



Monthly

# Bulletin

## Environmental Crimes Section

November 2017

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"Operation Jungle Book, a law enforcement initiative led by the United States Fish and Wildlife Service that targeted wildlife smuggling, has resulted in federal criminal charges against 16 defendants who allegedly participated in the illegal importation and/or transportation of numerous animal species – including a tiger, monitor lizards, cobras, Asian "lucky" fish, exotic songbirds and several coral species. 'We are combatting an ever-growing black market for exotic animals. An insatiable desire to own examples – both living and dead – of these vulnerable creatures is fueling this black market,' said Acting United States Attorney [for the C.D. Calif.] Sandra R. Brown. 'This is a truly international problem that threatens the survival of iconic species and vulnerable animal populations. The United States Attorney's Office is prosecuting a wide array of cases that highlight the pervasive problem of wildlife trafficking and the associated issues of invasive species, disease transmission and the extinction of certain species. [See [press release](#) for more details]

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District/Circuit	Case Name	Case Type/Statutes
9th Circuit Court of Appeals	<a href="#"><u>Ecological Rights v. PG&amp;E</u></a> <a href="#"><u>United States v. Wallen</u></a>	RCRA/CWA ESA
Central District of California	<a href="#"><u>United States v. Cory Pham</u></a> <a href="#"><u>United States v. Bryan Cho</u></a> <a href="#"><u>United States v. Nicholas Bishop</u></a> <a href="#"><u>United States v. Sonny Dong et al.</u></a>	Arowana Fish Import/ESA Monitor Lizard Shipment/Smuggling Bengal Tiger Sale/Lacey Act Songbird Smuggling/Conspiracy
Eastern District of California	<a href="#"><u>United States v. Thomas Lee Crow</u></a> <a href="#"><u>United States v. Alfredo Cardenas-Suastegui et al.</u></a> <a href="#"><u>United States v. Pi Kappa Alpha et al.</u></a>	Cockfighting/Animal Fighting Venture Marijuana Grow/Drugs Tree Destruction/Timber Damage
District of Delaware	<a href="#"><u>United States v. Lance Charen et al.</u></a>	Used Oil Processor/CWA, RCRA
Southern District of Florida	<a href="#"><u>United States v. Carl L. Cobb et al.</u></a> <a href="#"><u>United States v. Erik D. Acosta et al.</u></a>	Sea Turtle Eggs/Lacey Act Key Deer Capture/ESA
██████████ ██████████	██	████████████████████ ██
Eastern District of Louisiana	<a href="#"><u>United States v. Kenneth Johns</u></a>	Oil and Gas Platform Tests/Conspiracy, False Statement
District of Maine	<a href="#"><u>United States v. Timothy Lewis et al.</u></a>	Eel Trafficking/Aiding and Abetting, Lacey Act
District of Massachusetts	<a href="#"><u>United States v. Guan Zong Chen et al.</u></a>	Wildlife Exports/Conspiracy, Lacey Act, Smuggling

District/Circuit	Case Name	Case Type/Statutes
██████████ ██████████	██	████████████████████ ██████████
Southern District of Mississippi	<a href="#">United States v. Edward L. Donaldson, Jr., et al.</a>	Deer Imports/Conspiracy
Western District of New York	<a href="#">United States v. Chaoyi Le</a>	Python Shipments/Lacey Act
Eastern District of North Carolina	████████████████████ <a href="#">United States v. Ellis Leon Gibbs, Jr.</a>	████████████████████ Striped Bass Harvesting/Lacey Act, Obstruction
Southern District of Ohio	<a href="#">United States v. Gregory Schnabel et al.</a>	RINS Fraud/Conspiracy
Eastern District of Pennsylvania	<a href="#">United States v. David Haisten et al.</a>	Misbranded Pet Pesticides/Conspiracy, Counterfeit Goods, FIFRA
Eastern District of Tennessee	<a href="#">United States v. Phillip M. Huddleston et al.</a>	Metal Finisher/Accessory After-the-Fact, RCRA
Eastern District of Virginia	<a href="#">United States v. Richard Austin</a> <a href="#">United States v. Allen H. Thacker</a>	Eel Trafficking/Lacey Act Eagle Killing/BGEPA
Western District of Wisconsin	<a href="#">United States v. Tony Toye et al.</a>	Duck Hunts/Lacey Act

## Decisions

***Ecological Rights Foundation v. Pacific Gas & Electric Co.*, \_\_\_F.3d\_\_\_, 2017 WL 4974746 (9th Cir. Nov. 2, 2017).**

On November 2, 2017, the Ninth Circuit affirmed in part, reversed in part, and remanded, a district court's grant of summary judgment to Pacific Gas & Electric Co. (PG&E) and denial of summary judgment to EcoRights. *Ecological Rights Foundation v. PG&E*, 2011 U.S. Dist. LEXIS 14140 (N.D. Cal., Feb. 4, 2011). The lawsuit originated in the Northern District of California where the plaintiff, EcoRights, brought an action against PG&E under the Clean Water Act and RCRA for discharges of dioxins and pentachlorophenol resulting from the drilling, cutting, moving, and storing of chemically treated wood.

