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# ENVIRONMENTAL CRIMES SECTION



## MONTHLY BULLETIN

*June 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)









Workers illegally dumping plastics at sea. Go to [U.S. v. Taohim](#), below, for more details.

**AT A GLANCE:**

- ▶ [United States v. OceanPro Industries et al.](#), 674 F.3d 323 (4th Cir. 2012).
- ▶ [United States v. Gannaway](#), 2012 WL 1859528, slip opinion, (11th Cir. May 23, 2012).

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***Significant Environmental Decisions******Fourth Circuit*****United States v. OceanPro Industries et al., 674 F.3d 323 (4th Cir. 2012).**

On March 23, 2012, the Fourth Circuit Court of Appeals affirmed the district court’s venue determination and restitution award of \$300,000. OceanPro Industries and two of its employees, Timothy Lydon and Benjamin Clough, were convicted of conspiring to violate the Lacey Act and other substantive offenses in connection with the sale of striped bass that were harvested from the Potomac River in violation of Maryland and Virginia fishing regulations. OceanPro and Clough also were convicted of giving false statements to federal law enforcement officers.

On appeal, the defendants argued: (1) that venue was not proper in the District of Maryland for the prosecution of Count 5, which charged a false statement made to investigating agents in the District of Columbia; and (2) that the district court improperly awarded restitution to the States of Maryland and Virginia because they lacked “property” interest in the unlawfully harvested fish.

As to venue, the Fourth Circuit held that venue was proper in the district of Maryland where the “effects” of the false statement were felt, because Congress defined the offense in terms of its effects by requiring “materiality.” The Court determined that proof of an investigation in Maryland was necessary to prove the materiality of the charged false statement. As to restitution, the Court held that the United States was not required to show the states had a “property” interest in the fish to prove that the states were victims for purposes of a discretionary restitution award under the Victim Witness Protection Act or the probation and supervised-release statutes. The Court further held that Maryland and Virginia had “property” interests in the illegally harvested fish by virtue of State forfeiture statutes, which was sufficient to trigger mandatory restitution under the Mandatory Victim Restitution Act.

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## *Eleventh Circuit*

### **United States v. Gannaway, 2012 WL 1859528, slip opinion, (11th Cir. May 23, 2012).**

On May 23, 2012, the Eleventh Circuit Court of Appeals issued an unpublished *per curiam* opinion affirming the convictions of Guy Gannaway and Stephen Spencer. The defendants were convicted of conspiracy to violate the Clean Air Act and various CAA charges regarding the mishandling of regulated asbestos-containing material (RACM) in connection with a condominium demolition and renovation project in Indian Shores, Florida. Gannaway was also convicted of making a material false statement to the Pinellas County's Air Quality Division in violation of 18 U.S.C. § 1001.

On appeal, Gannaway raised three arguments: (1) the government violated his Fifth Amendment privileges against self-incrimination by admitting his statements accepting civil liability for the RACM violations; (2) the admission of his statement of civil liability failed the balancing test in Rule 403 of the Federal Rules of Evidence; and (3) the evidence was insufficient to convict him of making a false statement.

Rejecting all three arguments, the Court first held that Gannaway's Fifth Amendment right against self-incrimination had not been violated during negotiations of an administrative penalty with the air quality division because Gannaway could not show that his subjective belief that he was compelled to make incriminating statements was objectively reasonable. Second, the Court held that the admission into evidence of Gannaway's statements of civil liability made during the county's administrative proceedings was not plain error under F.R.E. 403, because the evidence's probative value was not substantially outweighed by any prejudice that resulted. Third, the court held that the evidence was sufficient to support Gannaway's false statement conviction and that his statements to the county were within the jurisdiction of EPA because the agency was able to exercise power over the county's investigation by bringing its own civil or criminal enforcement action.

Spencer challenged the sufficiency of the evidence supporting his convictions. The court held that the evidence at trial was sufficient to show that Spencer knew the building contained asbestos, that he knowingly and voluntarily agreed with Gannaway to encapsulate the walls (attaching drywall to the ceiling with screws) without the presence of an on-site supervisor trained in RACM handling, and that Spencer acted in furtherance of the conspiracy by researching the encapsulation method and determining the details of encapsulation.

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## ***Trials***

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



*M/V Cosette*

On May 25, 2012, a jury convicted Alejandro Gonzalez of three false statement violations and one obstruction charge (18 U.S.C. §§ 371, 1505, 1001(a)(2)) in connection with the issuance of false safety documents in 2009 for two cargo vessels, the *M/V Cala Galdana* and the *M/V Cosette*.

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

for August 2, 2012.

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

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### **United States v. Prastana Taohim et al., No. 1:11-CR-00368 (S.D. Ala.), ECS Trial Attorney David O'Connell, AUSA Mike Anderson, and ECS Paralegal Jessica Egler.**

On May 17, 2012, Captain Prastana Taohim was found guilty by a jury of two counts of obstruction (18 U.S.C. §§1505 and 1519), for dumping plastic at sea and then ordering that the ship's garbage record book be falsified to conceal the dumping.

