning and decontamination process.

El-Sherif was found not guilty on a charge of obstructing a federal investigation, and will serve two years on federal probation.



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

South Bay Resident Sentenced To 30 Months In Prison For Illegal Dumping In Wetlands And Other Protected Waters

James Philip Lucero was sentenced on February 25, 2019 to 30 months in prison for the unpermitted discharge of pollutants into waters of the United States, including wetlands, announced United States Attorney David L. Anderson, Environmental Protection Agency (EPA) Special Agent in Charge Jay M. Green, Federal Bureau of Investigation Special Agent in Charge John F. Bennett, and United States Corps of Engineers Deputy San Francisco District Counsel Jesse L. Anderson. The sentence was handed down by the Honorable Haywood S. Gilliam, United States District Judge.



Before and after photos show impact of Lucero's actions after orchestrating the dumping of 1800 truckloads of construction debris and fill material on private property containing federally protected wetlands.

On February 21, 2018, a federal jury convicted Lucero, 59, of Carmel, Calif., of violating the Federal Clean Water Act. The evidence at trial demonstrated Lucero, a self-described “dirt broker,” orchestrated the illegal discharge of pollutants into waters of the United States adjacent to Mowry Slough, part of the Don Edwards San Francisco Bay National Wildlife Refuge located in Newark, Calif. As a dirt broker, Lucero charged a fee to contractors and trucking companies in exchange for providing open space to dump fill material, including construction debris. The defendant caused approximately 1800 industrial-sized truckloads of construction debris and fill material to be dumped on private property containing federally-protected wetland and other waters of the United States, without applying for or obtaining a permit from the U.S. Army Corps of Engineers or the Environmental Protection Agency, or obtaining permission from the landowner. A federal grand jury handed down a Superseding Indictment on January 31, 2017, charging Lucero with causing dirt, soil, and other materials to be discharged from a point source into waters of the United States, including over ten acres of wetlands and more than an acre of other waters of the United States. Lucero was convicted on all three counts of unpermitted filling of wetlands and tributaries, in violation of 33 U.S.C. §§ 1311, 1319(c)(2) (A), and 1344.

“Protecting the long-term health and integrity of San Francisco Bay, including its tributaries, wetlands, connecting waters, and associated plant and wildlife, are of the utmost importance to the United States,” said U.S. Attorney Anderson. “Today’s sentence should serve as a stern warning to anyone contemplating taking steps to illegally dump in the waters of the United States.”

“The tidal marsh at issue in this case is protected under both the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899,” said Jay M. Green, Special Agent in Charge of EPA's criminal enforcement program in California. “Today’s sentence demonstrates that EPA and its law enforcement partners will not tolerate illegal dumping into waters of the United States.”

In addition to the prison term, Judge Gilliam ordered Lucero to serve twelve months of supervised release upon his release. A hearing to determine the amount restitution has been set for May 28, 2019. Judge Gilliam ordered Lucero to surrender and to begin serving his sentence on April 22, 2019.

The case was investigated by EPA's Criminal Investigation Division, FBI, the Alameda County District Attorney's Office, and the Newark Police Department. The case was prosecuted by a DOJ litigation team.

Former Owner of Fulton County Tannery Plant Pleads Guilty to Felony Storage of Hazardous Waste: Stored Hundreds of Drums of Hazardous Material in the Abandoned Building Without a Permit

Robert Carville, age 56, formerly of Johnstown, New York, pled guilty on December 3, 2018 to storing hazardous waste without a permit at the former Carville National Leather Corporation building in Johnstown.

The announcement was made by United States Attorney Grant C. Jaquith and Tyler Amon, Special Agent in Charge of the U.S. Environmental Protection Agency's Criminal Investigation Division (EPA-CID) in New York.

Carville National Leather Corporation was a family owned tannery business that operated in Johnstown from 1976 until it closed for financial reasons in September 2013. Robert Carville owned and operated Carville National Leather for approximately 10 years leading up to its closing.

In pleading guilty, Carville admitted that as the owner and manager of the tannery, he was responsible for the materials inside the tannery when it closed. Carville ultimately moved to another state and left behind, in the tannery building, hundreds of containers of hazardous chemicals, including some that had labels on them such as "corrosive," "acidic," and "hazardous." Carville admitted that he did not have a permit to store hazardous materials at the tannery (or anywhere else). Carville also admitted that he stored these chemicals illegally for more than 2 years.

Carville will be sentenced on May 20, 2019 by Senior United States District Judge Frederick J. Scullin, Jr. He faces up to 5 years in prison and a maximum fine of up to \$50,000 per day of violation. A defendant's sentence is imposed by a judge based on the particular statute the defendant is charged with violating, the U.S. Sentencing Guidelines, and other factors.