The district court found that stormwater discharges from point sources like PG&E are subject to regulation under the CWA and, therefore, prevented by RCRA's anti-duplication provision from creating "an additional avenue to impose a different regulatory requirement." *Id.* At 14. EcoRights appealed the grant of summary judgment on the RCRA claim with support from the EPA, maintaining that PG&E did not identify an actual inconsistency between the CWA and RCRA for the anti-duplication provision to restrict the reach of EcoRights' citizen suit under RCRA.

The Ninth Circuit concluded that RCRA's anti-duplication provision requires the court to determine whether the statute *actually* imposes any specific statutory requirements on the discharges and, if so, "whether those 'requirements' are 'inconsistent' with any possible remedy" under the RCRA citizen suit. *Id.* at 21. PG&E argued that, because the CWA provides EPA with the authority to require permits, and the EPA decided not to, then the anti-duplication provision bars application of RCRA due to inconsistency.

The Ninth Circuit disagreed, stating that the "potential for inconsistent overlap is insufficient; only an actual, and actually inconsistent, requirement triggers the RCRA anti-duplication provisions." *Id.* at 27. Furthermore, the Court found that the weight of authority, the Department of Justice's Office of Legal Counsel, and statutory interpretation supported its position. The court reversed the district court's grant of summary judgment to EcoRights with respect to the stormwater discharge.

## Decisions

### ***United States v. Wallen*, 874 F.3d 620 (9<sup>th</sup> Cir. 2017).**

On October 25, 2017, the Ninth Circuit Court of Appeals reversed and remanded Dan Calvert Wallen's conviction for violations of the Endangered Species Act. Wallen's conviction stemmed from the killing of three Grizzly Bears near his home in Montana in the spring of 2014. Wallen originally gave conflicting accounts to investigators of why he had shot and killed the three bears. During a bench trial, Wallen raised a self-defense claim and argued that killing the animals was necessary for the protection of his home, livestock, and family. After finding discrepancies in Wallen's account, the magistrate court concluded that his self-defense claim was not credible, holding that the government had proved that Wallen's belief that he had acted in self-defense was objectively unreasonable.

Wallen was convicted and sentenced to three years' probation, with the first 60 days confined to a pre-release center. He was further ordered to pay \$15,000 in restitution. Wallen appealed.

The Ninth Circuit found that the magistrate judge misapplied an element of the offense under the ESA. To convict a defendant for knowingly taking a grizzly bear, the government must prove beyond a reasonable doubt that: (1) the defendant knowingly killed a bear; (2) the bear was a grizzly; (3) the defendant did not have permission to kill the bear; and (4) the defendant did not act in self-defense or in the defense of others. 50 C.F.R. § 17.40(b)(i)(B) (1996). See also *United States v. Clavette*, 135 F.3d 1308, 1311 (9<sup>th</sup> Cir. 1998).

The element at issue in this case, self defense, is further explained: "Notwithstanding any other provision of this chapter, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species." 16 U.S.C. § 1540(b)(3). The Ninth Circuit then held that a subjective good faith belief is enough to establish self-defense under the ESA, and that the magistrate court committed a harmful error by not applying the subjective good faith standard. The appellate court reversed and remanded to the magistrate court.

## Trials

### ***United States v. David Haisten et al.*, No. 2:16-CR-00461 (E.D. Pa.), AUSA Chris Parisi.**

On October 19, 2017, David and Judy Haisten were convicted on multiple charges related to their web-based business of selling unregistered and misbranded pet pesticides, misbranded animal drugs, and counterfeit DVDs. A jury found them guilty of 14 of the 15 counts charged, specifically, conspiracy, FIFRA and trafficking in counterfeited goods (7 U.S.C. § 136j(a)(1)(E); 18 U.S.C. §§ 331(a), 332(a)(2), 371; 2320).

Beginning in January 2009, the defendants started “Luv My Pets Supply Store LLC” (“LMP”) out of their home in Irmo, South Carolina. Through LMP and other websites they advertised and sold substantially discounted animal drugs and pesticides, such as Frontline and K9 Advantix, that were not approved for sale in the U.S. The Haistens eventually expanded their illegal business to include counterfeit DVDs purchased from China.

During the operation of LMP and its related websites, the defendants received numerous warnings that their activities violated the law. For example, in March 2011, the South Carolina Board of Pharmacy served a cease and desist order on David Haisten, warning him that LMP’s activities violated South Carolina law. At various times between 2011 and 2012, several well-known companies specializing in animal health products, including Merial and Sergeant’s Pet Products, also served cease and desist letters on the defendants.

In 2011 and 2012, Customs and Border Protection (CBP) agents seized numerous packages shipped from China and addressed to the defendants. In these packages, agents located hundreds of counterfeit DVDs for popular movies and television shows. Following each seizure, CBP sent written notice to the defendants indicating the seized items were counterfeit.

After numerous complaints by consumers, eBay and other online providers suspended the defendants’ various accounts. To continue their sales, they recruited family and friends to provide identifying information to open new seller accounts. In some instances, the defendants paid for this information and received permission from their friends and family to use their identifiers. In other instances, they used the identities of deceased relatives and others without their permission.

During the summer of 2012, agents made three controlled purchases from the defendants’ website. Following each purchase, the defendants shipped unregistered and misbranded pesticides from their home in South Carolina to investigators in Philadelphia. On one occasion, the defendants also shipped misbranded animal drugs to investigators. After a search warrant was executed on the Haistens’ residence in February 2013, agents seized numerous counterfeit DVDs, misbranded and unregistered pet pesticides, and misbranded animal drugs. Sentencing is scheduled for February 8 and 9, 2018.

