
ENVIRONMENTAL CRIMES



MONTHLY BULLETIN

March 2009

EDITOR'S NOTE:

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Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin. If you have any significant and or interesting photographs from the case, you may email these, along with your submission, to Elizabeth Janes: [REDACTED] Material also may be faxed to Elizabeth at (202) 305-0396. If you have information to submit on state-level cases, please send this to the Regional Environmental Enforcement Associations' website: <http://www.regionalassociations.org>.

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ATA GLANCE

➤ [United States v. Beau Lee Lewis](#), No. 04-CR-00217 (N. D. Calif.).

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Significant Environmental Decisions

District Courts

United States v. Beau Lee Lewis, No. 04-CR-00217 (N. D. Calif.).

On February 3, 2008, Judge Phyllis Hamilton issued an order agreeing with the government's position that the indictment in this case should be dismissed without prejudice. Pursuant to the Ninth Circuit's directive that the district court re-examine all periods of delay between the indictment of this case in 1998 and the trial of defendant Lewis in early 2001, Judge Hamilton had previously concluded that 145 days of non-excludable time occurred between indictment and trial, including the 117-day period previously declared by the appellate court to have been un-excludable because it deemed a government motion pending during this period insufficient to toll the speedy trial clock. (Judge Hamilton noted in the order that, were she empowered to decide the issue without the prior Ninth Circuit ruling, she would find, as the government argued successfully at the trial-court-level and unsuccessfully to the Ninth Circuit panel, that the 117-day period was properly excluded and that only 28 non-excludable days had elapsed, resulting in no speedy trial violation.) The matter now returns to the Ninth Circuit for decision on the remaining appellate issues.

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Trials

United States v. Craig Magnusson, No. 2:08-CR-00215 (W.D. Wash.), AUSA Jim Oesterle ([REDACTED])



On February 17, 2009, Craig Magnusson was convicted in a bench trial of violating the Rivers and Harbors Act. Sentencing is scheduled for May 11, 2009.

Magnusson, an attorney, constructed and maintained a pier, float, boatlift, and catwalk at his home on Lake Washington without obtaining a permit. The Army Corps of Engineers (“Corps”) first issued a notice of violation to Magnusson for this activity in July 2001. After the Corps received a new complaint from county officials in June 2002, and with photos of the work in April 2003, the Corps issued a second letter directing Magnusson

Illegal pier and boatlift

to cease any further work, remove the existing work, or apply for an after-the-fact permit. The defendant was charged by indictment in June 2008 after he continued to ignore regulatory officials.

This case was investigated by the Army Corps of Engineers.

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Informations and Indictments

United States v. Dalnave Navigation, Inc., et al., No. 2:09-CR-00130 (D.N.J.), ECS Trial Attorney Gary Donner ([REDACTED]) **AUSA Kathleen O’Leary** ([REDACTED]), and **SAUSA Christopher Mooradian.**

On February 19, 2009, an eight-count indictment was returned charging a Liberian ship management company, along with the ship’s chief engineer and second engineer for covering up discharges of oil-contaminated waste at sea.

Dalnave Navigation Inc., (“Dalnave”), Panagiotis Stamatakis, the chief engineer for the *M/V Myron N*, an oceangoing bulk carrier vessel, and the ship’s second engineer Dimitrios Papadakis, both of Greece, each were charged with conspiracy and APPS violations for failing to maintain the ORB. They also were charged with making false statements to the Coast Guard regarding overboard discharges of oily waste, and obstruction of justice concerning statements made to the Coast Guard.

The indictment alleges that, between 2004 and September 2008, Dalnave, Stamatakis and Papadakis directed subordinate crew members to bypass the ship’s oil water separator and to discharge oil-contaminated waste directly overboard. In September 2008, the ORB was presented to inspectors

at the port of Newark, which omitted the overboard discharges. Defendants also told the Coast Guard that, among other things, that they never ordered the pumping of oil-contaminated waste overboard.

This case was investigated by the United States Coast Guard, and the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. Jack Barron, No. 2:09-CR-00043 (D. Idaho), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED].

On February 18, 2009, Jack Barron was charged with three Clean Water Act violations and with obstruction of justice stemming from the illegal dredge and fill of a wetlands on property he owned. Despite being advised by the Army Corps of Engineers on several occasions that he would need a permit to fill or alter these wetlands, the indictment states that Barron proceeded to place a culvert, fill, and concrete footings for a residence on the property in 2007. Barron is further alleged to have sent a letter to the Corps claiming to have obtained a permit for the excavation of a pond on the property, which was untrue.

This case was investigated by United States Environmental Crimes Investigation Division with assistance from the National Oceanic and Atmospheric Administration.

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United States v. Gunther Wenzek, No. 3:08-CR-00377 (D. Ore.), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED] and AUSA Dwight Holton [REDACTED]

On February 11, 2009, Gunther Wenzek, a German national, was arrested on a nine-count indictment charging him with three felony violations of smuggling protected coral into the United States via the port of Portland, Oregon. He was further charged with three felony Lacey Act and three misdemeanor violations of the Endangered Species Act.