The plastic pipes had previously contained insecticide and were used to fumigate a shipment of grain being transported by the *M/V Gaurav Prem*. The pipes were dumped in August 2011, somewhere between South Korea and the Panama Canal. Taohim is scheduled to be sentenced on August 15, 2012.

The corporate defendant, Target Ship Management, Chief Engineer Payongyut Vongvichiankul, and Second Engineer Pakpoom Hanprap, pleaded guilty on May 30<sup>th</sup>.

(See *U.S. v. Target Ship Management et al.*, [below](#), for more details).

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



**Plastic pipes on deck**

assistance was provided by the Coast Guard Sector Mobile, and Coast Guard Eighth District Legal Office.

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**United States v. Harris David Spicer, No. 8:11-CR-00527 (M.D. Fla.), AUSA Cherie Krigsman.**

On May 8, 2012, Harris David Spicer was found guilty after a bench trial of a Migratory Bird Treaty Act violation (16 U.S.C. § 704) for unlawfully placing bait for the purpose of shooting migratory birds.

According to evidence presented at trial, sometime in September or early October 2009, Spicer placed sorghum (otherwise known as milo) seeds in the vicinity of a horse track located on his property. This type of seed is traditionally used as a lure for certain species of birds. In October 2009, Spicer hosted several hunters for a dove shoot around the horse track.

The defendant engaged in similar activity in October 2003 and had been advised at that time of the prohibitions against hunting doves over a baited field. Sentencing is scheduled for June 28, 2012.

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

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## ***Informations/Indictments***

**United States v. David Feltenberger et al., Nos. 2:12-CR-14036 and 20362 (S.D. Fla.), AUSA Jaime Raiche.**



**Florida soft shell turtle**

On May 17, 2012, David Feltenberger, Chris Craig, and James Cheung were variously charged with conspiracy and Lacey Act violations (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(2)) for the illegal sale of freshwater turtles in interstate and foreign commerce.

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

According to the indictment, Feltenberger’s permit allowed him to collect more than 15,000 turtles of various species from the wild for use as brood stock from May 2011 through April 2012. In the fall of 2011, Feltenberger, along with employee Chris Craig, allegedly purchased wild-caught turtles that were then illegally shipped to China.

Cheung was permitted to collect more than 500 wild-caught turtles for use as brood stock from March 2011 through April 2012. Cheung allegedly sold those turtles to buyers in California.



The allegations in the indictment are mere accusations and all persons are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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

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**United States v. Martin S. Kimber, No. 1:12-CR-00232 (N.D.N.Y.), AUSAs Richard Belliss and Craig Benedict.**

On May 16, 2012, a three-count indictment was filed charging Martin S. Kimber with allegedly dispersing elemental mercury (a known hazardous substance) in several places around Albany Medical Center, including the cafeteria, in March, April, and June of 2011 and March 2012. The indictment charges two counts of use of a chemical weapon and one count of consumer product tampering (18 U.S.C. §§ 229, 1365).

The allegations in the indictment are mere accusations and all persons are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

This case is being investigated by the United States Environmental Protection Agency's Criminal Investigation Division, the Food and Drug Administration Office of Criminal Investigations, and the Federal Bureau of Investigation, with assistance provided by the Towns of Albany and Ulster Police Departments.

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**United States v. Fred E. Sims, No. 3:12-CR-00049 (D. Alaska), AUSA Steven Skrocki.**

On April 18, 2012, Fred E. Sims was charged with two felony violations of the Lacey Act (16 U.S.C. §§ 3372 (a)(2)(A); 3373 (d)(1)(B)) for illegally killing a moose to use as bait for brown bears that were subsequently killed by hunters who had been illegally guided to the area by the defendant.

In May 2007, and again in May 2009, Sims is alleged to have killed a total of three moose, all of which were taken out of season. The defendant then waited until brown bears were feeding on the moose carcasses, and brought clients to those sites in order to kill the bears.

The allegations in the indictment are mere accusations and all persons are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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

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## Plea Agreements

### **United States v. Sheila Kendrick, No. 2:12-CR-00101 (S.D. Ohio) ECS Senior Trial Attorney Jeremy Korzenik and AUSA Mike Marous.**

On May 25, 2011, Sheila Kendrick pleaded guilty to a FIFRA violation and a false statement violation (7 U.S.C. § 136j (a)(2); 18 U.S.C. §1001), stemming from her falsification of pesticide registration documents.

Kendrick was the Federal Registration Manager for the Scotts Miracle-Gro (Scotts) regulatory affairs department. She admitted to fabricating registrations for five different pesticide products between August 2004 and October 2007.

Scotts, which previously pleaded guilty to 11 FIFRA counts, has admitted to illegally applying pesticides (that are toxic to birds) to wild bird food products, falsifying pesticide registration documents, distributing pesticides with misleading and unapproved labels, and distributing unregistered pesticides.

This case was investigated by the United States Environmental Protection Agency's Criminal Investigation Division, and the Environmental Enforcement Unit of the Ohio Attorney General's Office, Bureau of Criminal Identification and Investigation.

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### **United States v. Cedyco Corporation, No. 12-CR-00167 (E.D. La.), ECS Trial Attorney Christopher Hale, AUSA Dee Taylor, and ECS Paralegal Ben Laste.**

On May 23, 2012, Cedyco Corporation pleaded guilty to a three-count information charging it with three misdemeanor Clean Water Act violations (33 U.S.C. §§ 1319(c)(1)(A), 1321 (b)(3)) for negligent discharges of oil.

