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# ENVIRONMENTAL CRIMES SECTION



## MONTHLY BULLETIN

*January 2012*

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### EDITOR'S NOTE:

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



Taxidermy pieces constructed from parts of endangered and protected wildlife. See [U.S. v. De Molina](#) inside, for more details.

**AT A GLANCE:**

DISTRICTS	ACTIVE CASES	CASE TYPE/STATUTES
D. Alaska	<u><a href="#">United States v. Jesse J. Leboeuf et al.</a></u> <u><a href="#">United States v. Richard H. Yates</a></u> <u><a href="#">United States v. BP Exploration (Alaska), Inc.</a></u>	<i>Walrus Tusk Sales/ MMPA, Firearms Violations</i> <i>Otter Pelt Sales/ MMPA</i> <i>Probation Revocation Hearing/CWA</i>
N.D. Calif.	<u><a href="#">United States v. Steven Robinson</a></u>	<i>Angelfish Imports/ Lacey Act</i>
D.D.C.	<u><a href="#">United States v. Sanford Ltd.</a></u>	<i>Vessel/ APPS, Conspiracy, Obstruction</i>
M.D. Fla.	<u><a href="#">United States v. John L. Yates</a></u>	<i>Undersize Fish Harvest/ Evidence Destruction, Obstruction</i>
S.D. Fla.	<u><a href="#">United States v. Alejandro Gonzalez</a></u> <u><a href="#">United States v. Enrique Gomez De Molina</a></u> <u><a href="#">United States v. Elias Garcia Garcia et al.</a></u> <u><a href="#">United States v. Sea Food Center, LLC, et al.</a></u>	<i>Vessel Classification/ Conspiracy, False Statement, Obstruction</i> <i>Wildlife Smuggling and Sales/ Lacey Act</i> <i>Jaguar Skin Imports/ Conspiracy, Lacey Act</i> <i>Shrimp Mislabeling/ Lacey Act, FDCA</i>
N.D. Ga.	<u><a href="#">United States v. Donald Lee Vaughn</a></u>	<i>Deer Transport/ Lacey Act</i>
D. Idaho	<u><a href="#">United States v. Christopher Conk et al.</a></u> <u><a href="#">United States v. Howell Machine</a></u> <u><a href="#">United States v. Sidney Davis et al.</a></u>	<i>Coral Trafficking/ Lacey Act, Smuggling, ESA</i> <i>Ammunition Refurbisher/ CWA misdemeanor</i> <i>Deer Outfitter/ Lacey Act, Bankruptcy omission</i>

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
C.D. Ill.	<a href="#"><u>United States v. Fallin' Skies Strait Meat Duck Club, LLC et al.</u></a>	<i>Duck Hunting/ Lacey Act, False Statement, MBTA</i>
S.D. Ind.	<a href="#"><u>United States v. Michael Jochem et al.</u></a>	<i>Pesticide Application/ FIFRA, False Statement</i>
W.D. Ky.	<a href="#"><u>United States v. Canal Barge Company, Inc. et al.</u></a>	<i>Benzene Spill/ PWSA</i>
E.D. La.	<a href="#"><u>United States v. Ilios Shipping Company S.A. et al.</u></a> <a href="#"><u>United States v. Blake Mitchell</u></a>	<i>Vessel/ APPS, Obstruction</i> <i>Red Fish Sales/ Lacey Act</i>
W.D. La.	<a href="#"><u>United States v. Corey Ronsonet</u></a> <a href="#"><u>United States v. Pelican Refining Company, LLC et al.</u></a>	<i>Black Bear Hunt/ Lacey Act</i> <i>Oil Refinery/ CAA, Obstruction</i>
D. Md.	<a href="#"><u>United States v. Efploia Shipping Co. S.A. et al.</u></a>	<i>Vessel/ APPS, Obstruction, False Statement</i>
D. Mass.	<a href="#"><u>United States v. Daniel B. Birkbeck</u></a> <a href="#"><u>United States v. Josimar Ferreira</u></a>	<i>Striped Bass Overharvesting/ Lacey Act</i> <i>Pesticide Application/ FIFRA, False Statement</i>
E.D. Mich.	<a href="#"><u>United States v. Brian Waite et al.</u></a> <a href="#"><u>United States v. Aramais Moloian</u></a>	<i>Asbestos Removal/ CAA</i> <i>Chemical Manufacturer/ RCRA</i>
N.D. Miss.	<a href="#"><u>United States v. Mari Leigh Childs d/b/a S&amp;L Aqua Operations</u></a>	<i>Drinking Water Operator/ CWA, False Statement</i>
W.D. Mo.	<a href="#"><u>United States v. Indian Ridge Resort d/b/a Indian Ridge Resort Community et al.</u></a> <a href="#"><u>United States v. Scott Allen Beckman</u></a>	<i>Home Developer/ CWA</i> <i>Mayor and Municipal Employee/ False Statement, Misprision</i>

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
D.N.J.	<a href="#"><u>United States v. D.C. Air &amp; Seafood Inc., et al.</u></a>	<i>Scallop Overharvesting/ Conspiracy, Lacey Act, Obstruction</i>
D.N.M.	<a href="#"><u>United States v. Martin Aguilar</u></a>	<i>Eagle Shooting/ BGEPA</i>
E.D.N.Y.	<a href="#"><u>United States v. Lin Fen Xu</u></a>	<i>Ivory Imports/ Smuggling, ESA</i>
N.D.N.Y.	<a href="#"><u>United States v. Lieze Associates, d/b/a Eagle Recycling et al.</u></a>  <a href="#"><u>United States v. Paul Mancuso et al.</u></a>	<i>Wetlands/ CWA, Conspiracy</i>  <i>Asbestos Removal/ CERCLA, CAA, Mail Fraud, Conspiracy</i>
W.D.N.Y.	<a href="#"><u>United States v. Kenneth Horan et al.</u></a>	<i>Asbestos Removal/ CAA</i>
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D. Ore.	<a href="#"><u>United States v. Clifford R. Tracy</u></a>  <a href="#"><u>United States v. Robert H. Block, Jr., et al.</u></a>	<i>Gold Mining/ Unlawful Mining Operation</i>  <i>Stream Diversion and Habitat Degradation/ CWA misdemeanor, ESA</i>
E.D. Tenn.	<a href="#"><u>United States v. Johnny Carl Grooms</u></a>	<i>Ginseng Sales/ Lacey Act, Drug Violations</i>
E.D. Tex.	<a href="#"><u>United States v. Blake Powell et al.</u></a>  <a href="#"><u>United States v. Clinton Promise</u></a>	<i>Deer Breeder/ Lacey Act</i>  <i>Truck Cleaning/ RCRA</i>
E.D. Va.	<a href="#"><u>United States v. William Avery et al.</u></a>	<i>Ship Scrapping/ CWA, OPA, Conspiracy</i>
W.D. Wash.	<a href="#"><u>United States v. Darigold, Inc., et al.</u></a>	<i>Dairy Cooperative/ CWA misdemeanor, ESA</i>

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***Trials***

**United States v. Clifford R. Tracy, No. 1:11-CR-30027 (D. Ore.), AUSA Doug Fong.**



**Sediment plume**

in the creek. Tracy, who represented himself at trial, ignored authorities and essentially argued that he could do what he wanted since this was public land, even if he was breaking the law. This particular creek provides critical habitat for endangered Coho salmon.

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

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On December 12, 2011, gold miner Clifford R. Tracy was found guilty by a jury of conducting an unlawful mining operation (43 C.F.R. § 3809), but was acquitted of a misdemeanor Clean Water Act violation 33 U.S.C. § 1311(a). The charges stem from a mining operation involving the Stray Dog placer claim, which is a surface mining operation involving the extraction of gold from surface soil and gravel. The claim was located in the Bureau of Land Management's Medford District on Galice Creek, which flows into the Rogue River.

