
ENVIRONMENTAL CRIMES



MONTHLY BULLETIN

June 2008

EDITOR'S NOTE:

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.regionallassociations.org>.

You may navigate quickly through this document using electronic links for *Active Cases*, *Additional Quick Links* and *Back to Top*. (Some of you may need to hold down the ctrl key while clicking on the link.)

ATA GLANCE

[United States v. Grace, F3d. 2008 WL 2052204 \(9th Cir. May 15, 2008\).](#)

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C. D. Calif.	<u>United States v. Pacific Operators Offshore</u> <u>United States v. Union Pacific Railroad Company</u> <u>United States v. Hai Nguyen</u>	<i>Natural Gas Pipeline/ Outer Continental Shelf Lands Act</i> <i>Wastewater Discharge/ Negligent CWA</i> <i>Seal Stabbing/ Marine Mammal Protection Act</i>
N. D. Calif.	<u>United States v. Wassim Mohammad Azizi</u> <u>United States v. Jereme James</u>	<i>Building Demolition/ CAA</i> <i>Importing Reptiles/ Smuggling, Lacey Act</i>
S. D. Calif.	<u>United States v. Damon Silva</u>	<i>Discharges from Docked Vessel/ Negligent CWA</i>
D. Colo.	<u>United States v. Esteban Lopez Estrada</u>	<i>Sea Turtle Products/ Smuggling, Money Laundering</i>
S. D. Fla.	[REDACTED] <u>United States v. Max Moghaddam et al.</u> <u>United States v. Zamorro Shone</u> <u>United States v. Stanley Saffan et al.</u>	[REDACTED] <i>Caviar Export/ Lacey Act, Endangered Species Act, Conspiracy</i> <i>Queen Conch Import/ Misbranding Food</i> <i>Sailfish Harvest/ Lacey Act Forfeiture</i>

Districts	Active Cases	Case Type / Statutes
D. Hawaii	United States v. David Williams	<i>Vessel/ False Statement</i>
S. D. Ind.	United States v. Richard Reece	<i>Electroplating Wastes/ RCRA</i>
E. D. La.	United States v. M&N Foods, Inc.	<i>Food Processor Wastewater/ Negligent CWA</i>
D. Mass.	United States v. Charles Manghis et al.	<i>Ivory Smuggling/ Smuggling, False Statement, Conspiracy</i>
E. D. Mo.	United States v. Eric Johnson United States v. Jason Becks	<i>Developer/ CWA, Bank Fraud</i> <i>Abandoned Drums/ RCRA</i>
D. Nev.	United States v. Patricia Vincent United States v. Cody Bartolini	<i>Tree Destruction/ Unlawfully Cutting Trees on U.S. Land</i> <i>Internet Reptile Sale/ Lacey Act</i>
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D. Ore.	United States v. The National Navigation Company	<i>Vessel/ APPS, False Statement</i>
E. D. Tex.	United States v. Simply Aquatics, Inc., et al. United States v. Dile Kent McNair	<i>Hazardous Waste/ RCRA</i> <i>Metal Plating Waste/ RCRA</i>
S. D. Tex.	United States v. Sidney Berle Baldon II	<i>Fuel Excise Taxes/ Tax Evasion, Conspiracy</i>
W.D. Wash.	United States v. Floyd Stutesman et al.	<i>Timber Harvesting/ Theft of Govt. Property, Depredation against Govt. Property, Conspiracy</i>

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Significant Opinions

9th Circuit

United States v. W.R. Grace et al., ___ F3d. ___ 2008 WL 2052204 (9th Cir. May 15, 2008).

On May 15, 2008, the *en banc* Ninth Circuit court held that a U.S. Attorney's certification under 18 U.S.C. § 3731 (that the government's interlocutory appeal from an order suppressing or excluding evidence in a criminal case is not taken for purpose of delay, and that the suppressed or excluded evidence is substantial proof of a material fact) is sufficient to establish the court of appeals' jurisdiction to consider the appeal. The court overruled prior decisions that had "required that the government's bare certification be backed up by a preliminary showing that the excluded evidence truly is material."

The Ninth Circuit also held, overruling its prior decision in *United States v. Hicks*, 103 F.3d 837 (9th Cir. 1996), that a district court, "as part of the court's inherent authority to manage its docket," may require the government to disclose a final list of its trial witnesses prior to trial. The court concluded that the district court in this case did not abuse its discretion by requiring the government to provide such a list more than one year before trial. The court further stated that, if the government does decide to add specific witnesses or evidence it believes was precluded by the district court's pretrial orders, it will be up to district court to address the request in accordance with the principles set forth in this opinion.

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Trials

United States v. Wassim Mohammad Azizi, No. 3:06-CR-00548(N.D. Calif.), AUSA Stacey Geis



Demolished building

On May 14, 2008, after a seven-day jury trial, Wassim Mohammad Azizi was convicted of three felony counts of violating the Clean Air Act stemming from the illegal demolition of a building that contained significant amounts of asbestos.

Azizi purchased a commercial building with the intent to demolish it and construct a new building. Following the purchase and the discovery that the building contained asbestos, the defendant hired an unlicensed handyman to commence with the demolition.

