
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

July 2010

EDITOR'S NOTE:

If you have other significant updates and/or interesting photographs from a case, you may email these to Elizabeth Janes: [REDACTED] If you have information to submit on state-level cases, please send this directly to the Regional Environmental Enforcement Associations' website: <http://www.regionalassociations.org>.

AT A GLANCE:

☞ [United States v. Apollo Energies, Inc., F. 3d. 2010, WL 2600502 \(10th Cir. June 30, 2010\).](#)

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C.D. Calif.	<u>United States v. Sony Dong et al.</u>	<i>Asian Songbird Imports/ Smuggling, Conspiracy</i>
N.D. Calif.	<u>United States v. Luke Brugnara et al.</u>	<i>Trout Habitat Degradation/ Endangered Species Act, False Statement</i>
D. Colo.	<u>United States v. Jeffrey M. Bodnar et al.</u>	<i>Bobcat Trapping/ Lacey Act, Conspiracy, Felon in Possession of Firearm</i>
M.D. Fla.	<u>United States v. Kinder Morgan Port Manatee Terminal LLC</u> [REDACTED]	<i>Baghouse Dust Emissions/ CAA</i> [REDACTED]
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D. Nev.	<u>United States v. Todd Davis et al.</u> <u>United States v. Peter Escudero et al.</u> <u>United States v. Joseph Dematteo et al.</u>	<i>Horse Shootings/ Wild Horses and Burros Protection Act</i> <i>Emissions Scanning Scheme/ CAA False Statement</i>
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DISTRICTS	ACTIVE CASES	CASE TYPE/STATUTES
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Significant Environmental Decisions

Tenth Circuit

United States v. Apollo Energies, Inc., ___ F. 3d. ___ 2010, WL 2600502 (10th Cir. June 30, 2010).

On June 30, 2010, the Tenth Circuit issued a significant joint decision in *United States v. Apollo Energies, Inc.* and *United States v. Walker*, two criminal cases involving the Migratory Bird Treaty Act (“MBTA”). In its decision, the Tenth Circuit confirmed that the misdemeanor criminal offense under the MBTA is a strict liability crime that does not require the prosecution to prove that the defendant acted with any particular state of mind. However, the Tenth Circuit determined that, in order to comply with the constitutional requirements of due process, at least in the case before the court, the government must prove that the migratory bird deaths were “proximately caused” by the defendant's conduct.

The court discussed proximate cause, somewhat interchangeably, both in terms of foreseeability and also fair notice to the defendant that his conduct might kill birds. In *Apollo Energies* the defendants were charged after migratory birds were killed in so-called heater-treaters (equipment used to separate oil from water at oil drilling sites). The Court upheld convictions where the defendants had been given notice by the Fish and Wildlife Service (prior to the searches that exposed the dead birds) that migratory birds might be and in fact were being killed in heater-treaters. The court vacated the conviction on another count for one defendant, however, because the evidence suggested that the defendant did not know, and a reasonable person might not have foreseen, that birds could be killed in heater-treaters.

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Trials

United States v. Ocean Pro, Ltd. et al., No. 8:09-CR-00634 (D. Md.), ECS Senior Trial Attorneys Kevin Cassidy [REDACTED] and Wayne Hettenbach [REDACTED] AUSA Stacey Belf [REDACTED] and ECS Paralegal Kathryn Loomis [REDACTED]

On July 1, 2010, following a five-week trial, a fish wholesaler and two of its employees were found guilty of purchasing illegally harvested striped bass, known locally as rockfish, from the Potomac River in Virginia and Maryland from 1995 through 2007.

Ocean Pro Ltd. d/b/a Profish, one of the largest District of Columbia seafood wholesalers, its vice-president Timothy Lydon, and its fish buyer, Benjamin Clough, all were convicted of a felony conspiracy to violate the Lacey Act. Ocean Pro and Lydon also were convicted of three felony Lacey Act violations, and Clough was convicted of three Lacey Act violations and a felony false statement charge.

Profish and Lydon began buying striped bass from Virginia fishermen fishing in the Potomac River in 1995. Lydon and Profish agreed to buy striped bass that they knew was illegally harvested by seven fishermen between 1995 and 2007. Clough joined Profish in 2001, and he continued to knowingly purchase the illegally harvested striped bass through 2007. In total, the defendants purchased more than 270,000 pounds of striped bass illegally harvested from Maryland and Virginia

waters, with a fair market retail value more than \$1.6 million. Evidence also was introduced at trial that they altered records regarding their striped bass purchases and changed records indicating the harvest date on shellfish to make it appear that they were harvested more recently than they were.

Commercial striped bass fishermen are given a quota that they are allowed to catch each year. The fishermen are issued a set number of plastic tags, one of which they are required to affix to every striped bass harvested. In addition, during certain times of the year, commercial striped bass fishing is prohibited or, if allowed, a maximum striped bass size limit is imposed that prohibits the harvest of striped bass over that size. The quota restrictions and tagging requirements are designed to prevent the over-harvest of striped bass, and the seasonal closing and size restrictions are designed to protect striped bass while they are spawning and to protect the larger, sexually mature and more productive spawning fish. Striped bass do not die after spawning. They may live up to 30 years and reach 50 pounds or more. The population of coastal Atlantic striped bass depends heavily upon the capability of older, larger female striped bass to successfully reproduce.

These restrictions were implemented in the early 1990s following the crash of the striped bass fishery in the 1980s, which resulted in a moratorium on commercial striped bass harvest from 1985 to 1990.