This case was investigated by the U.S. EPA Office of Inspector General, the Food and Drug Administration Office of Criminal Investigations, and the Department of Homeland Security.

[illegible]

On October 12, 2017, Kenneth Johns was charged in a three-count indictment for falsifying blowout preventer (BOP) test results on an offshore oil and gas platform in the Gulf of Mexico. Specifically, Johns is charged with one count of conspiracy to obstruct justice and make false documents, and two counts of making false statements (18 U.S.C. §§ 371, 1001(a)(2)).

During the subsequent investigation Johns allegedly lied and told investigators the BOP chart with his signature was pre-signed and that he had been testing a pump when he made the chart.

November 2017

## Indictments/Informations

**United States v. Thomas Lee Crow, No. 1:17-CR-00242 (E.D. Calif.), AUSA Karen Escobar, with assistance from ECS Trial Attorney Ethan Eddy.**

On October 12, 2017, Thomas Lee Crow was named in a three-count indictment, charging him with aiding and abetting an unlawful animal fighting venture, attending an animal fighting venture, and unlawfully possessing animals for an animal fighting venture (7 U.S.C. §§ 2156 (a)(1),(a)(2), (b); 18 U.S.C. §§ 49(a)(b)). The offenses all involve cockfighting. Three additional people are being prosecuted on state charges.

In April 2017, Crow was allegedly present at a large cockfighting enterprise outside of Fresno. Law enforcement officials recovered 129 fighting roosters, including 28 dead and nine injured birds. Detectives also seized cockfighting equipment, such as gaffs, blades, sheaths, gamecock leather boots, and scales.

The U.S. Attorney's Office has partnered with the Rural Crimes and Animal Cruelty Unit of the Fresno County District Attorney's Office in coordinating the filing of charges against Crow and three spectators. The D.A. has charged Job Hernandez, Javier Flores-Arreola, and Javier Cerda, with animal cruelty charges.

This case was investigated by the U.S. Department of Agriculture Office of Inspector General, ICE Homeland Security Investigations, the Fresno County Sheriff's Office, the Humane Society of the United States, and the Central California Society for the Prevention of Cruelty to Animals.



*Items seized from Crow's residence. A total of 300 gaffs, more than 100 game cocks and other paraphernalia were seized.*

## Indictments/Informations

### ***United States v. Cory Pham*, No. 2:17-mj-02482 (C.D. Calif.), AUSA Amanda Bettinelli.**

On October 6, 2017, Cory Pham was charged with violating the Endangered Species Act for engaging in the unlawful trade of arowana fish (16 U.S.C. §§ 1538(c), 1540(b)(1)). Pham allegedly brought five arowanas on a flight from Vietnam to Los Angeles International Airport on October 5, 2017.

Pham allegedly concealed the fish in black bags that were hidden in a plastic container placed in his luggage. Pham did not declare the arowanas to customs officials, nor did he have any permits that would allow him to legally bring the fish into the United States.

This case is a result of Operation Jungle Book, a law enforcement initiative led by the United States Fish and Wildlife Service targeting wildlife smuggling.

### ***United States v. Bryan Cho*, No. 2:17-mj-02450 (C.D. Calif.), AUSA Amanda Bettinelli.**

On October 2, 2017, Bryan Cho was charged in a complaint for smuggling reptiles from the Philippines to Long Beach, California (18 U.S.C. § 545).

According to the complaint, in October 2016, Cho was the recipient of a package containing five monitor lizards concealed inside stereo equipment. Federal agents intercepted and opened the package, saw the lizards, and arranged for it to be delivered. Agents subsequently went to Cho's business (JTK's Reptiles) and observed what appeared to be the same species of lizards in the store. Further investigation confirmed Cho did not possess any of the required licenses or permits for these animals.

In May 2017, another package was sent from the Philippines to Cho's business, labelled as "Toy Cars." According to the complaint, Cho received at least three shipments of monitor lizards from the Philippines that had been mislabeled and/or concealed inside other objects.

This case is a result of Operation Jungle Book, a law enforcement initiative led by the United States Fish and Wildlife Service targeting wildlife smuggling.

## Indictments/Informations

### ***United States v. Nicholas Bishop, No. 17-mj-02435 (C.D. Calif.), AUSA Amanda Bettinelli.***

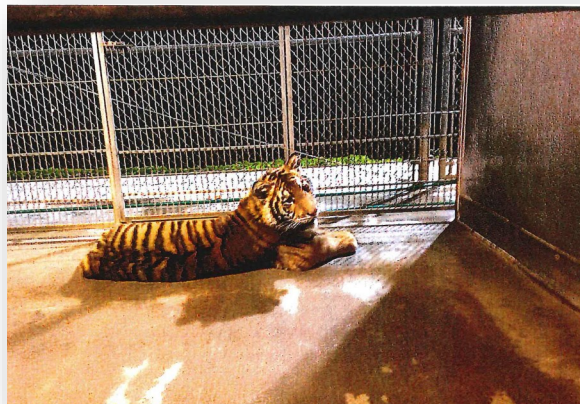
On September 29, 2017, a complaint was filed against Nicholas Bishop aka “Nick the Wrangler” on Lacey Act charges for the illegal sale and transportation of a Bengal tiger seized from a residence in Ventura County (16 U.S.C. §§ 3372(a)(2)(A), 3371(g), 3373(d)(1)(B)).