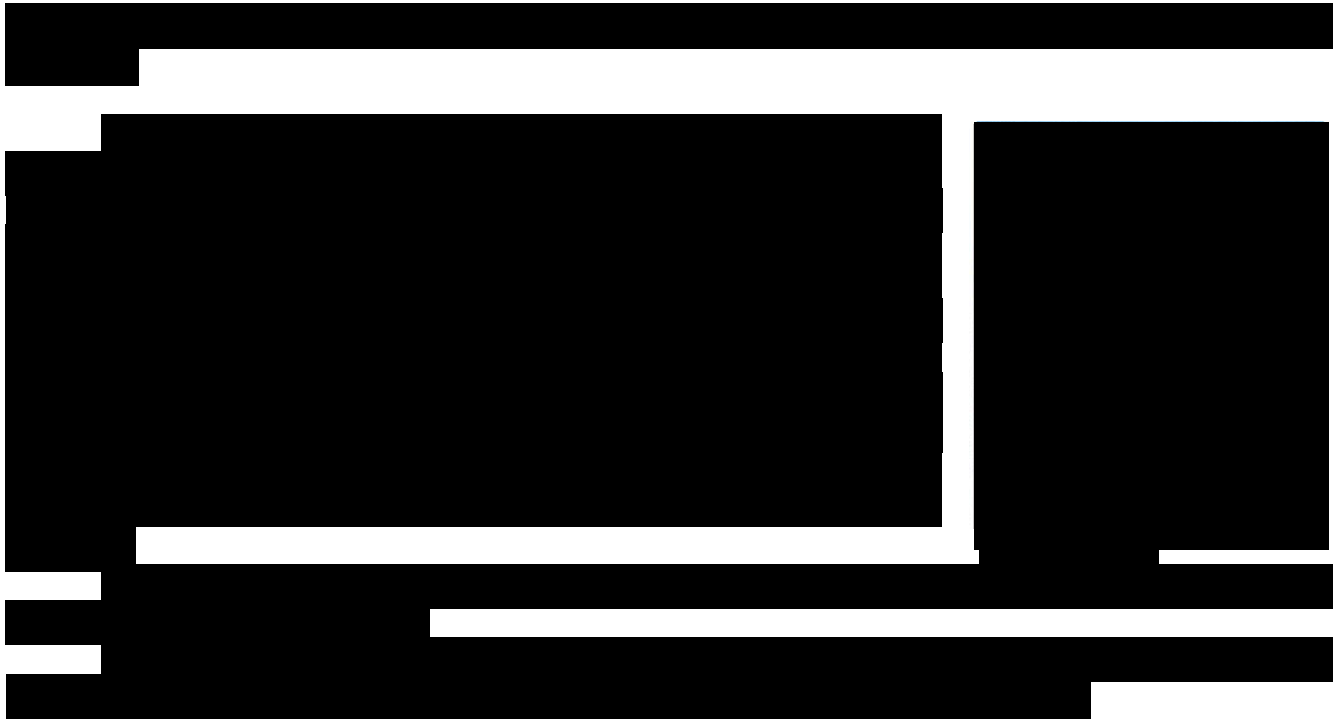
Between December 1, 2002, and February 1, 2003, Azizi illegally demolished the building and placed

workers and the public at risk. He was convicted of violating several work practice standards,

including the failure to properly notify the Air District, failure to wet the asbestos-containing material, failure to keep it in leak-tight containers, and failure to dispose of it at an authorized location.

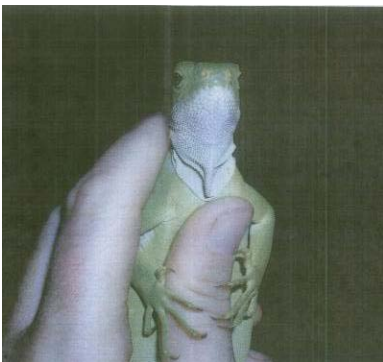
Sentencing is scheduled for August 27, 2008. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. Jereme James, No. 2:07-CR-01004 (C.D. Calif.), AUSA Joe Johns ([redacted]) and Reema El-Amamy ([redacted])



Fiji Island banded iguana

On April 11, 2008, Jereme James was found guilty by a jury of smuggling and a Lacey Act violation for concealing several extremely rare iguanas within a prosthetic leg to bring them illegally into the United States.

The Fiji Island banded iguana (*Brachylophus fasciatus*) is threatened with extinction and is protected under CITES. While on a trip to Fiji in September 2002, James took three Fiji Island banded iguana hatchlings from an ecological preserve and then attempted to smuggle them into the U.S. After receiving a tip that James possessed several specimens of the endangered species, the United States Fish and Wildlife Service opened an undercover investigation. During the investigation, James told an undercover agent that he had sold a trio of Fiji Island banded iguanas four years ago for \$32,000. After a series of meetings with the defendant, agents executed a search warrant at James' house and recovered four Fiji Island banded iguanas.

James is scheduled to be sentenced by on July 14, 2008. This case was investigated by the United States Fish and Wildlife Service.

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Indictments

United States v. Simply Aquatics, Inc., et al., No. 1:08-CR-00067 (E.D. Tex.), AUSA Jim Noble



Chlorine gas cylinders

On May 7, 2008, an indictment was returned charging Simply Aquatics, company president Kevin Hester and his father, Lyle Hester, a shop foreman, with conspiracy and four RCRA violations for illegally transporting and disposing of hazardous wastes.

Simply Aquatics is in the business of installing and servicing water treatment chemical injection systems for municipalities. In the process they used chemicals such as gaseous chlorine and sodium hydroxide to clean out the systems.

The indictment states that a former employee contacted the National Response Center alleging that managers routinely ordered employees to wash out drums containing hazardous chemicals onto the ground at a "drum washout area."