This case was investigated by EPA's Criminal Investigation Division and is being prosecuted by DOJ.



Clarks Summit Man Pleads Guilty To Violations Of Clean Water Act And Tampering With Government Witness

David D. Klepadlo of Clarks Summit, Pennsylvania and the company he owns, David D. Klepadlo & Associates, Inc., pleaded guilty on December 19, 2018 to making false statements in violation of the Clean Water Act and tampering with a government witness.

According to United States Attorney David J. Freed, Klepadlo was certified by the Commonwealth of Pennsylvania as a waste water treatment plant operator. Klepadlo and his company contracted with local municipalities to operate and manage the municipalities' waste water treatment plants in accordance with regulations and limitations in permits issued by the Pennsylvania Department of Environmental Protection (PADEP) and the U.S. Environmental Protection Agency (EPA).

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

The defendant not only violated the Clean Water Act by failing to properly operate a waste water treatment facility, but also created false test results to mislead state and federal officials"

SA Jennifer Lynn

Klepadlo knowingly failed to take daily and weekly samples and measurements required for the purpose of monitoring pollutants discharged into waterways of the United States; knowingly created false test results and falsely reported those results in discharge monitoring reports submitted monthly to the PADEP and the EPA.

Klepadlo also admitted to attempting to persuade a government witness to fabricate a false explanation for the Clean Water Act violations for the purpose of influencing testimony of a witness in an official proceeding involving the testing and registering requirements of the permits.

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

"For personal profit, the Defendant in this case violated the Clean Water Act and tampered with a government witness," said U.S. Attorney Freed. "His failure to complete appropriate and necessary testing violated the trust of our citizens who depend upon public entities to ensure clean, safe drinking water. The one constant uniting the diverse communities of the Middle District of Pennsylvania is the Susquehanna River, providing us with an abundant natural resource as well as commercial and recreational opportunities. Working with our partners at EPA Criminal Enforcement, the FBI and the Pennsylvania DEP we are committed to protecting this important asset and ferreting out violations of the Act."

"The defendant not only violated the Clean Water Act by failing to properly operate a waste water treatment

facility, but also created false test results to mislead state and federal officials,” said Special Agent in Charge Jennifer Lynn of EPA’s criminal enforcement program in Pennsylvania. “He then attempted to persuade a government witness to fabricate a false explanation of the violations. EPA and its law enforcement partners are committed to the protection of public health and will continue to pursue those who undermine those efforts.”

“At every turn, it seems, David Klepadlo opted to cut corners and tell lies,” said Michael T. Harpster, Special Agent in Charge of the FBI’s Philadelphia Division. “After tampering with his water samples, he sought to do the same with a government witness. The FBI will continue to work with our state and federal partners to investigate and stamp out such corruption.”

The maximum penalty for the Clean Water Act violation is punishable by up to 2 years’ imprisonment and a sliding scale for fines of \$5,000 to \$25,000 per violation, per day. The maximum penalty under the tampering with a witness statute is 20 years’ imprisonment, and a \$250,000 fine. Each crime also carries a term of supervised release following imprisonment.

The case was investigated by EPA’s Criminal Investigation, FBI and the Pennsylvania Department of Environmental Protection. The case is being prosecuted by a DOJ litigation team.

Pennsylvania Company Found Guilty of Hazardous Waste Violations at Cuyahoga County Facility

Tier Environmental LLC pleaded guilty on January 24, 2019 to a single felony charge of recklessly violating a hazardous waste permit issued under Chapter 3734 of the Ohio Revised Code. The company operated a hazardous waste transfer, storage and disposal facility in Bedford, Ohio, from 2013 through 2017.

“This company had three times the permitted limit for highly flammable and dangerous hazardous waste, which is unacceptable,” Attorney General Yost said. “This is an example of a bad company that didn’t follow the rules put in place to protect the public and environment.”

Regulatory inspections by the Ohio Environmental Protection Agency and a criminal investigation by the Ohio Bureau of Criminal Investigation and EPA’s Criminal Investigation Division found the company exceeded its permitted storage capacity by more than 130,000 gallons of hazardous waste between March and May of 2015.

Judge Brian J. Corrigan of the Cuyahoga County Common Pleas Court ordered the company to pay restitution of \$20,000 to the Ohio EPA and BCI for investigative costs. The company also must pay a \$25,000 fine, with \$15,000 of the amount suspended.

In November, the company’s president and vice president pleaded no contest to charges of criminal endangering, a second-degree misdemeanor. The Bedford Municipal Court found them guilty and ordered each to pay a \$500 fine, \$3,100 in restitution and complete 40 hours of community service.