Cedyco owned and operated several hydrocarbon facilities, including fixed barges, platforms, and wells, in the brackish bayous of South Louisiana. The company's negligent operation and poor maintenance of three of its facilities in Jefferson Parish led to harmful discharges of oil in 2008 into the navigable waters of the United States. The three facilities are the tank battery known as the "Bayou St. Denis facility," the production and storage facility known as the "Bayou

Dupont facility," and the production well adjacent to the Bayou Dupont facility known as "Well #10."

Sentencing is scheduled for August 15, 2012. This case was investigated by the United States Environmental Protection Agency's Criminal Investigation Division, the United States Coast Guard Investigative Service, and the Louisiana Department of Environmental Quality.

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Oiled outfall at Bayou St. Denis facility

**United States v. Todd Alan Benfield, No. 1:12-CR-00060 (M.D. Fla.), AUSA Jeffrey Michelland.**

On May 18, 2012, Todd Alan Benfield pleaded guilty to killing a Florida Panther, in violation of the Endangered Species Act (16 U.S.C. § 1538).

In October 2009, while bow hunting for deer, Benfield knowingly shot and killed a Florida Panther. The following day, the defendant and another person moved the panther in order to conceal it. Local inspectors found the animal, and subsequent forensic analysis confirmed that the carcass was that of an endangered Florida Panther.

The Florida Panther is the last subspecies of Puma still surviving in the eastern United States. Historically occurring throughout the southeastern United States, an estimated 100 to 160 panthers are found in south Florida, which is less than five percent of their historic range. Sentencing is scheduled for July 26, 2012.

This case was investigated by the United States Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Collier County Sheriff's Office, and the Florida Department of Law Enforcement, all of which are members of the Joint Wildlife Crime Scene Response Team.

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**United States v. William Zirkle, No. 3:12-mj-08005 (N.D. Ohio) AUSA Thomas Karol.**

On May 14, 2012, William Zirkle pleaded guilty to a misdemeanor violation of the Clean Water Act (33 U.S.C. § 1319(c)(1)(A)) for negligently failing to ensure that wastewater was pretreated prior to being discharged to the local POTW.

Zirkle worked at the former SK Hand Tool Corporation manufacturing facility in Defiance, Ohio. As the result of an accident, approximately 210 gallons of chrome plating solution spilled into a cement pit near the pretreatment system in April 2008. The defendant attempted to treat the spill by adding chemicals into the pit, instead of having it pumped back through the system. As a result, improperly treated wastewater with a high concentration of chrome was discharged into the sewer system, causing subsequent damage.

This case was investigated by the Northwest Ohio Environmental Task Force, which includes the United States Environmental Protection Agency's Criminal Investigation Division, the Ohio Environmental Protection Agency, and the Ohio Attorney General's Office Bureau of Criminal Investigation Environmental Crimes Section.

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**United States v. Reckitt Benckiser, Inc., No. 6:12-CR-03041(W.D. Mo.), AUSA Randall Eggert.**

On May 7, 2012, Reckitt Benckiser, Inc., pleaded guilty to a RCRA violation (42 U.S.C. §6928(d)(2)(A)) for illegally disposing of hazardous waste over a three-day period in September 2008.

Reckitt Benckiser, Inc. (RB) is a billion dollar global producer of consumer goods, including household cleaning products and pharmaceuticals. RB operates a distribution center in Springfield, Missouri. In September 2008, employees at the Springfield facility caused the illegal disposal of more than 22,000 pounds of hazardous waste at an unpermitted municipal landfill using a non-hazardous waste manifest. The company was notified by an employee after the illegal disposal, prompting an internal waste audit by an outside environmental company.

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

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**United States v. Eric Gruenberg, No. 2:11-CR-00082 (E.D. Tenn.), ECS Trial Attorney Todd Gleason and AUSA Matt Morris.**



**Aerial view of the Liberty Fibers industrial complex**

On May 7, 2012, Eric Gruenberg pleaded guilty to conspiracy to violate the Clean Air Act (18 U.S.C. §371), stemming from the illegal removal of asbestos. Gruenberg and four co-defendants were previously charged in a five-count indictment for their involvement in demolition and salvage operations at an industrial complex known as the Liberty Fibers Plant in Morristown, Tennessee, between May 2006 and April 2010.

The buildings on-site contained extensive amounts of asbestos-containing materials in the form of pipe wrap, insulation, and floor tile. The indictment charges, among other things, that the defendants failed to properly remediate the asbestos before demolishing the buildings, violated the work-practice standards

relevant to the safe-handling of asbestos, and misled regulatory authorities and law enforcement agents concerning these activities. Gruenberg is scheduled for sentencing on March 4, 2013, and defendants Newell Lynn Smith, Armida J. Di Santi, Mark C. Sawyer, and Milto Di Santi are scheduled for trial to begin on February 6, 2013.