According to the complaint, Bishop falsified documents used to purchase the tiger in March 2014 from an Indiana organization called “Wildlife In Need, Wildlife Indeed.” In a statement he later gave to investigators, Bishop allegedly said that he had purchased the tiger for Michael Ray Stevenson, a rapper who uses the stage name Tyga.

The following month, the tiger was seen in a backyard in Ventura and reported to the California Defenders of Wildlife, which later located and seized the animal in Piru. The two individuals who possessed the tiger in Piru were convicted in state court. When it was recovered, the tiger weighed approximately 100 pounds; it now weighs well over 400 pounds.

Bishop allegedly falsified purchase records and caused the interstate transport of the tiger without possessing the required documentation and permits.

This case is a result of Operation Jungle Book, a law enforcement initiative led by the United States Fish and Wildlife Service targeting wildlife smuggling.



*Tiger after removed from residence*

## Guilty Pleas

***United States v. Carl L. Cobb et al.*, No. 2:17-CR-14053 (S.D. Fla.), AUSA Ryan Butler.**

October 26, 2017, Raymond Saunders pleaded guilty to a Lacey Act violation for stealing sea turtle eggs. Carl Cobb pleaded guilty on October 5th to two Lacey Act violations (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

On May 5, 2017, the Florida Fish and Wildlife Conservation Commission received a tip that a man was seen disturbing sea turtle nests on North Hutchinson Island in Riviera Beach. Investigators determined that Cobb had removed more than 200 eggs from two sea turtle nests. On May 24, 2017, officials observed Cobb and Saunders remove close to 500 eggs from nests on the island.

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

***United States v. Gregory Schnabel*, No. 2:17-CR-00169 (S.D. Ohio), ECS Trial Attorney Adam Cullman, ECS Senior Trial Attorney Jeremy Korzenik, AUSA Mike Marous, and former ECS Paralegal Casey Rybak.**

On October 24, 2017, Gregory Schnabel pleaded guilty to conspiracy for his role in a scheme that generated over \$47 million in fraudulent EPA renewable fuels credits, and over \$12 million in fraudulent tax credits connected to the purported production of renewable fuel (18 USC § 371).

Between July 2011 and March 2012, Schnabel, owner of GRC Fuels of Oneonta, New York, engaged in a scheme with other co-conspirators to fraudulently claim EPA renewable fuels credits (RIN credits) and tax credits on fuel that did not qualify for the credits, on fuel that had already been used to generate credits, and on fuel that was exported or otherwise used contrary to EPA and IRS regulations.

Schnabel bought and sold fuel from several individuals who have already pleaded guilty for their roles in the scheme, including: Fred Witmer and Gary Jury, formerly of Triton Energy, who pleaded guilty in the Northern District of Indiana to conspiracy, fraud, and Clean Air Act false statements; Malek Jalal, formerly of Unity Fuels, who pleaded guilty in the Southern District of Ohio to conspiracy and obstruction of justice; and, Dean Daniels, William Bradley, Ricky Smith, and Brenda Daniels, of New Energy Fuels and Chieftain Biofuels, who pleaded guilty in the Southern District of Ohio to conspiracy (18 U.S.C. §§ 371, 1519, 1343; 42 U.S.C. § 7413(c)(2)(A)).

These cases were investigated by the IRS, the U.S. EPA Criminal Investigation Division, and the FBI.

## Guilty Pleas

***United States v. Guan Zong Chen et al***, Nos. 1:15-CR-10348, 10111; 14-CR-10355 (D. Mass.), ECS Senior Litigation Counsel Richard Udell, ECS Trial Attorney Gary Donner, and ECS Law Clerk Christopher Kopf.

On October 24, 2017, Chinese national Guan Zong Chen pleaded guilty to charges that he led a conspiracy to illegally export (smuggle) \$700,000 worth of endangered and protected wildlife items made from rhinoceros horn, elephant ivory, and coral from the United States to China (18 U.S.C. §§ 371, 554; 16 U.S.C. §§ 3372 (d), 3373(d)(3)(A)).

Chen, who owned an antiques business in China, was previously arrested in Chengdu, China, and convicted in 2009 of trafficking ivory carvings that had been purchased in the United States. Unable to travel outside of China due to his conviction, Chen continued to traffic wildlife by procuring the help of others to smuggle wildlife merchandise to China that he purchased at U.S. auction houses located in California, Florida, Ohio, Pennsylvania, New York, and Texas.

Chen was aided by Jin Jie Yang, a Chinese national, and Carla Marsh, who owned a shipping business in Concord, Mass. Yang traveled to the United States at Chen's expense and purchased and picked up wildlife items at various U.S. auction houses. He shipped or brought the wildlife to Marsh, where she re-packed and mailed the items to Hong Kong with documents that falsely stated the contents and value and without required declarations and permits. Once the packages arrived in Hong Kong, other members of the conspiracy picked up the packages and brought them to mainland China.