IAV GmbH to Pay \$35 Million Criminal Fine in Guilty Plea for Its Role in Volkswagen AG Emissions Fraud

On December 18, 2018, IAV GmbH (IAV), a German company that engineers and designs automotive systems, agreed to plead guilty to one criminal felony count and pay a \$35 million criminal fine as a result of the company's role in a long-running scheme for Volkswagen AG (VW) to sell diesel vehicles in the United States by using a defeat device to cheat on U.S. vehicle emissions tests required by federal law.

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

IAV is charged with and has agreed to plead guilty to one count of conspiracy to defraud the United States and VW's U.S. customers and to violate the Clean Air Act by misleading the EPA and U.S. customers about whether certain VW- and Audi-branded diesel vehicles complied with U.S. vehicle emissions standards. IAV and its co-conspirators knew the vehicles did not meet U.S. emissions standards, worked collaboratively to design, test, and implement cheating software to cheat the U.S. testing process, and IAV was aware the VW concealed material facts about its cheating from federal and state regulators and U.S. customers. Under the terms of the plea agreement, which must be accepted by the court, IAV will plead guilty to this crime, will serve probation for two years, will be under an independent corporate compliance monitor who will oversee the company for two years, and will fully cooperate in the Justice Department's ongoing investigation and prosecution of individuals responsible for these crimes. Pursuant to the U.S. Sentencing Guidelines, IAV's \$35 million fine was set according to the company's inability to pay a higher fine amount without jeopardizing its continued viability.

"Today's guilty plea shows that this scheme to evade automotive emissions tests and cheat the American public and the U.S. government extended well beyond Volkswagen," said Principal Deputy Assistant Attorney General Cronan. "Our investigation into emissions cheating is ongoing and we will follow the evidence wherever it leads."

"By helping VW cheat on U.S. emissions tests in violation of the Clean Air Act, IAV put its corporate success over public health and unfairly disadvantaged its competitors," said Deputy Assistant Attorney General Williams. "The Department of Justice will continue to work with its law enforcement partners to ensure that companies like IAV play fair and that all Americans can enjoy the protections of our nation's environmental laws."

"IAV participated in Volkswagen's deception of American regulators and fraud on American consumers," said U.S. Attorney Matthew Schneider. "As this guilty plea demonstrates, our office will continue to aggressively prosecute corporate criminals, even when they work at some of the world's largest, most prominent companies."

"IAV designed the software that allowed VW to cheat U.S. air emissions standards," said EPA Office of En-

forcement and Compliance Assurance Assistant Administrator Susan Bodine. “EPA and its law enforcement partners will not tolerate actions like this that put profit above public health and environmental protection.”

“Americans rightly expect corporations to operate honestly,” said FBI Special Agent in Charge Slater. “This case sends a clear message that the FBI and its partners will hold corporations accountable when they defraud consumers and violate federal laws.”

The guilty plea of IAV represents the most recent charges in an ongoing investigation by U.S. criminal authorities into unprecedented emissions cheating by VW. In March 2017, VW pleaded guilty to criminal charges that it deceived U.S. regulatory agencies, including the EPA and the California Air Resources Board, by installing defeat devices in diesel vehicles emissions control systems that were designed to cheat emissions tests. As part of its plea agreement with the Department, VW paid a criminal fine of \$2.8 billion and agreed to an independent corporate compliance monitor for three years. Eight individuals were previously indicted in connection with this matter, two of whom have pleaded guilty and been sentenced. The other six charged defendants are believed to reside in Germany.

Starting in 2009, IAV and its co-conspirators caused defeat device software to be installed on all of the approximately 335,000 Gen 1 vehicles that VW sold in the United States.

According to the statement of facts that will be filed with the court in IAV’s case, in 2006, VW engineers began to design a new diesel engine to meet stricter U.S. emissions standards that would take effect by model year 2007. This new engine would be the cornerstone of a new project to sell diesel vehicles in the United States that would be marketed to buyers as “clean diesel.” When the co-conspirators realized that they could not design a diesel engine that would both meet the stricter standards for nitrogen oxides (Nox) and attract sufficient customer demand in the U.S. market, they decided they would use a software function to cheat the U.S. emissions tests.

VW delegated certain tasks associated with designing its new “Gen 1” diesel engine to IAV, including parts of software development, diesel development and exhaust after-treatment. In November 2006, a VW employee requested that an IAV employee assist in the design of defeat device software for use in the diesel engine. The IAV employee agreed to do so and prepared documentation for a software design change to recognize whether a vehicle was undergoing standard U.S. emissions testing on a dynamometer or it was being driven on the road under normal driving conditions. If the software detected that the vehicle was not being tested, the vehicle’s emissions control systems were reduced substantially, causing the vehicle to emit substantially higher NOx, sometimes 35 times higher than U.S. standards.