A grand jury in Portland indicted Wenzek in July 2008. The indictment had been sealed pending Wenzek's scheduled appearance at the Global Pet Exposition in Orlando, Florida. Law enforcement officials arrested Wenzek as he entered the United States at Dulles Airport en route to the exposition.

According to the indictment, Wenzek owns a company named CoraPet, based in Essen, Germany, and has sold various coral products to retailers in the United States. An investigation was launched in 2007 after Wenzek attempted to ship a container loaded with fragments of endangered coral from reefs off the Philippine coast to Portland. After this initial shipment, agents subsequently seized two full containers of endangered coral shipped by Wenzek to a customer in Portland. These two shipments made up a total of over 40 tons of coral.

The seized corals have been identified as belonging to the scientific order *Scleractinia*, genera *Porites*, *Acropora*, and *Pocillopora*, which is common to Philippine reefs. Due to the threat of extinction, stony corals, such as those seized in this case are protected by international law. Philippine law specifically forbids exports of all coral. CITES further prohibits importation of this coral to customers in the United States, without a permit.

This case was investigated by the United States Fish and Wildlife Service, United States Immigration and Customs Enforcement, and the National Marine Fisheries Service.

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Pleas

United States v. William Rubenstein, No. 03-CR-723 (E.D.N.Y.), ECS Trial Attorney James Nelson [REDACTED] and DOJ Tax Attorney Mark Kotila [REDACTED]

On February 17, 2009, William Rubenstein pleaded guilty to conspiracy to defraud the IRS for evading the payment of excise taxes on ozone-depleting chemicals.

Co-defendant Dov Shellef, doing business as Poly Systems, Inc., and Polytuff, USA, Inc., and Rubenstein, operating as Dunbar Sales, Inc., and Steven Industries, Inc., were each convicted by a jury in July 2005 on all 130 counts, which included conspiracy to defeat the excise taxes on ozone-depleting chemicals, money laundering, wire fraud and a variety of tax violations. These convictions, however, were reversed on misjoinder grounds. The defendants did not pay approximately \$1.9 million in tax due on domestic sales of trichlorotrifluoroethane, an ozone-depleting chemical commonly referred to as CFC-113. Once widely used as an industrial solvent and as a refrigerant in centrifugal chillers for large buildings, CFC-113 now has a limited domestic market and is used in relatively small quantities for laboratory and analytical purposes. This was the first criminal case involving CFC-113.

The defendants represented to manufacturers that they were purchasing CFC-113 for export, causing the manufacturers to sell it to them tax-free. The defendants then sold the product tax-free in the domestic market without notifying the manufacturers or paying the excise tax. In addition to conspiracy to defeat the excise tax, Shellef was also convicted of personal income tax evasion, subscribing to false corporate tax returns, wire fraud and money laundering. The convictions were overturned last year.

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

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United States v. Willie Dean et al., No. 8:09-CR-00049 (D. Md.); United States v. Cannon Seafood, Inc., et al., No. 1:09-CR-00023(D.D.C.); ECS Senior Trial Attorney Wayne D. Hettenbach [REDACTED] ECS Trial Attorneys Madison Sewell [REDACTED] and Jeremy Peterson [REDACTED], and AUSA Stacy Belf [REDACTED]

On February 12 and 19, 2009, guilty pleas were taken from several commercial fishermen and a seafood business operating out of Maryland and the District of Columbia. Each pleaded guilty to one felony violation of the Lacey Act for their involvement in the selling, buying, illegal harvesting, and systemic under-reporting of striped bass (also known as rockfish) taken from the Chesapeake Bay and Potomac River between 2003 and 2007.

Thomas Crowder Jr., John Dean, Charles Quade, Thomas Hallock, and Keith Collins are all commercial fisherman operating out of the Chesapeake Bay area. Each were subject to a maximum yearly quota of striped bass and also were required to record each day's harvest on a permit allocation card issued by the state of Maryland. Each day's harvest and its corresponding entry on the permit allocation were required to be verified by a Maryland designated check-in station. All harvested striped bass were further required to be labeled with a plastic tag issued by the state.

From 2003 to 2007, with the assistance of a check-in station employee, the defendants both under and over reported the amount (in pounds) and the number of actual striped bass that they each had caught. These numbers were then certified at the check-in station on their Maryland permit allocation cards. By under-reporting the weight of fish harvested, and over-reporting the number of fish taken, the records would make it appear that the defendants had failed to reach the maximum poundage quota for the year, but had nonetheless run out of tags. As a result, the state would issue additional tags that could be used by the defendants allowing them to fish over their quota but not require them to report the additional catch.

Finally, Hallock, Quade, Dean and Collins falsely tagged the fish as to where they had been caught. Quade and Hallock also had seafood wholesalers provide false receipts for their striped bass sales, claiming that the sales involved different species of fish. The combined estimated fair market value of the fish caught by these defendants was more than \$2.5 million.

