
ENVIRONMENTAL CRIMES SECTION

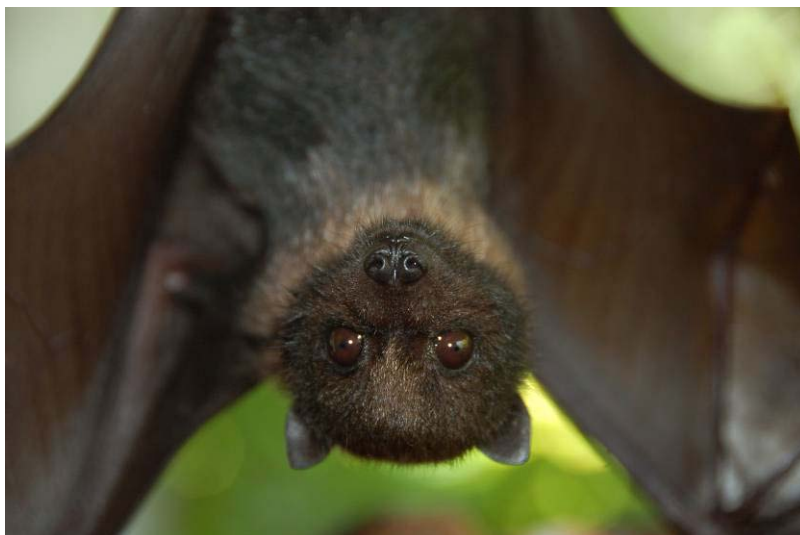


MONTHLY BULLETIN

June 2011

EDITOR'S NOTE:

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



Fruit Bat
See [U.S. v. Mendiola](#) inside, for details on a trial involving fruit bat poaching.

AT A GLANCE:

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
S.D. Ala.	<u>United States v. John L. Popa et al.</u>	<i>Seafood Mislabeling/ Lacey Act; Food, Drug, Cosmetic Act; Smuggling, Conspiracy</i>
D. Ariz.	<u>United States v. Janay Brun</u>	<i>Jaguar Capture/ESA</i>
D. Colo.	<u>United States v. Richard O'Brien et al.</u>	<i>Rhinoceros Horn Smuggling/ ESA</i>
S.D. Fla.	<u>United States v. Americas Marine Management Services, Inc. d/b/a Antillean Marine</u> <u>United States v. Mercator Ship Management, S.A., d/b/a Bernuth Lines</u>	<i>Vessel/ APPS, National Ballast Information Clearinghouse</i> <i>Vessel/ CWA</i>
D. Idaho	<u>United States v. Sidney Davis et al.</u>	<i>Guiding and Outfitting/ Lacey Act, Bankruptcy,</i>
D. Maine	<u>United States v. Mark Cox</u>	<i>Salmon Fishing/ ESA</i>
N.D. M. I.	<u>United States v. Adrian Mendiola et al.</u>	<i>Fruit Bat Possession/ Lacey Act, ESA</i>
D. Mass.	<u>United States v. Universal Group, Inc. et al.</u>	<i>Seafood Mislabeling/ Lacey Act</i>
D. Md.	<u>United States v. Dimitrios Grifakis</u>	<i>Vessel/ Obstruction</i>
E.D. Mich.	<u>United States v. David Olsen et al.</u>	<i>Asbestos Removal/ CAA, Negligent Endangerment</i>
D.N.H.	<u>United States v. American Refrigeration Corporation, Inc.</u>	<i>Refrigeration System Repair/ CWA</i>
D.P.R.	<u>United States v. Uniteam Marine Shipping GmbH</u>	<i>Vessel/ APPS</i>
D.S.C.	<u>United States v. John A. Mabus</u>	<i>Direct Discharge/ CWA Misdemeanor</i>
E.D. Tenn.	<u>United States v. Johnny Carl Grooms et al.</u>	<i>Ginseng and Drug Trafficking/ Lacey Act, Conspiracy, Drug Violations</i>

Additional Quick Links:

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- ◇ [Informations and Indictments](#) p. 5
- ◇ [Plea Agreements](#) pp. 6 – 9
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Trials