These convictions are the result of an interstate task force formed by the U.S. Fish and Wildlife Service, the Maryland Natural Resources Police and the Virginia Marine Police, Special Investigative Unit in 2003. The task force conducted undercover purchases and sales of striped bass in 2003, engaged in covert observation of commercial fishing operations in the Chesapeake Bay and Potomac River area, and conducted detailed analysis of area striped bass catch reporting and commercial business sales records from 2003 through 2007. There have been 22 convictions to date as a result of this investigation.

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United States v. Tamba Kaba, No. 1:09-CR-00858 (E.D.N.Y.), AUSA Vamshi Reddy



Ivory smuggled in wooden statues

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On June 8, 2010, Tamba Kaba was convicted by a jury on all counts stemming from his involvement in an illegal elephant ivory smuggling ring. On several occasions in 2007 and 2008, Kaba attempted to smuggle into the U.S. via JFK International Airport pieces of illegal elephant ivory that were concealed inside African statues imported from Uganda and Nigeria. He was convicted on two smuggling violations and one Lacey Act charge. Elephants are listed on Appendix 1 of the Convention of International Trade in Endangered Species of Wild Flora and Fauna. Sentencing is scheduled for September.

This case was investigated by the Fish and Wildlife Service.

Informations and Indictments

United States v. Hugo Pena et al., No. 0:10-CR-60158 (S.D. Fla.), AUSA Jaime Raich

On June 30, 2010, Hugo Pena, HP Maritime Consultants, Inc., (“HP Maritime”) Ronald Ramon, and Northon Eraso were charged in a superseding indictment for their involvement in the illegal discharge of oily bilge waste from the cargo vessel *Island Express I* and for oil record book (“ORB”) falsifications. Coastal Maritime Shipping, LLC, was charged in a separate two-count information with two APPS violations for failing to maintain the ORB.

According to the charging documents Coastal Maritime Shipping, LLC, was the owner of the *Island Express I*, a 155-foot cargo freighter registered in Panama. Defendant Ramon was the ship’s captain, Eraso was the chief engineer, and Pena was an employee of HP Maritime, a classification surveyor. Ramon, Eraso, HP Maritime, and Pena are alleged to have conspired to conceal that the ship was discharging oily bilge waste. (The oily water separator was inoperable.) They did this by falsifying the ORB, by installing pumps and hoses to discharge wastes directly overboard, and by falsely certifying only weeks before scheduled inspections that the ship’s pollution prevention systems were adequate.

In addition to the conspiracy charge, Eraso and Ramon are named in 25 of the 28 counts with failing to note the overboard discharges in the ORB on specific dates between February 7 and May 3, 2010. Pena and HP Maritime are charged with an 18 U.S.C. § 1001 false statement and an APPS violation. Coastal Maritime is charged with APPS ORB violations for presentation of the falsified document during inspections of the vessel while docked at Port Laudania on February 7 and May 3, 2010.

Trial is scheduled to begin on September 20, 2010. This case was investigated by the Coast Guard and the Coast Guard Investigative Services.

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United States v. Janay Brun et al., No. 4:10-mj-03511 (D. Ariz.), AUSA Ryan DeJoe

On June 15, 2010, an information was filed charging Janay Brun with conspiring to snare a jaguar, in violation of the Endangered Species Act. Snares had been previously placed solely for the purpose of capturing and placing tracking collars on mountain lions and bears.

When it became known that a large jaguar also was seen in the area, Brun and others placed jaguar scat at various snare sites in an attempt to capture and trap this *Panthera Onca* or jaguar, an endangered species. Co-defendant Emil McCain ultimately captured the jaguar and was recently sentenced.

This case is being investigated by the Fish and Wildlife Service.



Jaguar's paw

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Plea Agreements

United States v. William Ringler, No. 2:10-CR-00118 (S. D. Ohio), AUSA Michael Marous

On June 30, 2010, William Ringler pleaded guilty to a misdemeanor violation of the CWA stemming from his operation of a pig farm in central Ohio. Steamtown Farm, a concentrated animal feeding operation, houses 2,500 pigs and is located near the West Branch of the Alum Creek, a navigable water. The Alum Creek is further designated as a Warm Water Aquatic Life Habitat.

Located on the farm is a 26,000 gallon tank, which held liquid whey, a food supplement for the pigs. On or about June 19, 2007, in two separate discharges, a total of several thousand gallons of whey spilled onto the ground and into the drainage system at the farm. Ringler was aware that the whey would end up in the Creek, but made no attempt to prevent this from happening. As a result approximately 36,700 fish and other small aquatic animals were killed due to reduced oxygen levels in the water. The facility does not have a permit to discharge into the Creek.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division, the Ohio Environmental Protection Agency Office of Special Investigations, the Ohio Department of Natural Resources Division of Wildlife, and the Ohio Attorney General's Bureau of Criminal Identification and Investigation Environmental Enforcement Unit.

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United States v. Stanships, Inc., No. 2:10-CR-00172 (E.D. La.), ECS Senior Trial Attorney Richard Udell

On June 23, 2010, Stanships, Inc., the Greek operator of the *M/V Doric Glory*, pleaded guilty to APPS and OPA violations stemming from the illegal discharge of oily bilge waste, bypassing the oily waste separator.

On May 14, 2010, during a Coast Guard inspection of the ship while it was docked in the Port of New Orleans, a whistleblower alerted officials to the illegal discharges. Additionally, the ship was discharging up to approximately 400 gallons a day of lubricating oil from a leaking stern tube while in U.S. waters.

This case was investigated by the Coast Guard.