By at least 2008, an IAV manager knew the purpose of the defeat device software, instructed IAV employees to continue working on the project and directed IAV employees to route VW’s requests regarding the defeat device software through him; the manager was involved in coordinating IAV’s continued work on it.

Starting with the first model year (2009) of VW’s new “clean diesel” Gen 1 engine, through model year 2014, IAV and its co-conspirators caused defeat device software to be installed on all of the approximately 335,000 Gen 1 vehicles that VW sold in the United States.

This case was investigated by the FBI and EPA-Criminal Investigation Division. The prosecution and corporate investigation are being handled by Trial Attorneys Philip Trout, Mark Cipolletti and Gary Winters of the Criminal Division's Fraud Section; Senior Trial Attorney Jennifer Blackwell of the Environment and Natural Resources Division's Environmental Crimes Section; and White Collar Crime Unit Chief John K. Neal of the Eastern District of Michigan. The Criminal Division's Office of International Affairs also assisted in the case. The Justice Department also extends its thanks to the Office of the Public Prosecutor in Braunschweig, Germany.

Michigan Man and His Company Plead Guilty to Illegally Storing Hazardous Waste in Madison Heights, Michigan

Gary Alfred Sayers and his company, Electro-Plating Services Inc., both pleaded guilty in federal court on February 14, 2018 in Detroit, Michigan, to illegally storing hazardous wastes at the company's premises in Madison Heights, Michigan, in knowing violation of the Resource Conservation and Recovery Act, the Department of Justice and U.S. Environmental Protection Agency (EPA) announced. Under the terms of the plea agreement, Sayers and Electro-Plating Services each pleaded guilty to a felony charge of illegally storing hazardous waste and will pay the EPA \$1,444,510 for its direct costs to clean up the plating facility. The court will decide any term of incarceration and fine at sentencing.

According to the plea agreement, Sayers — who owns and has been the President of Electro-Plating Services from the late 1990s — used various dangerous chemicals in his electroplating business that became hazardous wastes when they no longer fulfilled their industrial purpose. Sayers almost never sent those wastes away for proper disposal, preferring to keep them on site indefinitely.

“Sayers’s knowing, illegal storage of waste cyanide, highly corrosive wastes, toxic chromium waste, and reactive wastes posed a significant danger and threat to nearby communities and the environment. He and his company continued their illegal and poor handling despite many years of warnings by environmental regulators, and they are now being held accountable for their willful refusal to comply with the law,” said Jeffrey Bossert Clark, Assistant Attorney General for the Environment and Natural Resources Division.



“Illegal storing of hazardous waste is a danger not only to the environment but to communities as well,” stated United States Attorney Matthew Schneider. “The actions by this defendant showed a blatant disregard for the law. It is our hope that prosecutions such as this one will serve as a deterrent to others who seek to serve their own interests rather than the safety of the environment.”

“Hazardous wastes pose serious risks to the health of entire communities, so it’s imperative they be handled and disposed of safely and legally,” said EPA Assistant Administrator for the Office of Enforcement and Compliance Assurance Susan Bodine. “EPA and its law enforcement partners are committed to the protection of public health and will continue to pursue those who blatantly undermine those efforts.”

According to the plea agreement, Sayers knew that such storage was illegal because he also managed the company's former Detroit facility — where he kept hazardous wastes illegally until 2005 — and because the Michigan Department of Environmental Quality (MDEQ) repeatedly sent him warnings. In 2005, Sayers was charged with and pleaded guilty to illegally transporting hazardous wastes. During the ensuing years, MDEQ attempted to get Sayers and Electro-Plating Services to properly manage the amounts of hazardous wastes piling up at the Madison Heights location. MDEQ issued numerous Letters of Warning and Violation Notices to the company regarding its hazardous wastes.

In 2016, MDEQ identified over 5,000 containers of liquid and solid wastes at the Madison Heights location. That same year, the City of Madison Heights revoked the company's occupancy permit. In January 2017, EPA initiated a Superfund removal action, after determining that the nature and threats posed by the stored hazardous waste required a time-critical response. The cleanup was completed in January 2018.

Sentencing is scheduled for May 16, 2019.

The case was investigated by EPA's Criminal Investigation Division and the Michigan Department of Environmental Quality. The case is being prosecuted by a DOJ litigation team.

Power Plant Owner Pleads Guilty to Failing to Remove 224,000 Square Feet of Asbestos Before Demolishing Power Plant for Scrap Metal

Mark Harris of Versailles, KY pleaded guilty in U.S. District Court to knowingly failing to remove asbestos in a South Point, Ohio electric power plant.