United States v. Adrian Mendiola et al., No. 1:10-CR-00037 (D.N.M.I.), and AUSAs Kirk Schuler and Eric O'Malley [REDACTED] **with assistance from ECS Trial Attorney Christopher Hale**
[REDACTED]



Fruit bat

On May 13, 2011, a jury convicted Adrian Mendiola of an Endangered Species Act violation for possession of a Mariana fruit bat, a threatened species. He was acquitted on a Lacey Act charge for receiving wildlife. Mendiola, a former police officer, and co-defendants Albert Taitano and David Santos were variously charged in a five-count indictment with charges stemming from the poaching of fruit bats.

The poaching occurred in 2008 on the island of Rota, in the Northern Mariana Islands, where two of the few remaining breeding colonies of the Mariana fruit bat were decimated by hunters using shotguns. There has been a moratorium on hunting in the Mariana Islands since the 1990s and in 2005 the United States Fish and Wildlife Service listed Mariana fruit bats as

threatened due to an alarming decline in the fruit bat population. Biologists estimated that about 10 to 14 percent of the total fruit bat population on Rota was killed during three separate poaching events over a six-month period.

The government dismissed without prejudice the charges against Taitano, a Rota Customs Officer, and Santos, an employee with the Division of Fish and Wildlife. This is the first successful prosecution of a bat poaching incident involving a threatened species in this district.

This case was investigated by the Fish and Wildlife Service and the Commonwealth of the Northern Mariana Islands (C.N.M.I.) Department of Land and Natural Resources Division of Fish and Wildlife, with assistance from the C.N.M.I. Department of Public Safety; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Drug Enforcement Agency; the Federal Bureau of Investigation; the National Marine Fisheries Service; Immigration and Customs Enforcement; the

Coast Guard; the Marshals Service; the Naval Criminal Investigative Service; and the National Wildlife Forensics Laboratory.

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

On May 13, 2011, following a four-day trial, a jury convicted Johnny Carl Grooms of charges that included Lacey Act violations for illegally trafficking in ginseng. Specifically, Grooms was found guilty 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. Grooms' wife, Rosalba Ibarra Grooms, a Mexican national, was found not guilty of the four drug counts in which she was named.

Evidence at trial established that the U.S. Fish and Wildlife Service received reports in the fall of 2008 that the defendant was illegally trafficking in wild American ginseng, a protected plant. An agent posing as a ginseng dealer contacted Grooms in September 2008 at his business, the Park Entrance Grocery in Cosby. In addition to discussing the illegal trafficking in ginseng, Grooms also was observed selling drugs, including oxycodone, hydrocodone, and Xanax, from the counter at the store.

Grooms delivered multiple pounds of wild ginseng to the undercover agent on four occasions in November and December 2009 and January and February 2010. He had not obtained a dealer permit or kept records of ginseng sales as required by Tennessee state law. Ginseng roots that had been marked by the National Park Service in the Great Smoky Mountains National Park also were found in the ginseng sold by Grooms. He acknowledged in recorded conversations that he knew this ginseng had been illegally taken from the Park.

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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Informations and Indictments

United States v. Americas Marine Management Services, Inc., d/b/a Antillean Marine, No. 1:11-CR-20348 (S.D. Fla.), AUSA Jaime Raich

On May 19, 2011, Americas Marine Management Services, Inc., d/b/a Antillean Marine, was charged with APPS violations for discharging oily waste and for failing to note the discharges in the oil record book (ORB). The company was further charged with failing to submit reports to the National Ballast Information Clearinghouse (NBIC or Clearinghouse), in violation of 16 U.S.C. § 4711(g)(2).

According to the information, Americas Marine Management Services operated the *Titan Express* from a terminal on the Miami River. On or

about July 9, 2010, the ship's crew discharged oily waste into a water of the U.S. knowing that the pollution prevention equipment was not working. This discharge was not noted in the ORB.

The information further alleges that the company failed to submit a report to the NBIC in advance of the ship's arrival at the Port of Miami. The Clearinghouse is a joint program of the Smithsonian Environmental Research Center and the United States Coast Guard. Its mandate is to understand and prevent the introduction of non-indigenous species to the fresh, brackish, and saltwater environments of the United States.