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United States v. Todd Davis et al., No. 3:10-CR-00030 (D. Nev.), AUSA Sue Fahami

On June 16, 2010, two men accused of shooting and killing five mustangs in Nevada last year pleaded guilty to a misdemeanor violation of the Wild Horses and Burros Protection Act. Todd Davis and Joshua Keathley admitted to shooting the horses last fall on government-owned rangeland near the California line about 150 miles northwest of Reno.

According to the court records, on or about November 28, 2009, Davis and Keathley drove to Northern Washoe County to look for locations to set traps. Davis, who was driving, stopped when he saw eight to ten wild horses. The two exited the vehicle and Keathley shot one horse with a rifle and

observed the horse fall to the ground. Keathley then handed the rifle to Davis who shot at the rest of the horses, killing a total of five wild, free-roaming horses. Prior to leaving the scene, Keathley removed approximately ten spent ammunition casings.

The two pleaded guilty to the charges as filed. There were no plea negotiations in this matter. Sentencing is scheduled for September 14, 2010.

This case was investigated by the Bureau of Land Management Office of Law Enforcement and Security, with assistance from the Lovelock Police Department, the Washoe County Sheriff's Office, the Washoe County Forensic Services Division, the Nevada Department of Wildlife, and the California Department of Fish and Game. The Humane Society and the State of Nevada Commission for the Preservation of Wild Horses also contributed to this investigation.

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United States v. Christopher Mills et al., Nos. 5:09-CR-00215 - 216 (S.D.W.V.), AUSAs Perry McDaniel [REDACTED] and Eric Goes [REDACTED].

On June 4, 2010, Christopher Mills, the co-owner of an electroplating business, pleaded guilty to a RCRA storage violation. The other owner, Rodney Hoffman, already pleaded guilty to a similar charge. The two admitted to storing hazardous wastes, including solvents, heavy metals, and sulfuric and chromic acids, at the facility without a permit from October 2006 to February 21, 2007. As a result, the EPA has undertaken a Superfund cleanup of the site.

Hoffman has a previous conviction from 1999 for a Clean Water Act violation for improperly discharging waste from a prior electroplating business and was sentenced to serve an 11-month term of incarceration. Hoffman is scheduled to be sentenced on August 18, 2010, and Mills is to be sentenced on September 22, 2010.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division with assistance from the Federal Bureau of Investigation.

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United States v. Jeffrey M. Bodnar et al., No. 1:09-CR-00441 (D. Colo.), ECS Trial Attorney Colin Black [REDACTED] and AUSA Linda McMahan [REDACTED].



Bobcat caught in leghold trap

On June 1, 2010, a Colorado couple pleaded guilty to charges related to the illegal trapping and interstate sale of bobcats. Jeffrey M. Bodnar pleaded guilty to one felony count of conspiracy to violate the Lacey Act and one felony count of possession of a firearm by a felon. His wife, Veronica Anderson-Bodnar, pleaded guilty to one misdemeanor count of Lacey Act trafficking and one misdemeanor count of making false statements in violation of the Lacey Act.

In court documents Jeffrey Bodnar admitted to conspiring with his wife to unlawfully trap and kill bobcats without a license, using prohibited leghold traps in violation of Colorado law, and selling the bobcat pelts to fur buyers in Montana and Kansas. He also admitted to conspiring with his wife to submit false records to the Colorado Division of Wildlife in order to obtain tags for the pelts. With regard

to the firearms charge, Bodnar, who was convicted of a state felony charge in 2000, admitted to possessing at least one firearm, although he may have had as many as seven. Veronica Anderson-Bodnar admitted to selling bobcat pelts to a

buyer from Kansas in March 2008, when she should have known that the bobcats were trapped without a license and caught using prohibited leghold traps. She also admitted to making and submitting false records to the Colorado Division of Wildlife in order to obtain tags for the pelts.

This case was investigated by the Fish and Wildlife Service and the Colorado Division of Wildlife.

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Sentencings

United States v. John Morgan et al., No. 1:10-CR-00017 (W.D. Pa.), AUSA Marshall J. Piccinini

On June 25, 2010, John Morgan and Michael Evans were sentenced after previously pleading guilty to violating the Safe Drinking Water Act. Morgan will complete a three-year term of probation to include eight months' home confinement. He also will pay a \$4,000 fine and complete 80 hours of community service. Evans will complete a three-year term of probation to include 10 months' home confinement. Evans will pay a \$5,000 fine and perform 100 hours of community service.

Evans was part owner and Morgan was a site supervisor for Swamp Angel Energy, LLC, a Kansas-based company engaged in oil and gas development in the Allegheny National Forest. As part of the oil drilling process, brine is produced and is required to be properly disposed of, generally through transportation to a waste water treatment plant or through injection into non-producing wells. Disposal into an injection well requires a permit to ensure the safety of underground drinking water sources.

From approximately April 2007 through January 2008, Evans and Morgan admitted to willfully causing more than 200,000 gallons of brine to be dumped into an oil production well located near the Allegheny National Forest, which was not permitted for underground injection.

This case was investigated by the Forest Service and the Environmental Protection Agency Criminal Investigation Division.

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United States v. Larry R. Adkins, Jr., No. 2:10-CR-00022 (S.D. Ohio), AUSA Mike Marous

On June 24, 2010, Larry R. Adkins, Jr., was sentenced to complete a three-year term of probation to include six months' home confinement and 200 hours of community service. Adkins also will pay \$43,843 to the U.S. Forest Service in restitution for the fair market timber value of the trees he destroyed.

