



Monthly

Bulletin

Environmental Crimes Section

July 2018



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Millions of pounds of hazardous paint waste illegally stored in a Berger, Missouri, warehouse. See *U.S. v. U.S. Technology Corporation, et al.*, [inside](#), for more details on this case.

Send your federal case updates
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District/Circuit	Case Name	Case Type/Statutes
Central District of California	 <u>United States v. Mahmoud Alkabanni</u> <u>United States v. Charles Kaye et al.</u>	 Ozone Depleting Substances/ CAA, Conspiracy Tobacco Products/HMTA
Eastern District of California	<u>United States v. Enrique Gomez-Perez</u>	Marijuana Grow/Drug, Depredation to Natural Resources
Northern District of California	<u>United States v. Adam T. Lawrence</u>	Leopard Killing/Lacey Act
		
Middle District of Florida	<u>United States v. Tyler C. McGovern</u> 	Animal Fighting Venture/ Conspiracy 
Southern District of Florida	<u>United States v. Victor H. Gonzalez</u> <u>United States v. Reynaldo Mederos</u> <u>United States v. Hovary Muniz</u> <u>United States v. Carlos Hernandez</u>	Inhumane Swine Slaughter/ Federal Meat Inspection Act, Humane Methods of Slaughter Act Migratory Bird Sales/MBTA
District of Kansas	<u>United States v. Ret Thach</u>	Tiger Pelt Sales/Lacey Act
Western District of Louisiana	<u>United States v. William T. Wright et al.</u>	Munitions Deactivation/ Conspiracy, False Statement
District of Maine	<u>United States v. Albert Cray</u>	Eel Harvesting/Lacey Act
District of Massachusetts	<u>United States v. Jake M. Bell et al.</u>	Sperm Whale Teeth/Lacey Act
		

District/Circuit	Case Name	Case Type/Statutes
Eastern District of Missouri	United States v. U.S. Technology Corporation et al.	Paint Waste/CAA, Conspiracy
District of New Jersey	United States v. Miguel Castillo United States v. Fuel Bio One LLC	Chemical Manufacturer/RCRA Biodiesel Wastewater/CWA
Eastern District of New York	United States v. Robert Burgos et al.	Songbird Smuggling/Conspiracy
Southern District of New York	United States v. Thomas Carrano et al.	Cockfighting/Conspiracy
Eastern District of North Carolina	United States v. David Cahoon et al.	Baiting/Aiding and Abetting, MBTA
District of Oregon	United States v. Dyno-Nobel, Inc.	Ammonia Discharges/CERCLA
Eastern District of Pennsylvania	United States v. U-Haul Company of Pennsylvania et al.	Explosion/HMTA
Middle District of Pennsylvania	United States v. Gavin Rexer et al.	Vehicle Emissions Testing/Conspiracy
District of South Carolina	United States v. Steven V. Baker et al.	Reptile Smuggling/Conspiracy
District of South Dakota	United States v. Aaron David West, Sr., et al. United States v. Valencia Neck et al.	Eagle Parts Trafficking/MBTA
Eastern District of Washington	United States v. Jin Chul Cha	RINS Fraud/Conspiracy, Wire Fraud
Western District of Wisconsin	United States v. Markos Diderrich	Reptile Shipments/Lacey Act

Trials

***United States v. Thomas Carrano et al*, Nos. 1:17-CR-00460, 726 (S.D.N.Y.), AUSAs Alison G. Moe and Michael C. McGinnis.**

On June 18, 2018, Thomas Carrano was convicted by a jury on the single charge of conspiring to raise, train, and sell roosters for cock fighting (18 U.S.C. § 371). Sentencing is scheduled for September 20, 2018.

Between January 2012 and June 2017, Carrano, a member and former leader of the New York chapter of the United Gamefowl Breeders Association (NYUGBA), conspired with others to buy, sell, transport, and receive roosters for fighting. He used two social media accounts to communicate with co-conspirators, including members of the NYUGBA. In a 2014 newsletter to its members, the NYUGBA stated that “We DO NOT promote cock fighting in any way.” Despite this admonition, Carrano sent messages discussing breeding and training roosters for fighting, the sale and purchase of metal and plastic spurs (gaffs and postizas), and his participation in cock fighting.



Gaffs

On May 23, 2017, agents executed a search warrant at the defendant’s game fowl farm in Ontario, New York. During the search, law enforcement officers discovered, among other things, gaffs, postizas, shears for dubbing roosters, training equipment, steroids, and videos of roosters being trained for cock fights. In addition, they recovered approximately 104 chickens, including 19 adult roosters and 12 adolescent roosters. More than three-quarters of the male birds had their comb, wattles, and/or earlobes removed. In addition, more than a third of the roosters had at least one of their natural spurs altered.

Carrano purchased gaffs from Dwight Orr, a gaff manufacturer from Tennessee. Orr previously pleaded guilty to conspiracy and was sentenced on May 15, 2018, to pay a \$10,000 fine and complete a two-year term of probation.