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

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Titan Express

Plea Agreements

United States v. Sidney Davis et al., Nos. 4:10-CR-00211, 4:11-CR-00002 and 00083 (D. Idaho), ECS Trial Attorney Jim Nelson [REDACTED], AUSA Michael Fica [REDACTED], Bank Fraud Coordinator Celeste Miller [REDACTED], and ECS Paralegal Christina Liu [REDACTED].

On May 26, 2011, Sidney Davis pleaded guilty to a Lacey Act violation and to making a false declaration in a bankruptcy proceeding.

Davis admitted to guiding or outfitting a mule deer hunt from October 11 through October 16, 2008, at the Trail Creek Lodge near Soda Springs, Idaho, a lodge Davis has operated since approximately 1992. On this particular trip, the hunters traveled from Nevada with the understanding that they would receive outfitting and guiding services. Over the course of five days, both Davis and his employee Jeffrey J. Dickman, guided the hunters into the field at various locations on both private and public land. During the hunt one of the hunters killed a mule deer while being guided by Dickman. After the animal was killed, Davis and Dickman both arranged to have meat from the deer transported to the hunters in Nevada.

Davis has not had an outfitters license since 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. Dickman, who also did not possess a valid outfitters license in Idaho, recently pleaded guilty to, and was sentenced for, a misdemeanor Lacey Act violation. Peter Balestracci participated in the hunt in October 2008 and is scheduled to be sentenced on July 25, 2011, after pleading guilty to a Lacey Act misdemeanor.

Davis further admitted to falsely omitting certain material information from a Chapter 7 bankruptcy filing dated October 14, 2005. Specifically, Davis admitted that he did not inform the bankruptcy trustee that certain creditors had claims against him on the date he filed for bankruptcy; that he transferred 21 acres of real property within a year of filing for bankruptcy; and that he served as an officer, director, and managing executive of Trail Creek Lodge, Inc., within six years of filing for bankruptcy. Davis is scheduled to be sentenced on August 3, 2011.

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. John A. Mabus, No. 1:11-CR-00555 (D.S.C.), AUSA Winston Holliday



Pumping water from lagoon into creek

On May 24, 2011, John A. Mabus pleaded guilty to a negligent violation of the Clean Water Act.

During a sewer line construction project in January of 2008, Mabus and his company, Mabus Construction Co., began digging a ditch for a sewer line near the Clearwater Finishing Industrial Facility, an abandoned textile mill. The mill is located near the Little Horse Creek, a tributary of the Savannah River, which is a water of the United States.

As Mabus and his crew were digging, water from a lagoon that had been contaminated with heavy metals infiltrated the ditch. Mabus instructed his employees to pump water from the lagoon into the Little Horse Creek for approximately

three days in January 2008. The defendant and his employees pumped approximately four million gallons of industrial wastewater and sludge into the creek, draining the lagoon and contaminating the creek.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the South Carolina Department of Health and Environmental Control.

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United States v. Uniteam Marine Shipping GmbH, No. 3:11-CR-00195 (D.P.R.), ECS Trial Attorney Kenneth Nelson and AUSA Marshal Morgan

On May 19, 2011, Uniteam Marine Shipping GmbH (Uniteam) pleaded guilty to an APPS violation and to a false statement charge for the presentation of a false oil record book (ORB) to the Coast Guard.

The *M/V CCNI Vado Ligure* is a 16,800-ton ocean-going ship operated by Uniteam. On May 10, 2010, while the vessel was in port in San Juan, Puerto Rico, Coast Guard inspectors located evidence that the crew had been discharging oily bilge waste from January until May 2010. The crew had manipulated the vessel's oily water separation equipment so that bilge waste would be discharged from the vessel without being processed or monitored, and they did not record these discharges in the ORB.

This case was investigated by the United States Coast Guard.

