
ENVIRONMENTAL CRIMES



MONTHLY BULLETIN

September 2008

EDITOR'S NOTE:

Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin. If you have any significant and/or interesting photographs from the case, you may email these, along with your submission, to Elizabeth Janes: [REDACTED]. Material also may be faxed to Elizabeth at (202) 305-0396. If you have information to submit on state-level cases, please send this to the Regional Environmental Enforcement Associations' website: <http://www.regionalassociations.org>.

You may navigate quickly through this document using electronic links for *Active Cases*, *Additional Quick Links* and *Back to Top*. (Some of you may need to hold down the ctrl key while clicking on the link.)

ATA GLANCE

- [United States v. Robinson, 521 F.3d 1319 \(11th Cir. 2008\).](#)

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Significant Opinions

11th Circuit

United States v. Robison, 521 F.3d 1319 (11th Cir. 2008)

On August 22, 2008, in *United States v. Robison* (also known as *United States v. McWane*) the government filed a petition for writ of certiorari in the Supreme Court and is asking the Court to answer the following question presented: Whether the "significant nexus" standard described by the opinion concurring in the judgment in *Rapanos v. United States*, 547 U.S. §§715, 767 (2006) (Kennedy, J.), establishes the exclusive rule of law for determining whether particular streams are "waters of the United States" covered by the Clean Water Act ("CWA"), 33 U.S.C. 1362(7), even in cases where CWA coverage has been established under the standards adopted by the four-Justice plurality in *Rapanos* and by the four *Rapanos* dissenters.

On March 27, 2008, the Eleventh Circuit denied the government's petition for rehearing *en banc*. Judge Wilson (joined by Judge Barkett) issued a 20-page dissent from the denial of rehearing, in which he adopted many of the government's arguments and called the Eleventh Circuit panel's error "one of exceptional importance, implicating both the jurisdictional scope of the CWA and the interpretation of fragmented [Supreme Court] decisions generally." Further, Judge Wilson called the panel's decision to remand the case for new trial "bizarre" given that eight Supreme Court justices likely would have found CWA jurisdiction in the case.

On October 24, 2007, the Eleventh Circuit vacated the convictions and remanded the case for a new trial. The court held that the district court failed, in light of *Rapanos* to provide the correct jury instructions on the jurisdictional issue of what constituted a "water of the United States" under the CWA, that the error was not harmless, and that the defendants therefore were entitled to a new trial on those counts. The *Rapanos* case was decided by the Supreme Court almost one year after the trial had ended. The court also reversed the defendants' convictions on the conspiracy charge, without discussion, and on the false statement violation.

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Trials

United States v. Andrew Siemaszko et al., No. 3:06-CR-00712 (N.D. Ohio), ECS Trial Attorney Tom Ballantine [REDACTED], AUSA Christian Stickan [REDACTED] and ECS Paralegal Lois Tuttle [REDACTED]

On August 25, 2008, after two days of deliberations in this nearly three-week trial, the jury convicted Andrew Siemaszko of three 18 U.S.C § 1001 false statement violations including concealment of a material fact (one count) and false writings (two counts).

In January 2006, a five-count indictment was returned charging Siemaszko, a systems engineer, and engineering manager David Geisen, both former employees of FirstEnergy Nuclear Operating Company ("FENOC"), and consultant Rodney Cook with a scheme to conceal information from the Nuclear Regulatory Commission ("NRC") and with making false statements to the NRC.

FENOC owns and operates the Davis-Besse plant near Oak Harbor, Ohio. Power plants similar to Davis-Besse developed a cracking problem that could lead to breaks where control rod nozzles penetrate the steel-walled vessel that contains the nuclear fuel and the pressurized reactor coolant water. Such a break could cause a serious accident and would strain the plant's safety systems. In March of 2002, workers discovered a sizeable cavity in the head (or lid) of the reactor vessel at Davis-Besse. Subsequent analysis showed that this pineapple-sized hole was the result of corrosive reactor coolant leaking through a nozzle crack.

Geisen was convicted by a jury in October 2007 of concealment and false writing violations, but acquitted on two false statement violations. Co-defendant Rodney Cook was acquitted on all counts. Geisen was sentenced in May 2008 to serve four months' home detention as a condition of three years' probation. He is further required to complete 200 hours of community service and pay a \$7,500 fine.

FENOC previously entered into a deferred prosecution agreement in this case, agreeing that the United States can prove that knowing false statements were made on behalf of the corporation.