In the related case, Cannon Seafood Inc., its owner and president Robert Moore Sr., and Robert Moore Jr., bought striped bass from Thomas Hallock, a commercial fisherman from Maryland, and Jerry Decatur, Sr., and Jerry Decatur, Jr., two Virginia fisherman. The Moores knew that striped bass was regulated by size limits and only available for harvest during specific months. They were further aware that Virginia and Maryland required all commercially harvested striped bass to have plastic tags placed on them when they were caught.

During this time period, Hallock harvested more striped bass than allowed under his Maryland limit, and he did not report the striped bass that he was selling to Cannon. He also caught the fish during the spawning season, when commercial harvest is prohibited, and sold this fish to Cannon. In turn, Moore, Jr., and other Cannon employees, on behalf of Cannon, generated and provided Hallock false receipts for the Maryland-caught striped bass that had been transported from Maryland into the District of Columbia. These receipts falsely reflected that Cannon had purchased another species of fish from Hallock, and they also altered the weight and price of the fish in order to conceal the striped bass purchase. During this time period, Cannon generated 168 false receipts for more than 62,000 pounds of Maryland striped bass and paid Hallock more than \$139,000 for this fish.

Further, Moore, Sr., and other Cannon employees, on behalf of Cannon, arranged for and purchased striped bass from the Decatur family that had been transported from Virginia into the District of Columbia, and which did not have the required tags. Moore, Jr., regularly saw striped bass that had been purchased from the Decatur family without these tags and knew that Cannon was buying the bass illegally. The majority of untagged fish that Cannon bought from the Decatur family was caught and bought during the prohibited spring striped bass spawning seasons. During this time period, Cannon purchased more than 30,000 pounds of untagged striped bass from the Decatur family and paid more than \$87,000 for the fish.

These cases were investigated and developed by the Interstate Watershed Task Force, formed by the United States Fish and Wildlife Service, and comprised of agents from the Maryland Natural Resources Police and the Virginia Marine Police, Special Investigative Unit. 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.

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United States v. Garrett Smith, No. 2:07-CR-00573 (E.D. Calif.), AUSA Robert Tice-Raskin

Burmese Star Tortoises

On February 10, 2009, Garrett Smith pleaded guilty to conspiracy to smuggle wildlife. Smith originally was charged along with an unknown international co-conspirator, known as "Turtle Man," with a variety of wildlife smuggling violations. The 21-count indictment charged both defendants with conspiracy, smuggling protected tortoises, false labeling of wildlife, unlawful sale of wildlife, and money laundering. Smith was further charged with one count of destruction or removal of property to prevent seizure during execution of a search warrant.

According to the indictment, Smith, working with the "Turtle Man" (who is believed to reside in Singapore), engaged in a conspiracy to illegally

smuggle wild tortoises into the United States for sale. The overseas conspirator and others acting at his direction obtained Burmese Star Tortoises and Indian Star Tortoises in Asia and sold them to Smith via e-mail transactions. The tortoises, illegally imported into this country using misleading labels and without proper documentation, then were sold to distributors and customers across the United States. Approximately 30 protected Indian Star Tortoises and five protected Burmese Star Tortoises were imported illegally. Burmese Star adults can sell on the black market for up to \$7,000 each, with juveniles and sub-adults selling for approximately \$3,750. Sentencing is scheduled for April 21, 2009.

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

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United States v. Leo Bergtoll et al., No. 1:09-CR-00002 (D. Mont.) ECS Senior Trial Attorney Robert Anderson

On February 5, 2009, Leo Bergtoll, his wife Anna Lou, and their son Darrel, pleaded guilty to Lacey Act violations stemming from allowing unlicensed big game hunters onto their property between 1999 and 2003. Leo Bergtoll pleaded guilty to a felony Lacey Act conspiracy count, and Anna Lou and Darrel Bergtoll pleaded guilty to a misdemeanor Lacey Act trafficking count. The defendants are landowners who allowed out-of-state clients to hunt big game on their property in Montana without being licensed, after which they then sold licenses to their clients that had been issued to legitimate Montana residents. The Bergtolls are scheduled for sentencing on May 6, 2009.

The government may seek a cooperation reduction, depending on the defendants' conduct between now and resolution of a related case against an (unlicensed) outfitter, Anthony Bazile, who currently faces felony Lacey Act charges.

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

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United States v. Robert Whiteman, No. 4:08-CR-00111 (E.D. Va.), AUSA Brian Samuels ([REDACTED]

On January 16, 2009, Robert Whiteman pleaded guilty to a RCRA storage violation in connection with the storage and abandonment of numerous 55-gallon drums containing toxic and corrosive waste at a property he owned in Gloucester, Virginia.

From 1998 through 2005, Whiteman operated Control Products, USA, which was an on-site metal plating operation. The operation required the use of large nickel and tin plating tanks or "baths" and generated sulfuric acid and nickel sulfamate, which were stored in 55-gallon drums at a property in Hayes, Virginia.