In June 2011, the defendant was told by BLM officers that he needed to shut down his operation after a sediment plume was discovered



## ***Informations and Indictments***

### **United States v. Alejandro Gonzalez, No. 1:11-CR-20868 (S.D. Fla.), ECS Trial Attorney Ken Nelson and AUSA Jaime Raich.**

On December 20, 2011, Alejandro Gonzalez was charged in a five-count indictment stemming from his issuing false safety documents in 2009 to two cargo vessels, the *M/V Cala Galdana*, later rechristened the *M/V New Wave*, and the *M/V Cossette*. Gonzalez, a vessel classification surveyor, is charged with conspiracy, false statements, and obstruction of justice violations (18 U.S.C. §§ 371, 1505, 1001(a)(2)).

As a naval engineer and a classification surveyor, the defendant was responsible for surveying the safety and seaworthiness of merchant vessels on behalf of foreign countries. The indictment alleges that on several occasions, Gonzalez told Coast Guard officials that the *Cala Galdana* had undergone maintenance work at a drydock when in fact this never had occurred. The indictment further alleges that Gonzalez obstructed the Coast Guard's port state control examination of the *Cossette* by issuing a fraudulent safety certificate without conducting a proper survey

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

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### **United States v. D.C. Air & Seafood Inc., et al., No. 2:11-mj-06213 (D.N.J.), AUSA Kathleen O'Leary.**

On December 16, 2011, a Maine seafood company, one of its owners, and four fishermen were charged in a complaint with conspiracy to falsify records and to obstruct justice in connection with the overharvesting of Atlantic Sea Scallops off the coast of New Jersey.

Seafood wholesaler D.C. Air & Seafood Inc.; company owner Christopher Byers; and fishermen George Bamford, Robert E. Hersey, Jr., Daniel Mahoney, and Michael McKenna are charged with conspiring to prepare false reports to conceal their overfishing from March 2007 through March 2008 (16 U.S.C. § 3372(d); 18 U.S.C. §§ 371, 1519).

According to the complaint, Byers owned a wholesale seafood business that purchased Atlantic Sea Scallops harvested by federally-permitted vessels in a large sea scallop fishing ground managed by NOAA off the mid-Atlantic coast and open to limited scallop fishing by permitted vessels for two-week periods. During those periods, individual vessels are restricted to harvesting no more than 400 pounds of scallops per vessel per trip.

It is alleged that, during the two-week periods in 2007 and 2008, vessels operated by the four fishermen harvested thousands of pounds of scallops over the legal limit, which were subsequently purchased by D.C. Air & Seafood. The scallops were off-loaded in Atlantic City, New Jersey, from the vessels to trucks used by Byers and his company. The defendants are alleged to have conspired to conceal the overharvesting by preparing reports that falsely represented the amount of scallops harvested to be 400 pounds or less.

This case was investigated by the National Oceanic and Atmospheric Administration.

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**United States v. Sanford Ltd., No. 1:11-CR-00352 (D.D.C.), ECS Trial Attorney Ken Nelson, AUSA Frederick Yette, and ECS Paralegal Jessica Egler.**

On December 6, 2011, a seven-count indictment was returned charging Sanford Ltd. with APPS, obstruction, and conspiracy violations, as well as a forfeiture allegation. (18 U.S.C. §§ 371, 1908(a), 1519, 1505, 981(a)(1)(C); 33 U.S.C. §§ 1907(a), 1908(a).)

Sanford Ltd. is the New Zealand-based operator of the fishing vessel *San Nikunau*, which routinely delivers tuna to a cannery in American Samoa. During a Coast Guard inspection of the vessel in July 2011, it was discovered that, from



*F/V San Nikunau*

at least 2007, the vessel routinely dumped bilge wastes over the side of the ship without first processing it through a properly functioning oil water separator and oil content monitor. Coast Guard personnel also witnessed two illegal discharges of bilge waste directly into Pago Pago harbor. The company also is charged with failing to accurately maintain an oil record book and with obstruction of justice for presenting false documents and deceiving inspectors.

In addition to a fine, the government is seeking criminal forfeiture of over \$24,000,000. This case was investigated by the United States Coast Guard.

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**United States v. Efploia Shipping Co. S.A. et al., Nos. 11-CR-00651, 00652 (D. Md.), ECS Senior Trial Attorney Richard Udell and ECS Trial Attorney David O'Connell.**

On December 1, 2011, informations were filed charging Efploia Shipping Co. S.A and Chief Engineer Andreas Konstantinidis with violations stemming from the illegal dumping of sludge, plastics, and oily waste water from the *M/V Aquarosa*, a 623 foot-long 33,005 gross-ton ship.

In February 2011, the ship arrived in Baltimore, Maryland, after a voyage from Europe and was slated for inspection. During the inspection, a crew member informed Coast Guard personnel that senior engineers had directed the crew to discharge waste oil overboard through bypass equipment. This person further alleged that plastic bags filled with oily rags had been deliberately discharged overboard. Shipping manager Efploia Shipping Co. S.A. was charged with an obstruction, a false statement, and two APPS violations (18 U.S.C. §§ 1001(a), 1505; 33 U.S.C. § 1908(a)). Chief Engineer Andreas Konstantinidis was charged with an obstruction count.

This case was investigated by the United States Coast Guard.

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**United States v. William Avery et al., No. 2:11-CR-00190 (E.D. Va.), AUSA Joseph Kosky.**

On November 16, 2011, an eight-count indictment was returned charging a Chesapeake-based ship-scraping company, its vice president, and its treasurer with charges related to the scrapping of the *M/V Snow Bird* while it was docked on the Elizabeth River, in Chesapeake, Virginia. Steven E. Avery and his father, William J. Avery, along with S.E.A. Solutions, are charged with conspiracy, negligent and knowing violations of both the Clean Water Act and the Oil Pollution Act, and Refuse Act violations (18 U.S.C. § 371; 33 U.S.C. §§ 407, 1311(a), 1319(c)(2)(A), 1321(b)(3)). Steven Avery additionally is charged with making a false statement (18 U.S.C. § 1001(a)).

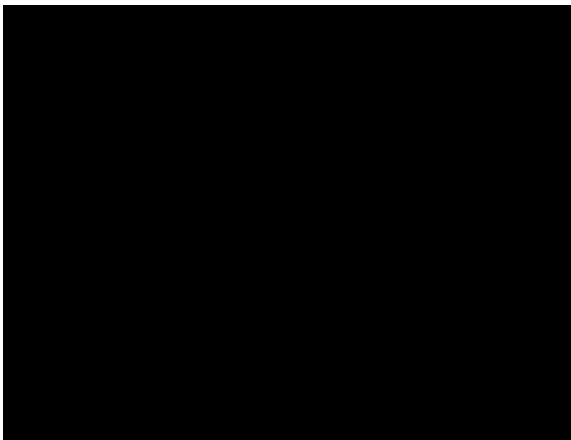
According to the indictment, from February through October 2010, contaminated water was pumped overboard during the scrapping process to keep the ship afloat and to remove excess waste water from the ship. In addition, petroleum products were allowed to leak into the river from the ship as they were not removed prior to scrapping.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the United States Coast Guard Investigative Service, and the Chesapeake Fire Marshal Office.

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## ***Plea Agreements***

**United States v. Christopher Conk et al., No. 1:11-CR-00279 (D. Idaho), AUSA George Breitsameter.**



On December 19, 2011, Christopher Conk, a board member for the newly opened Idaho Aquarium in Boise, Idaho, pleaded guilty to smuggling, Lacey Act trafficking, and an Endangered Species Act violation (18 U.S.C. § 554; 16 U.S.C. §§ 3372(a)(1), 1538(d)(1)) for illegally shipping protected live corals to buyers around the world. Conk's ex-wife Deidra Davison pleaded guilty to an ESA violation and to a misdemeanor Lacey Act trafficking charge.