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**United States v. Dimitrios Grifakis, No. 1:11-CR-00011 (D. Md.), ECS Counsel Tom Ballantine
AUSA Justin Herring, and ECS Paralegal Jessica Egler**

On May 4, 2011, a week before trial was scheduled to begin, Dimitrios Grifakis, a former chief engineer for the *M/V Capitola*, pleaded guilty to obstructing a Coast Guard inspection that took place aboard that ship between May 3 and May 11, 2010. Grifakis had been charged in an eight-count indictment with maintaining a false oil record book (ORB), making false statements, tampering with witnesses, and obstruction.

Grifakis admitted on several occasions between March 2009 and May 3, 2010, to ordering his subordinates to illegally pump oil-contaminated bilge waste by using a bypass hose and other means directly into the ocean without processing it through the required pollution prevention equipment. The investigation began on May 3, 2010, at the Port of Baltimore after a crew member informed a clergyman, who was on board the ship for a pastoral visit, that a bypass pipe had been used to illegally dump waste oil overboard. The crew member asked the minister to alert the Coast Guard and to pass on a flash drive containing a video taken in the ship's engine room. The video showed a black hose tied in several places to overhead piping, which connected one of the vessel's waste oil tanks to a valve that opened directly to the ocean. Grifakis further obstructed the investigation by denying the existence of a Daily Sounding Record (DSR) and by withholding the document from officials. The DSR is where daily measurements of the contents of the ship's waste tanks are noted. Access to the DSR would have assisted inspectors as to determining tank-level fluctuations and could have been used to compare to ORB entries. The defendant also directed other members of the engine room crew to lie to investigators and claim that the *Capitola* did not have a DSR.

Cardiff Marine, a Liberian corporation and the operator of the *Capitola*, was sentenced to pay a \$2.4 million fine, complete a three-year term of probation, and implement an environmental compliance plan after pleading guilty to an APPS violation and to obstructing an agency proceeding. Grifakis is scheduled to be sentenced on June 14, 2011.

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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Crew standing in front of daily sounding log

United States v. David Olsen et al., No. 2:10-CR-20013 (E.D. Mich.), AUSA Jennifer Blackwell and SAUSA Crissy Pellegrin



Apartment ceiling after illegal asbestos removal

On April 20, 2011, David Olsen pleaded guilty to a Clean Air Act negligent endangerment violation for his involvement in an illegal asbestos-removal project. Co-defendant Joseph Terranova pleaded guilty to a false statement violation, and Peter DeFilippo previously pleaded guilty to a CAA violation.

DeFilippo contracted through his company, Excel Demo, Inc., to supervise the demolition of a fire-damaged building at Harbour Club Apartments. The defendant knew that the building contained regulated asbestos-containing materials (RACM), and he also knew that he was required to have the RACM properly removed during the demolition. Despite this knowledge, DeFilippo instructed

others to remove the RACM without the presence of a certified professional and without complying with work practice standards. Terranova was a supervisor for GFI Management Services, Inc. (the property management company for Harbour Club), and Olsen is a firefighter who also worked for DeFilippo. DeFilippo is scheduled to be sentenced on June 30, 2011. Olsen is scheduled for July 19, 2011, and Terranova is scheduled for August 2, 2011. Charges against Excel, a sham corporation, will be dismissed when DeFilippo is sentenced.

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

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Pretrial Diversion

United States v. Janay Brun et al., No. 4:10-CR-01703 (D. Ariz.), AUSA Ryan DeJoe

On May 12, 2011, Janay Brun entered into a pretrial diversion agreement. Brun had been charged in an information with conspiring to snare a *Panthera Onca* or jaguar, in violation of the Endangered Species Act.

The information had alleged that, after being made aware of the presence of a large jaguar, Brun and others had placed jaguar scat at various snare sites in an attempt to capture and trap the animal. Co-defendant Emil McCain ultimately captured the jaguar and was convicted and sentenced to pay a \$1,000 fine and complete a five-year term of probation. The agreement requires Brun to admit to the factual basis under oath, to continue to cooperate with the government, and to defer involvement with any project involving jaguars during the 12-18 month diversion period.