Abandoned waste drums

In May 2006, Whiteman transported several 55-gallon drums of this waste and one plating bath to his residence in Gloucester. In March 2007, after the property was foreclosed upon, the abandoned drums and plating bath, containing hundreds of pounds of corrosive and toxic liquids, were discovered and subsequently determined to be hazardous waste.

Disposal of the drums and a large quantity of contaminated soil cost approximately \$128,000 in cleanup costs. Whiteman is scheduled to be sentenced on April 17, 2009.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the National Enforcement Investigations Center, with assistance from the Federal Bureau of Investigation, the Virginia Department of Environmental Quality, the Department of Housing and Urban Development, the Gloucester County Sheriff's Office, the Virginia State Police, and police departments in Memphis, Tennessee, and Walls, Mississippi.

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Sentencings

**United States v. Alan Hersh, No. 1:07-CR-00060 (N.D. Ind.), AUSA Lovita Morris King ([REDACTED]
[REDACTED] and SAUSA Dave Mucha [REDACTED]**

Abandoned drums

On March 2, 2009, Alan Hersh was sentenced to serve 15 months' incarceration followed by three years' supervised release. He was further ordered to pay \$1.7 million to EPA for superfund cleanup costs.

Hersh, the president and owner of Hassan Barrel Company, Inc., a barrel recycling company, previously pleaded guilty to a RCRA violation for unlawfully storing and disposing of hazardous waste. The company cleaned used industrial barrels, repainted them and sold them. When the cost of disposing the waste that came in the barrels became too high, employees

began storing barrels of it in sheds, in semi-trailers, and finally just dumped the waste into huge trash bins and open pits. The paint waste contained volatile chemicals such as butanone, ethyl benzene and toluene and heavy metals like cadmium, chromium, lead and mercury. The defendants accumulated and stored drums of waste on site without a permit until approximately October 2003, when the company went out of business and the facility was abandoned. Thousands of rusting and leaking drums were found scattered over the seven-acre site, some dating back to 1993, just a few blocks from an elementary school.

In about October 2004, EPA began an emergency removal at the facility which continues to address necessary remedial measures. Approximately 10,000 barrels have been removed from the site, and contaminated soil is expected to be removed this summer. The companies that sent waste to Hassan Barrel are now paying for that cleanup.

As part of the plea agreement, charges against the company, which had no assets, were dropped.

This case was investigated by United States Environmental Protection Agency Criminal Investigation Division, the National Enforcement Investigations Center and the Indiana Department of Environmental Management Office of Criminal Investigation.

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United States v. Usona Metal Finishing Company, No. 4:08-CR-00565 (E.D. Mo.), AUSA Michael Reap ([REDACTED]) and SAUSA Anne Rauch ([REDACTED])

On February 26, 2009, Usona Metal Finishing Company (“Usona”), a metal-plating business, and Paul Fredericks, the company owner, were each sentenced to complete three-year terms of probation and were held jointly and severally liable for \$9,363 in restitution to be paid to the Missouri Department of Natural Resources Hazardous Waste Program. The defendants pleaded guilty in December 2008 to one RCRA violation stemming from the illegal storage and discharge of hazardous waste.

Usona operates three plants in the St. Louis area, including an anodizing plant in Cuba, Missouri, and a wet-paint plant and a powder-coating plant, both located in St. Louis. After the powder-coating plant ceased operations in April 2007, Fredericks arranged for the transportation of 100 drums of hazardous waste from that facility to the anodizing plant in Cuba. The hazardous wastes were illegally stored at the plant from April 2007 to April 2008, at which point Fredericks directed employees to dump the wastes into the plant's sanitary sewer.

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

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United States v. Hiong Guan Navegacion Japan Co. Ltd., et al., No. 8:08-CR-00494 (M.D. Fla.), ECS Trial Attorney Leslie Lehnert ([REDACTED]) and AUSA Cherie Krigsman ([REDACTED])

On February 24, 2009, Japanese corporation Hiong Guan Navegacion Japan Co. Ltd., the operator of the *M/V Balsa 62*, a commercial cargo ship, was sentenced to pay \$1.75 million for pleading guilty to conspiracy and for falsifying and failing to properly maintain the ship's oil record book. From June 2007 through February 2008, chief engineer Francisco Bagatela used a bypass pipe to discharge untreated oily bilge waste overboard approximately twice a month. He further directed other crew members to use the bypass, as well.

In February 2008, Robert Racho replaced Bagatela as the chief engineer and continued to use the bypass pipe. Both Bagatela and Racho deliberately concealed these unlawful discharges from the

Coast Guard by not recording them in the ORB. During port calls in Tampa in October 2007, and May 2008, the ORB that contained the false entries and omissions regarding the bypasses was presented to inspectors. Based in part on information from crew members aboard the ship, the Coast Guard subsequently located evidence on board that corroborated allegations that the ship had been unlawfully discharging oily waste.

