



Monthly

# Bulletin

## Environmental Crimes Section

July 2019

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“The defendant in this case intentionally contaminated a tributary of the Chattahoochee River, killing fish and damaging the environment,” said Special Agent in Charge Andy Castro of EPA’s Criminal Investigation Division. “This sentencing demonstrates that EPA and its law enforcement partners are committed to protecting our natural resources and the communities that rely upon them.” (From sentencing [press release](#) in U.S. v. Conde. See [inside](#) for more details on this case.)

District/Circuit	Case Name	Case Type/Statutes
Central District of California	<a href="#">United States v. Capital Ship Management</a> <a href="#">United States v. Wiley Sanders Truck Lines</a>	Vessel/ APPS, Conspiracy, Obstruction Battery Wastes/HMTA
Eastern District of California	<a href="#">United States v. Felipe Angeles Valdez-Colima et al.</a>	Marijuana/Drug, Depredation of Natural Resources
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District of Columbia	<a href="#">United States v. Mohammad Sikder et al.</a>	Lead Paint/False Statements, TSCA
Southern District of Florida	<a href="#">United States v. Princess Cruise Lines</a>	Vessel/Probation Revocation, Recidivist
	<a href="#">United States v. Bonefish Holdings, LLC</a>	Wetlands/CWA
Northern District of Georgia	<a href="#">United States v. Carlos Conde</a>	Chemical Spill/CWA
Eastern District of Louisiana	<a href="#">United States v. William McGinness et al.</a>	Bird Exports/Conspiracy, Lacey Act, Smuggling
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District of New Mexico	<a href="#">United States v. Wayne Martin</a>	Bird Killing/MBTA
Southern District of New York	<a href="#">United States v. Moazu Kromah et al.</a>	Ivory and Rhino Horn Sales/ Conspiracy, Drugs, Lacey Act, Money Laundering
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District of South Carolina	<a href="#">United States v. Portline Bulk International S.A. et al.</a>	Vessel/ APPS, Obstruction
	<a href="#">United States v. Anatoli Zotsenko et al.</a>	
Eastern District of Tennessee	<a href="#">United States v. Berthold Technologies U.S.A., LLC</a>	Fracking Equipment/HMTA
Eastern District of Washington	<a href="#">United States v. Hector M. Garza, Jr., et al.</a>	Renewable Fuel Fraud/CAA, Conspiracy, False Claims

## Decisions

***United States v. Princess Cruise Lines Ltd.*, No. 16-CR-20897 (S.D. Fla.), ECS Senior Litigation Counsel Richard Udell and AUSA Tom Watts-FitzGerald, with assistance from Lt. Commander Anton DeStefano of the U.S. Coast Guard.**

Following a probation revocation hearing on June 3, 2019, a court sentenced Princess Cruise Lines to pay a \$20 million fine and complete an additional three-year term of enhanced supervision.

In December 2016, the company pleaded guilty to conspiracy, obstructing justice, and violating the Act to Prevent Pollution from Ships (18 U.S.C. §§ 371, 1505; 33 U.S.C. § 1908(a)). The court ordered the company to pay a \$30 million fine, make a \$10 million community service payment, implement an Environmental Compliance Program (ECP), and complete a five-year term of probation in April 2017. Between 2017 and 2019, the defendant committed several probation violations, including failure to implement the ECP and continuing to discharge oily wastewater.

Prior to the revocation hearing, a group of individuals filed a motion to vacate the agreement, pursuant to the Crimes Victims' Rights Act (CVRA) 18 U.S.C. § 3771. The individuals claimed that pursuant to the CVRA, they were victims of the probation violations and earlier crimes by the defendant, and should be allowed to confer with the government concerning the criminal settlement agreement, and to appear and be heard at the probation hearing. The individuals submitted victim impact statements, which only claimed that they had seen or heard about the oil spills believed to have been caused by the cruise line while on probation. The government opposed the motion, arguing that while the individuals were legitimately concerned citizens, they were not "victims" as defined under the CVRA. In fact, none of them could show that they were directly or proximately harmed by any of the probation violations. The court agreed with the government and ruled that the individuals did not have standing under the CVRA. Nonetheless, the court permitted "victims" counsel to address the court twice during the hearing. After hearing evidence by the government and defendant, the court approved the previously mentioned settlement agreement.