It is further alleged that in May 2006, the defendants transported 33 compressed gas cylinders under high pressure, containing a combined total of 952 pounds of chlorine gas, without a manifest and to an unpermitted site where he disposed of it without a permit. The defendants also are charged with disposing of the 33 cylinders by burying them on Kevin Hester's property.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Texas Commission on Environmental Quality, and the Texas Environmental Enforcement Task Force.

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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 April 25, 2008, Max Moghaddam and Bemka Corporation, d/b/a Bemka Corporation House of Caviar and Fine Foods, were charged with conspiracy, false labeling of export shipments, and the illegal export of internationally protected American paddlefish roe (eggs) during July 2005 through April 2007.

The American paddlefish is native to the Mississippi River drainage system and is harvested for both its meat and roe. Once common throughout the Midwest, over-fishing and habitat changes have caused major population declines and it is now listed as an Endangered Species. 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. With diminishing world sturgeon populations and increased international protection for declining stocks, American paddlefish has become a substitute for sturgeon caviar and, as such, has become quite valuable. According to the indictment, the defendants did not have the necessary permits for these exports and also had falsely stated on shipping invoices and customs documents that the shipment contained bowfin roe, which is sometimes used as a caviar substitute.

The defendants remain scheduled for trial beginning October 14, 2008. This case was investigated by the United States Fish and Wildlife Service.

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United States v. Kirby Dean Case, No. 3:08-CR-00077 (W.D.N.C.), AUSA Steven Kaufman ([REDACTED]).

On April 22, 2008, Kirby Dean Case was charged in a two-count indictment with Clean Water Act violations for discharging pollutants from the Town of Dallas POTW ("POTW") into the Dallas Branch of the Catawba River Basin in violation of the POTW's permit. Case is further charged with filing DMRs with the North Carolina Department of Environment and Natural Resources between November 2006 and December 2007, which included falsified sample levels for chlorine, ammonia, fecal coliform, and other materials.

On April 14, 2008, the Town of Dallas, North Carolina, was fined more than \$140,000 by the state for the improper operation and maintenance of the POTW resulting in discharges of poorly treated or untreated wastewater that blanketed a half-mile of the receiving stream with sludge four to eight inches deep.

The fine, the state's largest for water pollution, was imposed by the North Carolina Division of Water Quality which found during an inspection in November 2007 that the town's wastewater treatment plant was severely noncompliant, with half of its treatment capacity out of service and the remaining half overloaded with sewage solids. Solids also were present in the chlorine contact

chamber. Since the chlorine dosing chamber was not in use, the effluent from the plant was not disinfected. Although solids were being discharged with effluent, the town submitted samples that made it appear that the plant was adhering to the state's permit limits for the discharge.

During the inspection, the Dallas branch (a tributary of Long Creek), was observed to have a several-inch thick layer of partially-treated sewage about half a mile downstream from the plant's discharge point. State inspectors also found evidence of two unreported spills – one of untreated sewage, the other of partially treated wastewater – that reached the Dallas branch as well. The Town has been fined by the state 27 times since March 2003 for amounts totaling nearly \$43,000.

This case is part of an on-going investigation by the United States Environmental Protection Agency Criminal Investigation Division and the North Carolina Division of Water Quality.

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Pleas

United States v. Zamorro Shone, No. 1:08-CR-20034 (S.D. Fla.), AUSA Tom Watts-FitzGerald

On May 23, 2008, Zamorro Shone, of Vancouver, British Columbia, Canada, pleaded guilty to a two-count indictment for his involvement in the smuggling of significant quantities of queen conch from Canada to the United States in violation of the U.S. Food, Drug and Cosmetic Act.

From about October 2005 through March 2006, the defendant and others associated with Caribbean Conch, Inc., a Hialeah, Florida-based seafood company, caused multiple shipments of queen conch from Haiti through Canada to the



Queen Conch

United States, totaling 6,972 pounds. At the time queen conch from Haiti was under international embargo, and it also would have required special permit documentation to enter the United States, if legally harvested elsewhere.

Queen conch is protected under CITES, but it is not listed under the ESA as a protected species. The ESA does allow for criminal charges for trading in wildlife contrary to CITES. In September 2003, an embargo was enacted by the CITES parties for queen conch and conch products that originated from many of the conch-producing countries of the Caribbean to help stem the significant declines in the species due in large part to rampant illegal harvesting. The embargo banned all imports of queen conch to any nation that was a signatory to CITES.

Shone and his Canada-based company, Pacific Marine Union Corporation, received the queen conch shipped by air from Haiti to Toronto, and they re-packaged it as "Frozen Whelk meat, product of Canada," arranging transportation by refrigerated truck to Hialeah. In March 2006, a shipment of 2,100 pounds of falsely-labeled conch was intercepted by a United States Fish and Wildlife Service Inspector in Buffalo, New York. The Fish and Wildlife Service's National Forensic Laboratory in Ashland, Oregon, conducted DNA analysis of the seafood product and confirmed it was queen conch and not whelk, which sometimes is used as a cheap substitute.

Co-defendants Janitse Martinez and Ramone Placeres each were sentenced in January 2008 to serve two months' imprisonment, followed by one year of supervised release. Placeres was further

ordered to pay a \$10,000 fine. Martinez and Placeres were, respectively, the owners of Caribbean Conch, Inc., and Placeres & Sons Seafood, Inc.