Adkins previously pleaded guilty to depredation of government property and theft of government property for cutting down 822 trees in the Wayne National Forest. In 2006, the owner of land adjacent to Wayne National Forest contracted with the defendant's logging company to have several logs removed from his property. The boundary between the private property and the Forest was clearly marked by a fence line. Additionally, approximately two years prior the land owner had arranged for a bulldozer to be driven around the edge of his property with the boundary line marked with red flagging ribbon, all of which were clearly



National Forest Boundary

visible. The investigation revealed that, despite being explicitly informed on a number of occasions as to the location of the Forest's boundary line, Adkins denied that this was the actual boundary and allowed others under his supervision to illegally remove hundreds of trees from this protected area. These trees were of mixed species including hardwood and softwood trees which were sold to three different mills for use as saw timber or pulpwood.

This case was investigated by the Forest Service.

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United States v. Seng Her, No. 09-CR-00365 (D. Minn.), AUSA William Otteson [REDACTED].

On June 23, 2010, Seng Her was sentenced to serve three years' probation and complete 100 hours of community service during each of those years. The defendant previously pleaded guilty to a smuggling violation stemming from her smuggling elephant parts and dead birds into the United States from Southeast Asia.

Her was stopped by U.S. Customs officials at the Minneapolis-St. Paul International Airport in November 2007 after visiting Laos. Along with parts of an Asian elephant, an endangered species, the defendant also had in her possession several dead birds including yellow-vented flowerpeckers, tailorbirds, prinias and passerines, without the required documentation.

The defendant previously was warned in writing by the U.S. Fish and Wildlife Service in 2007 about importing undeclared wildlife into this country. She had been stopped in 2005 at the Twin Cities airport with pieces of elephant hide, birds, and other wildlife, including several threatened and endangered species, in her belongings.

This case was investigated by the Fish and Wildlife Service.

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United States v. Ivan and Gloria Chu, No. 10-CR-0003 (D.V.I.), ECS Trial Attorney Christopher Hale [REDACTED] and AUSA Nelson Jones [REDACTED].



Black Coral

On June 23, 2010, Taiwanese nationals Ivan and Gloria Chu were sentenced to prison terms for their involvement in illegal shipments of internationally-protected black coral into the United States. Ivan Chu will serve 30 months' incarceration and pay a \$12,500 fine. Gloria Chu will serve 20 months' incarceration and also will pay a \$12,500 fine. The court further prohibited the Chus from shipping any coral or other wildlife products to the United States during the three-year period following their release from prison. These sentences are the longest terms of incarceration for illegal trade in coral to date.

The defendants previously pleaded guilty to nine counts, including conspiracy, false statements, and violations of both the Endangered Species Act and the Lacey Act. The Lacey Act makes it a felony to falsely label wildlife that is intended for international commerce. The Endangered Species Act is the U.S. domestic law that implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Each of the species of black coral is listed in Appendix II of CITES and is subject to strict trade regulations.

Black coral is one of the several types of precious corals that can be polished to a high sheen, worked into artistic sculptures and used in inlaid jewelry. The Chus admitted to running a business named Peng Chia Enterprise Co. Ltd. that supplied materials including black coral to customers outside of Taiwan for jewelry design and manufacture. At times prior to 2007, the Chus were issued CITES export permits by the Taiwanese government in order to ship black coral overseas. Since 2007, however, they were unable to obtain permits because they were unable to produce a legitimate certificate of origin.

Both Chus admitted that, in order to supply a company based in the Virgin Islands with black coral, they would falsely label shipments in order to conceal the coral from U.S. Customs and Border Protection officers. The conspiracy included travel to a warehouse in mainland China to choose coral from a Chinese supplier and the use of an intermediary to ship the black coral from Hong Kong to a company in St. Thomas. The defendants operated in this manner for at least two years prior to Customs' seizure of a shipment in August 2009. Peng Chia attempted to ship 10 boxes of black coral that were mislabeled as a type of plastics product. The shipment was flagged as suspicious leading to the subsequent investigation and arrest of the Chus. They admitted to sending approximately \$194,000 worth of black coral to the company in St. Thomas over a two-year period.

This case was investigated by the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, with support from Immigration and Customs Enforcement and Customs and Border Protection.

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United States v. Kinder Morgan Port Manatee Terminal LLC, No. 8:10-CR-00076 (M.D. Fla.), AUSA Cherie Krigsman [REDACTED].

On June 22, 2010, Kinder Morgan Port Manatee Terminal LLC ("KMPMT") was sentenced to pay a \$750,000 fine, to complete a two-year term of probation, and to make a \$250,000 community service payment to the National Fish and Wildlife Fund. The company previously pleaded guilty to four violations of the Clean Air Act stemming from its baghouse dust emissions.

KMPMT operates a dry bulk material handling and storage facility, which covers six acres and includes four warehouses. It receives and ships materials such as granular fertilizer products and cement clinker by railcar, truck, and ship. When these granular materials are loaded and unloaded improperly, they generate particulate matter, an air pollutant regulated by the Clean Air Act. Facilities are required to operate baghouse air pollutant control systems in order to control particulate emissions. These systems further require permits to ensure their proper operation.

Investigation revealed that, from in or about 2001 through March 2008, KMPMT's baghouse systems were in poor condition, and several were not fully operational during the times specified in various permits. In August 2006 and August 2007, the company's local managers and supervisors falsely stated in Florida DEP permit applications that KMPMT would operate and maintain its air pollution emissions and control equipment in accordance with regulations, knowing that the baghouses were not being operated and maintained properly. From October 2006 through March 2008, company



Evidence of disrepair at plant

management failed to notify the FDEP that its baghouse air pollution control systems were out of compliance.

A parallel enforcement action brought against the defendant by state officials resulted in FDEP requiring the company to pay a \$331,000 civil penalty. Corrective actions under the order include conducting compliance stack testing on the repaired baghouses, repairing the transfer towers and conveyor systems, developing an employee training program, and implementing a management tracking system to ensure future compliance through testing, record keeping and maintenance.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division and the Florida Department of Environmental Protection.