On June 17, 2019, "victims" counsel petitioned the Eleventh Circuit Court of Appeals for a writ of mandamus vacating the district court's order, or in the alternative remanding the case to allow the victims to confer with the government and present evidence at a re-opened probation hearing. Under the CVRA, the Court of Appeals must rule on the petition within 72 hours. In less than four hours, the Eleventh Circuit ruled and issued an order that the district court had not abused its discretion by determining that the petitioners were not victims under the CVRA.

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## Indictments/Informations

***United States v. Capital Ship Management et al.*, Nos. 2:19-CR-00333, 354 (C.D. Calif.), AUSAs Heather C. Gorman, Erik M. Silber, and Paul G. Stern.**

On June 14, 2019, prosecutors charged a Greek cargo ship operator, Capital Ship Management Corporation, and two chief engineers (Ioan Luca and Ionel Surla) in a five-count indictment with failing to record the illegal dumping of oily waste into international waters and obstructing justice (18 U.S.C. §§ 371, 1503, 1512 (b)(3), 1519; 33 U.S.C. § 1908(a)). Trial is scheduled for August 20, 2019.

Surla worked as a chief engineer onboard the *M/V CMS CGM Amazon* from May 2018 to October 2018, and Luca was the chief engineer from October 2018 to January 2019. Between July 2018 and January 2019, Surla and Luca ordered crew members to use a portable pump and flexible hoses in the ship's engine room to transfer oil-contaminated bilge water to a tank designed to hold clean water, then dispose of the water directly overboard without processing through the oily water separator. They failed to note those discharges in the ship's oil record book (ORB), in violation of the Act to Prevent Pollution from Ships (APPS).

While at the Port of Los Angeles on January 11, 2019, crewmembers presented the false ORB to Coast Guard inspectors. The company and Luca are further charged with obstruction of justice and witness tampering for instructing crew members to lie to the Coast Guard about events that occurred on the ship while at sea.

In a related case, a court sentenced second engineer Marian Gavriluta-Strat, on July 12, 2019, to a one-year term of probation after pleading guilty to violating APPS.

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

***United States v. Moazu Kromah et al.*, No. 19-CR-00338 (S.D.N.Y.) AUSAs Sagar K. Ravi and Jarrod L. Schaeffer.**

On June 13, 2019, prosecutors charged members of an African criminal enterprise with the large-scale trafficking of rhinoceros horns and elephant ivory, as well as money laundering and heroin distribution (18 U.S.C. §§ 371, 1956(h), (a)(3)(B); 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)). Named in the indictment are Moazu Kromah, Amara Cherif, Mansur M. Surur, and Abdi H. Ahmed.

Between December 2012 and May 2019, the defendants conspired to transport, distribute, sell, and smuggle approximately 190 kilograms of rhinoceros horns and ten tons of elephant ivory from various countries in East Africa, including



*Rhino horn hidden in an African statue for shipping*

*(Continued on page 6)*



## **Indictments/ Informations**

*(Continued from page 5)*

Uganda, the Democratic Republic of the Congo, Guinea, Kenya, Mozambique, Senegal, and Tanzania, to buyers located in the United States and countries in Southeast Asia. In total, the estimated average retail value of the rhinoceros horn was approximately \$3.4 million, with an estimated \$4 million in elephant ivory.

Individuals in Manhattan purchased horns and ivory from the defendants, often concealed in packages holding pieces of art including African masks and statues. The defendants received and deposited payments from foreign customers sent as international wire transfers, some which came through U.S. financial institutions.

On a number of occasions, Kromah, Surur, and Ahmed met with a confidential source concerning potential elephant ivory and rhinoceros horn transactions. They also exchanged phone calls, emails, and texts. On March 16, 2018, and July 17, 2018, law enforcement agents intercepted packages containing horns sold by the defendants to the confidential informant,

Between August 2018 and May 2019, Surur and Ahmed conspired to distribute approximately ten kilograms of heroin to a buyer in New York (21 U.S.C. § 846; 18 U.S.C. § 3238). This case was investigated by the U.S. Fish and Wildlife Service and the Drug Enforcement Administration.

