

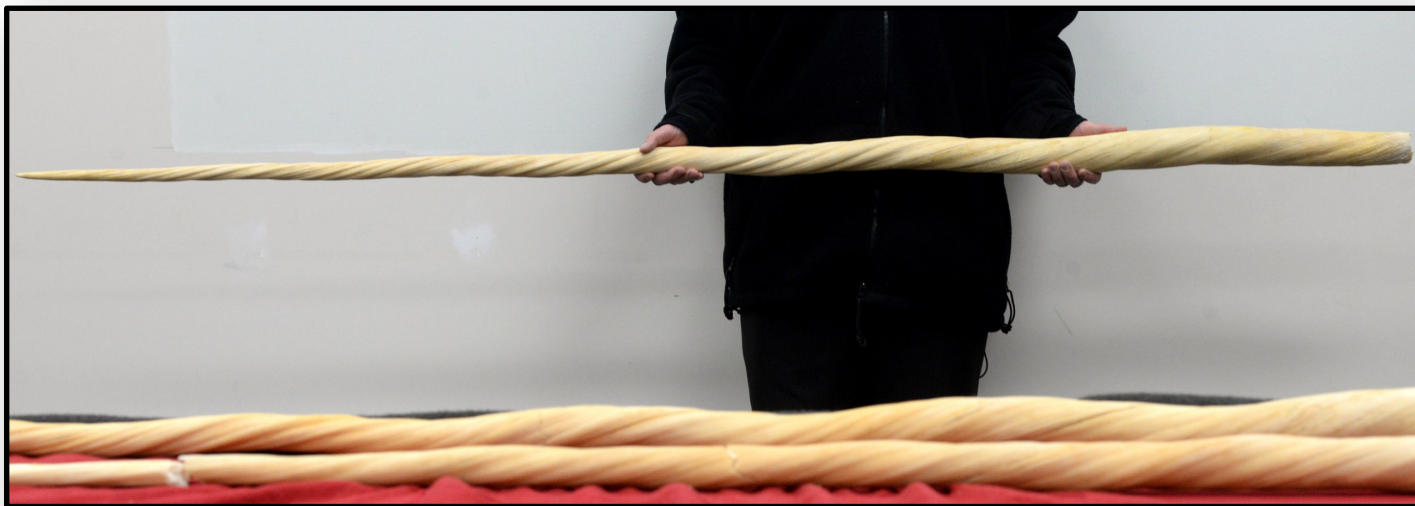


Monthly

Bulletin

Environmental Crimes Section

October 2017



Inside this Issue:

Decisions	4
Trials	5-6
Indictments	7-9
Guilty Pleas	10-18
Sentencings	19-30
Announcements	31
ECS Contacts	32

“This case is the result of a successful joint investigation involving partners across Canada and the United States working to stop the illegal commercialization and exploitation of Canadian wildlife, in this case the smuggling of narwhal tusks,” said Glen Ehler, Regional Director, Wildlife Enforcement Directorate, Enforcement Branch, Environment and Climate Change Canada. “Today’s sentence and the previous conviction in Canada send a strong message that this type of offence will not be tolerated.” [From [press release](#) for the sentencing in *U.S. v. Logan*. See [inside](#) for more details.]

Send your federal case updates
to:

District/Circuit	Case Name	Case Type/Statutes
4th Circuit Court of Appeals	<u>Blankenship v. United States</u>	Mining
9th Circuit Court of Appeals	<u>United States v. Spatig</u>	RCRA
Middle District of Alabama	<u>United States v. Roberson Excavation et al.</u>	Water Testing/Conspiracy, Wire Fraud
Central District of California	<u>United States v. Renaissance Aquatics, Inc., et al.</u> <u>United States v. Sean Gerson et al.</u> <u>United States v. Rodrigo Franco</u>	Coral Shipments/Conspiracy, ESA, Lacey Act, Smuggling Vet Medication Sales/FIFRA; Food, Drug and Cosmetic Act; Smuggling Reptile Imports/Smuggling
Eastern District of California	<u>United States v. Russell Lee Riggs et al.</u>	Marijuana Cultivation/Conspiracy, Drug, Natural Resource Damage
Southern District of California	<u>United States v. Ronald Fabor et al.</u> <u>United States v. Eriberto Paniagua et al.</u> [REDACTED]	Sewage Disposal/Conspiracy, Mail Fraud, Perjury Tiger Import/ESA, Smuggling [REDACTED]
Northern District of Florida	<u>United States v. Heinrich Springer et al.</u>	Bird Imports/Conspiracy, Lacey Act, Smuggling
Southern District of Florida	<u>United States v. Michael Hegarty</u> [REDACTED]	Rhino Horn Product/Smuggling [REDACTED]
District of Kansas	<u>United States v. Jack E. Smith</u>	Hazardous Waste Disposal/RCRA
Western District of Louisiana	<u>United States v. Aldes K. Vidrine, III, et al.</u>	Wastewater Discharges/CWA
District of Maine	<u>United States v. Gregory R. Logan, et al.</u> [REDACTED]	Narwhal Tusk Smuggling/Conspiracy, Money Laundering [REDACTED]
District of Massachusetts	<u>United States v. Carlos Rafael</u>	Commercial Fishing/Bulk Cash Smuggling, Conspiracy, Falsifying Federal Records, Lacey Act, Tax Evasion

District/Circuit	Case Name	Case Type/Statutes
██████████ ██████████	████████████████████	████████████████████
District of Minnesota	United States v. Luminaire Environmental and Technologies, Inc., et al.	PCB Recycler/Conspiracy, Falsification of Records, Mail Fraud, Wire Fraud
██████████ ██████████	████████████████████	████████████████████ ████████████████████
Western District of Missouri	United States v. Tyson Poultry Inc. United States v. DNRB d/b/a Fastrack Erectors	Feed Waste Discharges/CWA Employee Death/OSHA
District of Nevada	United States v. Edward N. Levine, et al.	Rhino Horn Sales/Conspiracy, Lacey Act
Eastern District of New York	United States v. Fengyi Zhou	Rhino Horn Trafficking/Lacey Act
Southern District of New York	United States v. Arnold M. Bengis et al.	Seafood Poaching/Conspiracy, Lacey Act
Western District of New York	United States v. Maureen Walck	Lead Paint Notice/TSCA
Northern District of New York	United States v. Michael Ward	Wastewater Discharges/CWA
Middle District of North Carolina	United States v. Brexton R. Lloyd	Dog Fighting/Conspiracy, Animal Welfare Act
Northern District of Ohio	United States v. William S. Jackson, Jr., et al. United States v. Adam D. Boylen	Demolition Project/CAA, Conspiracy, Money Laundering, Wire Fraud Wastewater Discharge/CWA
Southern District of Ohio	United States v. Henry Gerard James Hill, Jr., et al.	Dog Fighting/Conspiracy, Animal Fighting Venture
██████████	████████████████████	████████████████████
██████████	████████████████████	████████████████████
District of South Dakota	United States v. Manuel Lieras et al.	Bird Part Sales/BGEPA, Conspiracy, Lacey Act, MBTA
Eastern District of Tennessee	United States v. Berthold Technologies U.S.A.	Fracking Equipment/HMTA
District of Utah	United States v. Young Living Essential Oils	Endangered Plant Harvest/ESA, Lacey Act
Western District of Wisconsin	United States v. Tony Toye et al.	Hunting Guide Services/Lacey Act