Benjamin C. Glassman, United States Attorney for the Southern District of Ohio, Jennifer Lynn, Special Agent in Charge, Criminal Enforcement Program, United States Environmental Protection Agency (EPA), Laurie A. Stevenson, Director, Ohio EPA and Ohio Attorney General Dave Yost announced the plea entered into on January 28, 2019 before U.S. District Judge Susan J. Dlott.

Harris was the majority owner and operator of South Point Biomass Generation LLC. He acquired the coal burning electric power plant on Collins Avenue in South Point to convert it to a power generating plant that would use renewable energy. The plant contained seven dormant coal-burning boilers along with their associated piping. According to court documents, Harris commissioned an asbestos survey on the boiler room in 2008, which revealed nearly 224,000 square feet of materials containing asbestos.



Beginning in 2011 through October 2013, Harris and others removed approximately two and a half million pounds of metal from the facility and sold it as scrap. Harris knew significant portions of the metal removed were covered in asbestos. He directed others to help him cut through the asbestos labeling on several pipes in order to obtain the scrap metal underneath. The asbestos was stripped from the metal while dry and left on each of the six floors of the power plant.

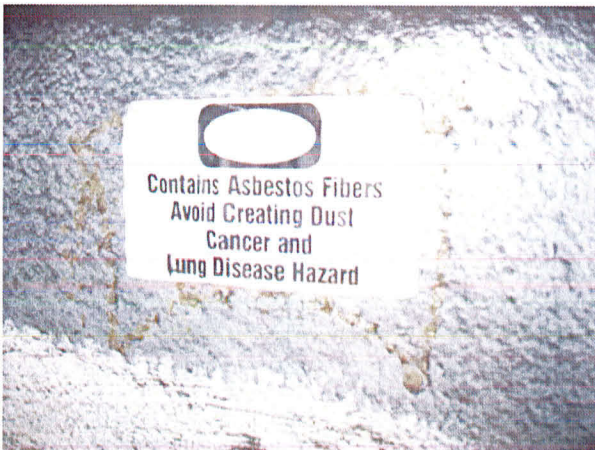
Harris pleaded guilty to one count of violating the Clean Air Act. The parties involved have recommended two days in prison, 58 days of house arrest and 200 hours of community service as a sentence in this case. Judge Dlott will consider that recommendation at a future sentencing hearing.

“The defendant knew the rules regarding the legal removal of asbestos containing materials, but ignored them,” said Jennifer Lynn, Special Agent in Charge of EPA’s criminal enforcement program in Ohio. “In this way, he threatened not only the environment but the safety of those working at the site and the general public. This case demonstrates that EPA and its partner agencies will not abide those who try to make money by breaking the law.”

“This man will answer for his misdeeds thanks to a successful collaboration between my office, the Ohio Environmental Protection Agency, the U.S. EPA and the U.S. Attorney’s Office,” Ohio Attorney General Yost said.

“Laws outlining the proper removal of asbestos are in place to protect human health and environment. People who choose to ignore these laws will face criminal consequences.”

The case was investigated by EPA’s Criminal Investigation Division, and the Ohio Bureau of Criminal Investigation (BCI). The case is being prosecuted by DOJ.



Whiting Man Convicted After 4-Day Jury Trial

Kenneth R. Morrison of Whiting, Indiana was convicted of interstate transportation of stolen goods on December 13, 2018 after a 4-day jury trial.

According to records in the case, between December 2014 and January 2015, without authority the defendant dismantled the Monon Bridge in Hammond, Indiana, and transported pieces of the bridge to Burnham, Illinois where he sold the scrap for \$18,000. He also sold parts of the bridge to a scrap dealer in East Chicago, Indiana. CFX Railroad gifted the Monon Bridge to the City of Hammond in 1987. The bridge, built in 1910, spanned the Grand Calumet River near Marble Street in Hammond.



Morrison's sentencing date is scheduled for March 21, 2019.

This case was investigated by EPA's Criminal Investigation Division, EPA's Office of Inspector General, and the U.S. Coast Guard Investigative Services with assistance from the Indiana Department of Natural Resources, Indiana Department of Environmental Management and other members of the Environmental Crimes Task Force and was prosecuted by a DOJ litigation team.

Westlake man indicted on charges he illegally accepted food stamps at Cleveland-area gas stations, laundered the profits, illegally had firearms, operated an unregulated slaughterhouse and polluted a stream by dumping animal blood in it

A Westlake man with a history of food stamp fraud was indicted on charges that he continued to illegally accept food stamps at seven Cleveland-area gas stations, laundered the profits, illegally had firearms, operated an unregulated slaughterhouse and polluted a stream by dumping animal blood and other fluids into it.

Amin M. Salem, 59, and Mohamed Salem, 32, were both indicted on one count each of conspiracy to launder money and one count of engaging in real estate transactions using laundered funds.