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

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Sentencings

United States v. John L. Popa et al., No. 1:10-CR-00011 (S.D. Ala.), ECS Senior Trial Attorney Wayne Hettenbach [REDACTED] ECS Trial Attorney Susan Park [REDACTED] AUSA Deborah Griffin [REDACTED], and ECS Paralegal Kathryn Loomis [REDACTED]

On May 26, 2011, John L. Popa was sentenced to serve 13 months' incarceration, followed by three years' supervised release. Co-defendants Karen Blyth and David H.M. Phelps were recently sentenced to serve 33 and 24 months' incarceration, respectively, followed by three years' supervised release. They also each will pay a \$5,000 fine and are barred for three years from working in the seafood industry or owning any seafood-related business. The three previously pleaded guilty to multiple counts, including conspiracy, Lacey Act, misbranding, and smuggling violations, for their roles in the mislabeling of seafood.

Blyth was the co-owner and president of two companies, Consolidated Seafood Enterprises Inc., and Reel Fish and Seafood, Inc., which traded in a variety of seafood products. Phelps co-owned Consolidated Seafood and Reel Fish and served as a vice president for both companies. Popa managed and co-owned Reel Fish with Blyth and Phelps and served as a company vice president.

The defendants used Consolidated Seafood to buy frozen fillets of a type of farm-raised Vietnamese catfish (known as sutchi) that they knew had been imported into the U.S. and falsely declared as wild caught sole, in order to avoid anti-dumping duties that were owed on this product. Anti-dumping duties went into effect on frozen fillets of sutchi, basa, and swai in 2003, after an investigation by the Department of Commerce established that this product was being sold in this country at less than fair value, thereby injuring domestic catfish producers. In all, the defendants conspired to falsely label and buy approximately 283,500 pounds of farm raised sutchi, which was imported without paying \$145,625 in anti-dumping duties.

Some of the fish seized during the investigation tested positive for malachite green and Enrofloxin, both of which are prohibited from use in U.S. food. Malachite green is a chemical compound often used in overseas fish farming, and Enrofloxin is an antibiotic used in some foreign fish farming, but is banned by the FDA in food sold in the U.S. The defendants ultimately received 81,000 pounds of this illegally imported sutchi and sold 34,100 pounds of it to Reel Fish, which in turn sold it to customers in Alabama, Florida, and elsewhere.

The defendants changed the labeling on the sutchi and other imported basa to the more desirable "grouper," and sold it to customers in Alabama, Florida, and Mississippi at a higher cost. The defendants sold more than 100,000 pounds of this falsely labeled basa and sutchi to these customers. Blyth and Phelps bought more than 25,000 pounds of Lake Victoria perch from Africa and then mislabeled and sold it as grouper and snapper to customers in Alabama and Florida at a higher cost and in greater quantities than if it had been accurately labeled. The defendants further conspired to mislabel and create false labels for shrimp they sold to customers in these areas by repackaging farm-raised foreign shrimp as U.S. wild-caught shrimp.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement, the Department of Homeland Security Immigration and Customs Enforcement, the Air Force Office of Special Investigations, and the Department of Defense Criminal Investigative Service.

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United States v. Universal Group, Inc. et al., No. 1:10-CR-10120 (D. Mass.), ECS Assistant Chief Elinor Colbourn [REDACTED], ECS Trial Attorney Jessica Alloway [REDACTED], AUSA Nadine Pellegrini [REDACTED] and ECS Paralegal Kathryn Loomis [REDACTED]

On May 25, 2011, Universal Group, Inc., and company president Thomas Katz were sentenced for their roles in the purchase and sale of falsely labeled Asian catfish. Katz was sentenced to pay a \$75,000 fine and will complete a one-year term of probation, to include three months' home confinement. Universal Group also will pay a \$75,000 fine and complete a three-year term of probation. The company further was ordered to take out a public service advertisement.