Decisions

***United States v. Spatig*, 870 F. 3d 1079 (9th Cir. 2017).**

On September 13, 2017, the Ninth Circuit issued a published opinion affirming the conviction and sentence of Max Spatig for violating the RCRA by storing more than 3,400 containers of hazardous waste on his son's property. Spatig claimed on appeal that he should have been allowed to introduce diminished capacity evidence at trial because the charged offense, 42 U.S.C. § 6928(d)(2)(A), was a specific-intent crime. The Ninth Circuit disagreed, holding that RCRA's "knowingly" requirement did not require the prosecution "to prove that Spatig intended a particular purpose or objective, as would be required for a specific-intent crime." Because RCRA states only that the charged act "be performed with the mental state of knowledge," it is a general-intent crime, for which diminished capacity is not a defense. The court gave a thorough explanation of why 42 U.S.C. § 6928(d)(2)(A) is a general-intent crime, walking through its past RCRA decisions, the Model Penal Code, and the fact that RCRA is a public-welfare statute. The court then turned to Spatig's allegation that the district court erred in applying a four-level enhancement under U.S.S.G. § 2Q1.2(b)(3) because cleanup of the property "required a substantial expenditure." The court declined to "establish a bright-line rule between substantial and insubstantial expenditures," but held that the district court did not abuse its discretion in finding that the \$498,562 that the EPA spent in this case was "substantial."

***Blankenship v. United States*, 846 F.3d 663 (4th Cir. 2017), *cert denied*, — S. Ct., — 2017 WL 2311890 (U.S. Oct. 10, 2017).**

On October 10, 2017, the U.S. Supreme Court denied Donald Blankenship's petition for writ of certiorari. Blankenship was convicted in the Southern District of West Virginia of conspiring to violate federal mine safety laws and regulations for his part in the Upper Big Branch coal mine accident in Montcoal, West Virginia, in which 29 miners were killed. As the chairman and CEO of Massey Energy Company, the government argued that Blankenship prioritized production over safety issues.

In April 2016, Blankenship was sentenced to one year imprisonment and ordered to pay the maximum \$250,000 fine. Blankenship appealed his conviction arguing, among other things, that the jury instruction describing "willfully" was erroneous in the context of the violation which made it unlawful for "[a]ny operator [to] willfully violate a mandatory [mine] health or safety standard." 30 U.S.C. § 30. In January 2017, the Fourth Circuit affirmed the District Court's judgment ruling that the jury had been properly instructed that if Blankenship acted or failed to act with reckless disregard of whether the act or omission would lead to a violation of a mine safety law then it could be concluded that Blankenship had committed a willful violation.

In Blankenship's petition for writ of certiorari, he argued that the previous Supreme Court decisions Bryan v. United States 542 U.S. 184, 118 S. Ct. 1939 (1998) and Safeco Insurance Co. v. Burr 551 U.S. 47, 127 S. Ct. 2201 (2007) required knowledge that his conduct was unlawful, and not merely reckless disregard. The government responded that the Bryan Court acknowledges that "willfully" is "a word of many meanings whose construction is often dependent on the context in which it appears" and that disregarding a known legal obligation is sufficient to establish a willful violation. Bryan v. U.S., 542 U.S. at 191 (1998).

Trials

***United States v. Ronald Fabor et al.*, Nos. 3:17-CR-01305, 3:17-CR-01064 (S.D. Calif.), AUSA Melanie Pierson.**

On September 21, 2017, Ronald Fabor, the Operations Safety and Compliance Manager for Diamond Environmental Services LP, was convicted of two counts of perjury relating to his testimony before a grand jury (18 U.S.C. § 1621).

The grand jury investigation involved allegations that Diamond had unlawfully discharged trucked wastewater collected from thousands of portable toilets throughout Southern California to municipal sewer systems at their facilities. The company was engaged in the business of servicing portable toilets and hauling septage. It operated facilities in San Diego, Perris, Fullerton, and Huntington Park, and was headquartered in San Marcos, California.

Between 2009 and 2016, employees regularly discharged sewer waste from hundreds of company trucks directly into the POTW at a number of locations. CEO Warren Van Dam and owner Aire Eric De Jong III further directed employees to construct and install specific equipment to allow for these discharges, concealing the illicit sewer connection from inspectors by placing a portable toilet over the connection during inspections.

The jury found that Fabor falsely testified that the first time he learned that individuals at Diamond were dumping sewage into the municipal sewers (rather than taking it to the designated locations) was the date that search warrants were executed at the Diamond locations in San Diego and San Marcos. The jury also convicted Fabor of falsely testifying that he had never personally observed Diamond trucks connected by hoses to the illegal sewer connections at their facilities.

In June 2016, the company pleaded guilty to mail fraud and De Jong pleaded guilty to a conspiracy charge (18 U.S.C. §§ 371, 1341). Van Dam previously pleaded guilty to a conspiracy violation (18 U.S.C. § 371).

Dischargers such as Diamond are charged a fee of approximately \$75 per 1,000 gallons based on the capacity of each particular truck. By unlawfully discharging portable toilet waste directly into the POTWs, the company defrauded the municipalities of between \$1.3 and \$4.1 million in fees to which they were entitled.

Diamond, De Jong and Van Dam are scheduled to be sentenced on November 13, 2017. Fabor is set for January 8, 2018.

This case was investigated by the FBI and the U.S. EPA Criminal Investigation Division.

Trials

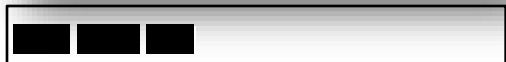
United States v. Edward N. Levine et al., No. 2:14-CR-00127 (D. Nev.), ECS Trial Attorney Ryan Connors, AUSA Kathryn Newman, and ECS Law Clerk Christopher Kopf.

On September 14, 2017, Edward N. Levine was convicted of conspiring to violate the Lacey Act and the Endangered Species Act, and a substantive Lacey Act violation for selling black rhinoceros horns to an undercover agent (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

Over the course of approximately two months, Levine and co-defendant Lumsden Quan negotiated the sale of two black rhinoceros horns by e-mail and telephone, ultimately communicating with an undercover agent. Levine offered to sell two black rhinoceros horns for \$55,000 and agreed to meet the buyer in Las Vegas. In March 2014, after directing another person to drive from California to Las Vegas with the horns, Quan and Levine flew from California to Las Vegas to complete the sale. Quan met the undercover agent in a Las Vegas hotel room, where he completed the transaction for the agreed-upon amount.

Quan pleaded guilty to both counts of the indictment and was sentenced in December 2015 to a year and two days' incarceration, followed by three years' supervised release, and was ordered to pay a \$10,000 fine. Levine is scheduled for sentencing on December 15, 2017.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from the National Park Service, the U.S. Forest Service, and the Nevada Division of Wildlife.



Indictments/Informations

United States v. Manuel Lieras et al., Nos. 17-CR-10032, 30116, 30118-30119, 50136, 50138-50141 (D.S.D.), AUSAs Meghan Dilges and Eric Kelderman.