This case was investigated by the U.S. Department of Agriculture Office of Inspector General and the New York Police Department’s Animal Cruelty Investigations Squad, with assistance from the American Society for the Prevention of Cruelty to Animals.

Indictments/Informations

United States v. Enrique Gomez-Perez, No. 2:18-CR-00122 (E.D. Calif.), AUSAs David Spencer and Cameron Desmond.

On June 28, 2018, prosecutors charged Enrique Gomez-Perez in a three-count indictment with manufacturing illegal marijuana plants, being an illegal alien in possession of a firearm, and depredation of public lands and resources (18 U.S.C. §§ 922(g)(5), 1361; 21 U.S.C. § 841(a)(1)).

According to the indictment, between May 18 and June 12, 2018, law enforcement officers conducting aerial surveillance spotted an illegal marijuana grow in the area of Upper Backbone Creek in Shasta County, on land owned by the Bureau of Land Management. Agents hiked into the area where they observed Gomez watering marijuana plants. They also recovered a handgun (whose serial number was filed off) from Gomez, and eradicated more than 800 plants from the area. Water from a nearby stream had been diverted, many trees and other vegetation were cut to make room for the plants, and large piles of trash were stuffed under boulders and buried along the stream.

This case was investigated by the Bureau of Land Management, the California Department of Fish and Wildlife, and the California Department of Justice North State Marijuana Investigation Team.

United States v. Ret Thach, No. 6:18-CR-10081 (D. Kans.), AUSA Matt Treaster.

On June 14, 2018, prosecutors charged Ret Thach with violating the Lacey Act for arranging to buy two tiger pelts (16 U.S.C. §§3372(a)(1), 3373(d)(1)(B)). Trial is scheduled to begin on August 21, 2018.

On June 14, 2018, Thach allegedly agreed to pay \$8,000 for two tiger pelts to be delivered to him in Wichita. Thach also agreed to pay traveling expenses for a seller from Wisconsin to drive to Wichita to deliver the pelts. Thach did not know that the seller was an undercover agent. The agent informed Thach that selling the pelts across state lines was “absolutely illegal.” Thach responded that he already owned “a lion and a lot of bears” and wanted to go ahead with the deal to buy the pelts for his home office.

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

United States v. U-Haul Company of Pennsylvania et al., No. 2:18-CR-00247 (E.D. Pa.), AUSA Elizabeth Abrams.

On June 12, 2018, prosecutors charged U-Haul Company of Pennsylvania (U-Haul) and general manager Miguel Rivera in a six-count indictment with violating the Hazardous Materials Transportation Act for an explosion leading to two fatalities (49 U.S.C. § 5124). Trial is scheduled to begin on August 27, 2018.

On July 1, 2014, a propane cylinder on a food truck exploded while parked on the street. As the propane ignited, a fireball enveloped the truck seriously injuring several individuals and causing significant property damage. Two people later died from injuries sustained in the explosion.

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Indictments/ Informations

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According to the indictment, the defendants improperly filled propane cylinders on several occasions. Regulations required cylinders that might be filled with a hazardous material, such as propane, to be retested at least every 12 years. The propane cylinders on this food truck were significantly beyond the retest date. One was manufactured in 1948 and had never been retested, and the other was last retested in 1995.

U-Haul also is charged with failing to properly train and test an employee who had filled cylinders with propane. At various times in June 2014, Rivera instructed the untrained employee to fill the tanks on behalf of U-Haul.

This case was investigated by the Department of Transportation Office of Inspector General, the Federal Bureau of Investigation, and the Bureau of Alcohol, Tobacco, Firearms and Explosives, with assistance from the Philadelphia Police, the Philadelphia Fire Department, and the Pipelines and Hazardous Materials Safety Administration.

Guilty Pleas

***United States v. Gavin Rexer et al.*, No. 4:18-CR-00174 (M.D. Penn.), AUSAs Phillip J. Caraballo and Sean Camoni, and SAUSA Patricia C. Miller.**

On June 28, 2018, Gavin Rexer, Dennis Paulhamus, and Timothy Sweitzer pleaded guilty to conspiring to violate the Clean Air Act for their involvement in a scheme to modify emissions systems with “defeat devices” on trucks to ensure the vehicles passed emissions’ testing (18 U.S.C. § 371). Joseph Powell and John Joseph remain under indictment.

Rexer, Powell, and Joseph were employees of Rockwater Northeast LLC, a company that serviced the fracking industry. Between August 2013 and June 2014, the defendants conspired to modify the emissions systems on approximately 30 Rockwater heavy-duty diesel trucks by using “defeat devices.” Paulhamus and Sweitzer sold them the devices, which were subsequently mislabeled and concealed in Rockwater’s books as “exhaust systems.” The conspirators also are accused of taking the modified commercial motor vehicles to state-approved inspection stations, including Sweitzer’s Garage, in order to pass inspections.

This case was investigated by the U.S. EPA Criminal Investigation Division and the DOT’s Office of the Inspector General, with assistance from the Federal Motor Carrier Safety Administration, and the Pennsylvania State Police.