**Corals**

Investigators became aware of Conk and Davison after one of their suppliers was found to be illegally harvesting coral in the Florida Keys National Marine Sanctuary. The two operated a web-based business called Coral Fanatics LLC, which was in the business of selling a mix of aqua-cultured and "wild caught" colonies. Davison packaged and shipped to customers in the Netherlands and Great Britain between May and September 2008 coral that were mislabeled as "minerals," "aquacultured zoa fragments," and "aquacultured ricordea fragments," and which did not have the required wildlife import/export licenses.

Conk was arrested when, in July and September 2010, an undercover U.S. Immigration and Customs Enforcement agent contacted Conk regarding three separate orders to ship corals to Vienna, Austria. When the agent received the package, the enclosed shipping documents mischaracterized the contents and it was not properly labeled as containing wildlife.



This case was investigated by United States Immigration and Customs Enforcement, the National Oceanic and Atmospheric Administration Office of Law Enforcement, and the United States Fish and Wildlife Service.

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**United States v. Mari Leigh Childs d/b/a S&L Aqua Operations, No. 3:11-CR-00135 (N.D. Miss.), AUSA Robert Mims.**

On December 15, 2011, Mari Leigh Childs pleaded guilty to a false statement offense and to a Clean Water Act violation (18 U.S.C. § 1001 (a)(3); 33 U.S.C. §§ 1318(a)(4)(A), 1319(c)(2)(A)) stemming from the falsification of lab data and discharge monitoring reports (DMRs) between December 2007 and January 2008.

Childs and her husband were private wastewater and drinking water operators doing business as S&L Aqua Operations. Childs admitted to falsifying information and reports collected on behalf of the Rising Sun Subdivision Waste Water Treatment Plant and the Chapman Subdivision WWTP. The falsified data included false results for BOD, TSS, Ammonia, Chlorine, and pH. These data in turn were used to prepare DMRs that were submitted to Mississippi Department of Environmental Quality. The company oversees operations at ten local wastewater treatment facilities and 12 public water systems.

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

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**United States v. Ilios Shipping Company S.A. et al., Nos. 2:11-CR-00262, 00263, 00286 (E.D. La.), ECS Trial Attorney Ken Nelson, AUSA Emily Greenfield, and ECS Paralegal Jessica Egler.**

On December 13, 2011, Ilios Shipping Company S.A., pleaded guilty to APPS and Obstruction violations (33 U.S.C. § 1908(a); 18 U.S.C. §§ 1505, 1519) stemming from its routine illegal discharge of oily bilge wastes from the *M/V Agios Emilianos* between April 2009 and April 2011.

Ilios was the operator of this 738-foot bulk carrier cargo ship that hauled grain from New Orleans to various ports around the world. Crew members also falsified entries that were made in the oil record book (ORB) for those illegal discharges.



*M/V Agios Emilianos*

Ship's master Valentino Mislant and chief engineer Romulo Esperas previously pleaded guilty to conspiracy to obstruct justice. Specifically, Mislant admitted to his role in destroying evidence and instructing crewmembers to lie to the Coast Guard during the vessel's inspection in April 2011. Esperas admitted to falsifying the ORB and to directing the illegal discharges. Both men stated that they were ordered to carry out these activities by one of the company's senior managers. Esperas further stated that this senior manager refused to provide funding for the proper discharge of the oily waste to shore-side facilities.

Mislang and Esperas each recently were sentenced to serve three-year terms of probation. Fines were not assessed.

This case was 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. Blake Powell et al., No. 6:11-CR-00117 (E.D. Tex.), AUSA Jim Nobles.**

On December 12, 2012, Blake Powell pleaded guilty to a three-count information charging misdemeanor Lacey Act violations (16 U.S.C. § 3372(a)(2)(A)) stemming from the unlawful operation of a deer-breeding facility.

Powell owned and operated the Rockin' P White Tails, a high-fence deer breeding facility. In February 2007, the defendant sold a live white-tail deer that was acquired from an out-of-state source, in violation of Texas law. In March 2007 and November 2007, Powell purchased additional live deer from an out-of-state source. The fair market value for all the illegally imported whitetail deer, exceeded approximately \$208,500. Additionally, through this activity, the defendant accumulated white-tail deer semen valued at approximately \$85,000 along with progeny valued at approximately \$172,500.

After a four-year investigation, Powell's grandfather, Billy Powell, pleaded guilty to four felony Lacey Act transportation violations (16 U.S.C. §§ 3372(a)(2)(A), 3373 (d)(2)) and two false statement charges (18 U.S.C. §§ 1001(a)(2), 1001 (a)(3)). He was sentenced to serve three years' probation with a condition of six months' home confinement. Billy Powell also was ordered to pay a \$1 million fine as well as \$500,000 in restitution.

This case was investigated by the Special Operations Unit of the Texas Parks and Wildlife and the United States Fish and Wildlife Service.

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**United States v. Indian Ridge Resort, Inc., d/b/a Indian Ridge Resort Community et al., No. 10-CR-05026 (W.D. Mo.), AUSA Robyn McKee.**

On December 9, 2011, two companies pleaded guilty to Clean Water Act violations (33 U.S.C. § 1319(c)) stemming from the development of Indian Ridge Resort Community in Branson West, Missouri. Indian Ridge Resort, Inc., d/b/a Indian Ridge Resort Community, and North Shore Investments, LLC, admitted that they failed to prevent storm water runoff at the construction site from discharging silt into Table Rock Lake.

Construction activities at the site, including clearing, grading and excavation, disturbed approximately 600 acres of land between August 2006 and June 2009. During this period, the defendants violated their NPDES permit by, among other things, failing to control erosion from the site, which persisted through at least the end of August 2011.

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

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**United States v. Lin Feng Xu, No. 1:11-mj-00940 (E.D.N.Y), ECS Senior Trial Attorney Richard Udell and AUSA William Sarratt.**

On December 6, 2011, Lin Feng Xu pleaded guilty to a smuggling and an Endangered Species Act violation (18 U.S.C. § 545; 16 U.S.C. § 1538) in connection with the illegal export of African elephant ivory in his carry-on luggage.

In September 2011, Xu was apprehended at J.F.K. Airport in New York before boarding a flight to China. When questioned about several carved objects apparently made of ivory found in his luggage, Xu initially stated that he did not know what they were made from and that they had been purchased for approximately \$3,000 to \$4,000 at U.S. auction houses. In pleading guilty, Xu has admitted that he knew that the carvings were ivory and that they were worth approximately \$50,000. Xu also had packed the ivory carvings in aluminum foil in order to conceal their outline from x-ray screening.

This case was investigated by the United States Fish and Wildlife Service, Immigration and Customs Enforcement, and the Transportation Safety Administration.

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**United States v. Enrique Gomez De Molina, No.1:11-CR-20808 (S.D. Fla.), ECS Trial Attorney Shennie Patel and AUSA Tom Watts-FitzGerald.**



**Dead woolly stork**

On December 6, 2011, Enrique Gomez De Molina pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)) for smuggling from Indonesia into the United States wildlife, which was used in taxidermy pieces and offered for sale in galleries and on the Internet.

De Molina's illegal wildlife trafficking activities extended from late 2009 through February 2011, and included numerous other species and shipments, involving contacts in Bali, Indonesia, Thailand, the Philippines, Canada, and China. Among the animals De Molina possessed are the parts, skins, and remains of species, including among others, whole cobras, pangolins, hornbills,

and the skulls of babirusa and orangutans, skins of a Java kingfisher, and a carcass remnant of a Slow Loris, none of which were properly declared when imported into the United States or accompanied by the required CITES permits.

De Molina incorporated the various animal parts into taxidermy pieces at a studio in downtown Miami. He offered these pieces through galleries and on the Internet for prices ranging up to \$80,000. Despite the interception of two shipments in late 2009, which ultimately were forfeited and abandoned by the defendant, he continued to solicit protected wildlife from his suppliers via the Internet.