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United States v. Provident Energy Associates, LLC, No. 4:10-MJ-00019 (D. Mont.), ECS Senior Trial Attorney Bob Anderson [REDACTED].



Oily wastes discharged from tank

On June 10, 2010, Provident Energy Associates, LLC, (“Provident”) was sentenced to complete an 18-month term of probation and will pay the maximum statutory fine of \$15,000, which will be paid into the North American Wetlands Conservation Fund. The company also will make a \$5,000 community service payment to the National Fish and Wildlife Foundation for the preservation of wetlands in Montana. Provident further will implement an environmental compliance plan.

The company pleaded guilty to an information charging a single violation of the Migratory Bird Treaty Act.

In September 2008, oil sludge began to leak from a long-existing hole in a storage tank at Provident’s Two-Medicine Cut Bank Sand Unit located on the Blackfeet Indian Reservation. The leaking oil flowed about 50 feet across the ground and formed a 10 x 20-foot pond. Over the course of several days, approximately 18 migratory birds, including an owl, mourning dove and vesper sparrows, came into contact with the oil and died as the result of oil ingestion and coating. An employee of the company reported the spill and bird deaths to his supervisors, who notified the oil field regulating agency, which in turn notified the Fish and Wildlife Service. The employee informed investigators that the tank had leaked oil from the hole several times in the past, leading to other bird deaths, but could provide no explanation as to why it had not been repaired.

This case was investigated by the Fish and Wildlife Service, the Bureau of Land Management, and Blackfeet Tribal authorities.

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United States v. Paul Mancuso et al., Nos. 5:08-CR-00548 and 00611 (N.D.N.Y.), ECS Trial Attorney Todd Gleason [REDACTED] and AUSA Craig Benedict [REDACTED].

On June 9, 2010, Paul, Steven and Lester Mancuso were sentenced to complete lengthy terms of incarceration. Paul Mancuso will serve 78 months in prison followed by three years' supervised release, and will pay a \$20,000 fine. Steven Mancuso was sentenced to serve 44 months in prison, followed by three years' supervised release. Their father Lester Mancuso was sentenced to serve 36 months in prison followed by three years' supervised release.

Brothers Paul and Steven were convicted by a jury last October on all counts, with Lester pleading guilty on the eve of trial to conspiracy to defraud the



Warning label near dumped asbestos

United States, to violate the Clean Air Act, to violate CERCLA, and to commit mail fraud. Paul and Steven were convicted of the conspiracy and substantive CAA and CERCLA violations for the illegal removal of asbestos from numerous locations throughout central and upstate New York. Another brother, Ronald, remains scheduled to be sentenced on July 28, 2010.

Paul Mancuso previously was convicted of CAA violations related to illegal asbestos removal and disposal in 2003, and he was convicted in 2004 of insurance fraud also related to his asbestos business. As a result of those prior convictions, he was prohibited from either directly or indirectly engaging in any asbestos abatement activities or associating with anyone who was violating any laws. Evidence from the recent case proved that Paul Mancuso set up companies in the names of relatives and associates to hide his continued involvement with asbestos removal. He and his father thereafter engaged in numerous illegal asbestos abatement activities that left a variety of businesses and homes contaminated with asbestos. On multiple occasions Paul also dumped asbestos from his removal jobs on roadsides and in the woods.

Attorney Steven Mancuso aided his family in its illegal asbestos enterprises by preparing false and fraudulent documents to make it appear that their activities were legal and that they were entitled to payment for their work. Paul Mancuso and his family operated their illegal asbestos business from the offices of Steven Mancuso's law firm.

Ronald Mancuso previously pleaded guilty to a conspiracy to violate CERCLA. He admitted to taking part in the dumping of asbestos in the woods in September and October 2005.

This case was investigated by the Environmental Protection Agency.

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United States v. Selective Structures, LLC., No. 3:10-CR-00061 (E.D. Tenn.), ECS Trial Attorney Jim Nelson [REDACTED] and AUSA Matthew Morris [REDACTED]



Sawdust used to illegally mix with waste

in the form of spent solvents including Xylene, which was mixed with other paint waste.

After the company accumulated more than 60 55-gallon drums of spent solvent on the property, its employees attempted to dispose of the hazardous waste by pouring drums of it into a large pile of sawdust and mixing it with pitchforks. After TDEC conducted an inspection and uncovered this illegal activity it began to take the necessary steps for the proper removal of the hazardous waste.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division.

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United States v. Sony Dong et al., No. 2:09-CR-00439 (C.D. Calif.), AUSA Mark Williams [REDACTED]

On June 7, 2010, Sony Dong and Duc Le each were sentenced for their roles in smuggling Asian song birds into this country from Vietnam. Dong will serve four months' incarceration and will pay \$4,000 in restitution to federal authorities who continue to care for 36 birds that were in his possession. Co-defendant Duc Le was sentenced to serve six months' incarceration and will pay approximately \$25,000 in restitution for costs incurred for the testing, quarantine, and care of approximately 50 birds seized from his residence.

Dong was arrested at Los Angeles International Airport after an inspector spotted bird feathers and droppings on his socks and tail feathers protruding from under his pants. He had devised an elaborate, custom-made pair of leggings to conceal the birds during his flight from Vietnam to Los Angeles.

