



Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff. To subscribe to this monthly bulletin you may sign up for email alerts at <http://www2.epa.gov/enforcement/criminal-enforcement-policy-guidance-and-publications>.

January—February 2016

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Defendant Summary

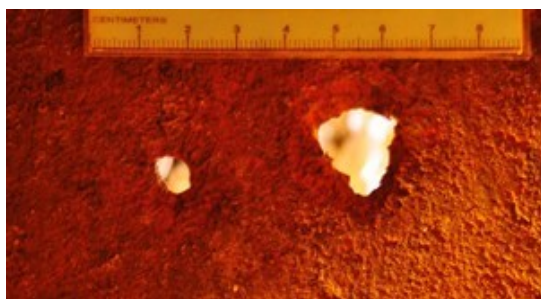
| Region | Defendants | Case Type/Status |
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Defendant Summary

| Region | Defendants | Case Type/Status |
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| | | |

West Virginia Company Official Sentenced for Role in Chemical Spill – ROBERT J. REYNOLDS, of Apex, North Carolina, a former official of Freedom Industries, was sentenced on February 1, 2016, in federal district court for the Southern District of West Virginia to three years of probation and a \$10,000 fine for a Clean Water Act violation connected to the 2014 Elk River chemical spill. Reynolds previously pleaded guilty in federal court to negligently discharging a pollutant in March 2015. Reynolds is one of six former officials of Freedom Industries, in addition to Freedom Industries itself as a corporation, to be prosecuted for federal crimes associated with the chemical spill.

On January 9, 2014, a major chemical leak was discovered in Charleston at the above-ground storage tank area owned and operated by Freedom Industries (Freedom) on the Elk River. Freedom used



Holes in Freedom Industries crude MCHM Tank

these storage tanks to keep and process chemicals, and the leak consisted primarily of 4-methylcyclohexane methanol (MCHM), a chemical used in the coal mining industry as a cleansing agent. A significant amount of MCHM leaked into the Elk River, flowed into a water treatment plant, and contaminated the water supply of Charleston and the surrounding areas for several days. Freedom did not have a permit required by law that would have allowed the company to discharge MCHM into the Elk River.

Beginning in 2002, Reynolds worked with Freedom as an environmental consultant and was responsible for developing and maintaining pollution prevention plans. Reynolds admitted that he should have developed and maintained a storm water pollution prevention plan and a groundwater protection plan for the MCHM storage tanks that could have prevented the chemical spill. Freedom did have a permit issued by West Virginia's Department of Environmental Protection that allowed for the discharge of storm water and groundwater subject to monitoring and reporting requirements. However, this permit did not allow for the discharge of MCHM, and required the development and maintenance of a storm water plan and a groundwater plan. Generally, storm water and groundwater plans identify potential sources of pollution and outline steps to prevent, contain, and reduce pollutants.

Reynolds admitted that he should have known of this requirement. He also admitted that while there was no storm water or groundwater plan in place at Freedom's facility on the Elk River, there were such plans implemented at another facility operated by Freedom in Nitro. Reynolds even provided training to Freedom's employees at the Nitro facility on its plans, despite the absence of similar plans at Freedom's facility by the Elk River.

Reynolds knew of and should have appreciated the hazards associated with MCHM and the need to take reasonable steps to ensure that it did not spill into the Elk River. Reynolds admitted that he carried out his duties without due care for regulatory and environmental compliance, and that his failure to implement a storm water plan was a proximate cause of the 2014 chemical spill of MCHM.

Reynolds is the first defendant sentenced as part of the investigation into the chemical spill. Freedom itself, which has been in bankruptcy since shortly after the chemical spill, pleaded guilty to violating the Clean Water Act, the unlawful discharge of refuse matter in violation of the Refuse Act, and violating an environmental permit.

Charles E. Herzing, of McMurray, Pennsylvania, and William E. Tis, of Verona, Pennsylvania, former

Sentencings

March 2015 to violating the Clean Water Act by negligently discharging a pollutant.

Dennis P. Farrell, of Charleston, a former Freedom president and owner, pleaded guilty in August 2015 to violating the federal Refuse Act and violating a permit by failing to have a pollution prevention plan. Gary Southern, of Marco Island, Florida, the president of Freedom at the time of the spill, pleaded guilty in August 2015 to violating the Clean Water Act, negligently discharging refuse matter in violation of the Refuse Act, and violating a permit by failing to have a pollution prevention plan.

