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# ENVIRONMENTAL CRIMES SECTION



## MONTHLY BULLETIN

*February 2013*

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### EDITOR'S NOTES:

If you have significant updates and/or interesting photographs from a case, please email them to [REDACTED]. If you have information concerning state or local cases, please send it directly to the Regional Environmental Enforcement Associations' website: [www.regionalassociations.org](http://www.regionalassociations.org).

**REMINDER:** We are now producing a *separate* public version of the ECS Monthly Bulletin. When submitting details on your case developments please bear in mind that the information you provide could be disclosed to the public. As such, it would be very helpful if you would include a press release whenever possible to help ensure that the facts we are using are publically available. If a press release was not generated, then please only provide facts that are appropriate to disclose to the public.

**NOTICE:** The U.S. Fish and Wildlife Service and ECS recently collaborated with West Services on the publication of an updated, slim book of federal fish and wildlife statutes. To obtain a free copy, or for more information, please contact [REDACTED]

The Environmental Crimes Intranet Site is available to those who have access to USDOJ operated sites: <http://dojnet.doj.gov/ecs/>.



See [\*U.S. v. Sam Mathew\*](#) below, for details on this case involving the removal of this egret from its nest.

**AT A GLANCE:**

DISTRICT	CASES	CASE TYPE/STATUTES
D. Alaska	<a href="#"><u>United States v. Copper River Campus, LLC</u></a> <a href="#"><u>United States v. Fred E. Sims</u></a>	<i>Asbestos Abatement/ CAA</i> <i>Bear Hunting/ Lacey Act</i>
D. Colo.	<a href="#"><u>United States v. Executive Recycling, Inc., et al.</u></a> <a href="#"><u>United States v. Gold Metal Plating</u></a>	<i>Electronic Waste Exports/ RCRA,</i> <i>Mail Fraud, Wire Fraud,</i> <i>Smuggling, Obstruction</i> <i>Aircraft Painting Company/</i> <i>RCRA</i>
D.D.C.	<a href="#"><u>United States v. Sanford Ltd et al.</u></a>	<i>Vessel/ Conspiracy, APPS,</i> <i>Obstruction</i>
S.D. Fla.	<a href="#"><u>United States v. Jason Cardinale</u></a> <a href="#"><u>United States v. James Cheung et al.</u></a>	<i>Charter Fishing/ False</i> <i>Statements</i> <i>Turtle Farm/ Lacey Act</i>
D. Idaho	<a href="#"><u>United States v. William Allen Hurlbut, Jr.</u></a>	<i>Wire Burning/ Depredation of</i> <i>Government Property</i>
C.D. Ill.	<a href="#"><u>United States v. Michael Pinski et al.</u></a>	<i>Asbestos Abatement/ CAA</i>
S.D. Iowa	<a href="#"><u>United States v. Chamness Technology, Inc.</u></a>	<i>Compost Facility/ CWA</i>
E.D. La.	<a href="#"><u>United States v. BP Exploration and Production, Inc. et al.</u></a> <a href="#"><u>United States v. Connie M. Knight</u></a> <a href="#"><u>United States v. W&amp;T Offshore, Inc.</u></a>	<i>Oil Spill/ Clean Water Act,</i> <i>Seaman's Manslaughter, MBTA,</i> <i>Obstruction</i> <i>Impersonating Federal Official/</i> <i>Fraud</i> <i>Offshore Oil Platform/ CWA</i>

DISTRICT	CASES	CASE TYPE/STATUTES
N.D. Miss.	<a href="#">United States v. Pass Taylor, Jr.</a>	<i>Duck Hunting/ MBTA, National Wildlife Refuge Act</i>
D. Mont.	<a href="#">United States v. Steven Patrick Garcia, Jr.</a> <a href="#">United States v. CHS, Inc.</a> <a href="#">United States v. SM Energy Company</a>	<i>Feather Sales/ MBTA, Lacey Act</i> <i>Chemical Manufacturer/ CERCLA</i> <i>Oil Company/ MBTA</i>
D.N.J.	<a href="#">United States v. Vele Bozinoski</a>	<i>Asbestos Abatement/ Conspiracy, CAA</i>
N.D.N.Y.	<a href="#">United States v. John Leathley et al.</a>	<i>Asbestos Abatement/ CAA, CWA, Conspiracy</i>
D.N.D.	<a href="#">United States v. Hurley Enterprises, Inc., d/b/a Hurley's Oilfield Services</a> <a href="#">United States v. Mon-Dak Water &amp; Septic Services, LLC.</a> <a href="#">United States v. Jay P. Schuler</a>	<i>Sewage Collectors/ CWA</i> <i>Sewage Collectors/ CWA</i> <i>Eagle Trapping/ BGEPA</i>
W.D. Pa.	<a href="#">United States v. Professional Mobile Cleaning, Inc.</a>	<i>Truck Washing Company/ Refuse Act</i>
D.S.D.	<a href="#">United States v. Kevin Jorgenson</a>	<i>Taxidermy/ MBTA, ESA</i>
N.D. Tex.	<a href="#">United States v. Jeffrey D. Gunselman et al.</a> <a href="#">United States v. Nghi Cong Tran et al.</a>	<i>Fuel Credit Fraud/ CAA, Money Laundering, Wire Fraud</i> <i>Vehicle Emissions Testing/ CAA, False Statement, Conspiracy</i>
S.D. Tex.	<a href="#">United States v. Sam Mathew</a>	<i>Eagle Capture/ MBTA</i>
E.D. Va.	<a href="#">United States v. Raymond Carroll Webb, et al.</a>	<i>Striped Bass Harvesting/ Lacey Act, False Statement</i>