The 18-month long investigation by Canadian and American enforcement authorities led to the simultaneous execution of search warrants in both countries and the seizure of more than 63,000 pounds of illegally traded queen conch involving Shone and other parties already convicted in separate proceedings in the United States and Canada.

Shone is scheduled to be sentenced on June 27, 2008.

These cases were investigated by the United States Fish and Wildlife Service, NOAA Office of Law Enforcement, and the Wildlife Officers of Environment Canada's Wildlife Enforcement Branch, Wildlife Enforcement Division, in Halifax, Montreal, Toronto, and Vancouver. The United States National Marine Fisheries Service and Canadian and American border officials also contributed to this investigation.

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United States v. Jason Becks, No. 4:08-CR-00198 (E.D. Mo.), SAUSA Anne Rauch ([REDACTED]) and AUSA Michael Reap ([REDACTED])

On May 22, 2008, Jason Becks pleaded guilty to one RCRA disposal violation.

Becks was hired in January 2008 to complete an environmental site assessment at Economy Tire, Inc., in St. Louis, Missouri. Becks contracted with the owner of the building to remove and dispose of six 55 gallon drums inside the building for \$600. The defendant then took the drums to another location where he abandoned them.

Sentencing is scheduled for August 7, 2008. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. Dile Kent McNair, No. 6:08-CR-00027 (E.D. Tex.), AUSA Jim Noble ([REDACTED])



Solid hazardous waste

he continued to store the waste at the previous facility without a permit.

McNair and other metal plating companies with which he has been associated have a history of extensive noncompliance, two of them having been the subjects of previous criminal prosecutions. In 1994, McNair pleaded guilty to a felony CWA violation in case against Crews Plating, Inc., and in August, 2004, Perfection Industries pleaded guilty to one CWA false statement violation for fabricated DMRs. McNair further pleaded guilty to a felony count of Felon in Possession of a Firearm. In

On May 20, 2008, Dile Kent McNair, the operator of Extreme Metal Finishing, Inc., a metal plating business, pleaded guilty to a RCRA storage violation for storing spent cyanide plating bath solutions and plating bath residues from the bottoms of plating baths without a permit.

McNair operated the metal plating business from September 2004 through October 2006. On three occasions in 2006, Texas Commission on Environmental Quality inspectors conducted inspections at the facility and observed McNair's storage of thousands of gallons and pounds of both liquid and solid hazardous wastes. In

October 2006, after McNair moved the operations to a new facility, he continued to store the waste at the previous facility without a permit.

January 2008, he was sentenced to serve 18 months in federal prison as a result of a probation violation from his conviction in the Perfection Industries, Inc., case.

Also on May 20, McNair pleaded guilty to attempting to bribe an Assistant District Attorney with \$5,000 in an effort to get the prosecutor to dismiss a pending D.W.I. charge.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division, the Texas Commission on Environmental Quality Special Investigation Division, and the Texas Environmental Enforcement Task Force.

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United States v. Pacific Operators Offshore, No. 2:08-CR-00189 (C.D. Calif.), ECS Senior Trial Attorney David Kehoe [REDACTED] and AUSA Joe Johns [REDACTED].

On May 19, 2008, Pacific Operators Offshore pleaded guilty to a one-count information charging a violation of the Outer Continental Shelf Lands Act, 43 U.S.C. § 1350(c)(1) for illegally storing natural gas in a degraded pipeline in January 2002.

The company operates an oil and natural gas drilling station with two platforms a few miles off Santa Barbara. The illegal conduct involved storing or "stacking" natural gas from 2000 to 2002 in deteriorating underground pipes after the pipes had been found by the Minerals Management Service ("MMS") to be unfit for service and then attempting to hide this illegal conduct from the MMS. Although there was no actual leak into the environment, the risk to human health, the workers on the platforms, and the environment from a potential leak or explosion of natural gas from the pipeline, which ran underneath Coastal Highway 101, was significant.

Sentencing is scheduled for September 15, 2008, and the company faces a maximum statutory fine of \$500,000. This case was investigated by the United States Department of Interior.

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United States v. David Williams, No. 1:07-CR-00376 (D. Hawaii), ECS Assistant Chief Joe Poux [REDACTED], AUSA Ronald G. Johnson, Chief of the USAO Major Crimes Section ([REDACTED]), AUSA William L. Shipley [REDACTED], and USCG Commander Timothy P. Connors.

On May 1, 2008, David Williams, a Chief Warrant Officer in the U.S. Coast Guard and the Main Propulsion Assistant for the Coast Guard Cutter *RUSH*, pleaded guilty to an 18 U.S.C. § 1001 false statement violation.

Williams originally was charged in August 2007 in a two-count indictment with obstructing the investigation of the overboard discharge of bilge wastes, authorized by Williams, through a deep sink, which then drained directly into Honolulu Harbor. He was further charged with making a false statement.

As the Main Propulsion Assistant, he oversaw the maintenance of the main diesel engines and other machinery in the engine room for the *RUSH*, a 378-foot high endurance cutter stationed in Honolulu. According to the indictment, on or about March 8, 2006, Williams authorized the direct discharge of bilge wastes through the sink into Honolulu Harbor, bypassing the oily water separator. Approximately a week later, the State of Hawaii Department of Health received an anonymous complaint that the ship's crew members were ordered to pump approximately 2,000 gallons of bilge waste into Honolulu Harbor. On May 1, 2006, investigators from the United States Coast Guard Investigative Service and the Environmental Protection Agency received confirmation from personnel who had personally been involved that bilge wastes indeed had been discharged into the harbor.