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

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**United States v. Daniel B. Birkbeck, No. 1:11-CR-10224 (D. Mass.), ECS Trial Attorneys Gary Donner and Jim Nelson, and ECS Paralegal Christina Liu.**

On November 30, 2011, Daniel B. Birkbeck pleaded guilty to wildlife trafficking in violation of the Lacey Act (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)), stemming from his illegal harvest of striped bass.

Commercial fishing for striped bass in both Massachusetts and Rhode Island is governed by a quota system overseen by the Atlantic States Marine Fisheries Commission. This quota system was enacted in response to declining fish populations. Since 2003, Rhode Island's commercial striped bass quota has been 243,625 pounds and Massachusetts' commercial striped bass quota has been 1,159,750 pounds. As a result, the Massachusetts commercial striped bass season is open longer than the Rhode Island season.

Birkbeck, a licensed commercial fisherman in both states, harvested striped bass that he took from Rhode Island waters after the Rhode Island commercial fishing season had closed in 2009. He then transported 10,163 pounds of fish to a dealer in Massachusetts where he sold it for approximately \$27,347 without properly identifying the fish with Rhode Island commercial striped bass tags.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the United States Fish and Wildlife Service Office of Law Enforcement.

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**United States v. Elias Garcia Garcia et al., No. 1:11-CR-20525 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On November 22, 2011, Elias Garcia Garcia and Maria Angela Plancarte each pleaded guilty to conspiracy to violate the Lacey Act (16 U.S.C. § 1538; 18 U.S.C. § 371) for their involvement in the interstate sale of jaguar skins illegally imported into the United States from Mexico in 2010.

The defendants offered to sell jaguar skins in person to potential customers in Texas and by electronic means elsewhere. Additionally, they made repeated trips to South Florida, carrying jaguar skins in their car to sell to Florida customers, while purporting to do business for the plant seed company that they jointly operated.

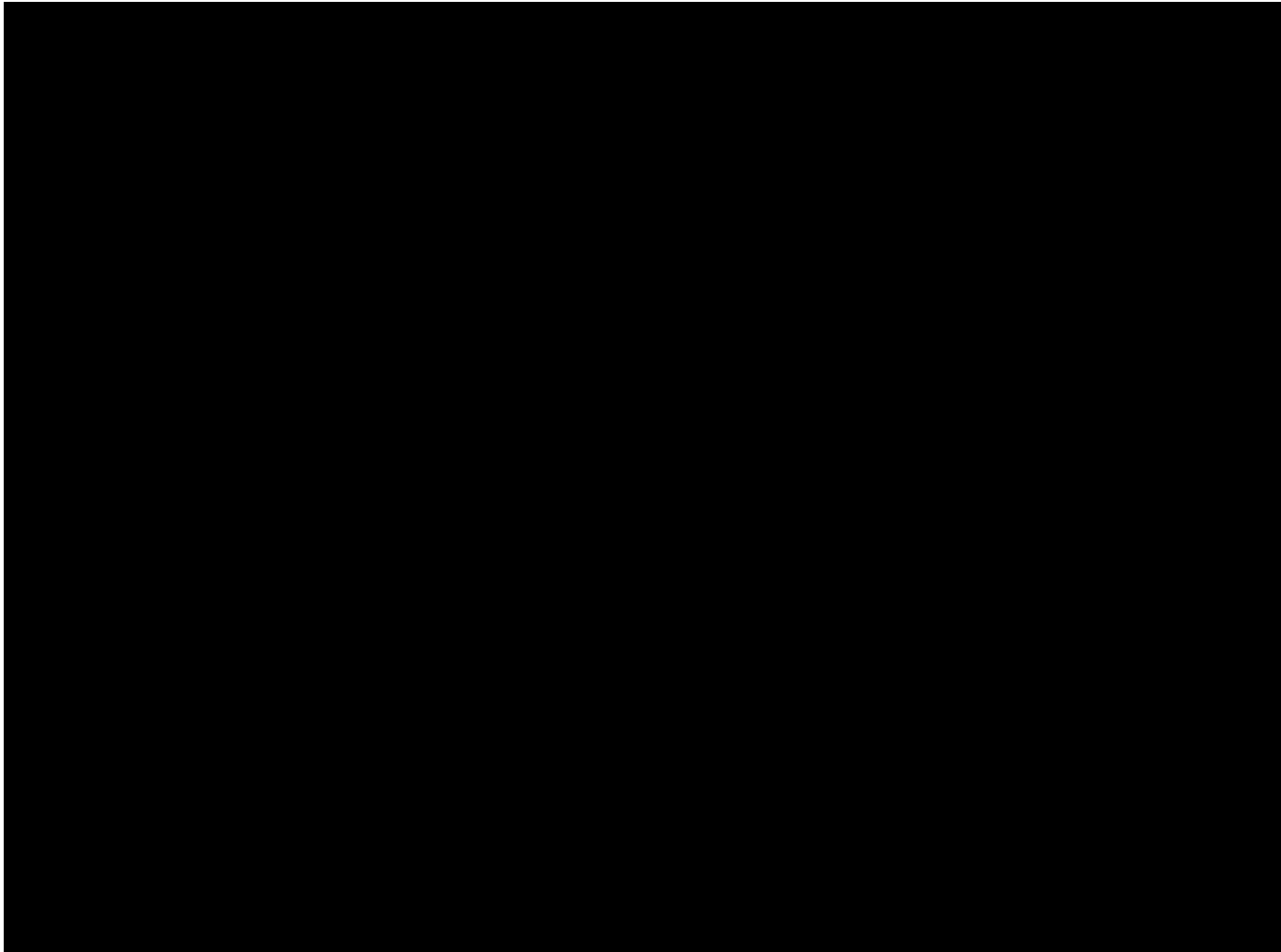
In November 2010, they sold two jaguar pelts to undercover agents in Texas for a total of \$3,000 and offered the agents up to ten jaguar skins at a time for any future sale. A second sale of skins allegedly was made to undercover agents in Homestead, Florida, resulting in a payment of \$4,000, of which \$1,000 was a deposit against the future sale of up to ten jaguar skins.

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

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**Jaguar skin**



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**United States v. Martin Aguilar, No. 1:10-CR-03101(D. N.M.), AUSA Fred J. Federici.**

On November 16, 2011, Martin Aguilar, a member of the Kewa Pueblo, formerly known as Santo Domingo Pueblo, pleaded guilty to violating the Bald and Golden Eagle Protection Act (16 U.S.C. § 668).

In February 2010, Aquilar and his son each shot a bald eagle. The defendant took the eagles to his home where he removed the feathers and kept the feathers. He told agents a few days later that he had killed the birds and that he did not possess a required license. Aguilar further stated that he is a medicine man at the Santo Domingo Pueblo, and that he has shot and killed five bald eagles since 1992. Sentencing is scheduled for February 14, 2012.

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

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**United States v. Brian Waite et al., No. 2:11-CR-20433 (E.D. Mich.), AUSA Jennifer Blackwell and SAUSA James Cha.**

On November 15, 2011, Brian Waite pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) stemming from his involvement in an illegal asbestos removal project. Co-defendant Daniel Clements previously entered a similar plea. Between December 2010 and February 2011, the defendants failed to have workers wet the regulated asbestos-containing materials that were removed from a former Ford plant in Utica, Michigan, during renovation of the building.

According to an asbestos survey of the plant, the building contained more than 60,000 linear feet of RACM. During the removal, the defendants directed workers to tear out the RACM while it was dry and to place it into plastic bags without wetting it. To speed up the process they instructed workers to meet a daily goal of removing 1,000 feet of material. The workers sometimes kicked or threw the material to the ground, causing larger pieces to break apart and fit more easily into bags.