After his arrest, Dong was linked to co-defendant Le, who was arrested and charged after investigators searched his home and found more than 50 songbirds in an outdoor aviary. Both were

On June 8, 2010, Selective Structures L.L.C. pleaded guilty to and was sentenced for RCRA violations for illegally storing hazardous waste at its facility in Athens, Tennessee. The company was sentenced to pay an \$80,000 fine and will pay an additional \$179,174 in restitution to the Tennessee Department of Environment and Conservation ("TDEC"). The company also will complete a 37-month term of probation and is required to implement an environmental compliance plan.

Selective Structures is in the business of building support structures for roadside signs and billboards. During the course of its manufacturing process, hazardous and ignitable waste was generated



Deceased Hwa mei

initially charged with conspiracy, false statement, and smuggling violations in an eight-count indictment. Dong pleaded guilty to a smuggling violation and Le pleaded guilty to the conspiracy count.

Fish and Wildlife inspectors flagged Dong for inspection after he had abandoned a suitcase containing 18 birds at the Los Angeles airport in December 2009. Five of the birds died in transit. Dong travelled back to Vietnam to pick up more birds and returned a month later with three red-whiskered bul-buls, four magpie robins, and six shama thrushes under his pants. The birds were quarantined and the bul-buls are listed as an injurious species, which means they pose a threat to people, native wildlife or the ecosystem and could be avian flu carriers. The songbirds sell for \$10 to \$30 in Vietnam and are sold to collectors in the United States for about \$400. Asian songbirds also are imported for their use in fighting competitions, drawing people who attend to gamble on the birds.

This case was investigated by the Fish and Wildlife Service.

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United States v. KEN-DEC, Inc., et al., No. 1:10-CR-0003 (W.D. Ky.), AUSA Randy Ream



Sink and rubber hose used for illegal discharges

On June 7, 2010, KEN-DEC, Inc., an electroplater formerly doing business in Horse Cave, Kentucky, and manager David Becker each were sentenced after pleading guilty to a felony CWA and a RCRA disposal violation. The company must pay a \$700,000 fine and Becker will serve 18 months' incarceration, followed by one year of supervised release. KEN-DEC's parent firm, Ohio Decorative Products of Spencerville, Ohio, already paid approximately \$95,000 in cleanup costs to Caveland Environmental Systems, a POTW, in Cave City, Kentucky.

The execution of a search warrant in January 2009 and subsequent investigation revealed that officials at the Horse Cave sewer plant knew in 1985 that KEN-DEC was dumping excessive concentrations of electroplating wastes, including cyanide and hydrochloric acid, into the City's sewer system. In 1989, KEN-DEC agreed to construct a "closed loop" system at the plant, which solved the problem for several years. However, POTW officials subsequently began to again notice high concentrations of acid and other chemicals which caused damage to their plant.

Becker acknowledged during the execution of the search warrant that production problems on the plating line caused the company to introduce fresh water from the city system into their closed loop requiring the disposal of excess levels of wastewater. These electroplating wastes were disposed of through a rubber hose, which agents discovered to be hooked to a tank that led to a sink near the men's bathroom. Other hazardous wastes (including cyanide plating solutions) were disposed of onto the ground through another hose that ran through a hole punched in a wall at the back of the plant.

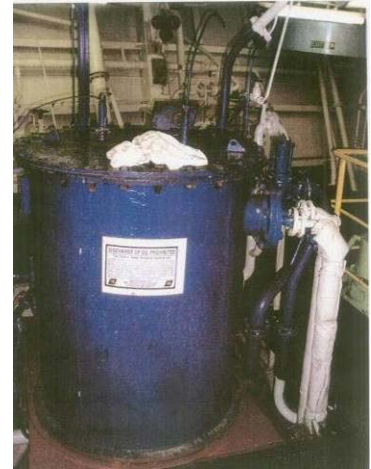
This case was investigated by the Environmental Protection Agency Criminal Investigation Division, with assistance from the Kentucky Department of Environmental Protection.

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United States v. Cooperative Success Maritime SA, No. 4:10-CR-00035 (E.D.N.C.), ECS Trial Attorney Shennie Patel [REDACTED] and AUSA Banu Rangarajan [REDACTED]

On June 7, 2010, Cooperative Success Maritime S.A. (“CSM”), the operator of the *M/T Chem Faros*, a 21,145 gross-ton ocean-going cargo ship, pleaded guilty to, and was sentenced for, an APPS violation and for making false statements. The company will pay a \$700,000 fine and will make a \$150,000 community service payment toward the National Fish and Wildlife Fund. CSM also will complete a five-year term of probation and must implement an environmental compliance plan. The company is privately incorporated in Panama and headquartered in Athens, Greece.

On March 29, 2010, a Coast Guard port state control inspection team boarded the *Chem Faros* in Morehead City, North Carolina. While conducting the inspection, a crewmember approached Coast Guard



inspectors and handed them a note stating that the ship had illegally discharged oil-contaminated waste overboard through the use of a “magic pipe.” Other crew members, including the chief and second engineers, corroborated the allegations of improper waste discharges. The chief engineer, Vaja Sikharulidze, previously pleaded guilty to an APPS violation for his involvement in these illegal overboard discharges. Sikharulidze further acknowledged making false entries in the oil record book to hide the true amount of oil-contaminated bilge waste that was stored in a specific tank aboard the ship. He admitted that he was continuing the practice of the prior chief engineer of making false entries for that particular tank.

“Discharge of Oil Prohibited”

This case was investigated by the Coast Guard Investigative Service and the Environmental Protection Agency Criminal Investigation Division, with assistance from the Federal Bureau of Investigation’s Computer Forensic Team.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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United States v. Shane Bertucci et al., Nos. 8:09-CR-00084, 117, and 121 (D. Neb.), AUSA Sandra Denton [REDACTED]



Hawks

On June 3, 2010, Shane Bertucci was sentenced after being convicted by a jury this past February on two counts of unlawfully killing eagles and one count of unlawfully selling red tail hawk feathers. Bertucci was sentenced to serve five months' imprisonment and five months' home confinement, followed by a one-year term of supervised release. The defendant also will complete 50 hours of community service and will be jointly and severally liable for \$8,450 in restitution to be paid to the Raptor and Recovery Association of Nebraska.