When questioned by investigators, Williams denied authorizing personnel to discharge bilge waste and also denied knowledge of any bypasses.

Sentencing is scheduled for August 19, 2008. This case was investigated by the United States Coast Guard Investigative Service.

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United States v. Union Pacific Railroad Company, No. 2:06-CR-00607 (C.D. Calif.), AUSA Dorothy Kim [REDACTED]

On April 16, 2008, Union Pacific Railroad Company ("UPRC") pleaded guilty to two misdemeanor Clean Water Act violations for negligently discharging pollutants, specifically petroleum and oil-contaminated wastewater, into the Los Angeles River from January 2001 through March 2003.

UPRC engaged in locomotive maintenance and repair operations at the Taylor Yard ("the Yard"), which is located on the eastern banks of the Los Angeles River. The Yard also is adjacent to an area designated as a bird sanctuary. Operations at the Yard generated large amounts of pollutants, including waste petroleum and oils, waste lubrication and hydraulic oils, used antifreeze, and petroleum and oil-contaminated wastewater. These pollutants were discharged via piping systems into wastewater ponds located on the Yard.

During rain events in January and August 2001, a combined total of approximately 350 gallons of wastewater was discharged from the ponds into the River due to the company's failure to properly maintain its treatment system.

This case was investigated by the California Department of Fish and Game, the Los Angeles County Fire Department, Hazardous Materials Division, and the Federal Bureau of Investigation.

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United States v. Charles Manghis et al., No. 1:08-CR-10090 (D. Mass.), AUSA Nadine Pellgrini

[REDACTED]

On April 24, 2008, Charles Manghis was charged with multiple counts of smuggling sperm whale and elephant ivory illegally into the United States, making false statements to federal agents, and conspiracy to smuggle sperm whale and elephant ivory into the United States. Co-defendant Andriy Mikhalyov, a Ukrainian citizen, was charged with conspiring with Manghis and others to import sperm whale ivory from the Ukraine through California to Massachusetts.

The indictment alleges that from 2003 to 2005, Manghis illegally smuggled sperm whale ivory and elephant ivory into the United States and that he made false statements to federal agents regarding this activity. Between 2002 and 2005, Manghis and Mikhalyov, a seller located in Odessa, Ukraine, are alleged to have conspired to illegally import sperm whale teeth so that Manghis, who works in scrimshaw, could re-sell the items here in the United States.

This case was investigated by NOAA's Office of Law Enforcement, the United States Fish and Wildlife Service, and Immigration and Customs Enforcement.

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United States v. Sidney Berle Baldon II et al., 4:07-CR-00279 (S.D. Tex.), AUSA Joe Magliolo, Jr.

On April 14, 2008, Sidney Berle Baldon II, owner-operator of Mid-Coast International, a distributor of kerosene and other products; Tracey Dale Diamond, an officer of Mid-Coast; and employee Yousef Ishaq Abuteir pleaded guilty to conspiracy to impede the Internal Revenue Service in the proper collection of federal fuel excise taxes.

Court documents state that between July 2002 and November 2003, Baldon and Diamond, acting for Mid-Coast, purchased more than \$10 million dollars worth of kerosene fuel from Calcasieu Refining Company. They falsely represented in letters to Calcasieu that the fuel was purchased for export to Mexico only, thus no excise taxes were assessed or paid by Mid-Coast. The untaxed fuel then was transported from Louisiana to Mid-Coast locations in Houston and Channelview, Texas, where the fuel was mixed with other materials including middle distillate oil, a bi-product of asphalt production. The untaxed blended fuel was then transported by drivers acting on instructions from Abuteir to retail filling stations in the Houston area where it was sold as taxable motor fuel. Abuteir personally delivered cash to Baldon and Diamond for the purchase of the fuel obtained from Calcasieu Refinery. All three defendants also face state charges of engaging in a motor fuel tax scheme arising from the importation of motor fuel without a permit.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Internal Revenue Service Criminal Investigation Division, Immigration and Customs Enforcement, Department of Transportation, the State Comptroller of Public Accounts' Criminal Investigation Division, the Harris County Precinct One Constables Office and the Travis County District Attorney's Office.

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

On March 24, 2008, Floyd Stutesman pleaded guilty to conspiracy to commit depredation against property of the United States by removing timber cut in the Olympic National Forest.

Stutesman, along with codefendants Craig James and Bruce Brown were charged in September 2007 in a three-count indictment with violations stemming from their illegally cutting down 31 old growth western red cedar trees, some of which were more than six hundred years old, to sell to timber mills for processing in the Olympic National Forest.



'Radar' and tree stump

From between November 2006 and February 2007, the defendants are alleged to have damaged and stolen the trees, obtained legitimate forest harvesting permits and then used those permits to illegally transport this old growth wood. The defendants are specifically charged with conspiracy to commit depredation against Forest Service property, one count of damage to United States property, and one count of theft of government property. James and Brown remain scheduled for trial to begin on October 14, 2008, and Stutesman is scheduled to be sentenced on June 20, 2008.

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

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Sentencings

United States v. Patricia Vincent, No. 08-CR-00001 (D. Nev.), AUSA Ron Rachow



Tree stump

trees were estimated to be 80 to 100 years old.

This case was investigated by the United States Forest Service.

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United States v. Stanley Saffan et al., No. 1:07-CR-20553 (S.D. Fla.), AUSA Tom Watts-FitzGerald

On May 21 and May 23, 2008, two corporations and two individuals were sentenced for their involvement in the illegal harvest of sailfish.