Amin Salem is additionally charged with one count of making unpermitted discharges into a waterway, one count of distribution of adulterated, misbranded or uninspected meat and one count of being a felon in possession of firearms. That charge stems from Amin Salem having an AR-15 rifle and a Savage 12-gauge shotgun, despite previous convictions for conspiracy to defraud the United States, food stamp fraud, mail fraud, and money laundering.

Mohamed Salem, also of Westlake and Amin's son, is also charged with trafficking in counterfeit goods for his sale of counterfeit clothing and apparel.

Zahran al-Qadan, 55, of Cleveland, was indicted on one count of conspiracy to launder money.

Prosecutors are seeking to forfeit properties at 43588 Stang Road and 7250 West Ridge Road in Elyria owned by the Salems.

According to the six-count indictment:

Amin Salem secretly owned several area gas stations: Henry's Marathon at 3106 Fulton Road; Gas Way at 10606 Bellaire Road; Turney Sunoco at 6009 Turney Road in Garfield Heights; Harvard Gas USA at 7020 Harvard Ave.; Bellaire Gas USA at 3934 West 117th Street; Rapid Stop at 1712 East 55th Street and Memphis Shell at 7210 Memphis Ave.

Mohamed Salem managed the gas station's finances of behalf of his father. The gas stations had terminals to accept and process Electronic Benefits Transaction (EBT) cards as part of the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps.

The gas stations and the EBT terminals inside were in the names of Mohamed Salem or another person, since Amin Salem was prohibited from owning stores that processed EBT transactions because of previous convictions for food stamp fraud and related crimes.

The gas station terminals were used by the Salems to process more than \$2.7 million in fraudulent SNAP transactions between 2010 and 2016.

Amin Salem slaughtered lambs and goats at his property on Stang Road in 2015 and 2016. He sold the meat, which was not inspected by the U.S. Department of Agriculture. He also caused, without a permit, the discharge of blood and other bodily fluids from the slaughtered animals into Engle Ditch, which flows into the

Black River and eventually Lake Erie.

Mohamed Salem sold meat illegally slaughtered at Amin Salem's farm. The Salems allowed customers to pay for the illegally slaughtered meat using SNAP cards, in contravention of SNAP's rules and regulations.

Money from the meat sales and SNAP transactions were deposited into gas station accounts and ultimately sent to accounts controlled and used by the Salems.

The Salems and al-Qadan owned the Rapid Stop gas station at 1712 East 55th Street in Cleveland. Al-Qadan also owned and operated Yahala Bakery, a grocery store and bakery in North Olmsted.

Al-Qadan used checks from Yahala Bakery to purchase illegally slaughtered meat, and caused the checks to be processed through gas station bank accounts so it appeared those transactions were for the purchase of gasoline. Al-Qadan also paid for the meat using the EBT cards of customers who allowed him to have possession of their cards and accounts.

The Salems used the funds from these fraudulent transactions to pay for lots at 26800-26900 Brookpark Road Extension in North Olmsted.

"Amin Salem is accused of engaging in a diverse array of crimes, from food stamp fraud to illegally slaughtering lambs and goats to illegally having an assault rifle and shotgun, just to name a few," U.S. Attorney Justin Herdman said. "He will now be held accountable for years of disregarding our nation's laws and flouting the rules to enrich himself."

"This father and son duo engaged in various illegalities to include stealing from every taxpaying citizen by engaging in food stamp fraud, a program designed to help those in need," said FBI Acting Special Agent in Charge Robert E. Hughes. "Salem put others at risk by selling unsanitary, unregulated food. The FBI will continue to work with our federal and local law enforcement partners to ensure fraudsters like these are held accountable."

"IRS Criminal Investigation is committed to unraveling complex financial transactions and money laundering schemes where individuals attempt to conceal the true source of their money," stated Ryan Korner, Special Agent in Charge of IRS-CI Cincinnati Field Office.

"The defendant is alleged to have illegally discharged waste from an animal slaughtering operation into a local stream," said Special Agent in Charge Jennifer Lynn of EPA's criminal enforcement program in Ohio. "This case demonstrates that EPA and its law enforcement partners will pursue those who violate laws designed to protect the health of our communities and the environment."

If convicted, the defendants' sentences will be determined by the Court after reviewing factors unique to this case, including the defendant's prior criminal record, the defendant's role in the offense and the characteristics of the violation. In all cases the sentence will not exceed the statutory maximum and in most cases it will be less than the maximum.

This case was investigated by the FBI, IRS-Criminal Investigations, USDA-OIG, USDA-FSIS, EPA-CID, Ohio Inves-

tigative Unit, Ohio Department of Taxation, Ohio Department of Agriculture, BCI, Ohio EPA, Lorain County Sheriff's Office, Guernsey County Sheriff's Department, Cleveland Division of Police, Westlake Police Department and Strongsville Police Department.