***United States v. Victor H. Gonzalez*, No. 9:18-CR-80105 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On June 22, 2018, Victor H. Gonzalez pleaded guilty to violating the Humane Methods of Slaughter Act (HMSA), and the Federal Meat Inspection Act (FMIA) for his involvement in the inhumane slaughter of swine and the sale of swine meat for human consumption (7 U.S.C. § 1902(a); 21 U.S.C. § 610(b)). Sentencing is scheduled for August 27, 2018.

Gonzalez was the president of El Milagro Nursery, Inc. (Milagro), located in Loxahatchee, Florida. He was responsible for the day-to-day management and participated in the slaughtering, processing, handling, storing, and selling of meat products, including swine.

During an inspection in December 2016, company employees were observed slaughtering swine without the required equipment to stun or otherwise render the animals insensible to pain in violation of the HMSA. Instead, they restrained the animals before stabbing them, and then left them to bleed out on the floor. Customers paid \$350 to select the animal and have the carcass placed in their vehicles after it was processed.

This case was investigated by the U.S. Department of Agriculture Food Safety and Inspection Service.

Guilty Pleas

United States v. Tyler C. McGovern, No. 8:18-CR-00283 (M.D. Fla.), AUSA Christopher F. Murray.

On June 21, 2018, Tyler C. McGovern pleaded guilty to conspiring to exhibit an animal in an animal fighting venture, and to buy, sell, deliver, possess, train, and transport an animal for participation in an animal fighting venture (18 U.S.C. § 371). Sentencing is scheduled for September 19, 2018.

Between 2015 and 2016, McGovern and his co-conspirators, operating as the Triangle Gang, sponsored pit bull-type terriers in fights in Duval, Sumter, and Marion counties. On March 1, 2017, law enforcement officers executed a search warrant in Sumter County at a property belonging to a Triangle Gang member and seized eight dogs, along with equipment and supplements used to condition the dogs for fighting.

This case was investigated by the Federal Bureau of Investigation, the Pasco Sheriff's Office, and the Sumter County Sheriff's Office.

Guilty Pleas

United States v. U.S. Technology Corporation et al., No. 4:17-CR-00189 (E.D. Mo.), AUSAs Dianna Collins and Hal Goldsmith.

On June 20, 2018, Raymond Williams, Daryl Duncan, Penny Duncan, and U.S. Technology Corporation pleaded guilty to charges involving the transportation of millions of pounds of hazardous waste between October 2013 and December 2013. Sentencing is scheduled for September 20, 2018.

Williams was the president, owner, and CEO of U.S. Technology Corporation (UST). The company leased blasting material for use in the removal of paints and other substances. Military bases and agencies often require the use of abrasives to remove paint from tanks, planes, and other equipment. The paint often contains heavy metals such as cadmium, chromium, and lead, which get mixed in with the blasting material that is returned to the company.

In October 2013, Williams contacted Daryl Duncan for help in arranging for the disposal of almost ten million pounds of hazardous waste located in Yazoo City, Mississippi, at the former Hydromex site. Daryl and Penny Duncan subsequently created Missouri Green Materials (MGM) for the sole purpose of receiving the hazardous waste in Berger, Missouri. Williams and UST illegally shipped the waste to the Duncans over a three-month period. They both pleaded guilty to conspiring to transport hazardous waste (18 U.S.C. § 371).

The Duncans pleaded guilty to violating the Clean Air Act for placing a person in imminent danger by releasing hazardous waste into the air (42 U.S.C. § 7413(c)(4)).

This case was investigated by the U.S. EPA Criminal Investigation Division and the Missouri Department of Natural Resources.



Hazardous paint waste

Guilty Pleas

United States v. Steven V. Baker et al., No. 5:18-CR-00205 (D.S.C.), AUSA Winston Holliday.

On June 19, 2018, Steven V. Baker pleaded guilty to conspiracy to smuggle wildlife (18 U.S.C. § 371).

Baker was the ringleader of an international syndicate of wildlife smugglers exchanging CITES-protected turtles between the United States and China. The operation, taking place between January and June 2016, involved dealers in New York, Hong Kong and the Carolinas. Baker obtained protected turtles from Hong Kong to distribute in the United States, and then shipped them from the United States to Asia.

To date, nine other individuals have been charged, with four under seal. The other five are: Matthew Kail, William Gangemi, Matthew Fischer, William Fischer, and Logan Brooks.

In many instances, Baker and his cohorts shipped or received rare turtles in boxes labeled as snacks. Inside the boxes, the turtles were covered in candy wrappers or stuffed in socks. The value of the wildlife has been estimated at approximately \$410,000.

The defendants set up the transactions via Facebook, with shipments made through the U.S. Postal Service. Several packages were intercepted at John F. Kennedy International Airport. Baker was previously prosecuted in 2015 for similar wildlife trafficking violations.

This case was investigated by the U.S. Fish and Wildlife Service, the U.S. Postal Inspection Service, and the South Carolina Department of Natural Resources.