Of the \$1.75 million, \$400,000 will be paid to the Pinellas County, Florida, Environmental Fund (PCEF). The PCEF has funded numerous wide-ranging projects related to the protection, restoration and enhancement of fish and wildlife habitat in the Tampa Bay area. The court also ordered Hiong Guan to implement a detailed environmental compliance plan, including monitoring of its fleet-wide operations for the next three-year probationary term, training for crew members, and engineering alterations to protect gulf and ocean waters. At a later date, the court is expected to award \$337,500 of the remaining fine to be divided among two or three whistleblower crew members.

The two engineers, both Philippine citizens, pleaded guilty in October 2008 to falsifying and failing to properly maintain the ORB. Bagatela was sentenced to pay a \$1,500 fine and complete three years' probation, and Racho will pay a \$1,000 fine and complete a one-year term of probation.

This case was investigated by the United States Coast Guard Investigative Service.

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United States v. Max Moghaddam et al., No. 1:08-CR-20365 (S.D. Fla.), AUSA Tom Watts-FitzGerald ([REDACTED])

On February 24, 2009, Max Moghaddam and Bemka Corporation, d/b/a Bemka Corporation House of Caviar and Fine Foods, were sentenced for their involvement in the illegal export of internationally protected fish roe (eggs) from July 2005 through April 2007.

Moghaddam, who was remanded into custody, was sentenced to serve 18 months' incarceration followed by three years' of supervised release. He was further ordered to pay a \$100,000 fine. Bemka was sentenced to pay a \$200,000 fine and will serve a four year term of probation. The roe, valued at approximately \$122,000 was forfeited to the government in connection with this matter.

The defendants were convicted by a jury in December of last year of conspiring to violate the Lacey Act, a Lacey Act false labeling violation, and an Endangered Species Act export violation. Over a 21-month period, the defendants exported numerous shipments labeled as containing bowfin roe, which is often used as a caviar substitute, when in fact they contained paddlefish roe. The American paddlefish is native to the Mississippi River drainage system and is harvested for both its meat and roe. The paddlefish is a close relative of the sturgeons from which most commonly known caviars come and paddlefish roe has qualities similar to sturgeon caviars.

Once common throughout the Midwest, over-fishing and habitat changes have caused major population declines and the American Paddlefish is now listed as an endangered species. With diminishing world sturgeon populations and increased international protection for declining stocks, American paddlefish roe has become a substitute for sturgeon caviar and, as such, has become quite valuable.

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

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United States v. David Grummer, No. 08-CR-01140 (S.D. Calif.), AUSA Melanie Pierson ([REDACTED])

On February 23, 2009, David Grummer was sentenced to serve eighteen months' incarceration after pleading guilty to distributing unregistered pesticides, the unlawful sale of refrigerants, and the

unlawful transportation of hazardous substances. Grummer also will pay a \$3,000 fine and \$92,410 in restitution.

Between April 2005 and January 14, 2008, Grummer sold unregistered pesticides, such as DDT and Chlordane, in violation of FIFRA, over the internet to people throughout the country. During this time he also sold ozone-depleting substances over the internet including CFC-12 in containers of less than 20 pounds. Grummer sold them to people whom he knew did not possess the required EPA certification to purchase them, in violation of the Clean Air Act.

The pesticides and ozone-depleting substances were shipped in the form of compressed gases to people outside of California via a private commercial interstate carrier. The Hazardous Materials Transportation Act requires that products such as these be clearly declared and classified as hazardous substances on their shipping papers. Grummer was fully aware of these requirements because he was employed as a manager at a household hazardous waste turn-in facility, and was responsible for shipping such materials. Grummer also possessed a hazardous materials transport endorsement on his California driver's license, which requires an individual to pass a test to receive this endorsement.

The defendant obtained these chemicals and electronic wastes by diverting them from the household hazardous waste turn-in facility where he worked. The lost recycling re-sale revenue to his employer and various municipalities totaled \$92,410. Grummer will pay \$18,111 to the City of Vista, \$6,644 to the City of Poway, \$6,047 to the City of Escondido, and \$61,607 to his former employer Clean Harbors Environmental Services.

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

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United States v. Antonio Rodrigues et al., No. 2:08-CR-00393 (S.D. Tex.), ECS Senior Litigation Counsel Howard Stewart [REDACTED], SAUSA Ken Nelson [REDACTED] and ECS Paralegal Jean Bouet [REDACTED]

On February 10, 2009, chief engineer Antonio Rodrigues, and first engineer Jose Cavadas, each were sentenced after being convicted by a jury last year, along with operator General Maritime Management (Portugal), L.D.A., of an APPS oil record book violation and a false statement violation for presenting a false ORB to Coast Guard officials during a port inspection. Each was sentenced to complete five-years' probation and must pay a \$500 fine, half of which will be paid to whistleblowers.

Rodrigues also will serve three months' incarceration in a halfway house and Cavadas will spend six months in a halfway house.

This case came to the attention of inspectors after a crewmember/fitter onboard the *M/T GenMar Defiance* advised the Coast Guard that he had been told by the ship's chief and first engineers to connect a bypass hose to an overboard discharge valve, thereby tricking the oil content meter into allowing oily bilge waste to bypass the ship's oily water separator. Other crewmen later confirmed the fitter's story as well as secretly photographing the illegal bypass and passing the pictures to the Coast Guard. The fitter stated that he observed Cavadas open the overboard discharge valve and pump the bilge into the ocean for approximately three or four hours. He was warned by Cavadas not to talk about this and Rodrigues further threatened to fire the fitter once the ship had reached port.