In 2014, after serving his sentence in China, Chen traveled to the U.S. and visited Marsh in Massachusetts. During the visit, Chen instructed that a sculpture made from elephant ivory be mailed to him in Hong Kong. It was falsely declared as wood worth only \$50. The conspiracy also involved the purchase and smuggling of a rhinoceros horn libation cup from a New York auction house that was packed inside a porcelain vase and exported without required paperwork. Chen also admitted that he had twice purchased raw rhinoceros horns from an individual associated with an auction house in Beverly Hills, California.

In December 2014, Yang pleaded guilty to his role in the conspiracy and was sentenced in May 2015 to time-served. Marsh pleaded guilty in May 2015 and was sentenced to one year of probation in April 2016. Chen was arrested in 2016 when he traveled from China to Australia and extradited to the U.S. in July of this year. Sentencing is scheduled for December 13, 2017.



*Carving made from elephant ivory and coral*

## Guilty Pleas

(Continued from page 12)

This case is part of Operation Crash, an ongoing effort by the U.S. Fish and Wildlife Service, in coordination with the Department of Justice, to deter and prosecute those involved in the illegal killing of and trafficking in protected species, including rhinoceros and elephants.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement, with extradition support from the Office of International Affairs and the U.S. Marshals Service.

***United States v. Edward L. Donaldson, Jr., et al.***, No. 2:17-CR-00018 (S.D. Miss.), AUSA Darren J. LaMarca.

On October 17, 2017, Edward L. Donaldson Jr., and John J. Oertling pleaded guilty to conspiracy to violate the Lacey Act for importing live white-tailed deer into Mississippi for trophy hunting (18 U.S.C § 371).

Donaldson and Oertling manage a 1,000-acre high-fenced enclosure known as Turkey Trott Ranch. Between February 2010 and November 2012, the two illegally bought and transported numerous live white-tailed deer into Mississippi. The deer came from a herd of captive white-tailed deer in Pennsylvania that tested positive for Chronic Wasting Disease. This disease is the chief threat to deer and elk populations in North America. Sentencing is scheduled for January 17, 2018.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement; the U.S. Department of Agriculture Office of the Inspector General; and the Mississippi Department of Wildlife, Fisheries, and Parks.



*Deer-breeding enclosure*

## Guilty Pleas

### ***United States v. Sonny Dong et al.*, No. 2:16-CR-00827 (C.D. Calif.), AUSA Dennis Mitchell.**

On October 17, 2017, Sonny Dong pleaded guilty to conspiring to smuggle Asian songbirds, specifically, Chinese Hwamei, into the United States (18 U.S.C. § 371).

At some point prior to December 2016, Dong, co-conspirator Quang Truong, and others conspired to import Asian songbirds from Vietnam into Los Angeles, California. While in Vietnam, Truong received Asian songbirds that had been packed into one or more suitcases in a manner designed to escape detection by United States authorities. Truong made numerous trips that were funded by Dong and others.

In April 2016, Truong was caught at the airport in Vietnam with several birds, including Asian songbirds, strapped to his legs underneath his clothing and in a suitcase. Truong continued to make trips to and from Vietnam up through December of 2016, with the birds concealed in his luggage.

Dong is scheduled to be sentenced on May 14, 2018. Truong (who also pleaded guilty to a conspiracy) is not yet set for sentencing. Dong was previously incarcerated for four months in June 2010 for smuggling songbirds from Vietnam. He also paid close to \$4,000 in restitution for the costs of caring for 36 birds that were in his possession.

This case is a result of Operation Jungle Book, a law enforcement initiative led by the United States Fish and Wildlife Service targeting wildlife smuggling.



*Dong attempting to smuggle birds from 2010 case*

### ***United States v. Phillip M. Huddleston et al.*, No. 3:16-CR-00061 (E.D. Tenn.), ECS Senior Trial Attorney Todd Gleason, ECS Trial Attorney Cassie Barnum, AUSA Matt Morris, and ECS Paralegal Diana Greenberg.**

On October 17, 2017, Phillip M. Huddleston pleaded guilty to RCRA violations for illegally storing hazardous waste without a permit (49 U.S.C. § 6928(d)(2)(A)).

Huddleston was the owner/operator of Protech Metal Finishing, LLC, a metal plating facility in Vonore, Tennessee. Protech did not have a RCRA permit to store the wastes that were generated during the plating process. By June 2013, hazardous wastes had been illegally stored onsite in excess of 90 days.

John T. Hatfield, the company's production manager, pleaded guilty on October 2, 2017, to being an accessory after-the-fact (18 U.S.C. § 3). In order to hinder an

*(Continued on page 15)*

## Guilty Pleas

(Continued from page 14)

investigation of Protech's compliance with RCRA, Hatfield represented that containers of hazardous waste were accurately labeled when he knew that they were not. Sentencing is scheduled for January 8 and 10, 2018.

This case was investigated by the IRS, the U.S. EPA Criminal Investigation Division, the Tennessee Valley Authority Office of Inspector General, the Department of Defense, and the Department of Energy.

### ***United States v. Alfredo Cardenas-Suastegui et al., No. 1:16-CR-00106 (E.D. Calif.), AUSA Karen Escobar.***

On October 16, 2017, Alfredo Cardenas-Suastegui, the fourth and final defendant in this marijuana grow case, pleaded guilty to drug charges (21 U.S.C. §§ 841(a)(1), 846).