On September 29, 2017, 16 defendants were variously charged for the illegal trafficking of eagles and other migratory birds, in violation of the Migratory Bird Treaty Act, the Lacey Act, and the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668(a), 703(a), 707(b), 3372(a)(1), 3373(d)(1)(B)). These individuals are in addition to the 15 people that were indicted in April 2017. The indictments are a result of a two-year undercover operation, dubbed Project Dakota Flyer. Indicted individuals include: Manuel Lieras; Jason Brodersen; Sheldon Tree Top; Christopher Pomani, Michael Pomani, Arvella Pomani, Wanda Dupris, Melinda Sue Relf a/k/a Melinda Red Feather, Fair Deal Pawn, Kenneth Foster, Pawn With Us, Elray Rosaaen d/b/a Buffalo Gap Trading Post, Jeffrey Alan Jensen d/b/a Jerry's Pawn Shop, Amanda Silbernagel d/b/a Jerry's Pawn Shop, Steven Ray Marin d/b/a Mobridge Pawn, and Larry Belitz.

These cases were investigated by the U.S. Fish and Wildlife Service.

United States v. Brexton R. Lloyd, No. 1:17-CR-000270 (M.D.N.C.), ECS Trial Attorney Erica Pencak, AUSA JoAnna McFadden, and ECS Law Clerk Fred Ingram.

On September 28, 2017, a 14-count superseding indictment was unsealed charging Brexton R. Lloyd with conspiracy and 13 counts of violating the animal fighting prohibitions of the Animal Welfare Act (18 U.S.C. §§ 49(a), 371; 7 U.S.C. § 2156(b).

Lloyd allegedly kept more than a dozen dogs at his residence that were subsequently seized during the execution of a search warrant in March 2017. Between June 2015 and March 2017, Lloyd allegedly conspired with others to participate in dog fighting in New Jersey and other states.

This case is part of Operation Grand Champion, a coordinated effort across numerous federal judicial districts to combat organized dog fighting. The phrase "Grand Champion" is used by dog fighters to refer to a dog with more than five dog-fighting "victories." To date, approximately one hundred dogs have been rescued as part of Operation Grand Champion, and either surrendered or forfeited to the government.

This case was investigated by the U.S. Department of Agriculture Office of the Inspector General and the FBI, with assistance from the N.C. State Highway Patrol, and the Moore County Sheriff's Office.

Indictments/Informations

United States v. Renaissance Aquatics, Inc., et al., Nos. 17-CR-00582, 584, 585 (C.D. Calif.), AUSAs Heather Gorman and Dennis Mitchell.

On September 26, 2017, two companies and three individuals were indicted for the unlawful trading of CITES-protected corals.

Renaissance Aquatics, Inc., Lim Aqua-Nautic Specialist, Inc., and Chet Bryant are charged with conspiracy, smuggling (import/export), and Lacey Act violations (18 U.S.C. §§ 371, 554, 545; 16 U.S.C. §§ 3372(a)(1), (4), 3373(d)(1)(A), (d)(3)). Between approximately May 2012 and March 2013, the defendants allegedly imported CITES-protected corals from Vietnam and submitted false records to conceal their unlawful activity. According to the indictment, the corals were hidden from view in shipments containing other wildlife.

Jose Torres is charged with smuggling and Lacey Act violations for attempting to export to Mexico 20 varieties of endangered corals in January 2013 (18 U.S.C. §§ 554, 16 U.S.C. 3372(d)(1), 3373(d)(3)). The indictment also alleges that Torres submitted false records to the U.S. Fish and Wildlife Service that omitted the corals and understated the size of the shipment.

Jorge Vazquez is charged with smuggling and violating the Endangered Species Act for attempting to export CITES-protected corals in August 2013 (18 U.S.C. § 554; 16 U.S.C. §§ 1538(c)(1), (g), 1540(b)(1)). TSA officers found the corals hidden in Pringles potato chip cans during a baggage inspection at Los Angeles International Airport. Vazquez allegedly stated that he packed the corals into the cans and put them in his mother's luggage for her to transport to Mexico.

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

United States v. Luminaire Environmental and Technologies, Inc., et al., No. 17-CR-00237 (D. Minn.), AUSAs Benjamin F. Langner and Amber M. Brennan.

On September 20, 2017, Luminaire Environmental and Technologies, Inc., company owner John D. Miller, Jr., and manager Joseph V. Miller, were charged in a 22-count indictment with conspiracy to commit mail and wire fraud, substantive wire fraud and mail fraud counts, and falsification of records (18 U.S.C. §§ 371, 1541, 1543, 1549).

Luminaire purported to be a recycling and waste disposal business that offered to pick up customers' fluorescent light ballasts containing polychlorinated biphenyls (PCBs), transport the PCB-containing ballasts to its facility located in Plymouth, Minnesota, and properly remove and dispose of the PCBs.

According to the indictment, between 2010 and 2015, the Millers sought customers by claiming their company would collect and properly dispose of the PCB-tainted equipment. Instead, the Millers directed employees to remove or otherwise obscure labels from the containers holding the PCB-ballasts, and then sell the PCB-ballasts as scrap metal to nearby metal recycling facilities. The Millers thereby charged customers for proper disposal and gained additional profit by selling the waste to scrap yards. The Millers falsified shipping manifests that certified that the PCB-ballasts had been properly transported to Luminaire's facility. As a result of the scheme, Luminaire fraudulently collected more than \$1 million in fees and additional profits.

This case was investigated by the U.S. EPA Criminal Investigation Division.

Indictments/ Informations

United States v. Eriberto Paniagua et al., No. 3:17-CR-02856 (S.D. Calif.), AUSA Melanie Pierson.

On September 15, 2017, Eriberto Paniagua was charged with conspiring to smuggle a Bengal tiger cub, an endangered species, into the United States from Mexico (18 U.S.C. §§ 371, 545). Co-defendant Luis Valencia was previously charged.

According to the indictment, on August 23, 2017, Valencia and Paniagua drove into the Otay Mesa Port of Entry with the tiger cub on the floor of his vehicle. Inspectors seized the cub, along with paperwork, which did not declare the animal as a CITES-protected species. Paniagua allegedly told the port inspectors that the Bengal tiger cub at his feet was merely a “cat.” Valencia stated that he had purchased the tiger for \$300 from an individual he encountered walking a full-sized tiger on a leash in Tijuana.

The Bengal tiger is the most populous subspecies of tiger. It is native to India, Bangladesh, Nepal, and Bhutan. According to the World Tiger Recovery Project, there are only 2,500 wild animals remaining. The cub was turned over to the San Diego Safari Park.

This case was investigated by the U.S. Fish and Wildlife Service and Homeland Security Investigations.

October 2017

Guilty Pleas

(Continued from page 10)

face wildlife trafficking charges in Florida. Hegarty is scheduled to be sentenced on November 14, 2017.

This case is part of Operation Crash and was investigated by the U.S. Fish and Wildlife Service.

United States v. Tyson Poultry Inc., No. 3:17-CR-05041 (W.D. Mo.), ECS Senior Counsel Kris Dighe and AUSAs Patrick Carney and Casey Clark.

On September 27, 2017, Tyson Poultry Inc., pleaded guilty to violating the Clean Water Act for illegal discharges at its slaughter and processing facility in Monett, Missouri (33 U.S.C. 1319 §§ (c)(1)(A), (c)(1)(B)).

Tyson Poultry, the nation's largest chicken producer, is a subsidiary of Tyson Foods Inc., which owns and operates multiple companies in the food supply and food service industry. The conduct leading to the charges began with a spill at Tyson Poultry's feed mill in Aurora, Missouri, where it mixed ingredients to produce chicken feed. One ingredient of the feed was a liquid food supplement called "Alimet," which has a pH of less than one.