During the Corpus Christi port inspection in November 2007, the ORB presented to officials omitted the illegal overboard discharges.

This case was investigated by the United States Coast Guard, and the Environmental Crimes Task Force, which includes the United States Environmental Protection Agency, the Texas Commission on Environmental Quality Investigations Division, and the Texas Parks and Wildlife Department.

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United States v. John Wood et al., No. 5:06-CR-00494 (N.D.N.Y.), ECS Trial Attorney Colin Black [REDACTED] and AUSA Craig Benedict [REDACTED]

On February 6, 2009, John Wood was sentenced to serve 48 months' incarceration and was ordered to pay approximately \$800,000 in restitution. Wood pleaded guilty in September of last year to conspiracy to violate the CAA and to commit mail fraud related to illegal asbestos removal activities at numerous locations in New York State. He also pleaded guilty to a contempt charge for violating his pre-trial release conditions including engaging in additional asbestos violations. Co-defendant Curt Collins was sentenced to serve 24 months' incarceration and was ordered to pay \$100,000 in restitution. Collins pleaded guilty in 2007 to a conspiracy charge.

Wood is the owner of J&W Construction, an asbestos removal company. On various dates in 2005 and 2006, Wood supervised individuals who were engaged in renovation or removal projects, instructing workers to remove asbestos-laden material from businesses and residences in an illegal and unsafe manner. Co-defendant Mark Desnoyers was convicted by a jury on five counts last September for his role as an air monitor who falsified test results taken from a number of structures where asbestos was removed. He is scheduled to be sentenced on April 24, 2009.

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

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United States v. Andrew Siemaszko et al., No. 3:06-CR-00712 (N.D. Ohio), ECS Counsel Tom Ballantine [REDACTED], AUSA Christian Stickan [REDACTED] and ECS Paralegal Lois Tuttle [REDACTED]



Davis Besse Plant

On February 6, 2009, Andrew Siemaszko was sentenced to pay a \$4,500 fine and will complete a three-year term of probation as the result of being convicted by a jury of providing false and misleading information to the Nuclear Regulatory Commission.

In January 2006, a five-count indictment was returned charging Siemaszko, a systems engineer, and engineering manager David Geisen, both former employees of FirstEnergy Nuclear Operating Company ("FENOC"), and consultant Rodney Cook with a scheme to conceal information from the Nuclear Regulatory Commission ("NRC") and with making false statements to the NRC. Cook was acquitted on all counts at trial.

FENOC owns and operates the Davis-Besse plant near Oak Harbor, Ohio. Power plants similar to Davis-Besse developed a cracking problem that could lead to breaks where control rod nozzles penetrate the steel-walled vessel that contains the nuclear fuel and the pressurized reactor coolant water. Such a break could cause a serious accident and would strain the plant's safety systems. In March of 2002, workers discovered a sizeable cavity in the head (or lid) of the reactor vessel at Davis-Besse. Subsequent analysis showed that this pineapple-sized hole was the result of corrosive reactor coolant leaking through a nozzle crack.

Geisen was sentenced in May 2008 to serve four months' home detention as a condition of three years' probation. He also was required to complete 200 hours of community service and pay a \$7,500 fine.

FENOC previously entered into a deferred prosecution agreement in this case. This case was investigated by the NRC Office of Investigations.

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United States v. Crown Chemical, Inc., et al., No. 1:06-CR-00545 (N.D. Ill.), AUSA Tim Chapman [REDACTED].

On February 4, 2009, Crown Chemical, Inc. ("Crown") and company president and owner James Spain, were sentenced for conspiring to violate the Clean Water Act between approximately November 1985 and November 2001 by discharging untreated wastewater in violation of an approved pretreatment program. Spain was sentenced to complete three years' probation, with one year to be spent under home confinement, and he was further ordered to pay a \$30,000 fine. Crown was sentenced to pay a \$100,000 fine, make a public apology, and complete a one-year term of probation. A third defendant, Catalino Uy, was sentenced on February 5th to pay a \$5,000 fine and must complete two years' probation after previously pleading guilty to a CWA conspiracy violation.

Crown manufactured cleaning products for residential, commercial and industrial use. Many of the products exhibited a pH higher and lower than the local ordinance limit of 5-10. Wastewater exhibiting unlawfully high and low pH (some of which qualified as hazardous waste under RCRA) was generated during the cleaning of Crown's process tanks. Despite knowledge of the pH limits, Spain directed employees to discharge all of the untreated wastewater to the Crestwood, Illinois, POTW.