<b>DISTRICT</b>	<b>CASES</b>	<b>CASE TYPE/STATUTES</b>
E.D. Wis.	<a href="#"><u>United States v. John Kellogg et al.</u></a>	<i>Bear Hunting/ Lacey Act</i>
S.D.W.V.	<a href="#"><u>United States v. Frank Zuspan</u></a>	<i>Sewage Collector/ CWA</i>

***Additional Quick Links:***

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- ◇ [Informations/Indictments](#) p. 7
- ◇ [Plea Agreements](#) pp. 8 - 11
- ◇ [Sentencings](#) pp. 12 – 20

## ***Trials***

### **United States v. Executive Recycling, Inc., et al., No. 1:11-CR-00376 (D. Colo.), AUSA Suneeta Hazra and SAUSA Lillian Alves.**



**Hong Kong Container Port Terminal**

On December 21, 2012, Executive Recycling (ER), its president Brandon Richter, and its former vice president Tor Olson were convicted of mail and wire fraud, smuggling, obstruction of justice, and a RCRA violation (18 U.S.C. § 554, 1341, 1343, 1519; 42 U.S.C. § 6928(d)(4)) arising out of the unlawful exportation of electronics waste (e-waste) to China.

From February 2005 through January 2009, ER operated as a recycling company in Denver, Colorado, that specialized in environmentally-friendly recycling of e-waste. The company assured customers that it would properly and completely dispose of e-waste in the United States. The e-waste collected included Cathode Ray Tubes (CRTs), which are the glass video display component of

electronic devices. CRTs are potentially hazardous waste because they contain lead.

The investigation of ER began after a November 2008 *60 Minutes* story that followed a shipping container loaded with used computer monitors from the company's Colorado facility through a port in Tacoma, Washington, to its final destination in Hong Kong in April 2008. Hong Kong customs officers rejected the shipment because used CRTs are considered a hazardous waste under Chinese law. The container was returned to the United States, where it was searched by agents who recovered 296 CRTs, and twenty boxes of broken computer monitors parts. All monitors tested exhibited the hazardous waste characteristic of toxicity for the presence of lead above the regulatory threshold of 5 mg/L.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Immigration and Customs Enforcement.

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### **United States v. Sam Mathew, No. 6:12-CR-00028 (S. D. Tex.), AUSAs Hugo Martinez and Patty Hubert Booth.**

On December 19, 2012, Sam Mathew was convicted by a jury after a two-day trial of a Migratory Bird Treaty Act violation (16 U.S.C. §§ 703, 707(a)) stemming from his capture of a baby eagle from its nest.

During trial, the evidence proved that Mathew intended to catch a juvenile bald eagle for the purpose of training it in falconry. An active bald eagle nest was located on his property and he had already researched how to capture the baby bird.

Despite the defense argument that the bird was out of the nest when it was captured, government witnesses testified that it was still in the nest when Mathew's ranch hands climbed the tree to get it. The eaglet became agitated and fell out of the tree when one of the men caught it.

After officials were notified that the nest had been disturbed, they observed fresh tire tracks, broken branches, and tree climbing gear in the vicinity of the tree.

This case was investigated by the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department.

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## ***Informations/Indictments***

### **United States v. Gold Metal Paint Co., LLC et al., No. 1:13-00027 (D. Colo.), ECS Trial Attorney Jim Nelson.**

On January 23, 2013, Gold Metal Paint (GMP), an aircraft painting company, and owner Norman Teltow were charged in an information with a RCRA violation (42 U.S.C. § 6928(d)(2)(A)) for the illegal treatment of hazardous waste.

After GMP was inspected in April 2010, Teltow allegedly sealed off a trench drain in the paint-stripping area which had led to an underground tank. The owner of the hangar used by GMP hired a hazardous waste disposal company to pump out the contents of the underground tank, which Teltow knew contained methylene chloride, a listed hazardous waste. When the disposal company was unable to completely empty the tank, Teltow sent company employees into the tank to remove the sludge and solids that remained.

According to the indictment, once the drain was sealed off, GMP began treating methylene chloride by evaporating it overnight on the floor of the paint-stripping area. This practice began around April 2010, and continued until approximately May 2011. Teltow knew that GMP workers were dumping mixtures containing methylene chloride onto the hangar floor so that the waste would evaporate, and he knew that this was illegal. In May 2011, Teltow drilled a hole in the trench drain, reopening a path for liquid to flow into the underground tank.

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

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## Plea Agreements

**United States v. BP Exploration and Production, Inc. et al., Nos. 2:12-CR-00265, 00291-00292 (E.D. La.), Deepwater Horizon Task Force, including ECS Trial Attorney Colin Black.**

On January 29, 2013, BP Exploration and Production Inc. (BP) pleaded guilty to 14 counts stemming from the April 20, 2010, blowout on the *Deepwater Horizon* oil rig and the ensuing oil spill. The company pleaded guilty to 11 counts of seaman's manslaughter for negligently causing the deaths of the men killed in the disaster (18 U.S.C. § 1115); one misdemeanor Clean Water Act count for negligently discharging oil (33 U.S.C. §§ 1319 (c)(1)(A), 1321 (b)(3)); one misdemeanor Migratory Bird Treaty Act count for the deaths of migratory birds caused by the spill (16 U.S.C. §§ 703, 707(a)); and one count of obstruction for misleading Congress about the size of the spill (18 U.S.C. § 1505).