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July 2019

## Guilty Pleas

***United States v. Mohammad Sikder et al.*, No. 1:19-CR-00196 (D.D.C.), ECS Trial Attorney Cassie Barnum.**

On June 20, 2019, Mohammad Sikder and District Properties, LLC, pleaded guilty to violating the Toxic Substances and Control Act (TSCA) and making false statements (15 U.S.C. §§ 2689, 2615(b); 18 U.S.C. § 1001). Sentencing is scheduled for November 22, 2019.

Between July 2014 and September 2015, Sikder violated TSCA for failing to follow lead-safe work practices during the renovation of a property in the District of Columbia. The demolition work included replacing windows, refurbishing interior and exterior painted surfaces, and removing floor and ceiling joists.

In September 2015, an Occupational Safety and Health Administration inspection revealed multiple hazards, including employees performing manual demolition on a lead-paint covered wall, and a lack of employee training for this type of job.

Between 2011 and 2017, District Properties, LLC, submitted 25 renovation permit applications for properties in Washington, District of Columbia, on which the company falsely represented that the properties had been built after 1978, thereby circumventing additional permitting requirements and avoiding EPA oversight.

This case was investigated by the U.S. Environmental Protection Agency Criminal Investigation Division, with assistance from the Metropolitan Police Department Environmental Crimes Unit.



## Guilty Pleas

***United States v. William McGinness et al.***, No. 2:18-CR-00118 (E.D. La.), ECS Trial Attorney Mary Dee Carraway, AUSA Melissa Bucher, ECS Paralegal Dan Hauser, and ECS Law Clerk John Jones.

On June 5, 2019, Wayne Andrews pleaded guilty to violating the Lacey Act for making false records (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(B)). He is scheduled to be sentenced on August 14, 2019. On June 12, 2019, Alex Madriaga also pleaded guilty to making false records under the Lacey Act and is scheduled to be sentenced on August 28, 2019. Co-defendants William McGinness, Paul Tallman, and Rene Rizal are set for trial which begins on September 16, 2019, in New Orleans, Louisiana.

The defendants are variously charged with conspiracy, smuggling goods out of the country, and Lacey Act false statement violations. Their conduct involved the illegal exportation of CITES-protected birds, including Appendix I species, from the United States to Taiwan (18 U.S.C. §§ 371, 554; 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)).

Between January and July 2015, the defendants conspired to prepare and submit falsified documents to the U.S. Fish and Wildlife Service in order to illegally export CITES-protected birds from California to Taiwan. In January 2015, Taiwan placed a moratorium on importing all birds from California due to the risk of a highly pathogenic avian influenza. McGinness transported approximately 100 birds to New Orleans for export in an attempt to bypass the Taiwanese moratorium on California birds. The protected birds included parrots, macaws, cockatoos, and corellas.

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



*The defendants kept the birds in small packing crates for more than a week.*

## Guilty Pleas

***United States v. Hector M. Garza, Jr., et al.***, No. 17-CR-06020 (E.D. Wash.), ECS Senior Trial Attorney Jennifer Blackwell, SAUSA Karla Perrin, AUSA Daniel Fruchter, and ECS Law Clerk Fred Ingram.

On June 7, 2019, Hector M. Garza, Jr., his wife Tammy L. Garza, and two of their personally-controlled corporations pleaded guilty to various charges. Tammy Garza pleaded guilty to a Clean Air Act false statement violation. Hector Garza, HTG Trucking LLC, and Freedom Fuel Inc. pleaded guilty to conspiracy to defraud the government by making false claims (42 U.S.C. § 7413(c)(2)(A); 18 U.S.C. § 286). Sentencing is scheduled for October 17, 2019.

The defendants conspired to defraud renewable fuel purchasers and U.S. taxpayers by fraudulently selling renewable fuel credits (RINs) and claiming alternative fuel tax credits. The Garzas operated a freight hauling service and a truck service station in central Washington. Gen-X Energy Groups (Gen-X) originally hired them to transport purported feedstock and renewable fuel. Subsequently, the Garzas determined how Gen-X's fraud scheme operated, and threatened to report the company's founder (Scott Johnson) to the authorities if he did not run another similar scheme for their benefit.