During the execution of a search warrant in November 2001, Spain falsely told the agents that the company's wastewater was neutralized before discharge. Spain also instructed other Crown employees to tell the agents the same lie. On various occasions during this period, Spain falsely informed the POTW that Crown did not discharge industrial waste to the sewer system. As Crown's plant manager for many years, Uy directed much of the unlawful discharges. All three defendants pleaded guilty to

The court cited Spain's advanced age and his health conditions as primary factors in the Court's decision not to impose a term of incarceration.

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

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United States v. Fred Hand III, et al., No. 1:09-mj-00118 and 119 (N.D. Ga.), AUSA Mary Roemer ([REDACTED]).

On February 3, 2009, Fred Hand III, and Fred Hand IV, were sentenced for transporting a whitetail deer from Colorado to Georgia, a misdemeanor violation of the Lacey Act.

In November 2007, Fred Hand, III and his son, Fred Hand, IV, used a rifle to shoot and kill a whitetail deer during Colorado's archery-only season, a violation of state law. The Hands then transported the antlers of the seven-point buck to Georgia, in interstate commerce. The defendants were each sentenced to complete a two-year term of probation, pay a \$10,000 fine to the Lacey Act Reward Account, and will pay \$5,000 in restitution to the State of Colorado's Division of Wildlife. They further forfeited their right to hunt in 22 western states.

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

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United States v. Thomas Jerry Nix, Jr., No. 3:08-CR-05015 (W.D. Mo.), AUSA Steven M. Mohlhenrich ([REDACTED]).



Live paddlefish

On February 2, 2009, Thomas Jerry Nix, Jr., was sentenced to serve one year and one day of incarceration and will pay \$30,000 in restitution to the Missouri Department of Conservation. Nix also will forfeit a 20-foot Bumblebee 200 Pro boat and trailer and other miscellaneous equipment used to commit the offense.

The defendant pleaded guilty in September of last year to conspiracy to violate the Lacey Act. He originally was charged in a seven-count indictment with violations stemming from using illegal nets to harvest the roe (eggs) from paddlefish that subsequently was

processed into caviar and sold to a Tennessee company. During a 30-day period in 2008, Nix sold

approximately 387 pounds of paddlefish caviar out of state for \$35,820.

From December 2007 to February 2008, Nix and an unindicted co-conspirator participated in a conspiracy to transport and sell paddlefish roe that was taken in violation of state and federal laws.

Nix set gill nets in Table Rock Lake. Nix returned to check the nets every one to three days, removing the fish that were caught, and relocating the nets on the Lake as the paddlefish moved upstream to spawn.

After removing and packaging the roe from the fish he had caught, and in order to conceal his illegal activities, Nix weighted the dead fish with rocks so that they would sink in the lake. The roe was processed into caviar, then packaged, transported and sold in Tennessee. Nix represented that the caviar had been lawfully taken in Arkansas, which was untrue since he did not possess a fishing license from the state, nor did he possess the required permits and documents from the state of Missouri, where he resides.

In February 2008, the defendant and his co-conspirator were apprehended by Missouri Department of Conservation agents with approximately 78 pounds of unprocessed paddlefish roe. A search of the defendant's residence revealed approximately 91 pounds of paddlefish roe that had been processed into caviar and packaged in containers labeled for sale to a company located in Tennessee.

The American paddlefish is native to the Mississippi River drainage system and is taken for both its meat and roe. Once common throughout the Midwest, over-fishing and habitat changes have caused major population declines. The paddlefish is a close relative of the sturgeon from which most commonly known caviars are obtained. With diminishing worldwide sturgeon populations and increased international protection for declining stocks, American paddlefish has become an increasingly popular and valuable substitute for sturgeon caviar. Female paddlefish reach reproductive maturity at nine to 11 years of age, producing up to 10 pounds of roe, and can weigh 100 pounds or more.

This case was investigated by the United States Fish and Wildlife Service and the Missouri Department of Conservation.

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United States v. Bruce Brown et al., No. 3:07-CR-05642 (W.D. Wash.), AUSA Jim Oesterle (

On January 23, 2009, Bruce Brown was sentenced to serve five months' incarceration followed by three years supervise release for conspiring to steal and damage old growth trees on the Olympic National Forest. Some of the trees were nearly 600 years old.

Brown and co-defendant Craig James pleaded guilty last year to conspiracy to commit depredation against Forest Service property. A third co-defendant, Floyd Stutesman, previously pleaded guilty to the same charge.

Between November 2006 and February 2007, the defendants damaged and removed a variety of trees including 31 old growth western red cedar trees. United States Forest Service officers located the theft site after approximately thirty cords of cedar had been removed and sold to local mills. The defendants provided false documentation indicating the wood had been harvested from private property. A substantial quantity of the wood was considered "music wood," highly valued by manufacturers of musical instruments and only found in older trees.

Stutesman was previously sentenced to serve five years' probation with a special condition of four months' home confinement. James remains scheduled for sentencing on April 10, 2009, and a hearing regarding restitution to be made jointly and severally to the Forest Service is scheduled for May 12, 2009.

This case was investigated by the United States Forest Service Office of Enforcement and Investigations.