It is being prosecuted by Assistant U.S. Attorneys Duncan Brown and Brad Beeson.

An indictment is only a charge and is not evidence of guilt. The burden of proof is always on the government to prove a defendant guilty beyond a reasonable doubt.

Hampshire County Man Indicted for Clean Water Act Violations

Timothy Peer, of Springfield, West Virginia, was indicted on December 7, 2018 by a federal grand jury for violating permits and discharging untreated sewage from his sewage treatment plant, United States Attorney Bill Powell announced.

Peer was the owner of Mountaineer Village Utility, LLC, a sewage water treatment plant serving the residents of Mountaineer Village near Ridgeley, West Virginia. Peer owned and operated this business from early 2008 to July 2016. From 2014 to 2016, Peer is accused of failing to maintain the treatment plant, resulting in untreated and undertreated sewage being discharged into the North Branch of the Potomac River, violating the Clean Water Act and his permit. Peer is accused of falsely reporting quarterly testing on the wastewater from the plant, and of continuing to charge customers for the treatment of their sewage despite the services not being provided.

Peer is charged with one count of Knowing Violation of Permit Conditions, five counts of Knowing Discharges of Pollutants in Violation of Permit, one count of Knowing Discharge of a Pollutant Without a Permit, six counts of False Statements on Discharge Monitoring Reports, and one count of Mail Fraud.

“Violating environmental laws often does long term damage to our environment and risks the health of the people in our communities. Such violations must be prosecuted and those responsible held accountable,” said Powell.

“EPA’s sewage treatment regulations are designed to protect both humans and wildlife,” said Special Agent in Charge Jennifer Lynn of EPA’s criminal enforcement program in West Virginia. “EPA will work with its law enforcement partners to pursue those who falsify data and disregard laws that are critical to protecting clean water and public health.”

Peer faces not more than 3 years; not less than \$5,000 (if a fine is imposed) and not more than \$50,000 per day of violation; or \$250,000; or twice the amount of gain or loss; for the first count. He faces up to two years incarceration and a fine of up to \$10,000 for each of the discharge counts, and faces up to 20 years incarceration and a fine of up to \$250,000 for the mail fraud count. Under the Federal Sentencing Guidelines, the actual sentence imposed will be based upon the seriousness of the offenses and the prior criminal history, if any, of the defendant.

The case was investigated by EPA’s Criminal Investigation Division and the West Virginia Department of Environment. The case is being prosecuted by DOJ.

An indictment is merely an accusation. Defendants are presumed innocent unless and until proven guilty.

Authority Charged with Failures to Notify Pittsburgh Residents as it Replaced Lead Water Lines and to Sample Lines After Replacements

Attorney General Josh Shapiro filed 161 criminal charges against the Pittsburgh Water & Sewer Authority on February 1, 2019 for failing to notify residents when the agency replaced lead water lines – creating health risks for affected households. The attorney general also charged the Authority with failing to sample water lines following the replacements within the time frame required under state law.

Attorney General Shapiro charged the Water & Sewer Authority with multiple violations of the Pennsylvania Safe Drinking Water Act. The charges are third-degree misdemeanors, and the 161 counts correspond to 161 households in Pittsburgh neighborhoods where the Authority failed to notify residents of its water line replacements and failed to conduct sampling.

“Pennsylvanians have a constitutional right to clean air and pure water – I’m here to defend that,” Attorney General Shapiro said, at a news conference at a recreation center in Pittsburgh’s Lawrenceville neighborhood – an area impacted by the Authority’s violations. “The Water & Sewer Authority knew it was required to notify residents of its plans to replace service lines, and it knew it was required to sample the lines for lead content – yet it failed to do so. That makes PWSA criminally liable under the Safe Drinking Water Act.”

The problems involving elevated lead levels in Pittsburgh’s drinking water – and the Authority’s handling of the problems – are well-known in Pittsburgh.

The water lines installed years ago to deliver water to Pittsburghers were constructed of lead pipe. While lead pipes last for a long time, they can also leach dangerous amounts of lead into drinking water.

- Children are especially sensitive to lead, which can have adverse health impacts on developing brains and lead to nervous system damage, learning disabilities and impaired hearing.
- It’s also not safe for adults – potentially leading to kidney damage, high blood pressure, and reproductive issues.

Under Pennsylvania law, if the lead level in a water system exceeds 0.015 mg/L, the water system’s operator is required to take three action steps to address the high concentration.