Indian Roofed Turtles

Guilty Pleas

United States v. William T. Wright et al., No. 16-CR-00214 (W.D. La.), AUSAs Earl Campbell and J. Aaron Crawford.

On June 15, 2018, William T. Wright, the vice president of Explo Systems Inc., pleaded guilty to a conspiracy charge stemming from the illegal storage of munitions at Camp Minden and a subsequent explosion (18 U.S.C. §§ 371). All defendants are scheduled to be sentenced on August 30, 2018.

Explo Systems is a private company whose primary business involved the demilitarization of military munitions and the subsequent resale of the recovered explosive materials for mining operations. Wright oversaw the demilitarization operations. The U.S. Army awarded Explo a contract in March 2010 to dispose of 450,000 155 mm artillery pieces containing M6 propellant for approximately \$3 million. The contract was later amended in March 2012 for the disposal of 1,350,000 charges for \$8,617,500. The contract required Explo to properly store and dispose of the demilitarized M6, as well as to document its sale by completing an End User Certificate (EUC). On the EUC, the purchaser of the demilitarized M6 certified the purchase and compliance with applicable federal laws. Once they were certified, Explo submitted the EUCs to the Army.



Stored munitions

On October 15, 2012, an explosion occurred at a munitions storage igloo on Camp Minden. The blast involved approximately 124,190 pounds of smokeless powder and a box trailer holding close to 42,240 pounds of demilitarized M6. The damage destroyed the igloo and trailer, shattered windows of dwellings within a four-mile radius, and derailed 11 rail cars near the igloo.

Between January 2010 and November 2012, Wright and other Explo executives conspired to defraud the United States by impeding authorities from properly monitoring operations at the Camp Minden facility. They also conspired to submit false EUCs.

Company owner David A. Smith pleaded guilty to conspiracy and making a false statement (18 U.S.C. §§ 371, 1001); Program Manager Kenneth W. Lampkin and Traffic and Inventory Control Manager Lionel W. Koons pleaded guilty to making a false statement (18 U.S.C. § 1001); and Director of Engineering and Environmental Control Charles F. Callihan pleaded guilty to a Resource Conservation and Recovery Act false statement violation (42 U.S.C. § 6928(d)(3)).

This case was investigated by the U.S. EPA Criminal Investigation Division, the U.S. Army Criminal Investigation, the Department of Defense Criminal Investigative Service, the Federal Bureau of Investigation, and the Louisiana State Police-Emergency Service Unit.

Guilty Pleas

***United States v. Reynaldo Mederos*, No. 18-CR-20140 (S.D. Fla.), AUSA Jaime Raich.**

On June 11, 2018, Reynaldo Mederos pleaded guilty to violating the Migratory Bird Treaty Act for knowingly selling and offering to sell migratory birds (16 U.S.C. §§ 703, 707(b)(2)). Sentencing is scheduled for September 12, 2018.

On July 6, 2016, undercover officers entered a private Facebook chat group called Palomeros de Miami ("Pigeon enthusiasts of Miami"). Mederos had advertised a Blue Grosbeak for sale for \$140. Between August 2016 and January 2017, Mederos posted additional advertisements for Painted Buntings, Indigo Buntings, and Blue Grosbeaks.



*Maltreated Blue Grosbeak**

In October 2017, an undercover agent arranged to meet with Mederos for the purchase of two Blue Grosbeaks and two Painted Buntings. The agent observed several birds in cages in Mederos's residence. Mederos also unloaded several bird traps from the trunk of his car that contained Blue Grosbeaks. Mederos said that he captures 50-60 Painted Buntings annually, and had already caught close to 30 in 2017.

Operation Ornergy Bird culminated in the filing of charges against six defendants for trafficking more than 400 migratory birds over two migration seasons. This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, Customs and Border Protection, the National Park Service, and the U.S. Postal Inspection Service.

*This grosbeak was nursed back to full health, fledged new plumage, and was released in Everglades National Park.

***United States v. Hovary Muniz*, No. 18-CR-20335 (S.D. Fla.), AUSAs Jaime Raich and Tom Watts-FitzGerald.**

On June 6, 2018, Hovary Muniz pleaded guilty to knowingly selling and offering migratory birds for sale (16 U.S.C. §§ 703(a), 707(b)(2)).

Between February and May 2017, undercover agents entered private Facebook chat sites, locating posts and videos from Hovary Muniz advertising a number of Yellow-faced Grassquits for sale. In February 2018, Muniz posted a video on Facebook depicting a Lazuli Bunting he had for sale in a cage at his residence. He also stated that he had more birds for sale.

In 2016, Muniz was caught smuggling migratory birds from Cuba into the United States and was sentenced to complete a three-year term of probation to include four-

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Guilty Pleas

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months' home confinement. While on probation, he attempted to sell Yellow-faced Grassquits, a Lazuli Bunting, and other migratory birds.

Operation Ornerly Bird culminated in the filing of charges against six defendants for trafficking more than 400 migratory birds over two migration seasons. This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, Customs and Border Protection, the National Park Service, and the U.S. Postal Inspection Service.