The case was investigated by EPA's Criminal Investigation Division and the FBI. It is being prosecuted by Assistant United States Attorneys Philip H. Wright, Larry R. Ellis, and Eric P. Bacaj, as well as EPA's Regional Criminal Enforcement Counsel Perry D. McDaniel.

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Former Freedom Industries Owner Sentenced for Role in Chemical Spill -- On February 2, 2016, **CHARLES E. HERZING**, of McMurray, Pennsylvania, a former owner of Freedom Industries, was sentenced in federal district court for the Southern District of West Virginia to three years of probation and ordered to pay a \$20,000 fine for a Refuse Act violation connected to the 2014 Elk River chemical spill. Herzing previously pleaded guilty in March 2015 to unlawfully discharging refuse matter. Herzing is one of six former officials of Freedom Industries, in addition to Freedom Industries itself as a corporation, to be prosecuted for federal crimes associated with the chemical spill.

Herzing, along with co-defendants Dennis P. Farrell and William E. Tis, owned Freedom until December 2013, when they sold their shares to a Pennsylvania corporation. From 2004 until the 2013 sale, Herzing served as the Vice President of Freedom. In this role, Herzing had the responsibility and the authority to ensure that Freedom and its facility on the Elk River complied with the law.

Freedom had a permit issued by West Virginia's Department of Environmental Protection that allowed for the discharge of storm water and groundwater subject to monitoring and reporting requirements. However, this permit did not allow for the discharge of MCHM, and required the development and maintenance of a storm water plan and a groundwater plan. Generally, storm water and groundwater plans identify potential sources of pollution and outline steps to prevent, contain, and reduce pollutants.



Charleston Residents Waiting for Drinking Water

Herzing admitted that he was aware of the permit and was put on notice that Freedom was required to have a storm water plan. He further admitted that he had the responsibility to ensure that Freedom complied with the permit by having a storm water and groundwater plan in place. During Herzing's

tenure as a corporate officer, Freedom never developed a storm water or groundwater plan, which was a contributing cause to the chemical spill.

Freedom itself, which has been in bankruptcy since shortly after the chemical spill, pleaded guilty to violating the Clean Water Act, the unlawful discharge of refuse matter in violation of the Refuse Act, and violating an environmental permit.

The investigation of the chemical spill was conducted by the Federal Bureau of Investigation and the Environmental Protection Agency's Criminal Investigation Division. Assistant United States Attorneys Philip H. Wright, Larry R. Ellis, and Eric P. Bacaj, as well as the Environmental Protection Agency's Regional Criminal Enforcement Counsel Perry D. McDaniel, are handling the prosecutions. United States District Judge Thomas E. Johnston imposed the sentence, and will preside over the remaining sentencing hearings associated with the chemical spill.

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Freedom Industries and a Former Plant Manager Sentenced for Roles in Chemical Spill -- On February 4, 2016, **FREEDOM INDUSTRIES, INC.**, and a former plant manager at Freedom Industries were sentenced in federal district court for the Southern District of West Virginia for environmental crimes connected to the 2014 Elk River chemical spill. Freedom Industries (Freedom) was sentenced to a fine of \$900,000, to be paid after all other claims against Freedom are satisfied, for negligently discharging a pollutant, unlawfully discharging refuse matter, and knowingly violating an environmental permit. Freedom has been in bankruptcy since shortly after the chemical spill.

MICHAEL E. BURDETTE, of Dunbar, West Virginia, was sentenced to three years of probation and a \$2,500 fine for negligently discharging a pollutant. Both Freedom and Burdette previously pleaded guilty in March 2015. Burdette is one of six former officials of Freedom Industries, in addition to Freedom Industries itself as a corporation, to be prosecuted for federal crimes associated with the chemical spill.

On January 9, 2014, a major chemical leak was discovered in Charleston at the above-ground storage tank area owned and operated by Freedom Industries on the Elk River. Freedom used these storage tanks to keep and process chemicals, and the leak consisted primarily of 4-methylcyclohexane methanol (MCHM), a chemical used in the coal mining industry as a cleansing agent. A significant amount of MCHM leaked into the Elk River, flowed into a water treatment plant, and contaminated the water supply of Charleston and the surrounding areas for several days. Freedom did not have a permit required by law that would have allowed the company to discharge MCHM into the Elk River.