On a number of occasions in 2006, wildlife officials received reports of several eagle carcasses found alongside the Missouri River near Macy, Nebraska. During the course of the investigation agents received information that Bertucci may have been involved in shooting the eagles. The defendant was interviewed and admitted to killing three eagles and five hawks. He also admitted to selling red-tailed hawk feathers for \$100 and that he still possessed feathers from some of the birds that he had killed. All of the feathers that Bertucci turned over to law enforcement were recovered from locations other than Bertucci's home.

Co-defendant Quentin Dick previously pleaded guilty to a single Bald and Golden Eagle Protection Act ("BGEPA") violation and was sentenced to complete a three-year term of probation and must pay a \$1,000 fine. Theodore McCauley previously was sentenced to pay a \$250 fine after pleading guilty to a single BGEPA violation. Bertucci's brother Lamar previously was sentenced in a separate case to serve a year and a day of incarceration, after shooting and selling eagles and their parts to other Native Americans.

This case was investigated by the Fish and Wildlife Service.

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United States v. Jesse Marchus, No. 1:09-CR-00054 (D.N.D.), AUSA David Hagler [REDACTED]

On June 2, 2010, Jesse Marchus was sentenced after being convicted by a jury in February of this year to possession of a firearm and ammunition by a convicted felon and to the unlawful taking of a bald eagle in violation of the BGEPA. Marchus was sentenced to serve eight years and four months' incarceration followed by three years' supervised release for the firearms conviction. He was sentenced

to serve one year incarceration for the taking of the bald eagle (to be served concurrently), followed by one year of supervised release.

In March 2009, wildlife officers received information that Marchus shot a bald eagle in northern Burleigh County, near the Missouri River. An investigation led to the execution of a search warrant at a cabin believed to be Marchus' residence. During the search, officials seized nine firearms, more than 1,000 rounds of ammunition, and a pair of bald eagle feet. Marchus had previous burglary and drug convictions from 2003 and a felon in possession of a firearm conviction from 2006.

This case was investigated by the Fish and Wildlife Service; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Federal Bureau of Investigation; the North Dakota Game and Fish Department; the North Dakota Bureau of Criminal Investigation; and the Burleigh County Sheriff's Office.

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United States v. Peter Escudero et al., No. 2:10-CR-00013 (D. Nev.), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED] and AUSA Roger Yang [REDACTED].

On June 1, 2010, Peter Escudero was sentenced to pay a \$2,000 fine and will complete a three-year term of probation after pleading guilty to a single Clean Air Act false statement count.

Escudero was indicted in January of 2010 for engaging in a practice known as "clean scanning" vehicles. The scheme involves using vehicles the testers know will pass emissions tests for the actual test, but entering into the computerized system the vehicle identification number ("VIN") for a vehicle that will not pass. The testers did not realize that the computer generates an electronic VIN from the car actually tested which is easily compared with the real vehicle's VIN that was entered in the report. The falsifications were performed in exchange for varying amounts of money over and above the usual emissions testing fee. Court documents state that Escudero performed approximately 373 false emissions tests in 2007 and 2008. Seven other defendants currently are scheduled for trial in Las Vegas on similar charges and was recently arrested after he was recognized as a [fugitive](#) on EPA's website.

These cases were investigated by the Environmental Protection Agency Criminal Investigation Division and the Nevada Division of Motor Vehicles Compliance Enforcement Division.

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United States v. Dale Satran, No. 1:10-CR-00021 (D. Mont.), AUSA Mark Smith [REDACTED] and ECS Senior Trial Attorney Bob Anderson [REDACTED].

On May 27, 2010, Dale Satran was sentenced to pay a \$5,000 fine and will complete a one-year term of probation for shooting a golden eagle in March 2006. After pleading guilty to a violation of the Bald and Golden Eagle Protection Act, Satran actually told the court that he mistook the eagle for a porcupine when he shot it. The defendant also will be prohibited from hunting or fishing, or accompanying anyone hunting or fishing, while on probation.

This case was investigated by the Fish and Wildlife Service.

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United States v. Luke Brugnara et al., No. 3:08-CR-00236 (N.D. Calif.), AUSAs Maureen Bessette [REDACTED] and Thomas Newman [REDACTED]

On May 26, 2010, Luke Brugnara was sentenced to serve 15 months' incarceration, followed by one year of supervised release, to run concurrently with a sentence he currently is serving for a separate tax fraud case.

Brugnara previously pleaded guilty to a six-count indictment that charged four counts of "taking" steelhead trout in violation of the Endangered Species Act and two counts of making a false statement during the course of the investigation. Charges against the Brugnara Corporation were dismissed as a condition of the plea agreement.

According to court documents, Brugnara intentionally blocked the flow of Little Arthur Creek, an important watershed for steelhead, through his private dam on property purchased by his corporation in 2001 in Gilroy, California. Steelhead are known to migrate upstream of the dam on this property, and the population of steelhead in the Little Arthur Creek, running through the defendant's property, is listed as a threatened species. One of the reasons for this decline in steelhead populations is that their access to historic spawning and rearing areas upstream of dams has been blocked.