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

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**United States v. John Scheerer, No. 3:12-CR-00086 (D. Conn.), SAUSA Neeraj Patel and EPA RCEC Peter Kenyon.**

On May 4, 2012, John Scheerer pleaded guilty to making a false statement (18 U.S.C. § 1001) in connection with home improvement projects funded by the United States Department of Housing and Urban Development (HUD).

Scheerer was hired to perform home improvement and lead abatement work on several residential properties throughout Connecticut. His work was partially funded by HUD in connection with a residential revitalization. Upon completion of each job, the defendant was required to hire an independent lead inspector to test for lead hazards and to submit a final lead clearance report.

From March 2006 to March 2010, the defendant falsified and fraudulently submitted approximately 30 lead abatement clearance reports for properties where he performed work funded by HUD. Instead of hiring a lead inspector, he prepared falsified reports using the letterhead of a third-party lead inspection company, creating the erroneous impression that the inspections had been conducted. Subsequent testing confirmed that no significant lead hazards remained.

Sentencing is scheduled for August 2, 2012. This case was investigated by the United States Environmental Protection Agency's Criminal Investigation Division.

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**United States v. Stewart J. Roth et al., Nos. 2:10-CR-00126, 2:11-CR-00177 (N.D. Ind.), ECS Senior Counsel James Morgulec, AUSA Toi Houston, and SAUSA RCEC David Mucha.**

On May 1, 2012, Stewart J. Roth pleaded guilty to a felony violation of the Clean Water Act (33 U.S.C. § 1319 (c)(2)(A)) for knowingly discharging wastewaters to a POTW in violation of a national pretreatment standard.

A seven-count indictment previously charged NH Environmental Group, Inc. d/b/a Tierra Environmental and Industrial Services, Inc. (Tierra), company owner Ronald Holmes, and project manager Roth, with conspiracy to violate the Clean Water Act and six substantive CWA counts for illegally discharging wastes to the local POTW without a permit or authorization from the POTW.

Tierra was in the business of collecting liquid wastes from customers, treating the wastes, and then transporting them to proper disposal facilities. Between January and June 2008, to avoid the expense of lawfully treating and disposing of these wastes, the defendants are alleged to have hauled them to a closed-down treatment facility and dumped the wastes into the sewer system that led to the POTW. Former employee Thomas Grad earlier pleaded guilty to a felony CWA violation for his role in the illegal discharges.

This case was investigated by the Northern District of Indiana Environmental Crimes Task Force, including the United States Environmental Protection Agency's Criminal Investigation Division, the Indiana Department of Environmental Management Office of Criminal Investigations, the United States Department of Transportation Office of Inspector General, and the United States Coast Guard Criminal Investigative Service.

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**United States v. Dale Leblang et al., No. 12-CR-60015 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On April 23, 2012, four defendants pleaded guilty to a conspiracy charge (18 U.S.C. § 371) for the illegal transport and sale in interstate commerce of a species of citrus plant that has been under quarantine in Florida for many years.

*Calomondin* is a known carrier of both Citrus Canker Disease and the Citrus Greening Disease. From 1995 through 2006, government costs to control and eradicate these diseases exceeded \$1.4 billion, including over \$700 million for compensation to the owners of commercial citrus groves that had to be destroyed.

In March 2011, USDA inspectors discovered that *Calomondin* was being sold from nurseries in Ohio and Illinois. Those plants were traced back to Allied Growers (Allied) in Ft. Lauderdale, which was owned and operated by Dale Leblang and David Peskind. Valico Nurseries (owned and operated by Randall Linkous and his daughter Andrea Moreira) provided the plants to Allied. All four defendants were aware of the quarantine and took various steps to conceal the true identity of the plants, including falsely labeling the plants when they were shipped out of Florida. All defendants pleaded guilty to conspiracy to violate the Plant Protection Act and are scheduled to be sentenced on July 27, 2012.

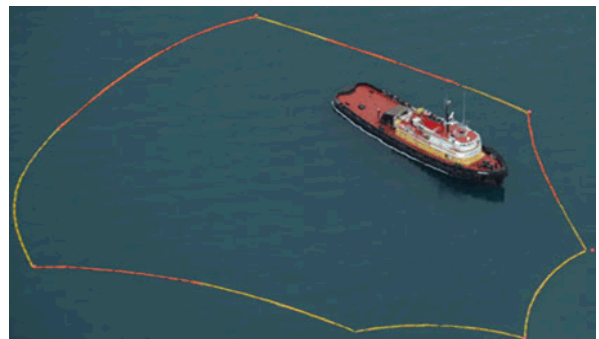
This case was investigated by the United States Food and Drug Administration.

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**United States v. Ronald Monsen, No. 3:12-CR-00027 (D. Alaska), RCEC Karla Perrin and AUSA Kevin Feldis.**

On April 3, 2012, Captain Ronald Monsen pleaded guilty to a Clean Water Act violation (33 U.S.C. §§ 1319(c)(1)(A); 1321 (b)(3)) for discharging oil into a water of the United States.

In December 2009, the *Pathfinder*, a 136-foot tugboat, ran aground on Bligh Reef in Prince William Sound, Alaska. One of the vessel's fuel tanks was ruptured when Monsen powered it off the reef, causing approximately 6,000 gallons of diesel fuel to be spilled into the Sound.