1. Replace 7 percent of its water lines, until there are 2 consecutive monitoring periods which are at or below the action level.
2. Notify residents using the system at least 45 days prior to doing the line replacements. Replacing the service lines can cause temporary, and potentially significant, increases in lead levels in residents’ drinking water. The notice requirement is to provide residents with information on how to **minimize their exposure to lead, including how to flush your faucet, bathtub and shower to get rid of any potential lead**, and a recommendation not to consume any tap water during the procedure, and more.
3. Collect samples from the replaced lines to analyze lead content within 72 hours of the new pipes being installed.

In 2016, PWSA conducted lead level tests of its system on two separate occasions, and the results each time showed lead levels in excess of the level allowed under state law.

The Pennsylvania Department of Environmental Protection (DEP) advised PWSA it must begin replacing 7 percent of their service lines to lower the lead levels in drinking water.

PWSA estimated that it needed to replace 1,341 lead lines by June 30, 2017 to meet the 7 percent requirement. However on June 30, PWSA reported that it had only replaced 415 service lines.

PWSA also admitted its failure to provide many residents with advance notice of the lines' replacement. And, PWSA acknowledged it had not collected water samples from those same residences with new pipes within 72 hours of installation.

DEP fined PWSA \$2.4 million and entered into a civil consent order and agreement in November 2017. DEP also referred the matter for criminal investigation to the Office of Attorney General, and the referral was narrowly tailored to review PWSA's failure to notify residents and its failure to sample water after replacement lines were installed.

The Attorney General's office began a criminal investigation, leading to charges against the Authority for 161 counts of violating the state Safe Drinking Water Act.

The maximum penalty for each count is 1 year in prison and a fine of not less than \$1,250 nor more than \$12,500.

Attorney General Shapiro said the charges were being filed against the Authority alone because his agents found no evidence of any one single person intending harm to any users of the system.

Attorney General Shapiro said he has arranged that whatever fines which PWSA is ultimately required to pay, the monies will be targeted by DEP to programs in Pittsburgh to protect and enhance the public health.

"This money isn't going to a fund in Harrisburg – it's coming back here to neighborhoods like Lawrenceville that were affected by these violations," Shapiro said. "I hope that, with these charges, we can shine a light on these violations and force the necessary reforms to take shape to keep Pittsburgh's drinking water safe."

Four Audi Managers Charged in Connection with Conspiracy to Cheat U.S. Emissions Tests

Four Audi managers, including a former member of Audi AG's management board, were charged in an indictment filed on Jan. 17, 2019 for their roles in the nearly decade-long conspiracy to defraud U.S. regulators and U.S. customers by implementing software specifically designed to cheat U.S. emissions tests in tens of thousands of Audi "clean diesel" vehicles, the Justice Department announced.

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

Richard Bauder, 69, former head of Audi's Diesel Engine Development Department; Axel Eiser, 57, former head of Audi's Engine Development Division; Stefan Knirsch, 52, former head of Audi's Engine Development Division and a former member of Audi's Management Board, and Carsten Nagel, 50, former head of Diesel Certification, were charged in the Eastern District of Michigan with one count of conspiracy to defraud the United States, to commit wire fraud and to violate the Clean Air Act, along with multiple counts of wire fraud and multiple counts of making false statements under the Clean Air Act. All four are believed to be citizens of Germany. These individuals join Giovanni Pamio, 61, an Italian citizen, who was charged via criminal complaint in July 2017 and whose extradition from Germany is being sought by U.S. authorities. Pamio was formerly head of Thermodynamics within Audi's Diesel Engine Development Department in Neckarsulm, Germany.

According to the indictment, from in or about 2006 until in or about November 2015, Pamio led a team of engineers responsible for designing emissions control systems to meet emissions standards, including for nitrogen oxides (NOx), for Audi 3.0 liter diesel vehicles in the United States.

The indictment further alleges, when Bauder, Eiser, Knirsch, Nagel and Pamio realized that it was impossible to calibrate a diesel engine that would meet NOx emissions standards within the design constraints imposed by other departments at the company, they directed Audi employees to design and implement a software function to cheat the standard U.S. emissions tests. The co-conspirators deliberately failed to disclose the software function, and knowingly misrepresented to U.S. regulators and U.S. customers that the vehicles complied with U.S. NOx emissions standards, the indictment alleges. Bauder, Eiser, Knirsch, Nagel, and Pamio also are alleged to have marketed the Audi 3.0 liter vehicles to the U.S. public as "clean diesel," when they knew that these representations were false.

Audi's parent company, Volkswagen AG (VW), previously pleaded guilty to three felony counts connected to cheating U.S. emissions standards. VW was sentenced in April 2017, and the company paid a \$2.8 billion criminal penalty.

The case was investigated by the FBI and EPA's Criminal Investigation Division. The case is being prosecuted by a DOJ litigation team with assistance from the Munich II Prosecutor's Office in Munich, Germany.



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