In May 2014, the tank used to store Alimet at the Aurora feed mill sprang a leak, and Alimet flowed into a secondary containment area. Tyson hired a contractor to remove it from the containment area and transport it to the Monett plant. At Tyson's Monett plant, the Alimet was unloaded into the plant's in-house treatment system that was not designed to treat waste with Alimet's characteristics and some of the chemical made it through Tyson's system into the local municipal waste water treatment plant. There, the Alimet killed bacteria used to reduce ammonia in discharges from the treatment plant into Clear Creek, causing approximately 108,000 fish to die.

This case was investigated by the U.S. EPA Criminal Investigation Division.



Fish kill

Guilty Pleas

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



***United States v. Jack E. Smith*, No. 6:17-CR-10067 (D. Kan.), AUSA Alan Metzger.**

On September 21, 2017, Jack E. Smith pleaded guilty to a RCRA disposal violation for unlawfully trying to dispose of hazardous waste by setting it on fire (42 U.S.C. § 6928(d)(1),(d)(2)(A)).

On May 25, 2016, Smith towed a panel truck containing polymers and paints used to make gymnasium floors to property owned by his uncle. Neither he nor his uncle had a permit to transport, store, or dispose of hazardous waste. Smith then attempted to dispose of the waste by setting fire to the truck.

Sentencing is scheduled for December 11, 2017.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Kansas Department of Health and Environment, and the Crawford County Kansas Sheriff's Office.

***United States v. Aldes K. Vidrine, III, et al.*, No. 6:17-CR-00208 (W.D. La.), AUSA Robert C. Abendroth.**

On September 19, 2017, Aldes K. Vidrine, III, pleaded guilty to a misdemeanor violation of the Clean Water Act for directing employees to discharge a pollutant into a canal that feeds the Vermilion River (33 U.S.C. § 1319(c)(1)(A)).

In February 2016, Vidrine, who worked as a manager at the Abbeville Omega Protein Inc. plant, told employees to place a hose in a treatment pond and drain process water from the plant's treatment pond into a canal that emptied into the river.

Omega is a dietary supplement corporation located in Louisiana and incorporated in Virginia. It is one of the world's leading producers of fish oil and the United States' leading manufacturer of fish meal. The company pleaded guilty to two felony violations of the CWA (33 U.S.C. § 1319(c)(2)(A)). It was sentenced in January 2017 to pay a \$1 million

(Continued on page 13)

This case was investigated by the U.S. EPA Criminal Investigation Division and the State Police.

[illegible]

Guilty Pleas

██████████
████████████████████
██

United States v. Berthold Technologies U.S.A., No. 3:17-CR-00071 (E.D. Tenn.), AUSA Matt Morris.

On September 13, 2017, Berthold Technologies U.S.A. pleaded guilty to violating the Hazardous Materials Transportation Act (49 U.S.C. § 5124(a)) for falsely representing that devices shipped in interstate commerce had been tested and met DOT requirements for radioactive containers. These devices were primarily used by the oil and natural gas industry to measure the density of fluids used in natural gas fracking operations across the United States between March and October 2014.

Sentencing was scheduled for *February 19, 2019*. The terms of the plea required that the defendant be given adequate time to meet the following conditions *prior* to sentencing:

1) The defendant shall pay \$50,000 to the Clerk, which shall be credited toward the full fine amount to be paid at sentencing. 2) The sentencing shall be set approximately 18 months after the entry of the defendant's guilty plea. Prior to sentencing, the defendant shall undertake remediating, re-packaging, or otherwise curing any packaging deficiencies with the device the defendant sold or placed into commerce between April 2007 and December 2016, as required by PHMSA (hereinafter "remedial measures"), and submit documentation of expenditures for such remedial measures to the government. 3) The total combined cost of the full fine and the remedial measures to be paid by the defendant shall be \$500,000 4) In the event that the defendant has not completed the remedial measures prior to sentencing, the defendant shall be placed on probation for a period of time, up to two years, sufficient to complete the remedial measures; furthermore the computation of the total amount of fine to be paid shall be based upon the costs of the remedial measures as of the date of sentencing. If the defendant has completed the remedial measures and fulfilled its financial obligations hereunder at the time of sentencing, the defendant shall not be placed on probation.

This case was investigated by the DOT Office of Inspector General, with assistance from the Pipeline and Hazardous Materials Safety Administration and the Department of Energy.

Guilty Pleas

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

***United States v. Sean Gerson et al.*, Nos. 2:17-CR-00013, 331 (C.D. Calif.), AUSA Joe Johns.**

On September 11, 2017, Sean Gerson, the owner of Vaccination Services, Inc., pleaded guilty to violations stemming from the sale of misbranded veterinary medications without a prescription, some of which were not approved for use in the United States. The scheme netted him approximately \$2.5 million over the past 15 years. Gerson pleaded guilty to smuggling, introduction into interstate commerce misbranded animal prescription drugs with the intent to defraud and mislead the United States Food and Drug Administration, and a FIFRA violation (18 U.S.C. § 545; 21 U.S.C. §§ 331(a), 333(a)(2); 7 U.S.C. § 136j(a)(1)(A)). Vaccination Services also pleaded guilty to similar charges.

Gerson sold Comfortis, an anti-flea medication, and Ciprofloxacin, a powerful antibiotic commonly called “Cipro” that can be used in dogs and cats to treat infections. He used several websites to market prescription animal products to buyers without valid prescriptions.

Gerson was previously convicted of similar state-level charges in Texas. He pleaded guilty in 2014 to delivery of a dangerous drug, specifically a prescription drug called Clenbuterol.

In a related case, South African veterinarian Craig Mostert was sentenced in June 2017 to pay a \$5,000 fine and forfeit \$145,000. Mostert previously pleaded guilty to entry of false goods by means of false statements in relation to unapproved pet medications he shipped to Gerson (18 U.S.C. § 542). Mostert sent foreign-market drugs to Gerson, and significantly understated their value in a series of shipments between 2008 and 2017.

Gerson is scheduled for sentencing on December 11, 2017.

This case was investigated by the California Department of Pesticide Regulation, the Food and Drug Administration Office of Criminal Investigations, Homeland Security Investigations, and the U.S. EPA Criminal Investigation Division.

[illegible]

This case was investigated by the U.S. EPA Criminal Investigation Division, and the U.S. Department of Veterans Affairs Office of Inspector General.

Guilty Pleas

***United States v. Michael Ward*, No. 8:17-CR-00117 (N.D.N.Y.), AUSA Michael F. Perry.**

On September 7, 2017, Michael Ward pleaded guilty to three felony Clean Water Act violations for illegal wastewater discharges, and five CWA false statements (33 U.S.C. §§ 1319(c)(2)(A), (c)(4)).

Ward worked at the APC Paper Group paper mill in Norfolk, New York. As a Technical Director, he was responsible for monitoring, calculating, and reporting compliance with the mill's discharge permit. Between January 2013 and September 2015, Ward caused the mill to violate its permit by discharging wastewater containing excessive biochemical oxygen demand levels (BOD) into the Raquette River. Ward hid and falsified BOD data measured in the mill's wastewater discharges, causing it to regularly violate its permit. Additionally, he repeatedly falsified monthly reports provided to local environmental officials to conceal the ongoing violations. Ward's conduct was discovered after he was fired in the fall of 2015 for unrelated reasons. Sentencing is scheduled for January 26, 2018.