**Tugboat with oil containment boom**

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

## ***Sentencings***

**United States v. Aristides Lorenzo Rodriguez, No. 1:11-CR-20820 (S.D. Fla.), AUSA Jose Bonau.**

On May 31, 2012, Aristides Lorenzo Rodriguez was sentenced for Endangered Species Act violations (16 U.S.C. §§ 1538(a)(1)(B), 1540(b)(1)) for violating the speed limits in a manatee zone in October 2011. Rodriguez is an eight-time repeat manatee zone violator.



The defendant was sentenced to pay a \$7,500 fine to be paid into the Lacey Act Reward Fund, and will serve one year of probation to include the following special conditions: perform 100 hours of community service with an organization engaged in protecting the manatee and complete a safe boating course. Rodriguez also is barred from any boating activities in federal, state, or local waters within the Southern District of Florida, other than that which is related to his commercial business activity (repairing motorized water vessels).

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

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**United States v. Target Ship Management Pte. Ltd., et al., No. 1:11-CR-00368 (S.D. Ala.), ECS Trial Counsel David O’Connell, AUSA Mike Anderson, and ECS Paralegal Jessica Egler.**

On May 30, 2012, Target Ship Management Pte., Ltd. pleaded guilty and was sentenced for an APPS violation (33 U.S.C. § 1908) for failing to properly maintain an oil record book. Chief Engineer Payongyut Vongvichiankul and Second Engineer Pakpoom Hanprap pleaded guilty to APPS violations and are scheduled to be sentenced on July 19, 2012. Target will pay a \$1 million fine and will make a \$200,000 community service payment to the National Fish and Wildlife Foundation. The company also will complete a three-year term of probation and implement an environmental compliance plan.

Target employees were involved in the overboard discharge of oily bilge waste from the *M/V Gaurav Prem* on multiple occasions as the vessel sailed from South Korea to Mobile. These discharges were not recorded in the oil record book that was presented to inspectors when the ship reached Mobile, Alabama, in September 2011. The illegal overboard discharges were made through a bypass pipe connecting the ship’s bilge system to its ballast system.

This case was investigated by the United States Coast Guard Investigative Service and the United States Environmental Protection Agency’s Criminal Investigation Division. Additional assistance was provided by the Coast Guard Sector Mobile, and Coast Guard Eighth District Legal Office.

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**United States v. HP Boston Building LLP, No. 2:12-CR-00252 (D. Utah), AUSAs Jared Bennett and Karen Fojtik.**

On May 26, 2012, HP Boston Building LLP was sentenced to pay a \$500,000 fine, complete a three-year term of probation, and provide asbestos training to all of its employees. The company pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) stemming from the illegal removal of asbestos during a building renovation in 2007. Specifically, the company admitted to violating NESHAPS requirements for failing to notify workers who performed the demolition and renovation that there was asbestos contamination in the ventilation system.

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

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**United States v. Patrick Dooley, No. 2:11-CR-00252 (W.D. Wash.), AUSA Jim Oesterle.****Overstock chemicals**

On May 25, 2012, Patrick Dooley was sentenced to serve 33 months' incarceration, followed by three years of supervised release. A fine was not assessed. Dooley was convicted by a jury in January 2012 of three Clean Water Act violations (33 U.S.C. § 1319 (c)(2)(A) and (B)) and one count of witness tampering (18 U.S.C. § 1512(b)(3)) related to an August 2010 hazardous materials dumping incident.

Dooley is the president and owner of a business that purchases overstock from other companies, including chemical cleaning products. In August 2010, a 17-year-old employee, following Dooley's instructions, was overcome by deadly chlorine gas while disposing of two chemicals down a toilet. The chemicals reacted to produce chlorine gas of a sufficient concentration to cause the employee to become sick. He recovered from the exposure after being taken by paramedics to an emergency room. Dooley later told a second young employee to deny his employment relationship when questioned by federal investigators in an effort to further discredit the injured employee and mislead investigators."

This case was investigated by the United States Environmental Protection Agency's Criminal Investigation Division with assistance from Seattle Public Utilities and the Washington State Department of Ecology.

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**United States v. Glenn Bridges et al., No. 2:12-CR-14002 (S.D. Fla.), AUSA Norman O. Hemming, III.**

On May 23, 2012, Glenn Bridges was sentenced to serve six months' incarceration followed by two years' supervised release for importing endangered and threatened wildlife from the Bahamas, in violation of the Lacey Act, and for making a false statement (18 U.S.C. §§ 371, 1001; 16 U.S.C. § 3372). Bridges also will perform 100 hours of community service. No fine was assessed.

In November 2011, Bridges attempted to import spiny lobster and queen conch, along with Hawksbill, Loggerhead, and Green sea turtle shells into Port St. Lucie, Florida. Specifically, he tried to conceal 155 spiny lobster tails, seven sea turtle shells, and 34 conchs hidden in various compartments on his sport-fishing vessel. When questioned, Bridges told a Coast Guard officer that he only had a few fish on board the boat. The charges against co-defendants were dismissed as part of Bridges' plea agreement.

**Lobster tails**

This case was investigated by the National Oceanic and Atmospheric Administration, the United States Coast Guard, United States Customs and Border Protection, and the Florida Fish and Wildlife Conservation Commission.