United States v. Carlos Hernandez, No. 17-CR-20759 (S.D. Fla.), AUSA Jaime Raich.

On June 6, 2018, Carlos Hernandez pleaded guilty to violating the Migratory Bird Treaty Act for trapping, selling, and offering to sell migratory birds (16 U.S.C. §§ 703(a), 707(b)(2)). Sentencing is scheduled for August 7, 2018.

On January 13, 2016, the Florida Fish and Wildlife Conservation Commission (FWCC) received a complaint about a person illegally trapping birds along a canal. The complaint included photos of a Nissan Xterra and bird traps. FWCC agents responded and found Hernandez in the vehicle along with a large amount of birdseed, wood pieces (typically used for traps), and an eight-inch butcher knife.

An undercover agent later entered a private Facebook chat group called "Palomeros de Miami" (Pigeon-enthusiasts of Miami). Hernandez had advertised Blue Grosbeaks for sale, along with their photos on the site. In March and April 2017, Hernandez sold Blue Grosbeaks to a confidential informant who recorded the transactions. Hernandez can be heard saying that owning the birds was illegal.

Operation Ornerly Bird culminated in the filing of charges against six defendants for trafficking more than 400 migratory birds over two migration seasons. This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, Customs and Border Protection, the National Park Service, and the U.S. Postal Inspection Service.



Defendant selling birds out of the trunk of his car.

Guilty Pleas

***United States v. Jake M. Bell*, No. 1:09-CR-10334 (D. Mass.), ECS Trial Attorneys Gary Donner and Erica Pencak.**

On June 6, 2018, Jake M. Bell pleaded guilty to a Lacey Act trafficking violation for selling sperm whale teeth (16 U.S.C. §§ 3372, 3373). Sentencing is scheduled for September 6, 2018.

Bell was originally charged in 2009, but resided in the Ukraine until his arrest in December 2017. Bell and others conspired to traffic in sperm whale teeth. Between July 2005 and June 2006, they smuggled close to 50 pounds of sperm whale teeth into the United States, worth an approximate value of \$26,600. Between June 2007 and April 2008, Bell sold nine sperm whale teeth to customers in the United States, with an approximate value of \$20,300.

Sperm whale teeth are commonly used for scrimshaw and can fetch large sums of money from collectors and tourists. Scrimshaw is an art form which involves etching or engraving designs upon, or carving of figures, patterns, or designs from, any bone or tooth of any whale, dolphin or porpoise.

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

***United States v. Miguel Castillo*, No. 1:15-CR-00360 (D.N.J.), AUSA Kathleen O'Leary.**

On June 6, 2018, Miguel Castillo pleaded guilty to violating the Resource Conservation and Recovery Act (RCRA) for illegally storing hazardous waste (42 U.S.C. § 6928(d)(2)(A)). Sentencing is scheduled for September 10, 2018.

Castillo was the former president and CEO of Concord Chemical Co., Inc., from 2004 through August 2011. Concord was in the business of manufacturing, repackaging and distributing a wide variety of chemical products, including cresylic acid, soaps, waxes, pipe lubricants and emulsions. Some of the products and the raw materials used were hazardous. Castillo was responsible for making decisions about the disposal of waste at the Camden facility, and knew it was being stored illegally.

By March 2010, the company had ceased functioning. EPA discovered the abandoned drums in August 2010, and had them removed by March 2011.

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

Guilty Pleas

***United States v. Fuel Bio One LLC*, No. 2:18-CR-00335 (D.N.J.), ECS Trial Attorney Adam Cullman and AUSA Kathleen O’Leary.**

On June 5, 2018, a biodiesel fuel company pleaded guilty to violating the Clean Water Act for discharging more than 45,000 gallons of wastewater into the Arthur Kill, a narrow waterway that separates New Jersey from Staten Island, New York (33 U.S.C. §§ 1311, 1319(c)(2)(A)). Sentencing is scheduled for September 12, 2018.

Fuel Bio One generated wastewater that included methanol, biodiesel, and other contaminants, as a byproduct of its biodiesel fuel production at its Elizabeth, New Jersey, plant. On September 6, 2013, and November 9, 2013, company employees released approximately 45,000 gallons of wastewater into a storm water pit at the Elizabeth plant, causing the pump to operate and illegally discharged wastewater.

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

***United States v. Markos Diderrich*, No. 3:17-CR-00122 (W.D. Wis.), AUSA Daniel Graber.**

On June 1, 2018, Markos Diderrich pleaded guilty to violating the Lacey Act for transporting wildlife in interstate commerce in violation of state laws (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)). Sentencing is scheduled for September 5, 2018.

Between January and June 2016, Diderrich shipped a number of reptiles, including turtles and salamanders, from Wisconsin to other states, with the intent to sell.