This case was investigated by the U.S. EPA Criminal Investigation Division and the New York State Department of Environmental Conservation Division.

***United States v. Rodrigo Franco*, No. 17-CR-00523 (C.D. Calif.), AUSA Eric Silber.**

On September 7, 2017, Rodrigo Franco pleaded guilty to a smuggling charge for shipping live snakes in potato chip cans (18 U.S.C. § 545).

According to the complaint, on March 2, 2017, Customs agents inspected a package sent from Hong Kong and discovered three live king cobra snakes (each about two-feet long) as well as three albino Chinese soft-shelled turtles.

On the same date, Franco also mailed six CITES-protected turtles (desert box turtles, three-toed box turtles, and ornate box turtles) from the United States to Hong Kong, but that shipment was intercepted by the U.S. Fish and Wildlife Service.

Because of the danger associated with the cobras, the snakes were seized from the package that had come from Hong Kong. The United States Postal Inspection Service made a controlled delivery of the soft-shelled turtles to Franco's residence. Immediately after the package was delivered, a search warrant was executed at the residence.



Chip cans containing live cobras

(Continued on page 18)

Guilty Pleas

(Continued from page 17)

During the search, agents found the package that originated in Hong Kong. They also discovered tanks containing a baby Morelet's crocodile, alligator snapping turtles, a common snapping turtle, and five diamond back terrapins, all of which are protected species.

Sentencing is scheduled for December 7, 2017.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from Homeland Security Investigations, the U.S. Postal Service, and Customs and Border Protection.

Sentencings

***United States v. Tony Toye et al.*, Nos. 3:17-mj-00048–00050 (W.D. Wis.), AUSA Daniel Graber.**

On September 29, 2017, Tony Toye was sentenced to pay a \$25,000 fine and is banned from hunting on the Upper Mississippi River National Wildlife and Fish Refuge (Refuge) for two years. Toye, the owner and operator of Big River Guide Service LLC, previously pleaded guilty to violating the Lacey Act for illegal duck hunting (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)). Jeremy Schreiner, owner and operator of Addicted River Guiding, and Matt Raley, owner and operator of Hideaway Hollow Outfitters, also pleaded guilty to Lacey Act violations. Between November 2012 and November 2013, all three directed clients to continue to kill ducks after their clients had reached their daily bag limit. In each circumstance, the client was an undercover agent.

Raley was sentenced in August 2017 to pay a \$25,000 fine and also is banned from hunting for two years. Shreiner is scheduled to be sentenced on October 18, 2017.

This case was investigated by the U.S. Fish and Wildlife Service, and the Wisconsin Department of Natural Resources.

***United States v. Carlos Rafael*, No. 1:16-CR-10124 (D. Mass.), AUSAs Andrew Lelling and David Tobin.**

On September 26, 2017, Carlos Rafael was sentenced to 46 months' incarceration, followed by three years' supervised release, during which he is banned from working in the fishing industry. Rafael also will pay a \$200,000 fine and restitution to the U.S. Treasury in the amount of \$108,929. *On October 11, 2017, Rafael was ordered to forfeit four boats and 34 fishing licenses worth roughly \$2.3 million.

In March 2017, Rafael pleaded guilty to conspiracy, 23 counts of submitting falsified records in violation of the Lacey Act, two counts of falsifying federal records, one count of bulk cash smuggling, and one count of tax evasion (18 U.S.C. §§ 371, 1519; 16 U.S.C. §§ 3372(d), 3373(d); 31 U.S.C. §§ 5316, 5324(c)(3), 5332(a); 26 U.S.C. § 7201).

Rafael is the owner of Carlos Seafood Inc., one of the largest commercial fishing businesses in the U.S. The charges arose out of an undercover investigation in which federal agents posed as organized crime figures interested in buying Carlos Seafood. From 2012 to January 2016, Rafael routinely lied to NOAA about the quantity and species of fish caught on his boats in order to evade federal quotas designed to guarantee the



Forfeited vessel

(Continued on page 20)

Sentencings

(Continued from page 19)

sustainability of certain fish species.

During that period, Rafael misreported to NOAA approximately 782,812 pounds of fish, stating that the fish was haddock, or some other abundant species subject to high quotas, when in fact the fish was cod, sole, or other species subject to strict quotas. After submitting false records to federal regulators, Rafael sold much of the fish to a wholesale business in New York City in exchange for duffle bags of cash. During meetings with the undercover agents, Rafael said that in his most recent dealings with the New York buyer he received \$668,000 in cash. Rafael smuggled at least some of that cash out of the United States to his native Portugal, hiding it there to avoid paying taxes.

This case was investigated by the Internal Revenue Service Criminal Investigations, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, the Department of Homeland Security Office of Inspector General, and the Federal Bureau of Investigation.

***United States v. Russell Lee Riggs et al.*, No. 15-CR-00264 (E.D. Calif.), AUSA Karen Escobar.**

On September 25, 2017, Russell Lee Riggs was sentenced to five years' incarceration, after pleading guilty to drug charges (21 U.S.C. §§ 841, 846). Co-defendant Juan Penaloza-Ramirez, aka Juan Penaloza-Herrera pleaded guilty to a similar charge and was previously sentenced to more than seven years' incarceration.

The defendants were involved in a large-scale marijuana cultivation operation in the Sequoia National Forest, supplying material, equipment, and personnel to sustain more than 3,000 plants. The operation caused extensive damage to the land and natural resources. Fay Creek sustains a variety of ecosystems and resources, including riparian habitat supporting trout, plus willow, alder, and cottonwood trees. The creek also serves as the primary drinking water source for much of the wildlife in the area. Springs were dammed and diverted to irrigate the marijuana plants and large amounts of trash were scattered throughout, including in a flowing stream. Riggs also will pay \$1,719 to the U.S. Forest Service for the damage to natural resources, and also will forfeit firearms and ammunition.

This case was investigated by the U.S. Forest Service; the U.S. Drug Enforcement Administration; the Bureau of Land Management; the U.S. Immigration and Customs Enforcement Homeland Security Investigations; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Southern Tri-County High Intensity Drug Trafficking Area Task Force; the California Department of Justice's Campaign against Marijuana Planting, and the Kern County Sheriff's Office.

Sentencings

***United States v. Heinrich Springer*, No. 1:16-CR-00017 (N.D. Fla.), AUSA Gregory McMahon with assistance from ECS Trial Attorney Richard J. Powers and ECS Paralegal Diana Greenberg.**

On September 25, 2017, Heinrich Springer was sentenced to one day of incarceration (with credit for time served), one year of supervised release, and ordered to pay a \$10,000 fine. Springer is barred from engaging in any wildlife transactions and must draft a letter of apology to the University of Alaska at Fairbanks Museum, with a copy to be published by the Audubon Society.

Springer worked as a long-time research associate for the Ornithology Department of the University of Alaska Museum of the North in Fairbanks. He previously pleaded guilty to conspiracy, Lacey Act, and smuggling violations for the unlawful smuggling of protected bird species in and out of the United States (18 U.S.C. §§ 371, 545; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(A)).