From approximately January 2007 through April 2007, the defendant closed off the portal in his dam that had allowed the steelhead to migrate upstream. State and federal investigators located and observed numerous trapped adults downstream of the dam that were unable to migrate upstream to suitable spawning habitat. A federal fisheries biologist determined the trapped adult steelhead were of paramount importance to the survival of the species due to their low number found in the Pajaro River watershed and recommended that the adults be rescued and moved upstream. When the rescue team arrived to move the steelhead upstream, investigators found that they had disappeared, but there remained significant evidence of recent poaching and trapping activities.

During the investigation Brugnara made false statements to local law enforcement officers, stating that he had not taken the fish that were caught in his dam and that he had not used the type of fishing lure that was capable of catching steelhead trout.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the California Department of Fish and Game.

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United States v. Emil McCain, No. 4:10-CR-01036(D. Ariz.), AUSA Ryan P. DeJoe [REDACTED]

On May 14, 2010, Emil McCain pleaded guilty to, and was sentenced for, an Endangered Species Act violation for the unlawful take of a jaguar. McCain admitted to placing jaguar scat and directing another person to place jaguar scat at snare sites that were authorized to snare only mountain lions and bears in the Atascosa Mountains near Ruby, Arizona. McCain's attempt to lure the jaguar into a snare was successful; however, he did not have legal authorization to do so.

The defendant was sentenced to serve five years' probation with the condition that he



Captured Jaguar known as "Macho B"

is not permitted to be employed or in any way involved in any large cat or large carnivore project. He also must pay a \$1,000 fine. Co-defendant Janay Brun was recently charged for assisting McCain with trapping the jaguar.

The animal ultimately was euthanized after expert veterinarians at the Phoenix Zoo determined through blood tests and physical exam that the cat was in severe and unrecoverable kidney failure. Acting on the veterinarians' recommendation, the U.S. Fish and Wildlife Service and the Arizona Game and Fish Department decided to euthanize him rather than rerelease him to the wild, where his debilitated condition would likely cause prolonged suffering before death.

This case was investigated by the Fish and Wildlife Service.

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Other Litigation Events

United States v. Joseph Dematteo et al., No. 2:10-CR-00004 (D. Nev.), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED] and AUSA Roger Yang.



WANTED



by the
U.S. Environmental Protection Agency
CRIMINAL INVESTIGATION DIVISION

Name: Joseph DeMatteo
Alias: Joe
Sex: Male
Race: White
Date of Birth: 09/18/1957
Place of Birth: Pennsylvania
Height: 5'10"
Weight: 205
Eyes: Brown
Hair: Brown
Scars/Tattoos:
FBI #: 755087F8
NIC #: 710JCNXW55999R09998
Last Known Address: Las Vegas, Nevada



Case Summary:

- DeMatteo was charged in the District of Nevada-Las Vegas
- He allegedly submitted false statements to the State of Nevada in violation of the Clean Air Act.
- Alleged violations include:
 - Falsifying Emissions Data
- DeMatteo currently is a fugitive last known to reside in the Las Vegas, Nevada area.

Anyone with information regarding this fugitive should contact the U.S. EPA, Criminal Investigation Div. San Francisco, California Office at: 1-415-947-8713 or complete the form located at: <http://www.epa.gov/compliance/criminal/fugitives/report-location-form.html>

U.S. EPA/CIO/WantedPoster April 09, 2010

www.epa.gov/fugitives

On June 9, 2010, Joseph Dematteo, the lone fugitive in this case involving 10 defendants, was captured in Los Vegas following a tip from a person who saw the EPA's fugitive notice.

Dematteo was indicted in January of 2010 for engaging in a practice known as "clean scanning" vehicles. The scheme involves using vehicles the testers know will pass emissions tests for the actual test, but entering into the computerized system the vehicle identification number for a vehicle that will not pass. The testers did not realize that the computer generates an electronic VIN from the car actually tested that is easily compared with the real vehicle's VIN that was entered in the report. The falsifications were performed in exchange for varying amounts of money over and above the usual emissions testing fee. The United States Environmental Protection

Agency requires, pursuant to the Clean Air Act, that the State of Nevada conduct vehicle emissions testing in certain areas because the areas exceed national standards for carbon monoxide and ozone. Las Vegas is currently required to perform this emissions testing.

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United States v. Wayne County Airport Authority, No. 2:06-CR-20300 (E.D. Mich.), ECS Assistant Chief Kris Dighe [REDACTED] and ECS Senior Counsel Jim Morgulec [REDACTED]

On June 4, 2010, the district court granted a joint motion of the government and the Wayne County Airport Authority (Authority), to revoke its probation on the grounds that the Authority had failed to complete an \$8,000,000 environmental project. The project (the construction of a force main connecting its retention ponds to the Detroit Water and Sewerage Department's sanitary sewer) was to have been completed during its four-year term of probation. The failure to complete the project was due primarily to circumstances beyond the control of the Authority, largely related to the acquisition of

easement rights to bury sanitary sewer pipes. Under the new three-year term of probation, the Authority is expected to complete the forced main project within that time.

The Authority, which operates the Detroit Wayne County Metropolitan Airport, pleaded guilty in 2006 to a misdemeanor violation of the Clean Water Act and was sentenced to pay a \$75,000 fine and to complete a four-year term of probation. It pleaded guilty to a negligent failure to report a discharge of turbid water in 2001 into the Frank and Poet Drain, a waterway that leads to the Detroit River, in violation of the Airport's discharge permit. Two days after the event, the discharge was discovered during the course of an investigation of a fish-kill, which was observed near the mouth of the waterway, as it enters the Detroit River.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division and the Federal Bureau of Investigation, with assistance from the Michigan Department of Environmental Quality Office of Criminal Investigation.

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