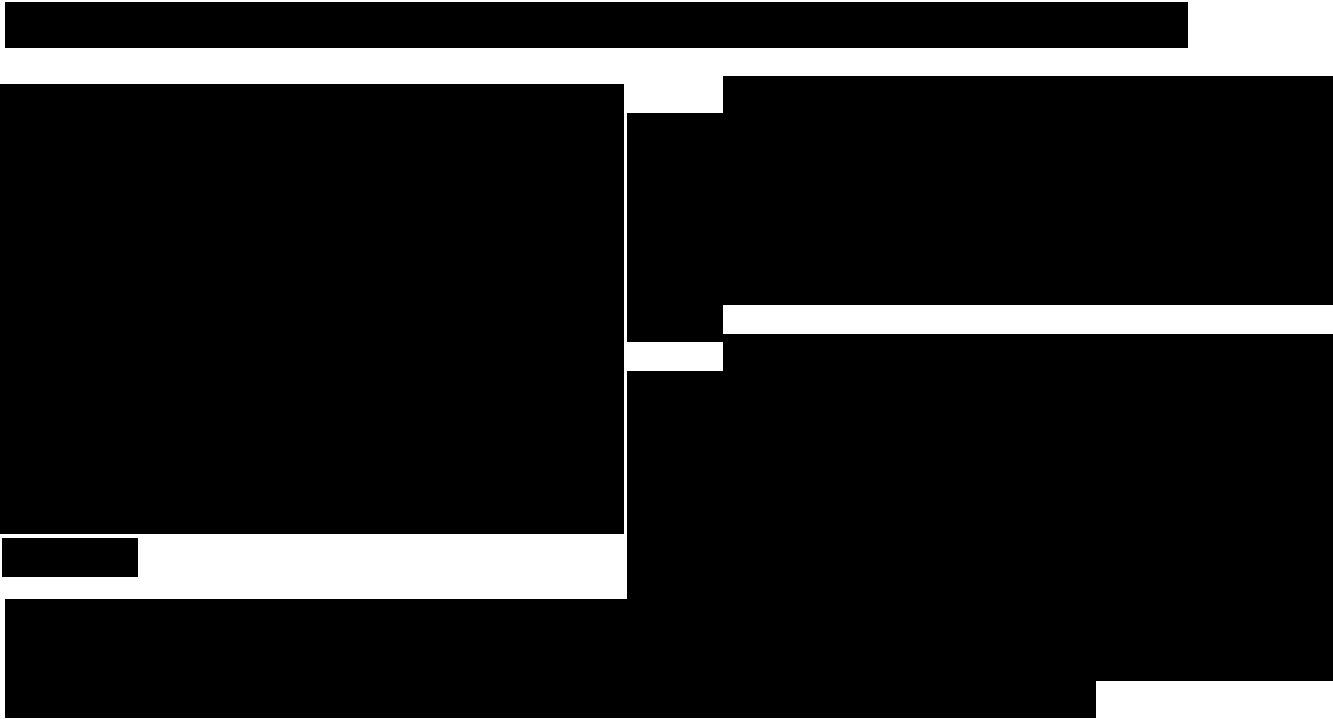
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**United States v. Alexander Alvarez, No. 1:12-CR-00027 (S.D. Ala.), ECS Senior Trial Attorney Georgiann Cerese and AUSA Michael Anderson.**

On May 22, 2012, Alexander Alvarez was sentenced to pay \$31,000 in restitution and will complete a three-year term of probation. Alvarez previously pleaded guilty to a three-count information charging Lacey Act and felony Migratory Bird Treaty Act violations (16 U.S.C. §§ 703, 707(b)(2), 3372, 3373(d)(1)(b)). The defendant admitted to illegally selling migratory bird parts including feathers from red-tailed hawks, peregrine falcons, and anhingas from between January 2007 and March 2009.

This case was investigated by the United States Fish and Wildlife Service Office of Law Enforcement and the Navajo Nation Department of Fish and Wildlife.

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**United States v. Faling Yang et al., Nos. 3:12-mj-00019 and 00020 (W.D. Wis.), AUSA Paul W. Connell.**

On May 18, 2012, Faling Yang was sentenced to pay a \$5,000 fine and will be barred from hunting and guiding for a two-year period. Probation was not ordered.

Yang and Corrie Korn previously pleaded guilty to Lacey Act violations (16 U.S.C. § 3372) stemming from their operation of a commercial guiding company located on a National Wildlife Refuge near the Mississippi River.

Undercover investigation confirmed that the defendants, both local police officers, illegally killed and transported ducks in October 2009, by exceeding the permissible bag limits. The officers were placed on administrative leave pending resolution of the case. Korn is scheduled for sentencing on July 17, 2012.

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

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**United States v. Jon Goodrich et al., No. 5:10-CR-00147 (D. Vt.), AUSA Joseph Perrella.**

On May 16, 2012, Jon Goodrich, president of Mace Security International, Inc. (Mace), a pepper spray and tear gas manufacturer, was sentenced to pay a \$100,000 fine. Goodrich and Mace previously pleaded guilty to a RCRA storage violation (42 U.S.C. § 6928), with the company also being sentenced to pay a \$100,000 fine.