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

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**United States v. Blake Mitchell, No. 2:11-CR-00238 (E.D. La.), AUSA Jordan Ginsberg.**

On November 10, 2011, Blake Mitchell pleaded guilty to a one-count information charging a felony Lacey Act violation (16 U.S.C. §§ 3372(a)(1)(A) and 3373(d)(1)(B)). In January 2010, Mitchell transported and sold red fish in interstate commerce by providing guiding services to individuals outside the state of Louisiana, knowing that the redfish had been taken in violation of Louisiana state law.

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

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**United States v. Kenneth Horan et al., No. 11-CR-0671(W.D.N.Y.), AUSA John J. Field.**

On November 7, 2011, Kenneth Horan pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) for the illegal removal and disposal of regulated asbestos-containing material (RACM).

In October 2009, Horan supervised a crew that removed more than 375 linear feet of boiler pipe wrapped in RACM, which was not properly wetted. Additionally, the individuals on the crew were not licensed asbestos abatement contractors.

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

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## *Sentencings*

### **United States v. Corey Ronsonet, No. 6: 11-CR-00164 (W.D. La.), AUSA Joseph T. Mickel.**

On December 21, 2011, Corey Ronsonet was sentenced to pay a \$3,000 fine and will complete a three-year term of probation during which he will be banned from hunting. Ronsonet previously pleaded guilty to a misdemeanor violation of the Lacey Act (16 U.S.C. §§ 3372, 3373) for illegally acquiring and transporting a Louisiana black bear, an endangered species, in 2009.

In May 2011, wildlife agents were notified by a citizen that the remnants of a black bear had been discovered in Iberia Parish, Louisiana. Follow-up investigation led to the discovery of the cape and other bear remains on property adjacent to Ronsonet's residence. When interviewed by agents, the defendant admitted that he shot the bear on Weeks Island in February 2009. He further stated that he had brought the animal home intending to make a rug from it, but changed his mind and buried the animal's remains to avoid detection by authorities.

This case was investigated by the United States Fish and Wildlife Service, with assistance from the Louisiana Department of Wildlife and Fisheries.

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### **United States v. Fallin' Skies Strait Meat Duck Club, LLC et al., Nos. 3:10-CR-30100, 30036 (C.D. Ill.), ECS Trial Attorney Colin Black, AUSA Gregory Gilmore, and ECS Paralegal Christina Liu.**

On December 20, 2011, hunting club Fallin' Skies Strait Meat Duck Club, LLC, was sentenced to serve a two-year term of probation. A fine was not assessed. Company owner and professional duck hunter Jeffrey Foiles previously was sentenced to serve 13 months' incarceration for the illegal sale of guided waterfowl hunts from between 2003 and 2007. The hunting club pleaded guilty to a felony count of unlawful sale of wildlife in violation of the Lacey Act and a false statement violation (16 U.S.C. §§ 3372, 3373; 18 U.S.C. § 1001). Foiles pleaded guilty to a misdemeanor Lacey Act violation and a Migratory Bird Treaty Act count (16 U.S.C. §§ 3372, 3373; 16 U.S.C. §§ 703, 707) and further was ordered to pay a \$100,000 fine for which his company has agreed to serve as guarantor. Foiles is prohibited from hunting for two years after he completes his term of incarceration.

This case was investigated by the United States Fish and Wildlife Service, with assistance from the Illinois Department of Natural Resources, the Iowa Department of Natural Resources, and the Canadian government.

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**United States v. Lieze Associates, d/b/a Eagle Recycling et al., No. 5:11-CR-00142 (N.D.N.Y.), ECS Trial Attorney Todd Gleason, AUSA Craig Benedict, and ECS Paralegal Christina Liu.**

On December 19, 2011, Lieze Associates, d/b/a Eagle Recycling (Eagle Recycling) was sentenced to pay a \$500,000 fine and \$70,000 in restitution and cleanup costs. The company also will complete a three-year term of probation to include the implementation of an environmental compliance plan.

Eagle Recycling pleaded guilty to conspiring to violate the Clean Water Act and to defraud the United States (18 U.S.C. §§ 371, 1343; 33 U.S.C. §§ 1311(a), 1319(c)(1)(A)) for its role in the creation of a massive, asbestos-contaminated dumpsite that has been designated a Superfund site. This unpermitted dumpsite was located on a farmer's open field, which also contained wetlands, and is adjacent to the Mohawk River.



**Aerial view of farm**

Eagle Recycling and other co-conspirators engaged in a multi-year scheme to illegally dump 8,100 tons of pulverized construction and demolition debris that was processed at its facility in New Jersey and then transported to a farmer's property in Frankfort, New York.

The defendants concealed the illegal dumping by fabricating a New York State Department of Environmental Conservation (DEC) permit and forged the name of a DEC official on the fraudulent permit. Eagle Recycling admitted that once DEC and the Environmental Protection Agency (EPA) learned of the illegal dumping, the company began a systematic pattern of document concealment, alteration, and destruction including destroying documents during the execution of a federal search warrant, secreting documents responsive to grand jury subpoenas, falsifying certifications submitted to the grand jury, and falsifying and submitting environmental sampling provided to the EPA.

This case was investigated by the New York State Environmental Conservation Police Bureau of Environmental Crimes, the United States Environmental Protection Agency Criminal Investigation Division, the Internal Revenue Service, the New Jersey State Police Office of Business Integrity Unit, the New Jersey Department of Environmental Protection, and the Ohio Department of Environmental Protection.

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**United States v. Aramais Moloian, No. 2:10-CR-20666 (E.D. Mich.), AUSA Jennifer Blackwell, SAUSA Crissy Pellegrin, with assistance from ECS Senior Counsel Jim Morgulec.**



**Drums of hazardous waste**

On December 16, 2011, Aramais Moloian was sentenced to one day of time served and two months' home confinement, followed by ten months' supervised release to be spent in a residential re-entry center. He also will pay \$2,786,062 in restitution to the Environmental Protection Agency for reimbursement of clean-up costs and publish a public apology in a local trade journal.

Moloian, the president and owner of Chem-Serve, a chemical soaps and dyes business, previously pleaded guilty to a RCRA violation (42 U.S.C. § 6928(d)(3)) stemming from the illegal storage and disposal of hazardous waste over an approximately three-

year period.

The defendant was the subject of numerous inspections and warnings by the Michigan Department of Environmental Quality (now the Michigan Department of Natural Resources and Environment), from October 2005 through March 2008, when the MDEQ issued a cease and desist order. Numerous inspections revealed that some of the warehouses on the approximately five-acre site were severely dilapidated with caved-in roofs and missing walls. Many of the drums stored at Chem-Serve were rusted and leaking, with some of them were found in a partially-roofless warehouse. Some drums were unlabeled or had unreadable labels, while others were un-sealed and open to the elements. Many of the deteriorating drums were stored three-high in areas of the facility where they had remained for several years.

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

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**United States v. Steven Robinson, No. 11-CR-00513 (N.D. Calif.), AUSA Stacey Geis.**

On December 15, 2011, Steven Robinson was sentenced to serve 45 days' incarceration followed by one year of supervised release. He also will pay a \$2,000 fine. Robinson previously pleaded guilty to one Lacey Act violation (16 U.S.C. §§ 3372 (a)(2)(A), 3383(d)(2)) for illegally importing 52 Clipperton Angelfish in May 2009.

Robinson, a tropical fish dealer, admitted that in late April 2009, he took a four-day voyage to the Clipperton atoll for the purpose of finding and collecting Clipperton Angelfish without a permit. Robinson further admitted that in May 2009, he imported through his company, Cortez Marine International, 52 of the fish, but labeled them as a more common species of angelfish known as *Holacanthus passer* or "Blue passer," which are found in Mexican waters where Robinson was permitted to fish. The defendant further admitted that once the fish were brought into the United States, he deceived federal wildlife authorities for several days by continuing to claim the fish were Blue passer when he knew they actually were Clipperton Angelfish.