Between October 2003 and May 2005, the defendants operated two charter fishing vessels, both named THERAPY-IV, (one 44.7 feet and the other of 54 feet), from Haulover Inlet in North Miami Beach. Sean Lang, Brian Schick, and Stanley Saffan (the owner of both Therapy Charter Fishing Yacht, Inc., ("Therapy Charter") and Duchess Charter Fishing Yacht, Inc., ("Duchess Charter")) were licensed by the U.S. Coast Guard to carry passengers for hire on charter trips.

The defendants were charged with catching and landing undersized billfish, and the landings were not reported to federal authorities. They were further charged with orchestrating an undisclosed deal between the charter operation and a local taxidermy company to pay the crew and boat owners for inducing anglers to sign contracts for mounting the sailfish that were caught.

Saffan previously pleaded guilty to two Lacey Act violations, and Augusto, Lang, Schick, Pegram and both corporations pleaded guilty to one Lacey Act violation.



Sailfish

Saffan was sentenced to serve a five-year term of probation, complete 500 hours' community service, pay a \$35,000 fine and \$75,000 in restitution to be divided among approximately 200 fraud victims. These angler victims include those who were duped into paying taxidermy fees as they were falsely told among other things, that their actual fish had be killed in order to obtain a mount. Augusto was sentenced to serve one year and a day of incarceration followed by two years' supervised release. A fine was not assessed. Lang was sentenced to complete a three-year term of probation and a fine was not assessed.

Duchess Charter will serve a one-year term of probation and forfeit the 44.7-foot vessel. Therapy Charter will complete a three-year term of probation and in lieu of forfeiture of the second vessel will pay \$50,000 representing 125 per cent of the appraised value of the larger vessel. Specifically, that amount will be paid into the Magnuson-Stephens Fisheries Conservation and Management Act Fund. Pegram was previously sentenced to serve one year and a day of incarceration and Schick was sentenced to complete a three-year term of probation.

This case was investigated by the NOAA Office of Enforcement, the Florida Fish and Wildlife Conservation Commission, and the United States Fish and Wildlife Service.

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United States v. Damon Silva, No. 3:08-CR-00491(S.D. Calif.), AUSA Melanie Pierson

On May 20, 2008, Damon Silva was sentenced to serve one year of incarceration followed by one year of supervised release. He also will pay a \$7,500 fine and \$14,607.84 in restitution for clean up costs.

Silva pleaded guilty in February 2008 to three misdemeanor CWA violations in connection with three oil-pollution incidents involving a vessel docked in San Diego Harbor.

Between September 14, 2006, and December 2, 2006, Silva lived aboard the *FV Kathryn Ann*, which was docked at the G Street pier in San Diego Harbor. On September 18, 2006, Silva spilled diesel fuel from the vessel onto the pier and used a hose to rinse the fuel into the harbor. The second incident occurred on November 14, 2006, when Silva used a hose to pump oily bilge water from the *Kathryn Ann*, allowing the oily bilge water to be discharged from the hose into the water. The third

incident transpired on December 2, 2006, when the defendant transferred diesel fuel aboard the boat and allowed the fuel to overflow from the deck into the water.

The cleanup costs will reimburse the United States Coast Guard in the amount of \$12,203.64 and the California Department of Fish and Game Oil Spill Response Trust Fund will receive \$2,404.20 for the costs incurred in responding to these three incidents.

This case was investigated by the United States Coast Guard, the United States Environmental Protection Agency Criminal Investigation Division, the California Department of Fish and Game, and the San Diego Harbor Police.

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United States v. Hai Nguyen, No. 2:07-CR-00880(C.D. Calif.), AUSA Craig H. Missakian ([REDACTED]

On May 15, 2008, Hai Nguyen was sentenced to serve a three-year term of probation and complete 200 hours of community service. Nguyen pleaded guilty last November to violating the Marine Mammal Protection Act for stabbing a California sea lion, which later had to be euthanized.

On July 27, 2007, Nguyen was fishing from a dock on the Balboa Peninsula in Newport Beach. The sea lion, which had been swimming in the water near the dock and may have been interfering with Nguyen's fishing, approached the dock, getting close enough so that he could reach down and stab the six-foot long animal with a steak knife. Witnesses in the area contacted the Newport Beach Police Department, and the defendant was arrested. Animal control officers were later able to trap the sea lion, which was transported to the Pacific Marine Mammal Center in Laguna Beach. Doctors who examined the animal determined that the knife had pierced its heart and that it would not recover.

This case was investigated by the National Oceanic and Atmospheric Administration, Office of Law Enforcement, and the Newport Beach Police Department.

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United States v. Richard Reece, No. 1:07-CR-00036 (S.D. Ind.) SAUSA David Mucha ([REDACTED] and AUSA Steven DeBrot ([REDACTED]

On May 8, 2008, Richard Reece was sentenced to serve six months of home confinement followed by six months in a community confinement facility after pleading guilty in January 2008 to three RCRA violations. He also was ordered to pay approximately \$57,000 in restitution to the U.S. Environmental Protection Agency, the Indiana Department of Environmental Management, and Delaware County for their emergency response costs.