Freedom had a permit issued by West Virginia's Department of Environmental Protection that allowed for the discharge of storm water and groundwater subject to monitoring and reporting requirements. However, this permit did not allow for the discharge of MCHM, and required the development and maintenance of a storm water plan and a groundwater plan. Generally, storm water and groundwater plans identify potential sources of pollution and outline steps to prevent, contain, and reduce pollutants.

Freedom admitted that it should have taken reasonable steps to ensure that MCHM did not leak into the Elk River. Freedom did not maintain the containment area that was supposed to prevent a chemical spill from reaching the Elk River. Freedom also failed to inspect and maintain the storage tank holding MCHM. In spite of the permit requirements, Freedom also failed to implement and maintain a storm water and groundwater plan. Furthermore, Freedom did not conduct the necessary training to ensure all personnel were working in compliance with environmental laws. When the chemical spill occurred, Freedom did not have adequate spill prevention material on hand and instead, had on hand a mere two bags of absorbent material and no booms or other materials to stem the flow of MCHM. Freedom admitted that its failure in all of these essential areas was a proximate cause of the chemical spill.

Burdette worked as a plant manager for Freedom's facility on the Elk River. In that role, Burdette was responsible for operating and maintaining Freedom's facility in a safe manner and in compliance with environmental laws. He was also responsible for making sure the employees he supervised were properly trained in environmental compliance. Burdette admitted he should have known Freedom was required to implement and maintain a storm water and groundwater plan as required by the permit. He also admitted he knew the measures Freedom had in place to handle a chemical spill were inadequate, and that Freedom should have had proper containment structures to contain a spill from the largest storage tank for 72 hours. Burdette further admitted that his failure to implement these required safety measures was a proximate cause of the chemical spill.

Sentencings

Including Freedom and Burdette, four defendants have been sentenced as part of the investigation into the chemical spill. Robert J. Reynolds, of Apex, North Carolina, who worked as an environmental consultant with Freedom, was sentenced on February 1, 2016 for negligently discharging a pollutant. Charles E. Herzing, of McMurray, Pennsylvania, a former owner and vice president of Freedom, was sentenced on Tuesday for unlawfully discharging refuse matter.

William E. Tis, of Verona, Pennsylvania, a former owner of Freedom, pleaded guilty in March 2015 to the unlawful discharge of refuse matter. Tis is scheduled to be sentenced on February 8, 2016.

Dennis P. Farrell, of Charleston, a former Freedom president and owner, pleaded guilty in August 2015 to violating the federal Refuse Act and violating a permit by failing to have a pollution prevention plan. Farrell is scheduled to be sentenced on February 11, 2016.

Gary Southern, of Marco Island, Florida, the president of Freedom at the time of the spill, pleaded guilty in August 2015 to violating the Clean Water Act, unlawfully discharging refuse matter in violation of the Refuse Act, and violating a permit by failing to have a pollution prevention plan. Southern is scheduled to be sentenced on February 17, 2016.

The investigation of the chemical spill was conducted by the Federal Bureau of Investigation and the Environmental Protection Agency's Criminal Investigation Division. Assistant United States Attorneys Philip H. Wright, Larry R. Ellis, and Eric P. Bacaj, as well as the Environmental Protection Agency's Regional Criminal Enforcement Counsel Perry D. McDaniel, are handling the prosecutions. United States District Judge Thomas E. Johnston imposed the sentence, and will preside over the remaining sentencing hearings associated with the chemical spill.

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Former Freedom Industries Owner Sentenced for Role in Chemical Spill -- On February 8, 2016, **WILLIAM E. TIS**, of Verona, Pennsylvania, a former owner of Freedom Industries, was sentenced in federal district court for the Southern District of West Virginia to three years of probation and a \$20,000 fine for an environmental crime connected to the 2014 Elk River chemical spill. Tis previously pleaded guilty to unlawfully discharging refuse matter in March 2015. Tis is one of six former officials of Freedom Industries, in addition to Freedom Industries itself as a corporation, to be prosecuted for federal crimes associated with the chemical spill.

On January 9, 2014, a major chemical leak was discovered in Charleston at the above-ground storage tank area owned and operated by Freedom Industries (Freedom) on the Elk River. Freedom used these storage tanks to keep and process chemicals, and the leak consisted primarily of 4-methylcyclohexane methanol (MCHM), a chemical used in the coal mining industry as a cleansing agent. A significant amount of MCHM leaked into the Elk River, flowed into a water treatment plant, and contaminated the water supply of Charleston and the surrounding areas for several days. Freedom did not have a permit required by law that would have allowed the company to discharge MCHM into the Elk River.