The Clipperton Angelfish (*Holacanthus limbaughi*) is a rare species of fish found only in the waters of Clipperton Island, an uninhabited atoll under French authority. Fishing for the Clipperton



Angelfish in the Clipperton atoll requires permission from the French government. Because the fish are so rare, each live fish can command several thousand dollars in U.S. markets and up to \$10,000 in Asian markets.

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

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**United States v. Pelican Refining Co. LLC et al., No. 2:11-CR-00227 (W.D. La.), ECS Senior Trial Attorney Richard Udell, ECS Trial Attorney Christopher Hale, USA Stephanie Finley, and ECS Paralegal Ben Laste.**

On December 15, 2011, Pelican Refining Co. (PRC) was sentenced to pay a \$10 million fine plus \$2 million in community service payments and is further required to implement an environmental compliance plan during a five-year term of probation. The company previously pleaded guilty to two felony Clean Air Act violations and one obstruction charge (42 U.S.C. §§ 7661a(a) and 7413 (c)(1)); 18 U.S.C. § 1519) stemming from its operation of the Pelican Refinery in Lake Charles, Louisiana, from August 2005 to March 2007.



**Pelican Refinery**

The company operated the refinery without properly functioning pollution prevention equipment, as required by its Title V permit. It admitted that, due to this equipment not working, pollutants including benzene, toluene, ethyl benzene, xylene, and hydrogen sulfide, were illegally released into the atmosphere from the main refinery stack, leaks at pipes and joints, the barge loading dock, and tanks with roofs that were improperly certified and fitted. The obstruction charge stems from false statements made in a 2006 report submitted to the Louisiana Department of Environmental Quality. Two employees, including a company vice president, previously have pleaded guilty to similar violations.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Louisiana State Police, with assistance from the Louisiana Department of Environmental Quality.

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**United States v. Howell Machine, Inc., No. 3:11-CR-00288 (D. Idaho), AUSA Nancy Cook.**

On December 14, 2011, Howell Machine pleaded guilty to, and was sentenced for, a misdemeanor Clean Water Act violation (33 U.S.C. § 1319(c)(1)(A)) stemming from the negligent disposal of wastewater containing hazardous levels of lead from its ammunition refurbishment facility between May and August 2009. The company will pay a \$10,000 fine and will complete a two-year term of probation.

In late 2009, the investigators received information that the defendant was discharging hazardous waste into a drain at its shop in Lewiston, Idaho. The rinsing and recycling of brass cartridges for resale generated rinse wastewater containing hazardous levels of lead. Howell subsequently discharged the hazardous rinse wastewater into the local sewer system without a permit.



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

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**United States v. Robert H. Block, Jr., et al., No. 3:11-CR-00164 (D. Ore.), AUSA Stacie Beckerman and SAUSA Patrick Flanagan.**

On December 13, 2011, Robert H. Block, Jr., was sentenced to complete a five-year term of probation, pay a \$1,250 fine, and make a \$1,250 community service payment to the Oregon Governor's Fund for the Environment.

Block previously pleaded guilty to a misdemeanor violation of the Clean Water Act and an Endangered Species Act violation (33 U.S.C. §§ 1311(a), 1319(c)(1)(A); 16 U.S.C. §§ 1538(a)(1)(G) and 1540(b)(1)) stemming from the diversion of Gales Creek by illegally dumping 100,000 pounds of earthen material into the creek without a permit. This activity significantly modified and degraded the habitat of Upper Willamette River Steelhead trout.

The defendant owns property abutting Gales Creek in Gales Creek, Oregon. In October 2009, he used an excavator to move earthen materials within the creek, diverting the flow of the stream. This activity impacted an area approximately 700 feet long and 50 to 90 feet wide.

Block, together with the help of David Dober, Sr., moved approximately 100,000 pounds of material in and around the creek. The alteration of the stream channel significantly modified and degraded the trout's habitat. Dober remains scheduled for trial to begin on February 7, 2012.

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

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**United States v. John L. Yates, No. 2:10-CR-00066 (M.D. Fla.), AUSAs Jeffrey Michelland and Tama Koss Caldarone.**

On December 8, 2011, John L. Yates was sentenced to serve 30 days' incarceration followed by three years' supervised release. A fine was not assessed.

Yates previously was convicted by a jury of disposing of evidence to prevent seizure and destroying evidence to impede or obstruct a federal investigation (18 U.S.C. §§ 2232(a), 1519). He was acquitted of a false statement violation (18 U.S.C. § 1001(a)(2)).

In August 2007, National Marine Fisheries Service officers boarded the defendant's fishing boat in the Gulf of Mexico and discovered 72 undersized red grouper on board. The officers instructed Yates to leave the fish onboard the vessel and report back to Cortez, Florida, so that the fish could be confiscated. Yates instructed his crew to throw the fish overboard.

This case was investigated by the National Marine Fisheries Service, the United States Coast Guard, and the Florida Fish and Wildlife Conservation Commission.

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

On December 7, 2011, Paul and Steven Mancuso were resentenced, after the Second Circuit remanded in June 2011. Paul Mancuso will serve 54 months' incarceration (versus 78 months) followed by three years' supervised release, and he will pay a \$20,000 fine. Steven Mancuso was resentenced to serve 41 months' incarceration (versus 44 months), followed by three years' supervised release. The two brothers previously were convicted by a jury of conspiracy to defraud the United

States, to violate the Clean Air Act, to violate CERCLA, and to commit mail fraud along with substantive CAA and CERCLA violations (18 U.S.C. § 371; 42 U.S.C. §§ 7412, 9603) for the illegal removal of asbestos from numerous locations throughout central and upstate New York. Their father, Lester Mancuso, was sentenced to serve 36 months in prison followed by three years' supervised release. Another brother, Ronald Mancuso was sentenced to complete a three-year term of probation.

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

In his capacity as an attorney, Steven Mancuso aided his family in its illegal asbestos enterprises by preparing false and fraudulent documents to make it appear that their activities were legitimate and that they were entitled to payment for their work.

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

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**United States v. Sidney Davis et al., Nos. 4:10-CR-00211, 4:11-CR-00002 and 00083 (D. Idaho), ECS Senior Trial Attorney Ron Sutcliffe, ECS Trial Attorney Jim Nelson, AUSA Michael Fica, Bank Fraud Coordinator David Newman, and ECS Paralegal Christina Liu.**

On December 7, 2011, Sidney Davis was sentenced to serve 30 months' incarceration followed by three years' supervised release. Davis also will be prohibited from hunting, accompanying anyone hunting, or providing any services related to hunting anywhere in the world during the supervised release period. He previously pleaded guilty to a Lacey Act violation and to making a false declaration in a bankruptcy proceeding (16 U.S.C. § 3372(a)(2)(A); 18 U.S.C. § 152(3)).

Davis admitted to guiding or outfitting a mule deer hunt in October 2008 despite not having an outfitters license after he lost it in 1996. This was the result of his being issued approximately 20 citations by state authorities between 1993 (when he was first licensed) and 1996. An agreement was subsequently reached whereby the defendant voluntarily forfeited his license for life in exchange for not facing criminal prosecution on those citations.

After losing his license Davis employed several guides to assist him in performing illegal outfitting and guiding services for his clients. Jeffrey Dickman, who also did not possess a valid outfitters license in Idaho, pleaded guilty to a misdemeanor Lacey Act violation. Peter Balestracci pleaded guilty to a Lacey Act misdemeanor.

Davis further admitted to falsely omitting certain material information from a Chapter 7 bankruptcy filing in October 2005.

This case was investigated by the Idaho Department of Fish and Game and the United States Fish and Wildlife Service, with assistance from the Office of the United States Trustee.