Between May 2010 and October 2014, Springer conspired with Anthony Gilyard and others to acquire and smuggle protected birds, including endangered and threatened species, for Gilyard's personal collections. Springer and Gilyard obtained these birds through barter and purchases on eBay, arranging for them to be shipped through intermediaries in Italy, England, and Germany, and then imported through the Port of Anchorage, where Springer resides. Springer and Gilyard also hunted, killed, and collected birds, with the paid assistance of a local outfitter in Peru in violation of that country's wildlife laws. Springer then brought the birds out of Peru and into the U.S. in his luggage.

Gilyard previously pleaded guilty to similar violations and was sentenced in June 2016 to one day time-served, followed by one year of supervised release, and was ordered to pay a \$20,000 fine. He also will abandon over 450 birds, and will write a letter or article for the *National Taxidermy Newsletter*.

This case was investigated by the U.S. Fish and Wildlife Service.

Sentencings

United States v. Henry Gerard James Hill, Jr., et al., No. 2:17-CR-00073 (S.D. Ohio), AUSAs Michael Marous and Jessica Knight, and Franklin County Assistant Prosecutor Heather Robinson.

On September 22, 2017, Henry Gerard James Hill, Jr., was sentenced to six months' incarceration, followed by three years' supervised release, after pleading guilty to conspiring to participate in a dog-fighting ring (18 U.S.C. § 371, 7 U.S.C. § 2156(b)). Co-defendant Dwayne T. Robinson, Jr., pleaded guilty to similar charges and is not yet scheduled for sentencing.

Robinson and Hill bred, trained and conditioned to fight, American Pit Bull Terriers. The execution of search warrants in five homes in April 2016 revealed more than 40 dogs (which were rescued) along with cages, treadmills, and heavy chains and collars. Agents found canine blood on the floor and walls of the basement of one home indicating that the area was used for fights. Robinson was in possession of at least 14 dogs and Hill had more than 20 dogs.

Robinson subscribed to and kept various underground publications that list dog-fight results, advice, and breeding tips. Co-conspirators treated the animals' medical needs themselves rather than taking them to a veterinarian, for fear of being reported to law enforcement.

In March 2016, Hill and Robinson sold fighting dogs to undercover officers. Co-defendant Charles A. Granberry was previously sentenced to 72 months' incarceration, and Randall J. Frye was sentenced to six months in prison.

This case was investigated by the U.S. Department of Agriculture Office of Inspector General, the Columbus Police, and the Humane Society.



Dogs removed during execution of search warrant

Sentencings

***United States v. William S. Jackson, Jr., et al.*, No. 14-CR-00353 (N.D. Ohio), AUSAs Brad Beeson and Chelsea Rice.**

On September 21, 2017, William S. Jackson, Jr., was sentenced for his role in an extensive illegal demolition project. Jackson was ordered to serve 33 months' incarceration, followed by three years' supervised release, and was held jointly and severally responsible for \$7.8 million in restitution

In July 2017, Christopher Gattarello, the owner of several garbage-hauling companies, was sentenced to 57 months' incarceration, followed by three years' supervised release. He also was held jointly and severally responsible for the restitution to be divided as follows: \$5,878,690 to the City of Cleveland and \$794,732 to the U.S. EPA for clean-up costs, and \$1,182,333 to AIM Business Capital (ABC). Robert Shaw was sentenced to 12 months and one day of incarceration, followed by three years' supervised release. He was held jointly responsible for the restitution to be paid to ABC.

In June 2011, on behalf of All Points Rubbish Disposal, Gattarello leased a 570,000 square-foot facility, representing to the lessor that paper and cardboard waste would be recycled at the facility. When Gattarello was told it cost \$1.5 million to remove 24,000 linear feet of asbestos-containing pipe insulation from the facility, he decided to leave it in the building.

In August 2011, Gattarello had paper and cardboard waste, as well as municipal garbage, delivered to the facility for recycling. Over the next several months, more garbage, paper, and cardboard were delivered than could be handled, and waste began to accumulate outside the facility. By April 2012, most of the building was filled with garbage.

In May 2012, on behalf of Reach Out Disposal, Gattarello entered into a contract to purchase the building, for the purpose of demolishing the facility and selling the scrap metal. In July 2012, Jackson submitted a notice of demolition with the Cleveland Division of Air Quality, stating that there was no asbestos in this facility. About ten days later, the CDAQ rejected Jackson's notice because it was incomplete and warned that demolition was not authorized until a proper notice was submitted and approved. Gattarello ordered Jackson to start anyway, causing asbestos fibers to be released into the environment. By the time the demolition was halted in August 2012, approximately 40 percent of the warehouse portion of the facility had been leveled.

Shaw was the chief financial officer for several of Gattarello's garbage hauling companies. The two of them defrauded ABC (a company in the business of purchasing accounts receivable) of approximately \$1.2 million in 2012.

Gattarello pleaded guilty to Clean Air Act, money laundering, wire fraud, and conspiracy to commit wire fraud violations (18 U.S.C. §§ 1343, 1349, 1957; 42 U.S.C. § 7413(c)(1)). Shaw pleaded guilty to conspiracy to commit wire fraud (18 U.S.C. § 1343). Jackson pleaded guilty to two counts of violating the CAA (42 U.S.C. § 7413(c)(1)).

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, the Federal Bureau of Investigation, and the Internal Revenue Service.

Sentencings

United States v. Gregory R. Logan et al., No. 12-CR-00188 (D. Me.), ECS Trial Attorney Lauren Steele, former ECS Senior Trial Attorney Jim Nelson, and ECS Paralegal Cindy Longmire.

On September 20, 2017, Gregory R. Logan was sentenced to 62 months' incarceration and will be deported after his release. Logan previously pleaded guilty to conspiracy to launder money and substantive money laundering violations related to the smuggling of narwhal tusks (18 U.S.C. § 1956 (h), (a)(2)(A)).

Logan, a retired member of the Royal Canadian Mounted Police, was arrested in Canada after being indicted in November 2012. He pleaded guilty to a related wildlife smuggling crime in Canada and was extradited to the U.S. in March 2016.



Narwhal tusks and skull exhibits displayed in court

Starting in 2000, Logan smuggled approximately 250 narwhal tusks worth more than \$2 million by transporting them across the border in false compartments in his vehicle. Co-defendants Jay Conrad and Andrew Zaruskas bought the narwhal tusks from Logan, knowing they had been illegally imported into the United States, and then sold or attempted to sell them. Logan utilized a shipping store in Ellsworth, Maine, to send the tusks to customers throughout the United States, including Zaruskas and others. Logan knew that his customers would re-sell the tusks for a profit. Therefore, in an attempt to increase the re-sale price, he would occasionally provide fraudulent documentation claiming that the tusks had originally belonged to a private collector in Maine who had acquired them legally.

In addition to shipping the tusks from Maine, Logan maintained a post office box at the Ellsworth shipping store as well as an account at a bank in Bangor. Logan instructed his customers to send checks to the post office box, or wire money directly to his Bangor bank account as payment. He then transported the money to Canada by having the shipping store forward his mail to him in Canada, and by using an ATM card to withdraw money from his Maine bank account at Canadian ATM machines. At times, Logan also directed his customers to send funds directly to him in Canada.

Zaruskas was convicted by a jury in 2014 and was sentenced to 33 months in prison. Conrad is deceased.

This case was investigated by National Oceanic and Atmospheric Administration, the U.S. Fish and Wildlife Service, and Environment and Climate Change Canada.