In about 1996, Reece accumulated equipment and electroplating chemicals to start an electroplating business in Farmland, Ind., named Synco Technology, Inc. In June 2002, he transported drums and containers of chemical wastes, which were corrosive, toxic and ignitable, in trailers from his Farmland facility to a vacant lot near a convenience store in Muncie. In May 2003, he had the trailers



Hazardous waste in trailers

transported to a parking lot in an industrial park in Muncie without authorization or notification to the property owners. The wastes were discovered in 2004 after citizens complained to local health officials of chemical odors.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, the Indiana Department of Environmental Management and Indiana Inter-Agency Environmental Crimes Task Force.

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United States v. David Geisen et al., No. 3:06-CR-00712 (N.D. Ohio), ECS Senior Trial Attorney Richard Poole [REDACTED], ECS Trial Attorney Tom Ballantine ([REDACTED]), AUSA Christian Stickan [REDACTED] and ECS Paralegal Lois Tuttle [REDACTED]

On May 1, 2008, David Geisen was sentenced to serve four months' home detention as a condition of three years' probation. He is further required to complete 200 hours of community service and pay a \$7,500 fine. Geisen was convicted by a jury in October 2007 of concealment and false writing violations, but acquitted on two false statement violations. Co-defendant Rodney Cook was acquitted on all counts.

In January 2006, a five-count indictment was returned charging engineering manager Geisen and systems engineer Andrew Siemaszko, 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.

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.

FENOC previously entered into a deferred prosecution agreement in this case, agreeing that the United States can prove that knowing false statements were made on behalf of the corporation.

Siemaszko remains scheduled for trial to begin on August 11, 2008. This case was investigated by the NRC Office of Investigations.

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United States v. Esteban Lopez Estrada, No. 07-CR-00358 (D. Colo.), ECS Senior Trial Attorney Robert Anderson [REDACTED], ECS Trial Attorney Colin Black [REDACTED] and AUSA Linda McMahan [REDACTED]

On April 30, 2008, Esteban Lopez Estrada was sentenced to serve two years' incarceration followed by three years' supervised release. He also will pay a \$1,700 fine.

Lopez Estrada, a Mexican national, pleaded guilty in February of this year to felony smuggling and money laundering violations in connection with the smuggling of sea turtle and other exotic skins and skin products into the United States from Mexico.

Lopez Estrada and 10 others were indicted in Denver in August 2007, following a multi-year U.S. Fish and Wildlife undercover investigation named "Operation Central." Lopez Estrada was



Pictures taken in 12RFO of the reactor vessel head flange showing boric acid with rust flowing out of the weep holes.

charged in two separate indictments for his role in the smuggling. He operated a business in Leon, Mexico, named *Botas Exoticas Canada Grande*, through which he bought and sold exotic leathers, including sea turtle, caiman, ostrich and lizard skins; manufactured boots and belts from the skins; and sold the skins, boots, and belts to customers in the United States. After arranging sales to customers in the U.S., Lopez Estrada sent the exotic leathers and leather products to co-defendants Jorge Caraveo and Oscar Cueva in Mexico for illegal importation into the United States. As payment for the skins, boots, and belts, he received international wire transfers from Colorado to his Mexican bank account.

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

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United States v. The National Navigation Company, No. 3:08-CR-00154, 187 and 198 (D. Ore., W.D. Wash., E.D. La.), ECS Trial Attorney Ron Sutcliffe [REDACTED], AUSAs Dwight Holton [REDACTED] Jim Oesterle [REDACTED] and Dee Taylor [REDACTED]

On April 29, 2008, The National Navigation Company ("NNC") pleaded guilty to, and was sentenced for, 15 felony charges related to vessel pollution violations. The company, based in Cairo, Egypt, admitted to violating the Act to Prevent Pollution from Ships and to making false statements to federal officials.

The case arose from an investigation of a bulk cargo vessel named the *M/V Wadi Al Arish*. During a routine inspection in November 2007 Coast Guard inspectors found evidence of illegal dumping of waste oil. Investigators from



M/V Wadi Al Arish

the Coast Guard and Environmental Protection Agency launched a fleet-wide investigation, boarding vessels and interviewing dozens of crew members at multiple ports in the Pacific Northwest and along the Gulf Coast. The investigation uncovered evidence of violations aboard six vessels in NNC's fleet. Crews on these vessels dumped thousands of gallons of waste oil, including sludge, in oceans around the world and falsified official ship records, including the oil record book.

The company was sentenced to pay a total monetary penalty of \$7.25 million – the largest ever in the Pacific Northwest for a case involving the falsification of ship logs to conceal deliberate pollution from ships. Of this amount \$2,025,000 will fund various environmental projects in Oregon administered by the National Fish and Wildlife Fund ("NFWF") through the Oregon Governor's Fund for the Environment. Washington State will receive \$350,000 through the NFWF-administered Puget Sound Marine Conservation Fund. Louisiana will receive \$175,000 through the NFWF-administered Vessel Source Pollution Prevention and Compliance Fund.

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

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United States v. Eric Johnson, No. 4:07-CR-00760 (E.D. Mo.), AUSA Michael Reap [REDACTED] and SAUSA Ann Rauch [REDACTED]

On April 29, 2008, Eric Johnson was sentenced to serve 15 months' incarceration and was ordered to pay \$100,000 restitution for Clean Water Act violations associated with a subdivision development he owned. He also previously pleaded guilty to bank fraud stemming from loans on other

subdivision properties in which he used building escrow money to pay other obligations, resulting in foreclosure and losses to his partner and the lender.