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



Blanding’s turtle

Sentencings

***United States v. Jin Chul Cha*, No. 4:17-CR-06046 (E.D. Wash.), ECS Trial Attorney Thomas Franzinger, AUSA Scott Jones, SAUSA/EPA RCEC Karla Perrin, and ECS Paralegal Diana Choe.**

On June 28, 2018, Jin Chul Cha was ordered to pay \$8,675,379 in restitution, joint and severally, with co-defendants Donald Holmes and Scott Johnson. Cha was sentenced in April 2018 to 51 months' incarceration, followed by three years' supervised release, with restitution to be determined at a later date. He previously pleaded guilty to conspiracy to commit wire fraud and conspiracy to defraud the government for his involvement in a multi-state scheme to bilk biodiesel buyers and U.S. taxpayers by selling fake biodiesel credits and claiming alternative fuel tax credits (18 U.S.C. §§ 286, 1349).

Cha worked with Gen-X Energy Group, a now-defunct biofuel company in Pasco, Washington, and other co-conspirators (primarily Scott Johnson, the former founder and CEO of Gen-X, and company vice president Donald Holmes) to carry out these crimes. Cha used several corporations he controlled to facilitate a scheme to repeatedly cycle batches of renewable biofuels among various companies. With each cycle of the old product, Gen-X falsely claimed it had generated new biofuel, thereby generating fraudulent Renewable Identification Numbers (RINs) and improperly receiving new alternative fuel tax credits from the Internal Revenue Service (IRS). Afterwards, Cha and others used false paperwork to represent the "fuel" as "feedstock."

From October 2012 until March 2015, the conspirators generated at least 9.4 million fraudulent RINs that were based on fuel that was either never produced or was merely re-processed at the Gen-X facilities. They received at least \$3.5 million from the sale of these fraudulent RINs to third parties. In addition, the defendants fraudulently received approximately \$2.5 million in tax credits for this fuel.

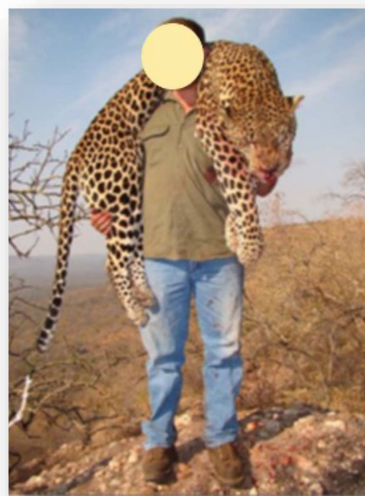
Of the \$8,675,379 in restitution, \$6,169,285 will be paid to Murex and \$2,506,094 will go to the IRS. Murex had purchased fraudulent RINS from Gen-X.

This case was investigated by the U.S. Secret Service, the U.S. EPA Criminal Investigation Division, and IRS Criminal Investigations.

***United States v. Adam T. Lawrence*, No. 4:18-CR-00014 (N.D. Calif.), AUSA Katherine Lloyd-Lovett.**

On June 25, 2018, Adam T. Lawrence was sentenced to pay a \$10,000 fine, complete a three-year term of probation and perform 200 hours of community service. He previously pleaded guilty to violating the Lacey Act for illegally killing a leopard, a CITES-protected species (16 U.S.C. §§ 3372(d)(1), 3373(d)(3)(A)). Restitution will be determined at a later date.

Lawrence traveled to South Africa in August 2011, where he hunted and killed a leopard. Lawrence did not have the proper permits to kill the leopard or to bring it back into the United States. In May 2012, Lawrence secretly transported the animal's skin and skull into Mozambique and claimed that he had legally killed the animal there. Lawrence



Lawrence with leopard

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Sentencings

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then applied for permits from Mozambique, South Africa, and the United States to import the leopard skin and skull into this country. Each document falsely claimed that the leopard was killed in Mozambique. Using this falsified paperwork, Lawrence imported the leopard parts into the United States in April 2013.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement.

Sentencings

***United States v. David Cahoon et al.*, No. 4:18-mj-01016, 01018-01020 (E.D.N.C.), AUSA Daniel William Smith.**

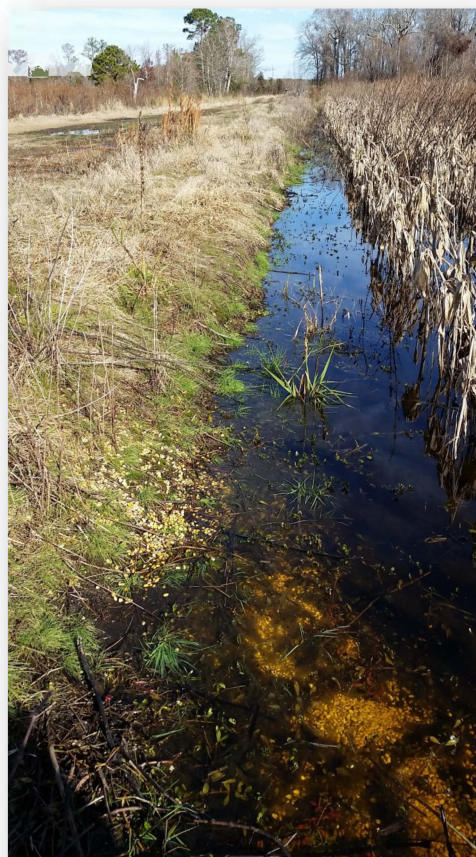
On June 20 and 22, 2018, two men were sentenced after pleading guilty to aiding and abetting others in the taking of migratory waterfowl with the use of bait, and hunting migratory waterfowl over an area that was baited.