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**United States v. Scott Allen Beckman et al., No. 2:10-CR-04021 (W.D. Mo.), AUSAs Daniel M. Nelson and Jane Pansing Brown.**

On December 2, 2011, Scott Allen Beckman was sentenced to pay a \$10,000 fine, and will complete a ten-year term of probation to include five months' home confinement plus 30 days in a half-way house. Beckmann, the mayor of Stover, Missouri, was convicted by a jury of charges related to the falsification of information about the city's water supply that was then submitted to the Missouri Department of Natural Resources (MDNR). Beckmann was found guilty of misprision of a felony and of making a false statement to a federal agent (18 U.S.C. §§ 4, 1001). Richard Sparks, the superintendent of the city's public works department, admitted that he submitted a public water supply record to the MDNR that contained a false sampling location. Sparks was previously sentenced to pay a \$5,000 fine and to complete a five-year term of probation, after pleading guilty to making a false statement (18 U.S.C. § 1001).

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. Darigold, Inc., et al., Nos. 2:11-CR-00196 and 00199 (W.D. Wash.), AUSA Jim Oesterle.**

On December 1, 2011, Darigold, Inc., was sentenced to pay a \$10,000 fine plus a community service payment of \$60,000 to be paid to the National Fish and Wildlife Foundation to fund a variety of environmental projects in the Puget Sound area. Darigold also will complete a three-year term of probation, implement an environmental compliance plan, and publish a public apology in the *Isaquaah Herald*, a local weekly newspaper. Former plant engineer Gerald Marsland was sentenced to pay a \$2,000 fine, to complete a two-year term of probation, and to perform 70 hours of community service.

Darigold, the nation's fourth largest dairy cooperative, previously pleaded guilty to a misdemeanor violation of the Clean Water Act (33 U.S.C. §§1311(a), 1319 (c)(1)(A)), in connection with the discharge of an ammonia solution in October 2009, from the company's dairy processing plant into the East Fork of Issaquah Creek. The company further pleaded guilty to an Endangered Species Act violation (16 U.S.C. §§1538(a)(1)(G), 1540 (b)(1)) as the release killed a significant number of fish, including several adult Chinook salmon, a threatened species. Marsland previously pleaded guilty to a misdemeanor CWA violation (33 U.S.C. §§ 1311(a), 1319 (c)(1)(A)).

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the National Oceanic and Atmospheric Administration Office of Law Enforcement, with assistance from the Washington State Department of Ecology and the Washington State Department of Fish and Wildlife.

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**United States v. Donald Lee Vaughn, No. 1:11-CR-00242 (N.D. Ga.), ECS Trial Attorney Shennie Patel and AUSA Mary Roemer.**

On November 30, 2011, Donald Lee Vaughn pleaded guilty to, and was sentenced for, a Lacey Act violation (16 U.S.C. §§ 3372 (a)(1), 3373 (d)(2)) for illegally transporting deer from Pennsylvania. Vaughn will pay a \$20,000 fine, which will go into the Lacey Act Reward Fund. He also will complete a six-month term of probation.



**Confiscated deer**

In March 2009, Vaughn admitted to arranging for two of his employees to transport deer that he had purchased from a dealer in Pennsylvania to his ranch in Georgia. Local wildlife law enforcement

stopped the two employees who were transporting six deer (five live and one dead) through North Carolina to Georgia. They were arrested and later pleaded guilty to state misdemeanor charges for unlawfully possessing and transporting white-tailed deer.

Vaughn failed to have the deer tested or certified, as required by federal law, before arranging for their interstate transport outside of Pennsylvania. The State of Georgia prohibits any importation of deer. In July 2010, Vaughn entered into a consent decree with the Georgia Department of Natural Resources, agreeing to pay \$31,142 to the United States Department of Agriculture, Animal and Plant Health Inspection Services for reimbursement for the removal and disposal of the entire herd of white-tailed deer from inside his 440-acre complex in Broxton, Georgia.

This case was investigated by the United States Fish and Wildlife Service, with assistance from the Georgia Department of Natural Resources and the North Carolina Wildlife Resources Commission.

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**United States v. Josimar Ferreira, No. 1:10-CR-10245 (D. Mass.), AUSA Lori Halik and RCEC Peter Kenyon.**

On November 30, 2011, Josimar Ferreira was sentenced to pay a \$3,000 fine and will complete a two-year term of probation to include four months of home confinement. Ferreira also was ordered to comply with an order issued by the Massachusetts Department of Agricultural Resources in July 2009. The order requires, among other things, that he stop using any and all pesticides until further notice, provide a list of all customers who received pesticide treatments, and employ the services of a certified company to provide decontamination services to all customers who received indoor pest treatment from the defendant.

Ferreira, a Brazilian native, previously pleaded guilty to 16 FIFRA violations and one false statement count (7 U.S.C. §§ 136j(a)(2)(G), 136l(b)(2); 18 U.S.C. § 1001) stemming from the illegal indoor application of the insecticide Malathion as a treatment for bedbugs. From 2007 through 2010, Ferreira sprayed the insecticide on surfaces including baby cribs, mattresses, bed frames, baseboards, closets, and furniture.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from the Massachusetts Department of Agricultural Resources.

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**United States v. Jesse J. Leboeuf et al., No. 3:11-CR-00043 (D. Alaska), AUSA Yvonne Lamoureux.****Walrus tusks**

On November 29, 2011, three individuals were sentenced for conspiracy and felony Lacey Act violations (18 U.S.C. § 371, 16 U.S.C. §§ 3372 (a)(1), 3373 (d)(1)(B)), for illegally selling and transporting walrus ivory and polar bear hides between July 2010 and April 2011. The defendants participated in a scheme that involved the purchase of marine mammal parts in Alaska that were then illegally sold to non-Alaska-Native buyers in Alaska, Colorado, and other states and countries. One of the defendants also was sentenced as a felon in possession of firearms (18 U.S.C. § 922(g)(1)) and the other two were sentenced for illegal possession of machine guns (18 U.S.C. § 922(o)(1)) and possession of

unregistered machine guns and silencer (26 U.S.C. § 5841).

Jesse J. Leboeuf, also known as Wayne Gerrard Christian, was sentenced to serve 108 months' incarceration. Loretta A. Sternbach was sentenced to serve 42 months' incarceration. Both defendants also will complete three-year terms of supervised release during which they are prohibited from hunting, any guiding related to wildlife, or conducting any business related to wildlife. Richard B. Weshenfelder was sentenced to complete a three-year term of probation during which he will be subject to the same hunting prohibitions.

Leboeuf, Sternbach, and Weshenfelder conspired to illegally sell and transport walrus tusks and polar bear hides from between July 2010 to April 2011. They then used the money from these sales to purchase items including firearms, ammunition, marijuana, and cigarettes. Between September 2010 and March 2011, the defendants illegally sold and transported to a non-Alaska-native buyer approximately 230 pounds of walrus tusks valued at \$22,000 and two polar bear hides for \$2,700.

This case was investigated by the United States Fish and Wildlife Service and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

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**United States v. Johnny Carl Grooms, No. 2:10-CR-00087 (E.D. Tenn.), AUSA Neil Smith.**

On November 28, 2011, Johnny Carl Grooms was sentenced to serve 292 months' incarceration, followed by eight years' supervised release, for his May 2011 jury convictions of conspiring to distribute oxycodone and cocaine, interstate travel to further drug trafficking, possession of oxycodone with the intent to distribute, distribution of cocaine, possession of firearms by a convicted felon, and illegally trafficking in ginseng (21 U.S.C. §§ 841, 846; 18 U.S.C. §§ 922, 1952; 16 U.S.C. § 3372).

Evidence at trial established that Grooms delivered multiple pounds of wild ginseng to an undercover agent on four occasions between November 2009 and February 2010. In addition to discussing the illegal trafficking in ginseng, Grooms also was observed selling drugs, including oxycodone, hydrocodone, and Xanax, from the counter at his grocery store.

This case was investigated by the United States Fish and Wildlife Service; the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Cocke



County Sheriff's Office; the National Park Service; the Tennessee Wildlife Resources Agency; the Tennessee Bureau of Investigation; and the Federal Bureau of Investigation.