Tis, along with co-defendants Dennis P. Farrell and Charles E. Herzing, owned Freedom until December 2013, when they sold their shares to a Pennsylvania corporation. From 2004 until the 2013 sale, Tis served as the secretary of Freedom. In this role, Tis had the responsibility and the authority to ensure that Freedom and its facility on the Elk River complied with the law.

Freedom had a permit issued by West Virginia's Department of Environmental Protection that allowed for the discharge of storm water and groundwater subject to monitoring and reporting requirements. However, this permit did not allow for the discharge of MCHM, and required the development and maintenance of a storm water plan and a groundwater plan. Generally, storm water and groundwater plans identify potential sources of pollution and outline steps to prevent, contain, and reduce pollutants.

Tis admitted that he was aware of the permit and was put on notice that Freedom was required to have a storm water plan. He further admitted that he had the responsibility to ensure that Freedom complied with the permit by having a storm water and groundwater plan in place. During Tis' tenure as a corporate officer, Freedom never developed a storm water or groundwater plan, which was a contributing cause to the chemical spill.

Tis is one of five defendants that have been sentenced as part of the investigation into the chemical spill. Robert J. Reynolds, of Apex, North Carolina, who worked as an environmental consultant with Freedom, was sentenced on February 1, 2016, for negligently discharging a pollutant. Charles E. Herzing, of McMurray, Pennsylvania, a former owner and vice president of Freedom, was sentenced on February 2, 2016, for unlawfully discharging refuse matter. Freedom, as a corporation, was sentenced on February 4, 2016, for negligently discharging a pollutant, unlawfully discharging refuse matter, and knowingly violating an environmental permit. Michael E. Burdette, of Dunbar, a former plant manager for Freedom's facility on the Elk River, was sentenced on February 4, 2016, for negligently discharging a pollutant.

Dennis P. Farrell, of Charleston, a former Freedom president and owner, pleaded guilty in August 2015 to violating the Refuse Act and violating a permit by failing to have a pollution prevention plan. Farrell was sentenced on February 11, 2016.

Gary Southern, of Marco Island, Florida, the president of Freedom at the time of the spill, pleaded guilty in August 2015 to negligently discharging a pollutant, unlawfully discharging refuse matter in violation of the Refuse Act, and violating a permit by failing to have a pollution prevention plan. Southern was sentenced on February 17, 2016.

The investigation of the chemical spill was conducted by EPA's Criminal Investigation Division and the Federal Bureau of Investigation. Assistant United States Attorneys Philip H. Wright, Larry R. Ellis, and Eric P. Bacaj, as well as EPA's Regional Criminal Enforcement Counsel Perry D. McDaniel, are handling the prosecutions.

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Former Freedom Industries Owner Headed to Prison for Role in Chemical Spill -- On February 11, 2016, **DENNIS P. FARRELL**, of Charleston, West Virginia, a former owner of Freedom Industries, was sentenced in federal district court for the Southern District of West Virginia to 30 days in federal prison, six months of supervised release, and a \$20,000 fine for environmental crimes connected to the 2014 Elk River chemical spill. Farrell previously pleaded guilty in August 2015 to unlawfully discharging refuse matter and violating an environmental permit by failing to have a pollution prevention plan. Farrell is one of six former officials of Freedom Industries, in addition to Freedom Industries itself as a corporation, to be prosecuted for federal crimes associated with the chemical spill.

On January 9, 2014, a major chemical leak was discovered in Charleston at the above-ground storage tank area owned and operated by Freedom Industries (Freedom) on the Elk River. Freedom used these storage tanks to keep and process chemicals, and the leak consisted primarily of 4-methylcyclohexane methanol (MCHM), a chemical used in the coal mining industry as a cleansing agent. A significant amount of MCHM leaked into the Elk River, flowed into a water treatment plant, and contaminated the water supply of Charleston and the surrounding areas for several days. Freedom did not have a permit required by law that would have allowed the company to discharge MCHM into the Elk River.

Farrell, along with co-defendants Charles E. Herzing and William E. Tis, owned Freedom until December 2013, when they sold their shares to a Pennsylvania corporation. From 2001 until the 2013 sale, Farrell served as the president of Freedom. After the sale, Farrell continued to work at Freedom's facility on the Elk River and continued to describe himself as president of the company. In his role as a corporate officer, Farrell had the responsibility and the authority to ensure that Freedom and its facility on the Elk River complied with the law.