**April 22, 2010 Deepwater Horizon explosion**

BP was sentenced to pay a total monetary penalty of \$4 billion, the largest criminal penalty in U.S. history, more than \$2 billion of which will go to environmental restoration projects along the Gulf Coast. The company will complete a five-year term of probation, which will include the employment of a process safety and risk management monitor, an independent auditor, and an ethics monitor.

Company employees Robert Kaluza and Donald Vidrine are charged with 11 counts of involuntary manslaughter and 11 counts of seaman's manslaughter for causing the blowout. Both also are charged with a negligent violation of the CWA. Former BP executive David Rainey is charged with obstruction and false statements regarding the company's estimates of the amount of oil flowing from the well after the blowout. The trial of Kaluza and Vidrine is scheduled to begin on January 13, 2014, and Rainey is scheduled for trial to begin on September 23, 2014.

This case was investigated by the Deepwater Horizon Task Force, which included the Federal Bureau of Investigation, the United States Environmental Protection Agency Criminal Investigation Division and the Office of Inspector General, the Department of Interior Office of Inspector General, the National Oceanic and Atmospheric Administration Office of Law Enforcement, the United States Coast Guard, the United States Fish and Wildlife Service, and the Louisiana Department of Environmental Quality.

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**United States v. Hurley Enterprises, Inc. d/b/a Hurley's Oilfield Services, No. 4:13-CR-00001 (D.N.D.), AUSA Cameron W. Hayden and ECS Senior Trial Attorney Christopher J. Costantini.**



**Pooled sewage**

On January 18, 2013, Hurley Enterprises d/b/a Hurley's Oilfield Services (Hurley) agreed to plead guilty to a felony Clean Water Act violation (33 U.S.C. §§1319 (c)(2)(A), 1345(e)) stemming from the dumping of sewage.

Hurley is a sewage waste collection company that services oil well drilling sites in the Bakken/Three Forks drilling operations in North Dakota. Hurley dumped domestic septage waste at various locations that resulted in the pooling of the waste as well as entry of the waste into waterways. At one dump site, toilet paper mixed with human waste was dumped down a steep embankment and into a ravine that led to Cottonwood Lake. At

another site, domestic septage ran into an unnamed tributary that flowed into Epping Spring Brook Dam. A sample of this material showed elevated pH and Biochemical Oxygen Demand (BOD) levels.

A date to enter the plea has not yet been scheduled by the court. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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**United States v. Mon-Dak Water & Septic Services, LLC, No. 4:13-CR-00002 (D.N. D.), AUSA Cameron W. Hayden, and ECS Senior Trial Attorney Christopher J. Costantini.**

On January 18, 2013, Mon-Dak Water & Septic Services, L.L.C. (Mon-Dak), agreed to plead guilty to a felony Clean Water Act violation (33 U.S.C. §§1319 (c)(2)(A), 1345(e)) stemming from the dumping of sewage.

Mon-Dak is a sewage waste collection company that services oil well drilling sites in the Bakken/Three Forks drilling operations in North Dakota. Mon-Dak dumped domestic septage waste at various locations that caused pooling of the waste as well as entry of the waste into waterways. More than five million gallons of domestic septage waste was dumped between January 2011 and May 2012.

A date to enter the plea has not yet been scheduled by the court. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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**United States v. Raymond Carroll Webb, et al., Nos. 2:12-CR-00164 - 168 (E.D. Va.), ECS Trial Attorney Jim Nelson and AUSA Stephen W. Haynie.**

On January 28, 2013, Raymond Carroll Webb, the captain of the *F/V Spider Webb*, and his corporation, Peake Enterprises, Ltd., pleaded guilty to a Lacey Act trafficking violation. Webb is one of five charter fishing boat captains who had been charged with Lacey Act and other violations stemming from the sale of illegally harvested Striped Bass between 2009 and 2011 (16 U.S.C. §§ 3372(a)(1), 3373 (d)(1)(B); 18 U.S.C. §§ 371, 1001). He admitted that he took clients into the EEZ where they harvested striped bass, knowing it was illegal to do so. When he learned that law enforcement officials were nearby, he ordered his first mate to throw the fish overboard to avoid detection. Co-defendant Jeffrey Adams, the captain of the *F/V Providence II*, and Adams Fishing

Adventures, recently pleaded guilty to taking charter boat clients into the EEZ to harvest striped bass, in violation of the Lacey Act.

David Dwayne Scott, captain of the *Stoney's Kingfisher*; and William W. "Dubby" Lowery IV, captain of the *Anna Lynn*, all remain charged with trafficking in illegally harvested Striped Bass and with destruction of evidence for throwing the fish overboard when approached by law enforcement officers during charter fishing trips between February 2009 and February 2011. Nolan L. Agner, captain of the *Flat Line*, and his corporation, Agner, Inc., are charged with a single Lacey Act trafficking violation for illegally harvesting the fish during a charter fishing trip in January 2011.