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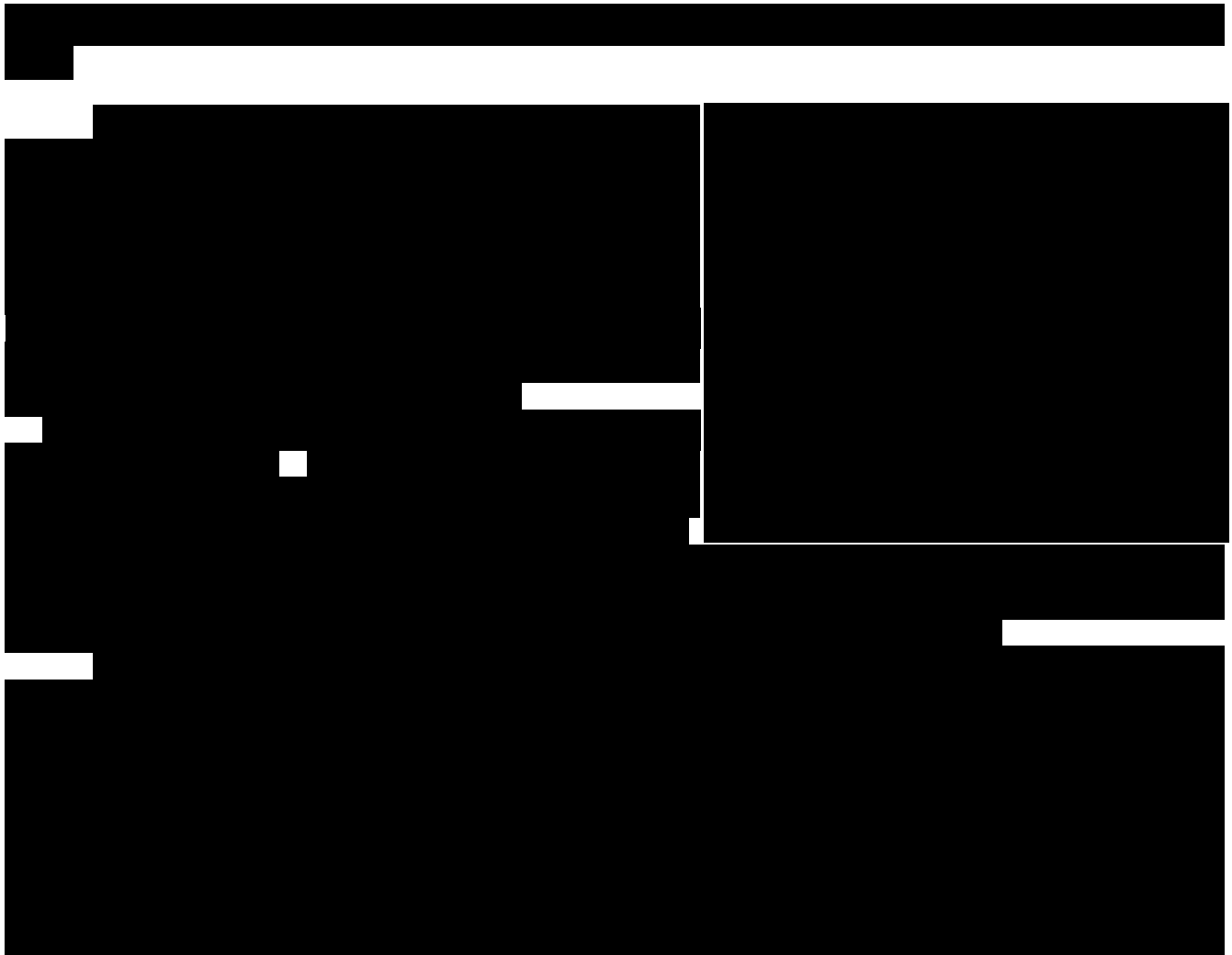
United States v. Texas Petroleum Investment Company, No. 2:08-CR-00215 (E.D. La.), AUSA Dorothy Taylor [REDACTED]

On January 21, 2009, Texas Petroleum Investment Company ("TPIC"), an oil production company, was sentenced to pay a \$50,000 fine and complete a two-year term of probation for causing a negligent spill of processed brine water into waters of the United States on a federal wildlife refuge.

TPIC operated the Romere Pass oil production facility located on federal lands within the Delta National Wildlife Refuge. The Romere Pass Facility was used for the collection, separation and treatment of oil and gas produced from nearby TPIC wells located in the Romere Pass Field. On or around March 17, 2005, a storage tank alarm sounded due to high water levels in the tank, and oil and water began to spill over the top of the tank. Company employees, aware that a salt water injection well was not working and that the pumps could not keep up, used a bypass valve to release processed brine water over the side of a barge until the pumps were functioning properly.

The company also will pay \$425,000 to the United State Fish and Wildlife Service, \$25,000 to the Louisiana State Police Right to Know Fund, and \$25,000 to the Southern Environmental Enforcement Network Enforcement Training Fund. TPIC pleaded guilty to a misdemeanor CWA violation in October of last year.

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