Freedom had a permit issued by West Virginia's Department of Environmental Protection that allowed for the discharge of storm water and groundwater subject to monitoring and reporting requirements. However, this permit did not allow for the discharge of MCHM, and required the development and implementation of a storm water plan and a groundwater plan. Generally, storm water and groundwater plans identify potential sources of pollution and outline steps to prevent, contain, and reduce pollutants.

Farrell admitted that he was aware of the permit and knew that Freedom was required to have a storm water plan. He further admitted that he had the responsibility to ensure that Freedom complied with the permit by having a storm water and groundwater plan in place. During Farrell's tenure as a corporate officer, Freedom never developed or implemented a storm water or groundwater plan, which was a proximate and contributing cause of the chemical spill.

Farrell is one of six defendants that have been sentenced as part of the investigation into the chemical spill. Robert J. Reynolds, of Apex, North Carolina, who worked as an environmental consultant with Freedom, was sentenced on February 1, 2016, for negligently discharging a pollutant. Charles E. Herzing, of McMurray, Pennsylvania, a former owner and vice president of Freedom, was sentenced on February 2, 2016, for unlawfully discharging refuse matter. Freedom, as a corporation, was sentenced on February 4, 2016, for negligently discharging a pollutant, unlawfully discharging refuse matter, and knowingly violating an environmental permit. Michael E. Burdette, of Dunbar, a former plant manager for Freedom's facility on the

Elk River, was sentenced on February 4, 2016, for negligently discharging a pollutant. William E. Tis, of Verona, Pennsylvania, a former owner and secretary of Freedom, was sentenced on February 8, 2016 for unlawfully discharging refuse matter.

Gary Southern, of Marco Island, Florida, the president of Freedom at the time of the spill, pleaded guilty in August 2015 to negligently discharging a pollutant, unlawfully discharging refuse matter, and negligently violating a permit by failing to have a pollution prevention plan. Southern was sentenced on February 17, 2016.

The chemical spill was investigated by EPA's Criminal Investigation Division and the Federal Bureau of Investigation. It is being prosecuted by Assistant United States Attorneys Philip H. Wright, Larry R. Ellis, and Eric P. Bacaj, as well as the Environmental Protection Agency's Regional Criminal Enforcement Counsel Perry D. McDaniel.

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Former Freedom Industries President Sentenced to Prison for Role in Chemical Spill -- On February 17, 2016, **GARY SOUTHERN**, of Marco Island, Florida, the former president of Freedom Industries, was sentenced in federal district court for the Southern District of West Virginia to 30 days in federal prison, to be followed by a six-month term of supervised release, and a \$20,000 fine for environmental crimes connected to the 2014 Elk River chemical spill. Southern previously pleaded guilty in August 2015 to negligently discharging a pollutant, unlawfully discharging refuse matter, and negligently violating an environmental permit by failing to have a pollution prevention plan. Southern is one of six former officials of Freedom Industries, in addition to Freedom Industries itself as a corporation, to be prosecuted for federal crimes associated with the chemical spill.

On January 9, 2014, a major chemical leak was discovered in Charleston at the above-ground storage tank area owned and operated by Freedom Industries (Freedom) on the Elk River. Freedom used these storage tanks to keep and process chemicals, and the leak consisted primarily of 4-methylcyclohexane methanol (MCHM), a chemical used in the coal mining industry as a cleansing agent. A significant amount of MCHM leaked into the Elk River, flowed into a water treatment plant, and contaminated the water supply of Charleston and the surrounding areas for several days. Freedom did not have a permit required by law that would have allowed the company to discharge MCHM into the Elk River.

Southern became associated with Freedom in 2009 and joined its board of directors in March 2010. He became president of Freedom in December 2013, and was serving as Freedom's president at the time of the chemical spill. In these capacities, Southern was a responsible corporate officer of Freedom from at least March 2010 through January 9, 2014, with the responsibility and the authority to ensure that Freedom and its facility on the Elk River complied with the law.

Freedom had a permit issued by West Virginia's Department of Environmental Protection that allowed for the discharge of storm water and groundwater subject to monitoring and reporting requirements. However, this permit did not allow for the discharge of MCHM, and required the development and implementation of a storm water plan and a groundwater plan. Generally, storm water and groundwater plans identify potential sources of pollution and outline steps to prevent, contain, and reduce pollutants.