This case was investigated by the National Oceanic and Atmospheric Administration Fisheries, Office of Law Enforcement; and the Virginia Marine Police, with assistance from the Federal Communications Commission Enforcement Bureau.

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**United States v. Connie M. Knight, No. 12-CR-00261 (E.D. La.), ECS Trial Attorney Patrick Duggan.**

On January 24, 2013, Connie M. Knight pleaded guilty to two violations of impersonating a federal training official, one charge of possessing a false ID, and one charge of producing a false ID (18 U.S.C. §§ 912, 1028).

After the *Deepwater Horizon* spill, BP was required to implement and fund a variety of hazardous materials safety and awareness training for all individuals involved in the cleanup. During this time, acting as an official with the Occupational Safety and Health Administration, Knight began holding fraudulent hazardous waste training classes in Southeastern Louisiana. She focused on the Southeast Asian fishing communities (where little English was spoken), and which were economically dependent on the then-closed gulf shrimping industry.

Knight enticed individuals to attend her class by claiming she was the highest ranking OSHA trainer in the U.S., displaying fraudulent OSHA credentials, and claiming that her training was the fast-track to lucrative BP cleanup employment. She also created false OSHA credentials for her staff. After a short class in English, Knight would provide trainees with fraudulent certifications, as well as duplicated training identification cards used to enter BP cleanup worksites.

Because the cards were duplicated, it is unknown whether any of Knight's victims were exposed to hazardous waste. It is estimated that over a four-month period, Knight trained thousands of individuals and made well over \$250,000.

Sentencing is scheduled for April 12, 2013. This case was investigated by the United States Department of Labor Office of Inspector General and the United States Environmental Protection Agency Criminal Investigation Division, with assistance from the Occupational Safety and Health Administration, the Federal Bureau of Investigation, the Florida Fish and Wildlife Conservation Commission, and the Plaquemines Parish, Louisiana, Sheriff's Office.

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**United States v. Jason Cardinale, No. 9:12-CR-80209 (S.D. Fla.), AUSA Norman O. Hemming, III.**

On January 24, 2013, Jason Cardinale, the owner of Samana Expert Fishing Charters, pleaded guilty to making a false statement (18 U.S.C. § 1001(a)(3)) to the National Oceanic and Atmospheric Administration (NOAA).

Cardinale owned two fishing vessels for which he was issued commercial fishing permits for several species of fish, including king or Spanish Mackerel, South Atlantic Snapper, and Atlantic

Dolphin and Wahoo. These permits required the filing of reports specifying the number of fish taken during a specific period of time.

From January 2010 through February 2012, Cardinale submitted false “No Fishing Activity Reports” to NOAA. The agency relies on such reports to properly manage the fisheries under its jurisdiction. Sentencing is scheduled for April 4, 2013.

This case was investigated by the NOAA Fisheries Office of Law Enforcement and the Florida Fish and Wildlife Conservation Commission.

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**United States v. Steven Patrick Garcia, Jr., No. 12-CR-00039 (D. Mont.), ECS Senior Trial Attorney Georgiann Cerese and AUSA Mark Smith.**

On January 16, 2013, Steven Patrick Garcia, Jr., pleaded guilty to violations of the Lacey Act and the Migratory Bird Treaty Act (16 U.S.C. §§ 707(a), 707(b)(2), 3372 (a)(1), 3373 (d)(1)(B)). Garcia admitted to offering for sale golden eagle and hawk feathers in December 2008 and for selling golden eagle feathers in February 2009. Sentencing has been scheduled for April 18, 2013.

This case was investigated by the United States Fish and Wildlife Service.

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**United States v. Jeffrey D. Gunselman et al., No. 5:12-CR-00078 (N.D. Tex.), AUSA Paulina Jacobo.**

On December 14, 2012, Jeffrey D. Gunselman pleaded guilty to an indictment charging 51 counts of wire fraud, 24 counts of money laundering, and four counts of making false statements in violation of the Clean Air Act (18 U.S.C. §§ 1343, 1957; 42 U.S.C. § 7413(c)(2)(A)). The charges stem from Gunselman’s operation of his now defunct company, Absolute Fuels, LLC, and other related corporate entities.

From September 2010 to October 2011, Gunselman, d/b/a/ Absolute Fuels, LLC, and the other related corporate defendants, devised a scheme to defraud money from the U.S. Environmental Protection Agency (EPA), various brokers, energy companies and others. Gunselman falsely represented that he and the corporate defendants were in the business of producing bio-diesel fuel which was untrue. His business operation consisted of generating false renewable fuel credits and selling them to oil companies and brokers. Gunselman and his companies also made verbal and written statements to the EPA that proved to be false and misleading.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Secret Service.

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## Sentencings

### **United States v. Chamness Technology, Inc. et al., Nos. 4:12-CR-00149, 00152 (S.D. Iowa), AUSA Kelly Mahoney.**

On January 23, 2013, Chamness Technology, Inc. (CTI), a compost production facility, was sentenced after previously pleading guilty to a misdemeanor Clean Water Act violation (33 U.S.C. §§ 1311(a), 1319(c)(1)(A)). The company was ordered to pay a \$100,000 fine, complete a two-year term of probation (to include the implementation of an environmental compliance plan and ethics program) and publish a public apology in two different publications. As community service, the company was further ordered to donate a total of \$79,983, which is the value of providing free compost services to a variety of schools and other businesses over approximately five months.