Sentencings

***United States v. DNRB d/b/a Fastrack Erectors*, No. 4:15-CR-00362 (W.D. Mo.), AUSA Paul S. Becker and DOL SAUSAs Evert Van Wijk and Rachel Parsons.**

On September 19, 2017, DNRB, Inc., doing business as Fastrack Erectors, was sentenced to pay the maximum \$500,000 fine. In August 2016, Fastrack was found guilty of violating OSHA (29 U.S.C. § 666(e)) and causing the death of an ironworker following a bench trial.

In July 2014, Fastrack was a subcontractor in the construction of a 300,000-square-foot distribution warehouse. Fastrack is an American Institute of Steel Construction-certified steel erection company. It supplied onsite supervisors, while the ironworkers were hired from a union local.

On July 24, 2014, two Fastrack ironworker employees were receiving a bundle of roof decking sheet metal and setting it on top of the building's bar joists. The employees' task required them to guide the decking bundle to land it. Each bundle was 26 feet long by 36 inches wide. They accessed the top of the building from a scissor lift and walked approximately 15 feet along a joist without wearing any fall protection. They walked on trusses that were nine inches wide, or bar joists which were five inches wide. Other ironworkers secured the decking to the trusses with screws and welds. These workers did not use fall protection. Eric Roach, one of the employees landing the decking, fell approximately 30 feet to the ground and was transported to a local hospital where he died the following day.

Fastrack was a subcontractor to ARCO National Construction-KC, Inc. Fastrack failed to provide fall protection as required in its contract with ARCO. Both onsite foremen were questioned about the lack of fall protection equipment and were in a position to personally observe employees failing to use it. At least one of the foremen was working in the same area as the employees without his own fall protection and failed to enforce its use by the employees. DNRB voluntarily dissolved as a Missouri corporation in January 2016.

This case was investigated by the Occupational Safety and Health Administration.

Sentencings

United States v. Arnold M. Bengis et al., No. 1:03-CR-00308 (S.D.N.Y.), AUSA Kiersten A. Fletcher.

On September 19, 2017, Arnold M. Bengis was ordered to pay an additional \$30 million in restitution to South Africa for his role in an extensive seafood poaching and smuggling scheme. South African officials had informed the court that the damage to their fisheries was about \$100 million, and had also asked to be reimbursed for attorneys' fees. The court explained that \$30 million is the amount that remains in Bengis family trusts overseen by SG Hambros, a bank on the island of Jersey. The court had previously found that Bengis put funds that could have been used to make restitution into those trusts in an attempt to hold on to his money.

Bengis was ordered in July 2017 to serve 57 months' incarceration, followed by two years' supervised release, plus forfeit an additional \$37.3 million. Bengis, who previously pleaded guilty to conspiracy and Lacey Act violations, was resentenced after evading his obligation to pay back victims. The forfeiture is in addition to \$5.9 million ordered in 2004. A new forfeiture order consists of more than \$26 million (the value of 598 tons of lobster tails that the Bengis family poached in 1999 and 2000 alone) plus nearly \$11 million of accrued interest.

Between 1987 and 2001, the defendants engaged in a practice of deceiving and sometimes bribing inspectors, as well as destroying documents in order to conceal the smuggling. After one of their shipments was seized in 2001 by U.S. Customs inspectors, the defendants went so far as to hire a private investigator to keep track of the government investigators. The three pleaded guilty in April 2004 to conspiracy to violate the Lacey Act and three substantive Lacey Act violations (18 U.S.C. § 371; 16 U.S.C. § 3372(a)(2)(A)).

In May 2004, Jeffrey Noll, and Arnold and David Bengis were sentenced for their involvement in a seafood poaching and smuggling scheme in which massive amounts of South African rock lobster and Patagonian toothfish (known as Chilean seabass) were over-harvested. Arnold Bengis was sentenced to 46 months' incarceration, Noll was sentenced to 30 months' incarceration, and David Bengis was sentenced to 12 months' incarceration. Arnold Bengis and Noll also were ordered to forfeit \$5.9 million and David Bengis was ordered to forfeit \$1.5 million from the proceeds of the sale of his fish processing factory. The three operated seafood companies in South Africa, New York, and Maine.

In January 2011, the Second Circuit overturned the district court's 2007 ruling denying restitution. The Second Circuit held that: (1) South Africa had a property interest in illegally harvested rock lobsters and, therefore, the defendants had committed an "offense against property," thereby entitling South Africa to restitution; and (2) South Africa was a victim within the meaning of the applicable restitution statutes. The Court of Appeals left the determination of the precise amount of restitution to the District Court on remand.

In June 2013, the government obtained a restitution order against the defendants in the amount of nearly \$29.5 million to be paid to South Africa. This is the largest known restitution order in a Lacey Act case. The restitution order follows the government's

(Continued on page 27)

Sentencings

(Continued from page 26)

successful appeal to the Second Circuit of the district court's order that restitution was not available for crimes prosecuted under the Lacey Act. After a credit of more than \$7 million already paid to South Africa as part of a separate criminal case, the total restitution to be paid is approximately \$22.5 million. The court restrained the defendants from depleting accounts in the Channel Islands to amounts below the approximately \$22.5 million restitution to be paid.

***United States v. Roberson Excavation et al.*, No. 1:16-CR-00571 (M.D. Ala.), AUSA Jonathan Ross.**

On September 18, 2017, Roberson Excavation was ordered to pay a \$60,000 fine. Supervisor Darin Lewis was sentenced to 30 months' imprisonment, followed by three years' supervised release. Roberson pleaded guilty to a wire fraud violation and Lewis pleaded guilty to conspiracy (18 U.S.C. §§ 371, 1343).

In 2014, the Dale County Water Authority hired Roberson Excavation (and owner Billy Ray Roberson) to replace a neighborhood's water lines. By February of 2015, the company was three months behind schedule and paying daily penalties of \$500 for each day that the project was not finished. At that time, Roberson instructed Lewis to falsify the testing required before the lines went into operation. Among the tests falsified were those used to determine whether harmful bacteria were present in the water. Charges were dismissed against the company owner.

This case was investigated by the U.S. EPA Criminal Investigation Division and Office of Inspector General.

***United States v. Fengyi Zhou*, No. 1:16-CR-00363 (E.D.N.Y.), ECS Trial Attorneys Gary Donner and Lauren Steele, and ECS Supervisory Paralegal Lisa Brooks.**

On September 18, 2017, Fengyi Zhou was sentenced to 24 months' incarceration, followed by three years' supervised release. He will pay a \$5,000 fine and \$112,133 in restitution. Zhou, the owner of a business that specialized in Asian art, previously pleaded guilty to violating the Lacey Act for illegally trafficking endangered black rhinoceros horns (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

Between November 2010 and January 2011, Zhou purchased approximately five uncarved rhinoceros horns from another Asian arts dealer in New York. Along with the horns, Zhou was given an "Endangered Species Bill of Sale," which informed him that four of the horns were purchased in Texas and unlawfully transported to New York. Immediately after the purchase, Zhou offered to sell the horns to a Chinese associate in China. He ultimately did sell them to his associate for more than \$130,000.

This case is a result of Operation Crash and was investigated by the U.S. Fish and Wildlife Service.