Abel Toledo-Villa, Sair Maldonado-Soto, Coral Herrera and Cardenas were involved in two large-scale marijuana cultivation operations in the Sequoia National Forest. Between March 2016, and July 2016, the defendants were involved with grow sites in the Lucas Creek drainage, and an area known as the Box 6 site. Maldonado and Herrera supplied material, equipment, and personnel (including Toledo-Villa and Cardenas-Suastegui) to and from the sites, which consisted of more than 10,000 plants. Their use of harmful pesticides and dumping large quantities of trash caused extensive damage to the land and natural resources. Native trees and vegetation also were removed to make room for the plants.

Herrera is set for sentencing on December 4, 2017, Maldonado is scheduled for December 18, 2017, and Cardenas is set for February 12, 2018. Toledo-Villa was previously sentenced to five years' incarceration.

This case was investigated by the U.S. Forest Service, ICE Homeland Security Investigations, the Southern Tri-County High Intensity Drug Trafficking Area Task Force, California Department of Justice's Campaign against Marijuana Planting, California Department of Fish and Wildlife, Kern County Sheriff's Office, Riverside County Sheriff's Department, the Fontana Police Department, and the Victorville Police Department.

This case is a result of “Operation Broken Glass,” a multi-jurisdiction U.S. Fish and Wildlife Service investigation into the illegal trafficking of American eels. To date, the investigation has resulted in 18 guilty pleas in Maine, Virginia, and South Carolina. Combined, these 18 defendants have admitted to illegally trafficking approximately \$5 million worth of elvers.

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1. *Journal of Management Studies*, 1991, 28, 1.

## Sentencings

### ***United States v. Erik D. Acosta et al.*, No. 4:17-CR-10023 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On October 31, 2017, Erik D. Acosta and Tumania Younge were sentenced for capturing and restraining three Florida Key deer in violation of the Endangered Species Act (16 U.S.C. §§ 1538(a)(1)(B), 1540(b)(1)). Acosta will serve 12 months' incarceration, followed by two years' supervised release, and perform 200 hours' community service. Younge was sentenced to time-served, six months' home confinement, two years' supervised release, and will perform 200 hours of community service.

On July 2, 2017, the defendants used food to lure the three deer and then captured them. After departing the Big Pine Key area in their car, the defendants were stopped as a result of a traffic infraction. Three animals were found in the vehicle; an adult male in the trunk, and a juvenile male along with a doe, confined in the back seat of the car. The deer placed in the trunk suffered a fractured leg among other injuries, and had to be euthanized.

This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, and the Monroe County Sheriff's Department.

### ***United States v. Chaoyi Le*, No. 17-CR-00182 (W.D.N.Y.), AUSAs Aaron Mango, Craig Gestring, and Melissa Marangola.**

On October 30, 2017, Chaoyi Le was sentenced to time-served and ordered to pay a \$5,000 fine plus \$3,519 in restitution to the U.S. Fish and Wildlife Service, after pleading guilty to a Lacey Act false labelling violation (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)(i)).

On April 22, 2014, the defendant shipped seven ball pythons from Amherst, New York, to Shanghai, China, through the U.S. Mail using the fictitious name "Ben Fan." Le submitted a form falsely declaring that the package contained "Belts, Candy and Chocolate" with a value of \$80. At the time the package was shipped, the ball pythons were worth approximately \$3,300.

The package was recovered and



*Injured Key Deer*



*Ball python color morphs*

(Continued on page 18)

## Sentencings

(Continued from page 17)

inspected by the USFWS on May 3, 2014. In addition to the seven live ball pythons, the package also contained equipment typically used when shipping reptiles. Written on one of the cloth bags were trade names for ball pythons: “Enchi Ghost,” “Pastel Enchi Ghost,” and “Butter Enchi.”

Le was stopped by Canadian border officials attempting to enter Canada on April 22, 2014, at which time three live albino western hog-nosed snakes were found hidden in his socks. The total value of the hog-nosed snakes was approximately \$500.

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

***United States v. Richard Austin*, No. 2:17-CR-0019 (E.D. Va.), ECS Trial Attorneys Cassie Barnum and Shane Waller, AUSA Joseph Kosky, and ECS Paralegal Ashley Patterson-Chandler.**

On October 25, 2017, Richard Austin was sentenced to 24 months’ incarceration, followed by three years’ supervised release. Austin previously pleaded guilty to Lacey Act violations for trafficking in juvenile American eels, aka “elvers” or “glass eels” (16 U.S.C. §§ 3372(A)(2)(a), 3373(d)(1)(B)).

Austin was a fisherman from Maine, who traveled to various locations in Virginia, as well as Massachusetts, to illegally harvest elvers. Austin then sold the elvers to dealers from Illinois and New York, who exported them from the United States to buyers in Asia. From 2013 to 2015, Austin trafficked approximately \$189,374 worth of illegally-harvested elvers.

Because of the threat of overfishing, elver harvesting is prohibited in the United States in all but two states: Maine and South Carolina. Maine and South Carolina heavily regulate elver fisheries, requiring that individuals be licensed and report all quantities of harvested eels to state authorities.

This case is a result of “Operation Broken Glass,” a multi-jurisdiction U.S. Fish and Wildlife Service investigation into the illegal trafficking of American eels.