In November 2010, after receiving a citizen's complaint of a strong odor and dark water entering a tributary of the Des Moines River, local investigators inspected CTI. Leachate derived from compost production is required to be collected and stored in large lagoons, and then applied on land as approved by the facility's permit. State inspectors found that an irrigation hose was pumping leachate waste water from a storage lagoon into a gully that connected to Palestine Creek. As much as 50,000 gallons of waste water may have been illegally discharged into the creek.

This case was investigated by United States Environmental Protection Agency Criminal Investigation Division and the Iowa Department of Natural Resources.

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### **United States v. John Kellogg et al., No. 1:11-CR-00241 (E.D. Wis.), AUSA William Roach.**



**Dead bear**

On January 23, 2013, John Kellogg was sentenced to serve six months' incarceration followed by three years' supervised release. He also will pay \$10,000 to go into the federal and state Wildlife Protection Fund, and is barred from hunting or fishing for 15 years. Kellogg was the final defendant sentenced in this case involving the illegal killing of two black bears. Mark A. Barlament, Michael Renken, Christopher J. Halfmann, and Kellogg all pleaded guilty to Lacey Act violations (16 U.S.C. §§ 3372(a)(2)(a), 3373(d)(1)(B)).

Kellogg worked as a guide for a hunt in 2009. During the hunt, a bear was killed and illegally tagged. Barlament admitted to letting Kellogg use his tag.

Kellogg then helped in the transfer of the bear meat to an undercover officer in another state. In 2011, Kellogg shot and killed another bear, even though his hunting privileges had already been revoked. He also made arrangements for a rug to be made and for the meat to be processed. When questioned by authorities, Renken and Halfmann told them Kellogg was not present for this hunt, which was untrue.

Barlament was previously sentenced to pay a \$1,000 fine as a condition of probation. He will complete a one-year term of probation and is banned from hunting or fishing for five years. Renken will pay \$3,000 to go into the Fund, complete a two-year term of probation, and is banned from hunting or fishing for five years. Halfmann will pay \$5,000 to go into the Fund, complete a three-year term of probation, and is banned from hunting or fishing for six years.

This case was investigated by the United States Fish and Wildlife Service and the Wisconsin Department of Natural Resources.

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**United States v. CHS, Inc., No. 4:12-CR-00080 (D. Mont.), AUSA Kris McLean and SAUSA Eric Nelson.**

On January 23, 2013, The Milk River Cooperative (Cooperative), owned by Cenex Harvest States, was sentenced after previously pleading guilty to a CERCLA violation (42 U.S.C. § 9603(b)) for failing to notify authorities of a chemical release. The company will pay a \$500,000 fine, and make a \$50,000 community service payment to the Phillips County Rural Volunteer Fire Department.

The Cooperative is a supplier of agricultural chemicals and products such as pesticides, herbicides, and fertilizer, which are stored at its facility. In November 2009, a fire erupted at the Cooperative's warehouse, and substantial quantities of chemical products were burned, causing the release of heavy smoke. Chemicals, including 2, 4-D, also were released to the ground.

Following the fire, approximately 13 calves died from exposure to the smoke, and several neighbors were treated for respiratory complications. The National Response Center was never notified regarding the release of a reportable quantity of a hazardous substance.

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

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**United States v. Frank Zuspan, No. 3:11-CR-00235 (S.D.W.V.), AUSAs Eric Goes and Perry McDaniel.**

On January 14, 2013, Frank Zuspan was sentenced to serve 18 months' incarceration followed by three years' supervised release. A fine was not assessed. Zuspan, a commercial waste hauler, previously pleaded guilty to a Clean Water Act pretreatment violation (33 U.S.C. §§1371, 1319 (c)(2)(A)) for illegally dumping sewage and portable toilet waste.

Zuspan was in the business of cleaning residential and commercial septic systems. In February 2011, he illegally discharged untreated sewage into a pipe leading to the City of Mason's POTW, causing an equipment malfunction and a temporary shutdown of the plant. Zuspan was convicted on similar charges in 2003 arising from his septic hauling business.

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

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**United States v. James Cheung et al., Nos. 2:12-CR-14036 and 20362 (S.D. Fla.), AUSAs Jaime Raiche and Norman O. Hemming, III.**

On January 14, 2013, James Cheung was sentenced to pay a \$1,000 fine, complete a one-year term of probation, and perform 150 hours of community service. Cheung previously pleaded guilty to

a Lacey Act violation (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)) for his involvement in the illegal sale of freshwater turtles in interstate and foreign commerce.

The Florida Fish and Wildlife Conservation Commission instituted an aquaculture permitting system (or “turtle farms”) in response to the decline of the wild freshwater turtle population in Florida, due to overharvesting. Farm owners are permitted to have a certain number of wild-caught turtles strictly for breeding purposes.

Cheung was permitted to collect more than 500 wild-caught turtles for use as brood stock from March 2011 through April 2012. In April 2012, the defendant sold and shipped 17 Florida softshell turtles to buyers in China in violation of his permit. Cheung also was ordered to forfeit a 2006 refrigerated truck (worth approximately \$30,000) used to transport the turtles.