Southern admitted that he was aware of the permit and that he should have known that Freedom was required to have a storm water plan. He further admitted that he had the responsibility and authority to ensure that Freedom complied with the permit by having a storm water and groundwater plan in place. During Southern's tenure as a responsible corporate officer, Freedom never developed or implemented a storm water or groundwater plan. Southern's negligence in failing to ensure that Freedom developed and implemented a storm water and groundwater plan was a proximate and contributing cause of the chemical spill.

Southern is one of seven defendants that have been sentenced as part of the investigation into the chemical spill. Robert J. Reynolds, of Apex, North Carolina, who worked as an environmental consultant with Freedom, was sentenced on February 1, 2016, for negligently discharging a pollutant. Charles E. Herzing, of

McMurray, Pennsylvania, a former owner and vice president of Freedom, was sentenced on February 2, 2016, for unlawfully discharging refuse matter. Freedom, as a corporation, was sentenced on February 4, 2016, for negligently discharging a pollutant, unlawfully discharging refuse matter, and knowingly violating an environmental permit. Michael E. Burdette, of Dunbar, a former plant manager for Freedom's facility on the Elk River, was sentenced on February 4, 2016, for negligently discharging a pollutant. William E. Tis, of Verona, Pennsylvania, a former owner and secretary of Freedom, was sentenced on February 8, 2016, for unlawfully discharging refuse matter. Dennis P. Farrell, of Charleston, a former Freedom president and owner, was sentenced on February 11, 2016, for unlawfully discharging refuse matter and violating a permit by failing to have a pollution prevention plan.

The investigation of the chemical spill was conducted by EPA's Criminal Investigation Division and the Federal Bureau of Investigation. It was prosecuted by Assistant United States Attorneys Philip H. Wright, Larry R. Ellis, and Eric P. Bacaj, as well as the Environmental Protection Agency's Regional Criminal Enforcement Counsel Perry D. McDaniel, handled the prosecutions.

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Tennessee Grease Hauling Company and Executives Sentenced for CWA Violations -- On February 19, 2016, **SOUTHERN GREASE COMPANY**, a grease hauling company that had been based in Dickson, Tennessee, was sentenced in federal district court for the Middle District of Tennessee to pay a criminal fine of \$280,000 and to forfeit an additional \$113,500. The company was also ordered to make restitution to municipal authorities in Dickson and Clarksville, Tennessee. Southern Grease pleaded guilty in May 2015 to four felony violations arising from its illegal disposal of waste grease into municipal sewer systems.

Southern Grease, which contracted with restaurants and other customers in Tennessee and Kentucky to collect and dispose of the customers' waste grease, illegally discharged waste grease into grease interceptors that were connected to the municipal sewer systems. This illegal dumping of grease caused substantial damage to municipal sewer systems by clogging pipes and interrupting the operation of pump stations. In December 2013 Southern Grease dumped waste grease into a grease interceptor in Clarksville, Tennessee, which resulted in the obstruction of pipes within the Clarksville sewer system and damage to a

Clarksville pumping station, the operation of which was interrupted for cleaning and repairs.

Previously, on February 1, 2016, **GEORGE BUTTERWORTH**, of Dickson, Tenn., was sentenced to serve two months in prison and one year of supervised release. Butterworth was president and an owner of Southern Grease, and had pleaded guilty to violating the Clean Water Act; conspiring to violate the Clean Water Act; and to making false statements to agents with the Environmental Protection Agency. Butterworth was also ordered to pay restitution to municipal authorities in Dickson and Clarksville.



Southern Grease Pump Station

On November 24, 2015, **GERALD MCGEE**, of Dickson, Tenn., was sentenced to one month

in prison plus two years of supervised release for his role in these offenses. McGee was the operations manager for Southern Grease and was also convicted of three felony violations in connection with the illegal dumping of waste grease. He was also ordered to pay restitution to municipal authorities in Dickson and Clarksville.

The case was investigated by the EPA's Criminal Investigation Division with assistance from the Federal Bureau of Investigation. The case was prosecuted by Assistant U.S. Attorney William F. Abely.

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New Jersey Man Sentenced in Indiana to 20 Years for Biodiesel Fraud Scheme -- On January 8, 2016, **JOSEPH FURANDO**, of Montvale, New Jersey, was sentenced in federal district court for the Southern District of Indiana to 20 years in prison, three years of supervised release and to pay more than \$56 million in restitution for his role in an elaborate scheme to defraud biodiesel buyers and United States taxpayers by fraudulently selling biodiesel incentives.