***United States v. Allen H. Thacker*, No. 2:17-mj-00291 (E.D. Va.) AUSA Joe Kosky.**

On October 24, 2017, Allen H. Thacker was sentenced to a one-year term of probation, to include one month of home confinement. Thacker will perform 100 hours of community service at a wildlife refuge, and pay \$1,500 in restitution to the North American Wetlands Conservation Fund. Thacker previously pleaded guilty to violating the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668(a), 668(c)) for shooting and wounding a bald eagle, then killing it by running it over with his all-terrain vehicle.

In March 2017, Thacker shot the eagle because he was upset it had been hunting and taking fish from a pond located on his property. He first tried to scare the bird away

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## Sentencings

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with a warning shot. When that did not work, Thacker shot the bird with a Remington .22 caliber rifle. Though he initially denied it when interviewed by investigators, a witness reported seeing Thacker drive over the bird with his ATV.

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

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

On October 18, 2017, Jeremy Schreiner 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.

Schreiner, the owner and operator of Addicted River Guiding; along with Tony Toye, the owner and operator of Big River Guide Service LLC; and Matt Raley, owner and operator of Hideaway Hollow Outfitters; all pleaded guilty to violating the Lacey Act during guided duck hunts on the Refuge (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)).

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. Toye and Raley received similar sentences.

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

### ***United States v. Kurtis Law*, No. 2:17-CR-00332 (C.D. Calif.), AUSA Erik Silber.**

On October 16, 2017, Kurtis Law was sentenced to 12 months' incarceration, followed by six months' home confinement, and three years' supervised release. Law also will pay a \$5,000 fine.

Law previously pleaded guilty to smuggling approximately 94 Asian songbirds into the United States through the Los Angeles International Airport in March 2017 (18 U.S.C. § 545). Most of the birds perished, and several were CITES Appendix I or II species, namely Asian songbirds. The colorful birds were worth an estimated \$90,000 in the black market. Among the birds found in his luggage were the protected species Bali myna, Chinese hwamei, red-billed leiothrix and silver-eared mesia.



*Birds found in Law's luggage*

This case is a result of Operation Jungle Book, a law enforcement initiative led by the United States Fish and Wildlife Service targeting wildlife smuggling.

November 2017

## Sentencings

(Continued from page 20)

IPC was sentenced in February 2017 to pay a \$1.3 million fine and \$2.2 million in restitution to the City of Wilmington, after pleading guilty to conspiracy to violate the Clean Water Act and a substantive RCRA violation (18 U.S.C. § 371; 42 U.S.C. § 6928(d)(5)(A)). Former plant manager Ricky Mitchell previously pleaded guilty to conspiring to violate the CWA, and to a substantive CWA charge (18 U.S.C. § 371; 33 U.S.C. § 1319(c)(4)). Mitchell was sentenced to a one-year term of probation on November 20, 2017.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the City of Wilmington Department of Public Works, and the Delaware Department of Natural Resources.

### ***United States v. Pi Kappa Alpha et al., No. 3:17-mj-00009 (E.D. Calif.), SAUSA Joseph M. Cook.***

On October 12, 2017, the California State University, Chico chapter of the Pi Kappa Alpha Fraternity was sentenced to 9,800 hours of community service, a three-year term of probation, and will pay a \$4,000 fine, after pleading guilty to illegally cutting or otherwise damaging timber, trees, or other forest products (36 C.F.R. § 261.6). The fraternity also will pay \$4,388 in restitution to the Lassen National Forest. Evan Clinton Jossey, former fraternity president, was sentenced to a three-year term of unsupervised probation and ordered to pay a \$970 fine, after pleading guilty to the same offense.



*Trees cut down by fraternity members*

In April 2017, Jossey and other members of the fraternity participated in an initiation ceremony at the Deer Creek Trailhead in the Lassen National Forest. During the course of the initiation ceremony, 32 trees were cut down at the site.

This case was investigated by the Tehama County Sheriff's Office and the United States Forest Service.

## Sentencings

***United States v. Ellis Leon Gibbs, Jr., et al.***, Nos. 4:14-CR-00009, 2:15-CR-00007 (E.D. N.C.), ECS Trial Attorneys Shennie Patel, Lauren Steele, Shane Waller, and Joel LaBissonniere; AUSA Banu Rangarajan; ECS Law Clerk John Jones; and ECS Paralegal Diana Greenberg.

On October 10, 2017, fishermen Ellis Leon Gibbs, Jr., and James Ralph Craddock were sentenced. Gibbs will complete a two-year term of probation, to include six months' home confinement. He also will pay \$55,220 in restitution. Craddock will complete a one-year term of probation and pay \$27,482 in restitution.

Both Gibbs and Craddock previously pleaded guilty to a Lacey Act trafficking charge for illegally harvesting and selling Atlantic striped bass off the coast of North Carolina in 2010. Gibbs also pleaded guilty to obstructing a boarding by the U.S. Coast Guard (16 U.S.C. §§ 3372(a)(1), 3373(d)(1); 18 U.S.C. § 1505).

The investigation began in February 2010, when NOAA received information that commercial trawlers were illegally fishing for Atlantic striped bass in the EEZ off the coast of North Carolina. Between 2009 and 2010, the defendants illegally harvested several thousand pounds of Atlantic striped bass from the EEZ, which they sold to numerous fish dealers, using a variety of methods to conceal their harvests. The investigation resulted in the prosecution of 13 fishermen, including Gibbs and Craddock.