David Feltenberger and Chris Craig were recently sentenced for similar violations. These cases were investigated by the United States Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission.

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### **United States v. Michael Pinski et al., No. 2:10-CR-20042 (C.D. Ill.), AUSA Eugene Miller and RCEC James Cha.**

On January 14, 2013, Michael Pinski was sentenced to serve six months’ incarceration and six months’ home confinement, followed by two years of supervised release. A fine was not assessed. Pinski is the final defendant to be sentenced in this case involving the illegal removal of asbestos.

In August 2009, Pinski hired Duane O’Malley, owner and operator of Origin Fire Protection, to remove asbestos-containing insulation from pipes in a five-story building. Neither O’Malley nor his company was trained to perform asbestos removal work. O’Malley agreed to remove the asbestos insulation for a substantially reduced cost, and arranged for James



**Building prior to demolition**

Mikrut to recruit a crew to do the work in August 2009. The asbestos insulation was placed in approximately 100 unlabeled plastic garbage bags that later were emptied onto an open field in a residential area resulting in asbestos contamination of the soil.

O’Malley was convicted by a jury on all five Clean Air Act counts (42 U.S.C. § 7413(c)(1)); Mikrut pleaded guilty to five CAA violations and Pinski pleaded guilty to one CAA violation. O’Malley was sentenced to serve 120 months’ incarceration, followed by a three-year term of supervised release. O’Malley also was ordered to pay a \$15,000 fine and was held jointly and severally liable for the \$47,085 restitution to EPA for cleanup costs. O’Malley’s sentencing was enhanced due to a prior conviction for a “Solicitation of Murder for Hire” charge. Mikrut was sentenced to serve one year and a day of incarceration followed by a one-year term of supervised release. During the supervised release, he will be under home detention. He was further jointly and severally liable for the restitution to the EPA for cleanup costs.

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

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**United States v. Vele Bozinoski, No. 1:12-CR-00141 (D.N.J.), AUSA Kathleen P. O’Leary.**

On January 11, 2013, Vele Bozinoski was sentenced to serve six months’ home confinement as a condition of a three-year term of probation. Bozinoski previously pleaded guilty to conspiracy to violate the Clean Air Act (18 U.S.C. § 371) stemming from the improper removal of insulation from piping at the former Garden State Paper Mill in Garfield, New Jersey, in February 2007.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Federal Bureau of Investigation.

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**United States v. Sanford Ltd. et al., No. 1:11-CR-00352 (D.D.C.), ECS Trial Attorney Ken Nelson, AUSA Frederick Yette, ECS Trial Attorney Steve DaPonte, SAUSA Jim McLeod, ECS Paralegals Jessica Egler and former ECS Paralegal Ben Laste.**



**Bypass hose**

On January 11, 2013, New Zealand fishing company Sanford Ltd. and chief engineer Ronald Pogue were sentenced, after previously being convicted by a jury on conspiracy, APPS, and obstruction violations (18 U.S.C. §§ 371, 1505, 1519; 33 U.S.C. §§ 1907(a), 1908(a)).

Sanford will pay a \$1.9 million fine and make a \$500,000 community service payment to the National Marine Sanctuaries Foundation for the benefit of the Fagatele Bay National Marine Sanctuary in American Samoa. Former chief engineer James Pogue was sentenced to serve 30 days in jail to be followed by five months’ home confinement and two years’ supervised release. He also was ordered to pay a \$6,000 fine. During a three-year term of probation, Sanford vessels will be barred from entering any U.S. port until audits generated from an environmental compliance plan have been completed.

This case involved the *F/V San Nikunau*, a fishing vessel that docked at the port of Pago Pago, American Samoa, in July 2011. The Coast Guard discovered that the vessel was engaged in the routine practice of dumping bilge wastes over the side of the ship without first processing them through a properly functioning oil water separator and oil content monitor. These discharges were not recorded in the ORB. Coast Guard personnel also witnessed two illegal discharges of bilge waste directly into Pago Pago Harbor. Engineer Rolando Ong Vano previously pleaded guilty to and was sentenced for an APPS violation for his role in the overboard discharges.

This case was investigated by the United States Coast Guard.

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**United States v. Kevin Jorgenson, No. 1:12-CR-10028 (D.S.D.), AUSA Meghan Dilges.**

On January 3, 2013, Kevin Jorgenson was sentenced after previously pleading guilty to Migratory Bird Treaty Act and Endangered Species Act violations (16 U.S.C. §§ 703, 707(a), 1538(a)(1)(D), 1540(b)(1)). Jorgenson will complete a two-year term of probation with a special condition of eight months' home confinement. He also will pay \$15,000 in restitution to the National Fish and Wildlife Foundation.

Between 2007 and 2011, Jorgenson received and possessed 535 migratory game birds, as well as a Western Great Lakes Gray Wolf, for taxidermy purposes. None of the items were properly tagged as required by both federal and state law, and Jorgenson did not have the required taxidermy licenses. As part of his sentence, the defendant is prohibited from engaging in any taxidermy work until he can show proof of proper licensing. He also must publish a letter in prominent taxidermy publications on the importance of maintaining the required paperwork.

This case was investigated by the United States Fish and Wildlife Service and South Dakota Game, Fish, and Parks.