Johnson, the owner and operator of a construction site known as Providence on Peine and Providence Meadows developments, had obtained construction storm water permits. In August 2004, inspectors observed numerous permit violations at both Providence sites, including lack of inspections and failure to maintain runoff controls, resulting in the off-site migration of a significant amount of sediment and accumulation of sediment to Dry Branch Creek.

From 2003 to 2006, Johnson was in the business of developing and building residential subdivisions in both St. Charles and Lincoln counties. Johnson had a long history of violations at all the sites including stormwater discharges and filling of wetlands. Upon discovery of these violations by the Missouri Department of Natural Resources, Army Corps of Engineers, and USEPA, the defendant would dissolve his businesses and move on to the next project. Johnson also has liens and lawsuits filed by subcontractors on all his developments.

In addition, Johnson had obtained a loan with First Service Bank, now known as Stifel Bank and Trust, for \$2.6 million to develop a residential subdivision known as Woodsmill Estates. An escrow account was opened at a title insurance company to pay subcontractors of the development. During the time of the loan, however, Johnson used the escrow money to pay bills and subcontractors on other projects. The bank ultimately discovered this practice and foreclosed on the loan, which resulted in a loss to the bank in excess of \$100,000. Johnson's business partner, who co-signed on the loan, has incurred losses between \$400,000 and \$500,000.

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. Carlos Leal Barragan et al., No. 07-CR-00359 (D. Colo.), ECS Senior Trial Attorney Robert Anderson [REDACTED] ECS Trial Attorney Colin Black [REDACTED] and AUSA Linda McMahan [REDACTED].

On April 25, 2008, Carlos Leal Barragan, a Mexican national, was sentenced to serve 16 months' incarceration followed by three years' supervised release. Leal Barragan pleaded guilty in January of this year to felony charges in connection with the smuggling of sea turtle and other exotic skins and skin products into the United States from Mexico.

Leal Barragan was charged along with co-defendants George Caraveo, Maria de los Angeles Cruz Pacheco, Octavio Munoz, and Esteban Lopez Estrada, all Mexican nationals. Leal Barragan's family has been involved for many years in the tanning of sea turtle hides, purchased from fishermen. The skins are sold to boot makers in Mexico and are sometimes smuggled to boot makers in the United States. Leal Barragan sent three shipments comprising approximately 360 sea turtle skin pieces, along with sea turtle boots, belts and shoes from Mexico to undercover agents of the USFWS working in Colorado during 2007, in violation of U.S. law and international treaty. The value of these items is approximately \$30,000.

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

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United States v. Cody Bartolini, No. 2:07-CR-00237 (D. Nev.), AUSA Christina Brown [REDACTED]

On April 24, 2008, Cody Bartolini was sentenced to pay a \$10,000 fine, complete a five-year term of probation and forfeit his reptiles and other equipment. Bartolini pleaded guilty in January of this year to three felony counts of attempted unlawful interstate sale of wildlife, specifically, seven Green Mamba snakes, two Forest Cobras, one Black-Neck Spitting Cobra, and five different breeds of rattlesnakes.

According to the indictment, between December 2006 and March 2007, Bartolini attempted to sell the snakes on the Internet, even though he knew he had captured some of the snakes in violation of Nevada state law. Under Nevada law, it is illegal to possess certain non-indigenous snakes without proper licensing and permits. It also is illegal to possess indigenous snakes (such as the rattlesnakes charged in the indictment) without proper permits, even those designated under state law as "unprotected," when the snakes are possessed for a commercial purpose.

Wildlife agents were notified by an Ohio game warden that Bartolini was offering to sell and trade venomous reptiles via the Internet. Agents were able to determine that Bartolini had been offering venomous snakes for sale or trade via the Web from his residence in Las Vegas since at least September 2004. A search warrant executed at the defendant's residence resulted in the seizure of 48 snakes of various species, as well as a caiman, a Gila monster, and an alligator snapping turtle.

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

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United States v. M & N Foods, Inc., No. 2:08-CR-00086 (E. D. La.), AUSA Dee Taylor [REDACTED]

On April 16, 2008, M & N Foods, Inc., a food manufacturing company, was sentenced to serve one year of probation and a fine was not assessed. The company pleaded guilty April 3rd to a misdemeanor Clean Water Act violation for failing to file required discharge monitoring reports with the Louisiana Department of Environmental Quality ("LDEQ") for more than two years.

The company, which made spaghetti sauce and salad dressing for retail sale, was required by its permit to take samples of its wastewater discharge every six months and to report those results to the LDEQ. An inspection in November 2005 revealed that the company had not sampled, analyzed, or forwarded the reports for the monitoring periods of 2003, 2004, and the first half of 2005.

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

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United States v. Rager Fertilizer Co., No. 2:07-CR-00126 (S.D. Ohio), AUSA Mike Marous ([REDACTED]) and SAUSA Mike McClary ([REDACTED])

On April 16, 2008, Rager Fertilizer Co. ("RFC") was sentenced to pay a \$5,000 fine and \$10,000 in restitution. The company pleaded guilty last year to one Clean Water Act violation for discharging pollutants without a permit.


RFC is a business that operates liquid bulk fertilizer storage and conducts fertilizer application. The facility had a discharge point at Little Walnut Creek, which drains into Walnut Creek, a tributary of the Scioto River. The facility used a dike containment area to hold fertilizer that had spilled from storage tanks. In May 2003, the company discharged spilled fertilizer, containing ammonia, nitrogen and phosphorus from the dike through a series of drainage tiles and basins into the Little Walnut Creek without a permit.

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

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