Sentencings

***United States v. Young Living Essential Oils*, No. 2:17-CR-00541 (D. Utah), ECS Senior Counsel for Wildlife Elinor Colbourn, AUSA Jared Bennett, and ECS Supervisory Paralegal Lisa Brooks.**

On September 18, 2017, Young Living Essential Oils was sentenced and pleaded guilty to violating the Endangered Species Act and the Lacey Act for illegally trafficking rosewood oil and spikenard oil (16 U.S.C. §§ 1538(c), 3372(a)(1)). The company voluntarily disclosed its rosewood oil violations and has been cooperating with the government. The company will pay a \$500,000 fine; restitution in the amount of \$135,000; make a community service payment of \$125,000 for the conservation of rosewood, spikenard, and other protected species of plants used in essential oils; and complete a five-year term of probation, to include implementation of a corporate compliance plan.

Between June 2010 and October 2014, several company employees and contractors harvested, transported, and distilled rosewood (*Aniba roseaodora* or Brazilian rosewood) in Peru, and imported some of the resulting oil into the United States, at times through Ecuador. Peruvian law prohibits the unauthorized harvest and transport of timber, including rosewood. Neither the company nor its suppliers, employees, or agents had valid authorization from the Peruvian government. Peru also prohibits the export of species protected under the CITES, without the required permits. Between 2010 and 2014, employees harvested, transported, and possessed approximately 86 tons of rosewood in violation of Peruvian law. All of it was intended for distillation and export to the United States.

After newly hired corporate officers learned of conduct by company personnel that appeared to be illegal, the company engaged outside counsel to conduct an internal investigation, took immediate steps to ensure that the conduct in question in Peru and Ecuador had stopped, and quarantined protected plant products in question. In July 2015, once the internal investigation was substantially complete, the company made an initial written voluntary disclosure to the government of various facts indicating potential violations of United States and foreign law.

The government's ensuing investigation revealed that, in addition to the conduct disclosed by the company, in December 2015, it exported spikenard oil that was harvested in Nepal to the United Kingdom, without a CITES permit. The spikenard oil had been previously imported from a company in the U.K. that had obtained a CITES export permit for the shipment. The company found the product to be unsatisfactory and shipped it back to the U.K. In March 2016, an employee filed an application for a CITES permit for this shipment after the fact and without providing the required copy of the permit authorizing its original export from the U.K.

Between November 2014 and January 2016, the company purchased from a supplier/importer in the U.S. over 1,100 kilograms of rosewood oil without conducting sufficient due diligence to verify lawful sourcing of that oil. The government's investigation

(Continued on page 29)

Sentencings

(Continued from page 28)

and the company's subsequent efforts to document legal sourcing of that product failed to reveal any CITES permits for the importation into the U.S. of the rosewood oil purchased from that supplier.

This case was investigated by the U.S. Department of Agriculture Office of the Inspector General, with assistance from the U.S. Fish and Wildlife Service and Homeland Security Investigations.

***United States v. Adam D. Boylen*, No. 1:17-CR-00050 (N. D. Ohio), AUSAs Ben Gullo and Brad Beeson.**

On September 5, 2017, Adam Boylen was sentenced after previously pleading guilty to four violations of the Clean Water Act for dumping wastewater into tributaries of the Tuscarawas River (33 U.S.C. § 1319(c)(2)(A)).

Boylen will serve 42 months' incarceration, followed by one year of supervised release. He will perform 200 hours of community service and pay \$85,338 in clean up costs as restitution to be divided as follows: \$3,321 to the Tuscarawas County Road Commission and \$82,017 to the Ohio Environmental Protection Agency.

Boylen was a driver employed by an Ohio-based trucking company. He was responsible for loading wastewater generated from corporate facilities into a tanker truck and driving the wastewater to a designated facility located in Pennsylvania for proper disposal. The wastewater contained surfactants capable of killing vegetation and fish.

Instead of delivering the wastewater to Pennsylvania, Boylen drove the truck to remote locations in Tuscarawas County and elsewhere in central-eastern Ohio and emptied the wastewater containing surfactants into waters of the United States. The dumping occurred on numerous occasions between April 18 and May 4, 2016.

White foam flowed down tributaries and streams as a result of Boylen's actions. In one instance, the foam traveled four miles downstream, destroying vegetation at all the locations. Approximately 700 fish were killed in one of the tributaries, and collectively, more than 3,000 minnows, crayfish, frogs, and tadpoles were killed.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio EPA, the Ohio Attorney General's Bureau of Criminal Investigation, the Stark County Sheriff's Offices, the Tuscarawas County Sheriff's Offices, the Ohio Department of Natural Resources, and the Ohio Department of Rehabilitation and Correction.



Surfactant spill into river

Sentencings

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Announcements

******The Regional Environmental Enforcement Associations [website](#) is up and running again. News from state, local, and Canadian cases is posted there.******

******The AUSA, ECS, and EPA contacts have been updated as well as new press releases posted on the ECS [website](#).******

As a reminder, ECS now tracks **worker safety and animal welfare crimes**, in addition to our pollution and wildlife docket [see [Section 5-11.101](#) of the U.S. Attorneys' Manual.] Please send us pleadings and other relevant information about your worker safety and animal welfare cases so that we can maintain a database for these cases and provide an accurate and complete description of case issues and strategies, developments in case law, and useful pleading examples.

Please send [REDACTED] any pleadings you believe would be useful for posting in the [Brief Bank](#). Older materials are still available on the [Document Bank Archives](#) page.

If you are in need of sentencing data for your wildlife or pollution cases, please contact [REDACTED] with your search requests.

A public version of the [ECS Bulletin](#) is available for non-law enforcement readers.

Please notify ECS of any appeals taken in your cases, as per [Section 5-11.118](#) of the U.S. Attorneys' Manual.

Position	Name	Phone
Chief	Deborah Harris	
Deputy Chief	Joseph Poux	
Assistant Chief	Thomas Ballantine	
Assistant Chief	Wayne Hettenbach	
Assistant Chief	Lana Pettus	
Assistant Chief	Jennifer Whitfield	
Senior Litigation Counsel	Howard P. Stewart	
Senior Litigation Counsel	Richard Udell	
Senior Counsel for Wildlife	Elinor Colbourn	
Senior Counsel	Kris Dighe	
Senior Trial Attorney	Jennifer Blackwell	
Senior Trial Attorney	Georgiann Cerese	
Senior Trial Attorney	Daniel Dooher	
Senior Trial Attorney	Todd Gleason	
Senior Trial Attorney	David Kehoe	
Senior Trial Attorney	Jeremy Korzenik	
Senior Trial Attorney	Ken Nelson	
Trial Attorney	Cassandra Barnum	
Trial Attorney	Mary Dee Carraway	
Trial Attorney	John Cashman (USCG)	
Trial Attorney	Ryan Connors	
Trial Attorney	Adam Cullman	
Trial Attorney	Stephen DaPonte	
Trial Attorney	Gary Donner	
Trial Attorney	Patrick Duggan	
Trial Attorney	Ethan Eddy	
Trial Attorney	Matthew Evans	
Trial Attorney	Stephen Foster	
Trial Attorney	Thomas Franzinger	
Trial Attorney	Christopher Hale	
Trial Attorney	Joel LaBissonniere	
Trial Attorney	Samuel (Charlie) Lord	
Trial Attorney	Shennie Patel	
Trial Attorney	Erica Pencak	
Trial Attorney	Richard Powers	
Trial Attorney	Mark Romley (Denver Field Ofc.)	
Trial Attorney	Brendan Selby	
Trial Attorney	Lauren Steele	
Trial Attorney	Shane Waller	