Universal Group and Katz pleaded guilty in May 2010 to one felony violation and one misdemeanor violation, respectively, of the Lacey Act. Between June and August 2004, Universal Group purchased approximately 90,000 pounds of frozen fish fillets worth more than \$300,000 that was invoiced as "China basa," a type of Asian catfish. Universal commissioned a cold storage facility to re-label the containers of the fish as grouper and sold the relabeled fish to a national restaurant chain. Between February 2004 and July 2005, Katz and Universal Group purchased an additional 2.5 million pounds of fish worth more than \$5.5 million that was misleadingly labeled as grouper. Laboratory analysis confirmed that this fish was actually swai, another inexpensive type of Vietnamese catfish, for which no anti-dumping duties had been paid.

This prosecution is one of several over the past few years that have targeted fraud in the seafood industry. In April 2011, Stephen C. Delaney was convicted by a jury of a felony Lacey Act mislabeling violation and a misdemeanor Food, Drug, and Cosmetic Act misbranding violation for work he carried out for Katz and Universal. To date, 18 other individuals and companies based in the U.S. have been convicted of similar offenses resulting in sentences ranging from probation to 63 months in prison.

This case was investigated by the National Oceanic and Atmospheric Administration Fisheries Office of Law Enforcement and the Food and Drug Association Office of Criminal Investigations.

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United States v. Sven Koppler, No. 2:10-CR-01338 (C.D. Calif.), AUSA Mark Williams [REDACTED]



Tarantula

On May 16, 2011, Sven Koppler, a German national considered to be among the world's top spider smugglers, was sentenced to serve six months' incarceration, followed by three years' supervised release, for bringing hundreds of tarantulas into the United States by mail. Koppler also must pay a \$4,000 fine and will likely be deported to Germany upon the completion of his sentence.

The defendant pleaded guilty in January 2011 to a smuggling violation for using the U.S. Mail to illegally import hundreds of tarantulas, some of which are protected under CITES. He sold thousands of tarantulas to more than 50 people in 16 countries between 2008 and 2010. Some of the spiders, including a protected Mexican species, were mailed by Koppler from Germany to Los Angeles. Fish

and Wildlife Service agents who intercepted the packages subsequently posed as customers and ordered dozens more spiders. Koppler received approximately \$350,000 from the spider sales. At the time the defendant sold and shipped the tarantulas, he did not possess the required permits and documentation to legally make these shipments. Knowing his actions were illegal, Koppler took steps to conceal the illegal importation by mislabeling some of the containers.

This case was investigated by the United States Fish and Wildlife Service, with assistance from the United States Postal Inspection Service, United States Immigration and Customs Enforcement, and the National Oceanic and Atmospheric Administration.

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United States v. Mark Cox, No. 1:10-CR-00206 (D. Maine), AUSA Todd Lowell [REDACTED]

On May 11, 2011, Mark Cox was sentenced to serve six months' incarceration followed by two years of supervised release. Cox pleaded guilty to a Lacey Act violation for taking, selling, and attempting to sell Atlantic salmon, an endangered species. The Atlantic salmon's freshwater range extends from watersheds of the Androscoggin River northward along the Maine coast to the Dennys Rivers.



Defendant holding salmon

Over the course of several days in August 2009, Cox took approximately eight adult Atlantic salmon from the Piscataquis River by snagging them with a weighted hook, an illegal method of fishing. Some of these salmon were female and had returned to the river from the sea to spawn. He then attempted to sell the fish to a restaurant owner. Investigation revealed that the defendant knew it was a violation of federal law to take Atlantic salmon.

This case was investigated by the United States Fish and Wildlife Service and the State of Maine Department of Inland Fisheries and Wildlife.

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United States v. Richard O'Brien et al., No. 1:10-CR-00588 (D. Colo.), ECS Senior Counsel Robert Anderson [REDACTED] **ECS Senior Trial Attorney Jennifer Whitfield** [REDACTED], **and AUSA Linda McMahan** [REDACTED]



On May 3, 2011, Irish nationals Richard O'Brien and Michael Hegarty each pleaded guilty to one count of smuggling rhinoceros horns out of the United States in violation of the Endangered Species Act (ESA). Both were sentenced to serve six months' incarceration followed by three years' supervised release. They also will forfeit four horns and \$17,500 in proceeds.

The defendants travelled to the U.S. to buy rhinoceros horns with the intent to ship them back to

Ireland hidden in furniture. In November 2010, they made contact with an undercover Fish and Wildlife agent posing as a potential seller. After meeting with the agent in Denver to purchase the horns, the two were arrested.