**Hazardous waste drums found in buildings**

The violations stem from an emergency removal action in January 2008 of several thousand pounds of hazardous waste that had been stored on the premises for approximately a decade. More than 80 drums of unlabeled chemicals were found in factory mill buildings. Inspectors ultimately identified more than 2,200 pounds of hazardous waste in the drums, including spent solvents, 2-chlorobenzalmalononitrile or chloroacetophenone, and oleoresin capsicum.

This case was investigated by the United States Environment Protection Agency's Criminal Investigation Division.

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**United States v. Anthony Crompton et al., No. 4:10-CR-00191(W.D. Mo.), AUSA David Ketchmark.****Demolished houses**

and disposing of asbestos from more than two hundred structures, most of which were older, dilapidated residences. As a site operator, Crompton directed the workers who performed the demolition work.

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

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**United States v. Franklin Non-Ferrous Foundry et al., No. 1:10-CR-00112 (D.N.H.), AUSA Mark Zuckerman.**

**\*CORRECTION\***

On May 10, 2012, metal parts manufacturer Franklin Non-Ferrous Foundry and company president John Wiehl each were sentenced to serve a two-year term of probation. *\*Wiehl also will complete six months of home confinement and will publish a public apology.* A fine was not assessed. The defendants previously pleaded guilty to RCRA storage violations (42 U.S.C. § 6928).

The company manufactures metal parts for various industrial applications. A byproduct of the foundry's operation is the generation of waste containing hazardous or toxic concentrations of lead and cadmium. OSHA workplace inspections in April and August 2009 revealed that the company had been illegally storing hazardous waste since July 2005.

This case was investigated by the United States Environmental Protection Agency's Criminal Investigation Division, with assistance from the Occupational Safety and Health Administration.

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**Stored hazardous waste**

**United States v. Douglas V. Mertz et al., No. 2:11-CR-20403 (E.D. Mich.), AUSA Jennifer Blackwell and SAUSA James Cha.**

On May 3, 2012, Douglas V. Mertz was sentenced to pay a \$5,000 fine, \$750 in restitution, and will complete a one-year term of probation. Mertz previously pleaded guilty to knowingly making and delivering a false writing (18 U.S.C. § 1018). He had been charged with a Clean Air Act violation for illegally selling and offering for sale a Class II substance for use as a refrigerant.

In August 2009, EPA received a complaint regarding an advertisement that had been placed on the Internet offering refrigerants for sale. Specifically, the complaint stated that someone had posted an ad on Craigslist in the Metro-Detroit area, offering to sell refrigerants to uncertified individuals. Investigation revealed that Mertz and his company, Frontier Mechanical Systems, were responsible for the posting.

Co-defendant Wasim Ibrahim Bony previously pleaded guilty to a similar charge. He also was ordered to pay a \$1,500 fine and was held jointly and severally responsible for payment of the restitution.

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

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**United States v. Pedro Guerero et al., Nos. 2:12-CR-00056, 00105 (E.D. La.), AUSAs Emily Greenfield and Dorothy Manning Taylor.**



*M/V Polyneos*

On May 2, 2012, Pedro Guerero, chief engineer for the *M/V Polyneos*, was sentenced to pay a \$2,000 fine and complete a three-year term of probation. He previously pleaded guilty to a false statement violation (18 U.S.C. § 1001(a)(3)). The ship's operator Odysea Carriers, S.A., previously pleaded guilty to an APPS violation, obstruction, and a PWSA violation (18 U.S.C. §1519; 33 U.S.C. §§ 1908(a), 1232(b)(1)), stemming from the illegal overboard discharges of sludge and oily water in 2011, and for failing to notify authorities of cracks found in the ballast tanks.

From June 2011 through October 2011, crew members used a bypass hose to pump the contents of the bilge tank, bilge oil tank, and sludge tank directly overboard into the ocean. Guerrero falsified the oil record book by omitting these discharges, and by stating that the incinerator had been used to dispose of the wastes, which was untrue. Odysea is scheduled for sentencing on July 25, 2012.

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

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**United States v. Bugman Pest and Lawn, Inc., et al., Nos. 2:11-CR-00017 and 00295 (D. Utah), AUSA Jared Bennett.**

On May 1, 2012, Bugman Pest and Lawn, Inc. (Bugman) was sentenced in connection with the illegal application of a pesticide that led to the deaths of two young girls in February 2010. Bugman pleaded guilty to a FIFRA violation (7 U.S.C. §§ 136l(b)(1)(B), 136j(a)(2)(G)) and will complete a three-year term of probation during which it is prohibited from operating. The company also will pay a \$600 fine, which is in addition to a \$3,000 fine imposed in a related case, *U.S. v. Nocks et al.* The probation will run concurrently with the previous term imposed in the above referenced case. Employee Raymond Wilson, Jr., entered into a 12-month pretrial diversion agreement, and will complete 100 hours of community service.

Coleman Nocks was previously sentenced to complete a three-year term of probation and will perform 100 hours of community service after pleading guilty to a FIFRA violation. Coleman admitted to misapplying the pesticide Fumitoxin at the residence in which the two children subsequently died and where four other family members became ill. Wilson and the company were charged with the misapplication of Fumitoxin in four additional homes.