From January to April 2013, the Garzas used their trucking company, HTG Trucking, to sell "feedstock" to Gen-X and transport the material to the Gen-X facility, where it was emptied into a holding tank. Employees pumped the same material back into the tanker truck, altering the paperwork to fraudulently label the material as "fuel."

Garza owned company Freedom Fuels transported this "fuel", where it was changed back to "feedstock" on paper, transferred to HTG Trucking, and cycled through the process again. The Garzas and Gen-X produced one million RINs for which they claimed alternative fuel tax credits from the Internal Revenue Service (IRS) and sold to a third party. The Garzas received approximately \$290,000 for their role in the scheme.

A court sentenced Gen-X CEO Scott Johnson to 97 months' incarceration and COO Donald Holmes to 78 months' incarceration. Each were held jointly and severally liable for \$15,693,341 in restitution to the IRS.

This case was investigated by the Internal Revenue Service Criminal Investigation and the U.S. Environmental Protection Agency Criminal Investigation Division.

This case was investigated by the U.S. Environmental Protection Agency Criminal Investigation Division.

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Sentencings

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## Sentencings

### ***United States v. Anatoli Zotsenko, et al.*, No. 2:19-CR-00434 (D.S.C.), ECS Trial Attorney Christopher Hale and AUSA Matt Austin.**

On June 17, 2019, a court sentenced Chief Engineer Anatoli Zotsenko and Second Engineer Valerie Pastushenko to complete three-year terms of probation. Zotsenko also will pay a \$7,500 fine and Pastushenko will pay a \$5,000 fine. The court banned both from entering the U.S. during the period [of](#) probation.

The two pleaded guilty to one count of violating the Act to Prevent Pollution from Ships for failure to accurately maintain the Oil Record Book (ORB) on the *M/V Achilles*, an oceangoing bulk carrier (33 U.S.C. § 1908).

From April 2017 to August 2018, senior members of the vessel's engineering team oversaw and participated in the bypass of the ship's Oil Water Separator utilizing a yellow plastic hose, referred to as a magic pipe. Zotsenko made a series of fake entries and key omissions in the ORB to conceal the illegal overboard discharges of oily bilge water. On August 14, 2018, crew members presented the false ORB to the U.S. Coast Guard during an inspection in the Port of Charleston.

This case was investigated by the U.S. Coast Guard.

### ***United States v. Wayne Martin*, No. 1:16-CR-02722 (D.N.M.), AUSA Jeremy Peña.**

On June 17, 2019, a court sentenced Wayne Martin to 37 days of incarceration, followed by one year of supervised release, for violating the Migratory Bird Treaty Act by shooting and killing at least two dozen protected birds and selling them to an undercover agent (16 U.S.C. §§ 703, 707(b)).

Martin previously pleaded guilty in January 2017. He admitted shooting robins, hummingbirds, hawks, and other protected bird species. Martin remained a fugitive for 21 months, and forfeited a Remington rifle as part of the sentencing.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from the Bureau of Indian Affairs.



*Bullock's Oriole, American Robin, Downy Woodpecker, and Red-tailed Hawk.*



## Sentencings

### ***United States v. Bonefish Holdings, LLC*, No.19-CR-10006 (S.D. Fla.), RCEC Jodi Mazer.**

On June 11, 2019, a court sentenced real estate property owner Bonefish Holdings, LLC, for illegally filling wetlands in violation of the Clean Water Act (33 U.S.C. §§ 1311 (a), 1319(c)(2)(A)). The court ordered the company to pay a \$50,000 fine, complete a three-year term of probation, and restore close to four acres of federal wetlands, at an estimated cost of \$190,000.

Bonefish owned five parcels of ocean-side land (close to seven and a half acres) located in Upper Matecumbe Key, Monroe County. Of that, wetlands covered approximately 3.70 acres. Bonefish sought to develop the site into a luxury commercial property, however, due to the wetlands and the existing Village of Islamorada's Comprehensive Plan and Land Development Regulations, those plans were denied. In 2009, the company obtained documentation from the U.S. Army Corps of Engineers establishing the presence of federally-protected wetlands and making clear that fill activity could only occur with the required permits. The agency reconfirmed its decision in 2013.