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**Western Great Lakes Gray Wolf**

**United States v. W&T Offshore, Inc., No. 1:12-CR-00312 (E.D. La.), AUSAs Dorothy Taylor and Emily Greenfield.**

On January 3, 2013, W&T Offshore, Inc. (W&T) was sentenced to pay a \$700,000 fine and will make a \$300,000 community service payment. The company will complete a three-year term of probation and implement an environmental compliance plan, which will include auditing the majority of its 107 offshore facilities.

From January 2009 to the present, W&T operated an offshore oil and gas platform in the Gulf of Mexico. The platform was subject to NPDES permit requirements that included oil and grease parameters. Investigators determined that on at least six occasions, contractors working for W&T tampered with wastewater samples by running them through coffee filters prior to sending them to a lab.

In November 2009, after a process mishap, oil was released from equipment onto the platform. A cleaning crew subsequently caused a visible sheen in water near the platform. W&T did not report the sheen to the Coast Guard National Response Center before inspectors arrived on the scene. The company pleaded guilty to a Clean Water Act felony for tampering with a monitoring method and one CWA misdemeanor for the negligent discharge of oil into waters of the United States (33 U.S.C. §§ 1319(c)(4), 1319(c)(1)(a)).

This case was investigated by the United States Department of Interior Office of Inspector General and the United States Environmental Protection Agency Criminal Investigation Division.

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**United States v. Copper River Campus, LLC, No. 3:12-CR-00093 (D. Alaska), AUSA Kevin Feldis.**



On December 21, 2012, Copper River Campus, LLC, (CRC) pleaded guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)) for the release of asbestos during a renovation project. CRC was sentenced to pay a \$70,000 fine and will complete a three-year term of probation. The company also will implement an environmental compliance plan.

CRC owns and manages the property and buildings used by Copper River Seafoods, Inc. CRC purchased the buildings in 2009 knowing that they contained asbestos. Several of the seafood employees were instructed to begin demolition and renovation operations without being advised of the

**Building during demolition**

presence of asbestos. The employees were not given any protective equipment, and authorities were not notified about the renovations.

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

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**United States v. William Allen Hurlbut, Jr., No. 1:12-CR-00169 (D. Idaho), AUSA George Breitsameter.**

On December 20, 2012, William Allen Hurlbut, Jr., was sentenced to time served, followed by three years' supervised release. He also was ordered to pay \$3,600 in restitution to the Bureau of Land Management (BLM) for cleanup costs. Hurlbut previously pleaded guilty to one count of malicious destruction (or depredation) of government property (18 U.S.C. § 1361) after burning wire at a campground.

In April 2010, Hurlbut transported approximately 200 pounds of copper wire coated with a protective material to the Birch Creek Campground in Clark County, Idaho. The campground is located on property owned by the federal government and administrated by the BLM. The defendant admitted that he burned the wire in a fire pit to remove the wire coating, contaminating the soil in the fire pit with elevated levels of lead.



**Defendant burning wire**

This case was investigated by the Bureau of Land Management and the United States Environmental Protection Agency Criminal Investigation Division.

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**United States v. Fred E. Sims, No. 3:12-CR-00049 (D. Alaska), AUSA Steven Skrocki.****Dead Brown Bear**[Back to Top](#)

On December 20, 2012, Fred E. Sims was sentenced to pay a \$5,000 fine after pleading guilty to a misdemeanor Lacey Act violation (16 U.S.C. §§ 3372(a)(2)(A); 3373(d)(2)) for illegally killing moose and then using them as bait for brown bears.

In May 2009, Sims killed a total of three moose, all of which were taken out of season. He waited until brown bears were feeding on the moose carcasses, and then unlawfully guided clients to those sites in order to kill the bears.

This case was investigated by the United States Fish and Wildlife Service Office of Law Enforcement and the Alaska Wildlife Troopers.

**United States v. Jay P. Schuler, No. 3:12-CR-00106 (D. N. D.), AUSA Cameron Hayden.**

On December 19, 2012, Jay P. Schuler was sentenced after pleading guilty to a violation of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)). Schuler was sentenced to pay a \$1,000 fine and will make a community service payment of \$6,500 to the National Fish and Wildlife Foundation to benefit eagles in North Dakota.

In December 2011, a game warden responded to a report that an eagle was caught in a trap. The warden found an adult bald eagle with a leg caught in a spring trap. An exposed turkey carcass had been placed near the trap, which is a violation of North Dakota law. Upon questioning, the defendant admitted that he had set the trap. After the bird was freed, it was released to the wild, but suffered permanent damage to a talon.

The case was investigated by the North Dakota Game and Fish Department and the United States Fish and Wildlife Service

[Back to Top](#)**United States v. John Leathley et al., No. 5:08-CR-00172 (N.D.N.Y.), AUSA Craig Benedict.**

On December 18, 2012, John Leathley was sentenced to serve a five-year term of probation. He also is jointly and severally responsible for \$418,488 in restitution, to be divided among eight recipients.

Leathley and AAPEX Environmental Services, Inc. (AAPEX), pleaded guilty in June 2008 to conspiracy to violate the Clean Air Act and the Clean Water Act and to commit mail fraud (18 U.S.C. § 371). The company further pleaded guilty to a substantive mail fraud violation (18 U.S.C. § 1341).