During the sentencing hearing, Furando was ordered to pay more than \$56 million in restitution, jointly and severally with other defendants. That amount reflects the losses Furando and his co-conspirators imposed on fraud victims and United States taxpayers. Under the terms of a plea agreement, Furando is obligated to forfeit the fruits of his crime, which include a Ferrari, other cars, a million-dollar home, artwork, a piano and two biodiesel powered motorcycles.

Furando's scheme may be summarized as follows: From 2007 through 2012, Indiana-based E biofuels owned a biodiesel manufacturing plant in Middletown, Indiana. Biodiesel is a fuel that can be used in diesel engines and that is made from renewable resources, including soybean oil and waste grease from restaurants. Under the Energy Independence and Security Act, properly manufactured biodiesel was eligible for a dollar per gallon tax credit as well as another valuable credit, called a Renewable Identification Number (RIN) that petroleum refiners and importers could use to demonstrate compliance with federal renewable fuel obligations. These incentives can be claimed once and only once for any given volume of biodiesel.

Furando admitted that sometime in late 2009, he and his companies, New Jersey-based defendants Caravan Trading Company and CIMA Green, began supplying E biofuels with biodiesel that was actually made by other companies and had already been used to claim tax credits and RINs. Because these incentives had already been claimed, Furando could purchase the biodiesel at much lower prices, sometimes for more than two dollars per gallon less than biodiesel that was still eligible for the credits. The conspiracy functioned as follows: Furando supplied the product to E biofuels and his co-conspirators would claim that E-biofuels made the fuel and then they would illegally re-certify the fuel and sell it at the much higher market price for incentivized biodiesel, known as B100 with RINs. Within the circle of those he trusted, Furando referred to this fraud scheme as "Alchemy."

Furando, his New Jersey-based companies and his Indiana-based co-defendants realized huge per gallon profits through this scheme, sometimes in excess of \$15,000 per truckload. Furando realized his profits through the prices he charged E biofuels. Over the course of approximately two years, the defendants fraudulently sold more than 35 million gallons of fuel for a total cost of over \$145.5 million. The defendants realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

In separate hearings, three corporations at the heart of the scheme were also sentenced for their joint liability in the scheme. Furando's companies, CIMA Green LLC, and Caravan Trading LLC, were both sentenced to pay \$56 million in restitution and million dollar fines. The companies, which are largely defunct, must serve two years' probation to ensure that what assets remain are properly directed toward

Over the course of approximately two years, the defendants fraudulently sold more than 35 million gallons of fuel for a total cost of over \$145.5 million. The defendants realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

The case was investigated by EPA's Criminal Investigation Division, IRS-Criminal Investigation, the FBI and the Securities and Exchange Commission, with assistance from the U.S. Secret Service and the U.S. Department of Agriculture's Office of Inspector General-Investigations. It is being prosecuted by Senior Litigation Counsel Steven D. DeBrotta of the U.S. Attorney's Office, Assistant Chief Thomas T. Ballantine of the Environmental Crimes Section in the Department of Justice's Environment and Natural Resources Division and Jake Schmidt, a Special Assistant U.S. Attorney of the U.S. Attorney's Office and Senior Attorney for the Securities and Exchange Commission.

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Sentencings

Idaho Septic Waste Business and Its Owner Sentenced for CWA violation -- On February 2, 2016, **THE ROOTER GUY, LLC**, and its founder **BEN BROYLES**, of Hayden, Idaho, were sentenced in federal district court for the District of Idaho for violating the Clean Water Act. The Rooter Guy, LLC was sentenced to three years organization probation. Broyles, the majority owner and operator of The Rooter Guy, was also sentenced to three years of probation. Broyles and his corporation were also ordered to pay a \$17,000 fine and \$4,000 in restitution to the city of Hayden, and to perform 100 hours of community service. Guilty pleas were entered on November 18, 2015.

According to the plea agreements, between March 17, 2014, and May 16, 2014, the defendants violated the Clean Water Act by pumping septic waste into the city of Hayden’s municipal sewer system operated by the Hayden Area Regional Sewer Board. Although The Rooter Guy LLC is licensed to collect septic waste from commercial and residential customers, it is required to dispose of septic waste at facilities designed to collect and treat waste in accordance with environmental considerations and EPA regulation. Hayden’s municipal sewer system is not designed to accept and treat septic waste.