In September 2017, Hurricane Irma struck the Florida Keys as a Category 4 hurricane. Bonefish hired laborers to both clear storm debris as well as illegally clear and fill the site. The company took advantage of the opportunity to further its future development plans for the area.

This case was investigated by the U.S. Environmental Protection Agency Criminal Investigation Division, the U.S. Army Corps of Engineers, and the U.S. Army Criminal Investigative Command.

### ***United States v. Felipe Angeles Valdez-Colima et al.*, No. 1:18-CR-00158 (E.D. Calif.), AUSA Karen Escobar.**

On June 10, 2019, a court sentenced Felipe Angeles Valdez-Colima to ten years' incarceration for conspiring to manufacture, distribute, and possess with intent to distribute marijuana in the Kiavah Wilderness area of the Sequoia National Forest (21 U.S.C. §§ 841(a)(1), 846). The court further ordered Valdez to pay \$7,620 in restitution to the U.S. Forest Service for damages to natural resources.

Officers apprehended Rodolfo Torres-Galvan, Mauricio Vaca-Bucio, and Valdez on July 6, 2018, in the wilderness area. They saw Valdez and Torres emerge from the forest at a known drop point used by marijuana cultivators to access grow sites in this remote area. The men entered a vehicle driven by Vaca that law enforcement later stopped and searched. Officers found freshly harvested marijuana in their vehicle and located more than 1,000 plants at the grow sites on the interconnected trails from the drop point. They also found illegal pesticides, including carbofuran and zinc phosphide, in the vehicle and on site.

Torres was previously sentenced to 46 months' incarceration and Vaca is scheduled for August 5, 2019.

*(Continued on page 15)*



## Sentencings

(Continued from page 14)

This case was investigated by the U.S. Forest Service, with assistance from the U.S. Immigration and Customs Enforcement's Enforcement and Removal Operations, the Campaign against Marijuana Planting, the California Department of Fish and Wildlife, the California National Guard, the Kern County Sheriff's Office, and the Kern County Probation Office.

### ***United States v. Wiley Sanders Truck Lines Inc., No. 2:19-CR-00035 (C.D. Calif.), AUSAs Mark Williams and Joe Johns.***

On June 10, 2019, a court sentenced Wiley Sanders Truck Lines Inc. (Wiley Sanders) to pay a \$1.5 million fine plus make a \$1.5 million community service payment to the Los Angeles County Environmental Response and Assessment Fund. The company also will complete a three-year term of probation after previously pleading guilty to violating the Hazardous Materials Transportation Act (49 U.S.C. § 5124(a)).

This trucking company operates in 47 states. For several years, it transported recycled automotive battery cases from the EXIDE battery recycling and secondary lead smelting facility in Vernon, California, to a hazardous waste treatment, storage, and disposal facility in Bakersfield, California. The EXIDE facility annually received and recycled tens of thousands of lead acid automotive batteries shipped from all over the country. As part of the battery recycling process, the facility generated a variety of hazardous wastes including corrosive lead, cadmium, arsenic, antimony, zinc, and chromium.

On August 10, 2013, a Wiley Sanders truck transporting plastic battery chips entered a weigh station near Santa Clarita, California. Officials held the truck at the weigh station due to a faulty running light. A California Highway Patrol officer on duty there noticed that the semi-trailer was leaking liquid onto the ground. Samples taken from the liquid contained high levels of lead.

Investigation determined that Wiley Sanders illegally transported more than 40,000 pounds of lead-contaminated plastic battery chips on November 1, 2013, and March 13, 2014, and August 10, 2013. The trucks lacked lining to prevent the contents from escaping through cracks. The trucks transported wet loads, dripping lead and hazardous wastes on public roads, between Vernon and Bakersfield.

This case was investigated by the U.S. Department of Transportation Office of Inspector General, the U.S. Environmental Protection Agency Criminal Investigation Division and the California Department of Toxic Substances.



*Battery chips spilling from back of truck*

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July 2019

## Announcements

\*\*\*We redesigned [The Environmental Crimes Website](#). We arranged information by subject matter, added additional images, and generally streamlined the site. The brief bank update is ongoing. For those who have access, we welcome your feedback. \*\*\*

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](#).

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.

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

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Trial Attorney	Richard Powers	████████
Trial Attorney	Lauren Steele	████████