For over a decade, the defendants engaged in the unlawful stripping, bagging, removal, transportation, and disposal of regulated asbestos-containing material from numerous buildings. They also conspired with an air monitoring company to obtain false and fraudulent laboratory analysis results to mislead clients and regulatory agencies into believing that the work had been properly performed and that the buildings and homes were safe to reoccupy. AAPEX also defrauded an insurance company by failing to disclose its asbestos activities and the number of workers performing asbestos abatement in order to obtain lower insurance rates. AAPEX was previously sentenced to pay

a \$63,200 fine and \$75,000 in restitution. It also was ordered to complete a two-year term of probation. This case is related to the prosecution of Certified Environmental Services et al.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the New York Department of Environmental Conservation, with assistance from the New York State Departments of Health and Labor.

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**United States v. SM Energy Company, No. 1:12-mj-00033 (D. Mont.), ECS Senior Counsel Robert Anderson and AUSA Mark Smith.**

On December 12, 2012, SM Energy Company (SM) pleaded guilty to three Migratory Bird Treaty Act violations (16 U.S.C. §§ 703, 707(a)). SM was sentenced to pay \$22,500 as community service to the National Fish and Wildlife Foundation. The money specifically will go to the North American Wetlands Conservation Fund for wetlands conservation work in Montana. The company also will complete a one-year term of probation and will implement an environmental compliance plan.

SM Energy is an independent oil and gas exploration company with operations in eight states. The drilling operation requires the construction of ponds to hold excess water (that can be made bird-safe by covering them with nets.) The water typically contains a toxic mix of petroleum and chemicals harmful to birds that are attracted to the water. SM admitted causing the deaths of ten birds in ponds in Richland County in Montana in 2005, Albany and Fremont counties in Wyoming in 2007, and Cheyenne County in Nebraska in 2007 and 2008.

This case was investigated by the United States Fish and Wildlife Service.

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**United States v. Nghi Cong Tran et al., No. 3:11-CR-000270 (N.D. Tex.), AUSA Stephen Fahey.**

On December 5, 2012, Nghi Cong Tran was sentenced to serve 15 months' incarceration followed by one year of supervised release, after previously pleading guilty to a Clean Air Act conspiracy violation (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(A)). Tran was one of six defendants prosecuted in connection with this vehicle emissions testing scheme.

The defendants were emissions inspector technicians who falsified Texas state emissions tests at two inspections stations. They substituted vehicles that would pass the test in place of those that had previously failed. They then generated fraudulent emissions certificates and transmitted the results to the Texas Department of Public Safety.

Huy Ngoc Nguyen was sentenced to complete a one-year term of probation; Dahn Cong Tran was sentenced to serve eight months' home confinement followed by 12 months' probation; Bich Dogn Ngo was sentenced to complete a one-year term of probation; Ngan Tien Tran was sentenced to serve 12 months and one day of incarceration followed by one year of supervised release. Nghiem Van Tran, who pleaded guilty to conspiracy to violate the CAA, is scheduled to be sentenced on March 8, 2013. The other four defendants all pleaded guilty to making a Clean Air Act false statement (42 U.S.C § 7413(c)(2)(A)).

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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**United States v. Pass Taylor, Jr., No. 1:12-mj-00027 (N.D. Miss.), AUSA Robert Mims.**

On December 3, 2012, Pass Taylor, Jr., pleaded guilty to five counts charging him with various wildlife violations, including Migratory Bird Treaty Act charges for the illegal placement of bait on a commercial dove field, providing guided duck hunts at the Matthews Brake National Wildlife Refuge, and assisting other hunters in taking ducks in excess of daily bag limits during a commercially guided duck hunt (16 U.S.C. §§ 460(k), 668dd(f)(1), 703, 704(b)(2)).

Taylor was sentenced to pay a \$4,905 fine and \$5,000 in restitution to the Mississippi Department of Wildlife, Fisheries, and Parks. The defendant also will complete an 18-month term of probation, during which he is banned from hunting in any location and will be further banned from entering any Federal Wildlife Refuge or Preserve for a period of five years.

This case was investigated by the United States Fish and Wildlife Service Office of Law Enforcement, the National Wildlife Refuge Division of Law Enforcement, and the Mississippi Department of Wildlife, Fisheries, and Parks.

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**United States v. Professional Mobile Cleaning, Inc., No. 2:12-CR-00254 (W.D. Pa.), AUSA Nelson Cohen.**

On November 29, 2012, Professional Mobile Cleaning (PMC), a mobile truck washing business, pleaded guilty to a Refuse Act violation (33 U.S.C. §§ 407, 411) and was sentenced to pay \$500,000 in restitution, fines, and community service payments.

PMC had a contract with the U.S. Postal Service to wash vehicles and to collect, store, and dispose of all washwater. From June 2007 through June 2010, the company failed to collect this washwater, allowing it to be discharged into several tributaries that fed into the Monongahela River.

Of the \$500,000 penalty, \$300,000 will be paid as restitution to the U.S. Postal Service and \$9,000 will be paid as a fine. The defendant will pay the remaining \$191,000 to the Pennsylvania Fish and Boat Commission to fund a community service project addressing water quality issues in the Monongahela River.

This case was investigated by the United States Postal Inspection Service and the United States Environmental Protection Agency Criminal Investigation Division.

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