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**United States v. Clinton Promise, No. 9:11-CR-00017 (E.D. Tex.), AUSA Jim Noble (903) 590-1400.**

On November 25, 2011, Clinton Promise was sentenced to pay a \$3,000 fine and will complete a three-year term of probation to include six months' home detention. Promise previously pleaded guilty to a RCRA disposal violation (42 U.S.C. § 6928 (d)(2)) for unlawfully disposing of hazardous wastes.

In March 2006, Promise was an employee at QualaWash, a truck washing and cleaning business. He was paid by HOT Transport, a chemical transportation company, to illegally dispose of approximately 45,000 pounds of tank wash wastewater, which included methyl ethyl ketone, acetone, and mineral spirits, with hazardous waste characteristics for ignitability and benzene toxicity. QualaWash was not permitted to receive, treat, or dispose of hazardous wastes. QualaWash management had no knowledge of the disposal, but another employee was terminated for allowing Promise to dispose of the wastes at the site.

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. Canal Barge Company, Inc., No. 4:07-CR-00012 (W.D. Ky.), ECS Senior Trial Attorney Jennifer Whitfield and AUSA Randy Ream.**

On November 23, 2011, Canal Barge Company was sentenced to pay a \$150,000 fine, complete a two-year term of probation, and was ordered to provide medical monitoring for crew members and other victims who were exposed to benzene as a result of the offense. The company was additionally required to hire an independent auditor/consultant, approved by the government, to review and recommend changes to ensure compliance with applicable United States Coast Guard laws. Paul Barnes, Jeffery Scarborough, and Randolph Martin each were sentenced to pay a \$3,000 fine and to complete a two-year term of probation.

The defendants were convicted by a jury in March 2008 for violating the Ports and Waterways Safety Act (33 U.S.C. § 1232(b)(1)). In November of 2008 the district court vacated the verdict for improper venue. The Sixth Circuit reversed the district court and remanded the case for further proceedings in January of 2011.

The company, Port Captain Barnes, Captain Scarborough, and Pilot Martin were involved in an incident involving benzene that leaked from a barge in June 2005, exposing crew members to benzene fumes, and requiring them to seek medical attention.

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

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**United States v. Corn Plus, a Minnesota Cooperative, No. 11-CR-00315 (D. Minn.), AUSA David Genrich.**

On November 23, 2011, Corn Plus pleaded guilty to, and was sentenced for, a Clean Air Act false statement violation (42 U.S.C. § 7413 (c)(2)(A)). The company was sentenced to pay a \$450,000 fine and will complete a three-year term of probation, to include the implementation of an environmental compliance plan and company-wide training program.

Corn Plus, an ethanol producer, utilizes multiple baghouse devices for the removal of particulate matter from its emissions. The CAA permit requires that the company monitor the air pressure readings of its baghouses, to ensure that the equipment is working properly. The company admitted that, on multiple occasions between July 1 and December 31, 2010, baghouse pressure readings were outside the permitted levels, and that false readings were submitted in reports made to authorities between 2009 and 2010.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Minnesota Pollution Control Agency.

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**United States v. Sea Food Center, LLC, et al., No. 1:11-CR-20564 (S.D. Fla.), AUSA Norman O. Hemming, III.**

On November 22, 2011, Adrian Vela was sentenced to serve a three-year term of probation. Sea Food Center, LLC, will pay a \$15,000 fine and will complete a one-year term of probation.

The defendants previously pleaded guilty to conspiracy to violate the Lacey Act, a substantive Lacey Act violation, and a misbranding count in violation of the Food, Drug and Cosmetic Act (18 U.S.C. § 371; 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A), and 21 U.S.C §§ 331,343(a)( 1)), stemming from the sale of mislabeled shrimp.

In 2008 and 2009, Vela and Sea Food Center conspired with Richard Stowell and United Seafood, Inc., to violate the Lacey Act by mislabeling and selling approximately 500,000 pounds of shrimp. Specifically, they oversaw the false labeling of a less marketable substituted seafood product ("Shrimp, Product of Thailand," "Shrimp, Product of Malaysia," and "Shrimp, Product of Indonesia,") which was misbranded and marketed as "Shrimp, Product of Panama," "Shrimp, Product of Ecuador," and "Shrimp, Product of Honduras," all of which are more readily marketable seafood products. The shrimp, valued in excess of \$400,000, was ultimately sold to supermarkets in the northeastern United States. Stowell and United Seafood previously pleaded guilty and have been sentenced for their role in the conspiracy.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the Florida Department of Agriculture and Consumer Services.

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**United States v. Richard H. Yates, No. 1:11-CR-00009 (D. Alaska), AUSA Jack Schmidt.**

On November 11, 2011, Richard H. Yates was sentenced to pay a \$2,500 fine, complete a two-year term of probation, and is prohibited from hunting, possessing, and/or transporting marine mammals during his period of probation. Yates previously pleaded guilty to a violation of the Marine Mammal Protection Act (MMPA) for illegally selling otter skins to an undercover agent.

Yates, an Alaska Native, admitted that in March 2011, he agreed to sell to an undercover agent, a non-Alaska Native, raw and tanned sea otter pelts for \$1,350. Under the MMPA, Alaska Natives may take sea otters and sell their pelts to non-Alaska Natives only if they are made into a Native handicraft

which substantially alters the pelt. After this sale, the defendant agreed to sell to the agent an additional 28 sea otter skins for \$5,600, and ultimately provided him with eight additional tanned pelts. In an attempt to circumvent the MMPA requirements, the defendant loosely sewed the skins together and told the undercover agent that the stitching could be easily removed to separate them. Yates also made additional arrangements to sell 20 more at a later date. These additional pelts later were seized.

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

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**United States v. Michael Jochem et al., Nos. 3:11-CR-00026, 3:10-CR-00033 (S.D. Ind.) AUSA A. Brant Cook.**

On October 27, 2011, Michael Jochem, David Rudolph, and John Rudolph were sentenced after previously pleading guilty to FIFRA violations (7 U.S.C. § 136) for their illegal use of carbofuran, an acutely toxic pesticide. Each defendant will pay a \$5,000 fine, and Jochem also was sentenced to serve a six-month term of probation.

Investigators determined that Jochem, a licensed pesticide applicator, had illegally provided some of the concentrated pesticide to Paul Ficker, who then used it in June 2008, to kill wildlife that were interfering with his corn crop. Ficker subsequently gave the pesticide to the Rudolph brothers, who used it to kill animals on their property. Ficker was previously sentenced to pay a \$10,000 fine and will complete a two-year term of probation after pleading guilty to FIFRA and false statement violations (18 U.S.C. § 1001, 7 U.S.C. § 136.)

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the United States Fish and Wildlife Service, and the Indiana Department of Natural Resources

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## *Other Litigation Events*

**United States v. BP Exploration (Alaska), Inc., No. 3:07-CR-00125 (D. Alaska), ECS Senior Trial Attorney Ron Sutcliffe and AUSA Aunnie Steward.**

On December 27, 2011, the court ruled, following a probation revocation hearing, that British Petroleum Exploration (Alaska), Inc. (BPXA), had not been negligent as a result of a 2009 pipeline rupture, which occurred during the time the company was serving a term of probation for a 2006 spill. This new spill involved an 18-inch pipe that became plugged with ice, creating enough pressure to cause an explosion and a three-foot long hole in the pipeline. Approximately 46,000 gallons of an oily water mixture discharged through the hole, 13,000 gallons of which were crude oil.

The court agreed with the company that workers were following normal procedures and, therefore, that they were not negligent. The court, however, rejected the company's argument that a wetland impacted by the spill was not a water of the United States. As a result of the court's ruling this week, BPXA was released from the term of probation.

The company was sentenced in November 2007 to pay \$20 million in fines, restitution and community service, after previously pleading guilty to a Clean Water Act violation for leaks of crude oil from a pipeline onto the tundra as well as into a frozen lake in Alaska.

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