During the 2016-2017 waterfowl season, federal wildlife officers observed on several occasions, multiple people engaged in placing bait on the Cahoon family impoundments. The impoundment is located adjacent to the Lake Mattamuskeet National Wildlife Refuge. On December 17, 2016, the officers saw several hunters enter both baited impoundments and actively hunt migratory waterfowl.

David Cahoon allowed a family member to hunt his impoundment knowing it contained fresh corn. He pleaded guilty to an aiding and abetting charge (18 U.S.C. § 2) and was ordered to pay a \$9,000 fine. Timothy Cahoon hunted when the season opened within the baited impoundment. He pleaded guilty to violating the Migratory Bird Treaty Act and was ordered to pay a \$2,500 fine, complete a one-year term of probation, and is prohibited from hunting during that time (16 U.S.C. §704(b)(1)).

In an adjacent impoundment, John Bull hunted migratory waterfowl knowing the impoundment was baited with bird and sunflower seed. This impoundment is also located adjacent to the Refuge. Bull pleaded guilty to hunting over a baited area and aiding and abetting (16 U.S.C. § 704(b)(1); 18 U.S.C. § 2). He was sentenced earlier this year to pay a \$4,000 fine, complete a one-year term of probation, and is prohibited from hunting during this time. Jonathan P. Williams pleaded guilty to aiding and abetting and was sentenced to the same terms as Bull.

This case was investigated by the U.S. Fish and Wildlife Service and the North Carolina Wildlife Resources Commission.



Corn –baited impoundment

Sentencings

Sentencings

***United States v. Mahmoud Alkabanni*, No. 2:17-CR-00311 (C.D. Calif.), AUSAs Cameron Schroeder and Mark Williams.**

On June 13, 2018, Mahmoud Alkabanni was sentenced to pay a \$40,000 fine and complete a two-year term of probation, to include six months' home confinement. Alkabanni previously pleaded guilty to conspiring to violate the Clean Air Act (CAA) and substantive CAA violations for the unlawful importation and sale of counterfeit cylinders containing R-22, which was falsely manifested as R-134a (18 U.S.C. § 371; 42 U.S.C. §§ 7413(c)(1), 7671(g), 7671(h)). R-134a is not an ozone depleting substance, and does not require any allowances to be imported into the United States.

In January 2013, Alkabanni entered into a contract with a Chinese company to purchase 4,600 cylinders of R-134a for approximately \$24.70 per cylinder. Alkabanni was aware that he was actually purchasing R-22. The Chinese seller described the gas in the contract addendum as being R-134a for the purpose of "passing the inspection of custom house and exporting." Alkabanni subsequently submitted a variety of falsified documents to U.S. Customs and Border Patrol (CBP) in connection with this transaction.

In May 2013, the company shipped 2,300 cylinders of R-22 gas from China, destined for the Port of Long Beach in California. The gas was contained in cylinders bearing the counterfeit "Glacier" trademark, which is registered to Hudson Technologies, Inc., a U.S. company that provides sales and services relating to refrigerant gases. After CBP and EPA inspected the shipment and discovered that it contained R-22 and not R-134a, Alkabanni claimed that the supplier made a mistake by shipping him R-22. As proof, he provided CBP with a copy of the sales contract, but did **not** include the addendum, which noted the true contents of the cylinders.

Between 2012 and 2014, Alkabanni repeatedly offered R-22 for sale on eBay, despite having no allowances for importation. In September 2013, he sold four cylinders to an undercover agent, all bearing the counterfeit "Glacier" trademark, for \$1,350 (approximately \$337.50 per cylinder) more than ten times what he paid for it.

This case was investigated by Homeland Security Investigations and the U.S. EPA Criminal Investigation Division.

July 2018

Sentencings

***United States v. Robert Burgos et al.*, No. 1:17-CR-00329 (E.D.N.Y.), AUSA Alicia Washington.**

On June 8, 2018, Robert and Vanessa Burgos were sentenced to one-day time-served, followed by a one-year term of supervised release. The defendants previously pleaded guilty to conspiring to illegally import a dozen Fischer Lovebirds, into the United States in violation of the Endangered Species Act (18 U.S.C. § 371). The birds were forfeited as part of the sentence.

Fischer Lovebirds are protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As a result, Fischer Lovebirds may be imported into the United States from a foreign country only if the importer possesses a valid CITES export or re-export permit from the foreign country of origin.

In late June 2015, a shipment of Fischer Lovebirds arrived at John F. Kennedy International Airport from Madrid, Spain, falsely labelled as Rosy-Faced Lovebirds, which are not CITES-protected. The shipment was imported by Aviary La Familia, Inc., a Florida-based company run by the defendants, and was detained at the U.S. Department of Agriculture quarantine center in New York. A forensic ornithologist subsequently confirmed that the lovebirds in quarantine were not Rosy-Faced Lovebirds, but were, in fact, Fischer Lovebirds.