These cases were investigated by the NOAA Office of Law Enforcement, with assistance from the U.S. Coast Guard, the North Carolina Marine Patrol, and the Virginia Marine Police.

## Announcements

### **~~Former ECS Senior Counsel Rocky Piaggione is the 2017 recipient of the Raymond W. Mushal Award for Outstanding Contribution to Federal Environmental Criminal Law Enforcement ~~**

Rocky began his legal career with the Legal Aid Society of Nassau County in 1974, and started working as an Assistant District Attorney with the Queens County District Attorney's Office in Queens, New York, in 1978. In 1981, he moved to the New York State Department of Environmental Conservation where his initial supervisor was Herb Johnson (the first recipient of the Mushal Award). Thus began Rocky's 35-year career in environmental enforcement. In 1988, Rocky was promoted to Deputy Director of NYDEC, a position he held for the next five years. Then, in 1993, Rocky joined the New York State Organized Crime Task Force, and soon thereafter, became the Chief and Senior Trial Attorney of the Environmental Crimes Unit in the Office of the Attorney General for New York.

During his 24 years as a state environmental crimes prosecutor, Rocky tried more environmental cases than any other state prosecutor in New York – and perhaps in the country. He was heavily involved in policy, legislation, and training. In fact, training and networking was Rocky's forte. He chaired the Northeast Environmental Project and was part of its steering committee for more than a decade. And during the remainder of his career, Rocky was akin to a rock star with the other three Regional Environmental Enforcement Associations as well, as evidenced by their constant invitations to him to speak at their conferences.

In 2005, Rocky joined the DOJ Environmental Crimes Section as Senior Counsel with the specific goal of reinvigorating ECS's relationship with state and local agencies. While at ECS, Rocky tried groundbreaking cases such as *United States v. Tonawanda Coke Corporation*, which involved the operation of an unpermitted coke oven gas emission source and resulting benzene contamination over the course of 19 years. He also obtained significant convictions against corporate polluters in the energy sector, as well as against companies and individuals whose environmental crimes caused injury or death to their employees.

Rocky continually expanded his federal portfolio. He started a new practice area for ECS, prosecuting violations under the Plant Protection Act. He also dove into the world of illegal timber trafficking, supporting the *Lumber Liquidators* prosecution (the first under the 2008 Lacey Act Amendments). He even helped to write a forensic manual on timber identification for the United Nations. In his last two years at ECS, Rocky became the Section's first fulltime international capacity building administrator. As such, he helped define and institutionalize a very successful and impactful program. Notably, throughout his tenure, ECS attorneys often asked Rocky to sit in on their negotiations – a clear reflection of his gravitas.

Even after retirement, Rocky returned to ECS on numerous occasions to help with cases he transferred, with international training on illegal timber trafficking, and with long-term strategy and programming.

After Ray Mushal passed away, ECS Deputy Joe Poux had "WWRD" wrist bands made for everyone in the Section: What Would Ray Do? I, for one, am certain that Ray would be very pleased with the choice of Rocky as recipient of this award and would wholeheartedly endorse it.

Congratulations Rocky !

## **Announcements**

### ***United States to Halt Lumber Products from Peru***

On October 17, 2017, U.S. Trade Representative Robert Lighthizer directed U.S. Customs and Border Protection to block future timber imports from a Peruvian logger suspected of illegal harvesting, the first time the country has halted the entry of lumber products from the South American nation under the terms of a trade deal.

The U.S. will adhere to the United States-Peru Trade Promotion Agreement in setting a three-year block on entry of lumber products imported by Inversiones La Oroza, after investigators found that a shipment it sent to the U.S. did not comply with the nation's regulations on the harvesting and trade of timber.

The action by the U.S. comes as Peru has indicated it will hold accountable those responsible for the January 2015 shipment and will take additional steps to ensure that lumber harvesters comply with environmental regulations, including enhancing inspections, setting up a tracking system in the Amazon corridor, and amending export documentation requirements to enhance traceability.

In August 2016, the Interagency Committee on Trade in Timber Products from Peru (which is staffed with senior officials from the USTR's office, the U.S. Department of Justice and other executive agencies) found that a significant portion of the timber shipment was not compliant with Peruvian laws.

The timber committee launched its investigation following public reports that pointed to illegally harvested lumber as part of the shipment by Inversiones La Oroza. In recent years, the Peruvian government has come under fire from the Environmental Investigation Agency and other environmental organizations for rolling back environmental standards as part of efforts to increase private investment, including by allegedly violating its obligations under the United States-Peru Trade Promotion Agreement by weakening regulations to boost oil and gas and other development.

– Law360.com (October 19, 2017)

## Announcements

**\*\***On December 13-14, 2017, the United States Attorney's Office for the Middle District of Georgia, the Environmental Crimes Section of the United States Department of Justice, and the United States Department of Agriculture Office of Inspector General will be hosting a regional animal fighting training in Valdosta. The conference will provide participants with an overview of the federal animal welfare and cruelty statutes, investigation techniques, and prosecution challenges. During the training, the Humane Society of the United States, along with prosecutors and federal agents, will share their experience in handling dog fighting and animal cruelty cases. Please contact ECS Dep. Chief [Joe Poux](#) or AUSA [Julia Bowen](#) for more information. **\*\***

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

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	John Arbab	████████
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	████████