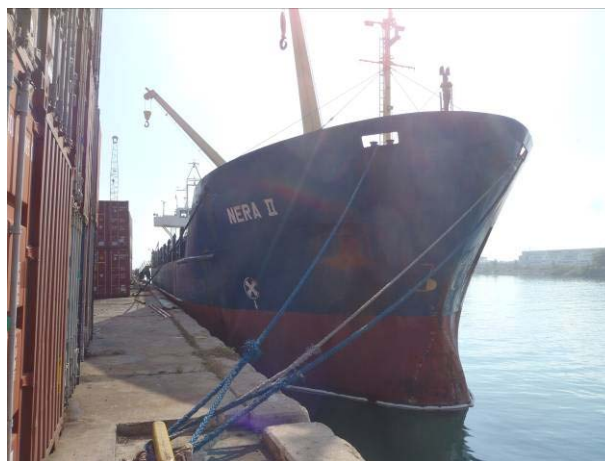
The horns in this case came from the black rhinoceros, an endangered species that is also listed on CITES Appendix I. It is unlawful to export or trade within interstate or foreign commerce black rhino horns without a permit. The district court also issued an order denying the defendants' motion to dismiss the indictment in this case on the grounds that a violation of the ESA, which is a misdemeanor offense, could not be a predicate offense for a felony smuggling violation under 18 U.S.C. § 554. This is the first district court opinion issued confirming the government's use of an ESA violation in connection with this particular smuggling statute.

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

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United States v. Mercator Ship Management, S.A., d/b/a Bernuth Lines, No. 11-CR-20220 (S.D. Fla.), AUSA Jaime Raich

On May 3, 2011, Mercator Ship Management, S.A., d/b/a Bernuth Lines (Mercator), was sentenced to pay a \$100,000 fine and will complete a one-year term of probation. As special conditions of probation, the company must complete an environmental compliance plan and \$50,000 shall be used as a community service payment to the South Florida National Parks Trust for projects dedicated to conservation, restoration, and protection of the local marine environment. The company pleaded guilty to a Clean Water Act violation for discharging lubricating oil into navigable waters in January 2011.



M/V NERA II

Mercator operated the *M/V NERA II*, a 2,427 gross-ton cargo ship that travelled from its base of operations on the Miami River to destinations in Haiti and the Dominican Republic. On multiple occasions, the Coast Guard determined that the ship was leaking lubricating oil into the sea through its stern tube. In July 2010, the Coast Guard required the ship to submit a dry dock plan. The company submitted a plan and promised to fix the leaking stern tube. Instead of making these repairs, however, the ship purportedly switched to biodegradable lubricating oil and continued its normal operations. On January 4, 2011, a local ferry reported a possible sewage discharge emanating from the vessel into the Miami River. The Coast Guard responded to the ship and discovered that it was still leaking the same non-biodegradable lubricating oil through its leaky stern tubes.

This case was investigated by the United States Coast Guard.

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United States v. American Refrigeration Corporation, Inc., No. 10-CR-00178 (D.N.H.), AUSA Bill Morse

On May 2, 2011, American Refrigeration Corporation (ARC) was sentenced to pay a \$40,000 fine and complete a two-year term of probation. The company previously pleaded guilty to one Clean

Water Act felony violation for causing the local POTW to discharge wastewater into the Merrimack River in violation of its NPDES permit.

ARC is in the business of servicing industrial refrigeration systems. On January 24, 2008, an ammonia technician employed by the company began servicing an industrial refrigeration system at a customer's facility. The service job required the technician to remove all of the ammonia from the holding tank. After transferring most, but not all of the ammonia to other parts of the refrigeration system, the technician drained the remaining ammonia to a floor drain, which he knew led to the POTW.

On the following day, pH levels at the POTW were elevated, causing it to violate its NPDES permit. In addition, the ammonia killed much of the organic biomass relied upon for the treatment of sewage. Significantly undertreated and untreated wastewater was discharged to the Merrimack River.

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

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