The case was investigated by EPA’s Criminal Investigation Division with the assistance of the city of Hayden, the Hayden Area Regional Sewer Board, the FBI, the U.S. Forest Service, U.S. Secret Service, and the Kootenai County Sheriff’s Office.



Still Images from Surveillance Video



Still Image from Surveillance Video

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Texas Man Guilty of Violating Asbestos Work Practice Standards – On February 9, 2016, **RODNEY K. BESHEARS**, of Kennard, Texas, pleaded guilty in federal district court for the Eastern District of Texas to federal environmental violations, specifically the work practice standards of the Clean Air Act.

According to information presented in court, Beshears admitted that in October of 2011, he and his employees began excavating and removing a pipeline in northeast Texas. On December 16, 2011, an inspector with the Texas Department of State Health Services conducted a site inspection where Beshears was removing the pipeline near Diana, Texas, and informed Beshears that the pipeline had a coating of asbestos. On December 21, 2011, Beshears received training on asbestos removal practices which included instructions on the proper handling of asbestos material required under the work practice standards of the National Emission Standards for Hazardous Air Pollutants or “NESHAP” rules for asbestos when excavating and removing pipe with a coating of asbestos. On January 13, 2012, the Texas Department of State Health Services inspected another site where Beshears was excavating and removing the pipeline just outside of Ore City, Texas, and again informed Beshears that the pipe had a coating of asbestos material.

Beshears’ removal of the pipeline continued through March, 2012, during which time, Beshears



removed, and caused others to remove, several thousand feet of pipeline which contained regulated asbestos containing material, between Diana and Ore City, Texas. The excavation, cutting and removal of the pipeline, as directed by Beshears, included no wetting of the asbestos material that coated the pipeline as Beshears had been instructed during the training. The asbestos material was crumbled and pulverized by hitting the pipe coating with a hammer to knock it off the pipe to expose the pipe so it could be cut into pieces; asbestos was crumbled and pulverized by dragging the pipe segments across the ground; and asbestos was not disposed of at approved disposal facilities. Beshears was indicted by a federal grand jury on September 3, 2014.



Asbestos Coated Pipeline

Under federal statutes, Beshears faces up to five years in federal prison at sentencing. The maximum statutory sentence is prescribed by congress and is provided for informational purposes, as the sentencing of the defendant will be determined by the court based on the advisory sentencing guidelines and other statutory factors. A sentencing hearing will be scheduled after the completion of a presentence investigation by the U.S. Probation Office.

The case was investigated by the EPA’s Criminal Investigation Division in Dallas, Texas, the TCEQ’s Criminal Investigation Division, and the Texas Department of Parks and Wildlife. It was prosecuted by Assistant U.S. Attorney Jim Noble.

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Ohio Environmental Services Company and Two of Its Managers Indicted -- On January 7, 2016, **ENVIRONMENTAL ENTERPRISES INC.**, an environmental services company and two of its managers were indicted by a Hamilton County Ohio grand jury in connection with a fire that resulted in the death of an employee. The indictment charges Environmental Enterprises Inc. with nine counts, including involuntary manslaughter, reckless homicide, tampering with records, tampering with evidence, and violating the terms of a solid waste license. The charges stem from a December 28, 2012, fire at the company's Spring Grove Avenue facility that led to the death of a 20-year-old employee, Zachary Henzerling, who was treating hazardous waste at the facility and was burned when the fire ignited.

Henzerling's supervisor, **KYLE M. DUFFENS**, was indicted on one count of involuntary manslaughter, one count of reckless homicide, and three counts of violating the terms of a solid waste license, including Failure to take proper precautions to prevent a fire or explosion.

GERALD E. NOCKS, a company manager, was indicted on one count of violating a solid waste license for failing to properly train employees, one count of tampering with records, and two counts of tampering with evidence. Nocks is accused of falsifying training records to make it appear that employees had received Training they had not been given.

The case was investigated jointly by EPA's Criminal Investigations Division, the Ohio Bureau of Criminal Investigation, Environmental Enforcement Unit; and the Ohio Environmental Protection Agency's Special Investigations Unit; all of which are members of the Southwest Ohio Environmental Crimes Task Force. The case is being prosecuted by an attorney with Ohio Attorney General Mike DeWine's Special Prosecutions Section who was appointed by Hamilton County Prosecutor Joe Deters to serve as a special prosecutor in the case.

The fire at the company's Spring Grove Avenue facility led to the death of a 20-year-old employee, Zachary Henzerling, who was treating hazardous waste at the facility and was burned when the fire ignited.

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