This case was investigated by the United States Environmental Protection Agency's Criminal Investigation Division and the Layton City Police Department.

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**United States v. Atsushi Yamagami et al., No. 2:11-CR-00082 (C.D. Calif.), AUSA Dennis Mitchell.**

On April 30, 2012, Japanese national Atsushi Yamagami was sentenced to serve 21 months' incarceration followed by three years' supervised release. He also will pay a \$18,400 fine, which will be paid into the Lacey Act Reward Fund.

Yamagami previously pleaded guilty to smuggling violations (18 U.S.C. §545) for smuggling more than 50 live turtles and tortoises into the United States on a flight from Japan in January 2011. The turtles and tortoises were hidden in snack food boxes



**Smuggled turtles**

found in a suitcase. Among the species found were Fly River turtles, Indian Star tortoises, Chinese Big Headed turtles, and Malayan Snail-eating turtles, all of which are CITES-protected species. During the investigation, agents discovered that Yamagami was a leader of an organized group of Japanese nationals who were responsible for smuggling CITES-protected turtles, tortoises, chameleons, and lizards into and out of the United States, primarily through airports in Honolulu and Los Angeles. The investigation determined that from 2004 through 2011, Yamagami and his couriers took 42 trips to and from the United States.

Two of his couriers, Norihide Ushirozako and Hiroki Uetsuki, both Japanese citizens, were prosecuted for smuggling violations in 2011. Ushirozako was previously sentenced to time served, which was approximately seven months' incarceration. Uetsuki also was previously sentenced to approximately six months' time served in the district of Hawaii.

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

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**United States v. Enoch Randolph Foy, Jr., No. 4:11-CR-00100 (E.D.N.C.) AUSA Banu Rangarajan.**

On April 30, 2012, Enoch Randolph Foy, Jr., was sentenced to pay a \$15,000 fine, and will complete a three-year term of probation to include six months' home confinement. Foy previously pleaded guilty to a Clean Water Act violation (33 U.S.C. §§ 1311(a), 1319(c)(2)(A), and 1344) for filling a wetlands in April 2010.

The defendant and a co-conspirator used 60 dump truck loads of dirt (that was contaminated with petroleum) to fill in a wetlands, which are adjacent to a tributary of the Trent River, a water of the United States. At the time of the violation, Foy and his farm participated in a state and federal wetland conservation program for which they had received funds.

This case was investigated by the North Carolina State Bureau of Investigation, the United States Department of Agriculture Office of Inspector General, the Naval Criminal Investigative Service, the United States Army Corps of Engineers, and the United States Environmental Crimes Protection Agency's 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 April 30, 2012, Blake Powell was sentenced to pay a \$243,000 fine plus \$157,000 in restitution. Powell also will complete a two-year term of probation. The defendant previously 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 in 2007.

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.

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

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**United States v. Eliodoro Soria Fonseca, No. 3:11-CR-03328 (S.D. Calif.), AUSA Melanie Pierson.**



**Iguana carcasses**

On April 26, 2012, Eliodoro Soria Fonseca was sentenced to serve 24 months' incarceration followed by three years' supervised release for smuggling (18 U.S.C. § 545) iguana meat into the United States. In June 2011, Fonesca admitted to bringing several coolers containing the beheaded, skinned, and deboned bodies of 115 iguanas, weighing almost 160 pounds, into the United States from Mexico. The iguana parts had been concealed under fish.

The green iguana is listed on CITES Appendix II. According to conservationists, the defendant's

removal of more than 100 iguanas from the Nyarit area in Mexico technically "...[meant] that the local population was technically wiped out."

Iguana meat, which the defendant imported for the purpose of human consumption, frequently carries Salmonella bacteria.

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

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**United States v. Theodore A. Nugent, No. 5:12-CR-00001 (D. Alaska), AUSA Jack Schmidt.**

On April 24, 2012, Theodore A. Nugent pleaded guilty to and was sentenced for a misdemeanor Lacey Act violation (16 U.S.C. §§ 3372(a)(1); 3373(d)(2)) for possessing and transporting a black bear that was taken in violation of state law.

In May 2009, Nugent, who stars in and produces the outdoor hunting show, "Ted Nugent Spirit of the Wild," was filming a black bear bow hunt on Sukkwan Island, on United States Forest Service Land. On May 22, 2009, Nugent shot and wounded a black bear at one of the registered bait sites. The defendant failed to harvest the wounded black bear, and continued hunting in violation of Alaska state law, which counts a wounded black bear towards the hunter's regulatory bag limit, which is one bear a year.

Nugent will complete a two-year term of probation and will pay a \$10,000 fine and \$600 restitution to the State of Alaska for the illegally taken bear. He is prohibited from hunting or fishing in Alaska and on any United States Forest Service land for a term of one year. The defendant is also required to produce and broadcast at his own expense a 30 to 60 second public service announcement (PSA) discussing a hunter's responsibility for knowing the rules and regulations of hunting activities. The PSA is subject to prior approval by a representative of the United States Attorney's Office in the District of Alaska, and once approved will air for one year, every other week on the "Ted Nugent Spirit of the Wild" television show.

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

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