Evidence showed that the defendants traveled to Indonesia to select several of the Fischer Lovebirds and used Facebook to coordinate their smuggling. They also arranged for the birds to be shipped to Spain prior to entry into the United States in an attempt to evade U.S. restrictions on the import of birds from Indonesia. Birds were restricted from Indonesia due to the presence of bird flu.

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

***United States v. Albert Cray*, No. 2:17-CR-00159 (D. Maine), ECS Trial Attorney Cassie Barnum, ECS Senior Trial Attorney Todd Gleason, ECS Paralegal Ashley Patterson, and former Trial Attorney Shane Waller.**

On June 6, 2018, Albert Cray was sentenced to pay a \$15,000 fine, complete a one-year term of probation, and perform 100 hours' of community service. Cray previously pleaded guilty to violating the Lacey Act for illegally harvesting juvenile eels (also known as elvers) (16 U.S.C. §§ 3372, 3373).

Cray was a resident of Maine who became involved in the elver fishing industry in 2012. In January 2013, he obtained a license to harvest American eels in Florida. His purpose in obtaining this license was to conceal the origins of illegally harvested elvers by claiming they had been legally harvested in Florida.

In early March 2013, Cray and others traveled from Maine to New Jersey. Over the course of several days, and knowing that New Jersey law prohibited the possession of elvers, Cray and his associates caught approximately 91 pounds of elvers, which they then sold to a dealer in Maryland. Approximately a week later, they caught 50 additional pounds of elvers that were sold to a dealer. Over the course of the 2013 season, Cray dealt in approximately \$253,518 worth of illegally-harvested elvers.

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

Sentencings

***United States v. Dyno-Nobel, Inc.*, No. 3:18-CR-00063 (D. Ore.), AUSA Ryan Bounds and RCEC Karla Perrin.**

On June 4, 2018, Dyno-Nobel, Inc., was sentenced to pay a \$250,000 fine and complete a two-year term of probation. The company previously pleaded guilty to violating the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), following a series of large-scale ammonia discharges from a urea-manufacturing plant in July and August 2015 (42 U.S.C. § 9603(a)(b)).

The company's St. Helens, Oregon, plant discharged more than six tons of anhydrous ammonia vapor into the air over the course of a three-day period starting on July 30, 2015. A subsequent investigation revealed that several failed attempts to restart the plant had caused a series of massive discharges from the facility, triggering numerous complaints of foul odors, eye irritation, and difficulty breathing from citizens living nearby.

Although personnel were aware of the emissions, the company did not alert the National Response Center until August 7, 2015, more than a week after the first discharge.

As a condition of probation, the company is required to implement stack tests and promptly furnish the results to EPA during the term of probation. Dyno-Nobel also will install a fence line monitoring system around the plant to immediately detect excessive ammonia levels.

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

***United States v. Charles Kaye, et al.*, No. 5:17-CR-00146 (C.D. Calif.), AUSAs Amanda M. Bettinelli and Dennis Mitchell.**

On June 4, 2018, Charles Kaye was sentenced to pay a \$3,000 fine and complete a two-year term of probation, after pleading guilty to violating the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. § 5124(a)).

Kaye is a former warehouse manager for Glow Industries, Inc., (Glow) a company that sells tobacco products and accessories. In July 2012, Glow shipped a package by air containing 72 butane cartridges from its Riverside, California, facility to a smoke shop in Anchorage, Alaska. Butane is a highly flammable liquid used in lighters, but the package was not marked as containing hazardous material. The package was damaged during the flight, revealing the cartridges inside. Investigators determined that a Glow employee had inverted the package so that the hazardous material marking originally placed on it would not be visible.

Glow and Kaye directed various managers and employees to conceal the hazardous nature of other shipments. Kaye sent a letter to the Federal Aviation Administration in August 2012 claiming that an employee inadvertently shipped undeclared hazardous materials from Riverside to Anchorage, when he had, in fact, been directed to do so. Shipping companies rely upon hazardous material products bearing required labeling in order to properly handle and transport such items.

Glow was sentenced in January 2018 to pay a \$250,000 fine, complete a five-year term of probation, and implement an environmental compliance plan. It also pleaded guilty to violating the HMTA.

This case was investigated by the U.S. DOT Office of Inspector General.

Announcements

*** When submitting a press release for posting with the Executive Office of U.S. Attorneys <https://www.justice.gov/usao/pressreleases>, please be sure it is tagged for the “Environment/Wildlife” topic. This will help ensure that your case is not overlooked for reporting in the Bulletin. ***

News from state, local, and Canadian cases is posted on the Regional Environmental Enforcement Associations [website](#) .

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.

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

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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	████████
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Senior Trial Attorney	Georgiann Cerase	████████
Senior Trial Attorney	Daniel Dooher	████████
Senior Trial Attorney	Todd Gleason	████████
Senior Trial Attorney	David Kehoe	████████
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