This case was investigated by the NRC Office of Investigations.

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Davis Besse plant

Indictments

United States v. David Dreifort, No. 4:08-mj-03081 (S.D. Fla.), AUSA Tom Watts-FitzGerald



Approximately 1,197 lobster tails

On August 7, 2008, David Dreifort was arrested as a result of his involvement in an out-of-season lobstering operation that included the use of illegal artificial habitat placed in the Florida Keys National Marine Sanctuary ("Sanctuary") and the stockpiling of approximately 1,500 pounds of lobster tail for sale after the opening of Florida's commercial lobster season August 6, 2008. This amount of lobster tail is 1,000 times greater than the legal bag limit for a mini season sport diver.

The complaint charges Dreifort with a Lacey Act conspiracy and substantive Lacey Act violations. As part of the effort to preserve the marine environment, Sanctuary regulations prohibit placing any structure or material on the seabed. In addition, Florida Administrative Code specifically prohibits the harvest of any spiny lobster from artificial habitat. Lobster traps, such as those used by the defendant, fall within the category of

artificial habitats. Other regulations prohibit any person from commercially harvesting, attempting to harvest, or having in their possession, regardless of where taken, any spiny lobster during the closed season.

According to court documents, investigators became aware of a group constructing artificial lobster habitats in the lower Keys. Agents then tracked a boat owned by Dreifort as it traveled within the Sanctuary, harvesting out of season approximately 140 pounds of spiny lobster tails. The lobster tails were subsequently placed in a freezer at a lower Keys residence, which already held about 650 pounds of previously harvested and frozen tails. Officers returned to the sites within the Sanctuary and found artificial habitats plus freshly wrung spiny lobster heads.

This case was investigated by National Oceanic and Atmospheric Administration Office for Enforcement, the United States Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, and the Damage Assessment and Resource Protection Office of the National Marine Sanctuary Program.

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United States v. Wayne Breitag et al., No. 1:08-CR-00318 (D. Colo.), ECS Trial Attorney Jim Nelson [REDACTED] and AUSA Greg Holloway [REDACTED]

On August 6, 2008, Wayne Breitag and Jerry Mason were indicted on charges stemming from smuggling the hides and a skull of two leopards into the United States in violation of the Convention on the International Trade of Endangered Species ("CITES"). The leopards are alleged to have been illegally hunted and killed in South Africa and then smuggled into Zimbabwe to enable the hunters to obtain false CITES permits. The pair are further charged with Lacey Act false labeling violations.

Leopards are listed on Appendix I of CITES. CITES requires that prior to the transport of any part of an Appendix I species from one country to another, an export permit from the country of origin (or a re-export certificate), and an import permit from the country to which the specimen will be shipped, must be obtained and accompany the shipment.

The CITES authorities in South Africa set a yearly quota on the number of export permits issued by that country for Appendix I species, such as leopards. These permits are only issued for leopards which have been killed with a valid hunting permit.

According to the indictment, both Breitag and Mason traveled to South Africa in August 2002 to hunt leopards while guided by a South African outfitter named Jan Swart d/b/a "Trophy Hunting Safaris." Both Breitag and Mason shot and killed leopards even though they did not possess permits. Because the leopards were killed illegally, neither defendant was able to legally obtain a valid CITES export permit from South Africa. In order to import the animal parts into the United States, they obtained fraudulent CITES export permits from Zimbabwe.

Swart arranged to have the hides smuggled from South Africa into Zimbabwe, where he purchased the fraudulent export permits. Breitag and Mason then submitted applications to the U.S. Fish and Wildlife Service claiming to have hunted the leopards in Zimbabwe. In November 2004, inspectors seized animal parts at the Denver International Airport including those from the leopards killed by the defendants.

Swart pleaded guilty to smuggling violations in May of last year and is currently serving an eighteen-month prison sentence.

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

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Breitag with leopard

Pleas

United States v. David Muir et al., No. 8:08-CR-00345 and 350 (D. Md.), ECS Trial Attorney Mary Dee Carraway [REDACTED] and AUSA Gina Simms [REDACTED]

On August 13 and 19, 2008, guilty pleas were taken in this case stemming from defrauding the United States Small Business Administration ("SBA") by individuals associated with asbestos abatement companies. David Muir and Scott Reiter both pleaded guilty to a conspiracy to defraud the SBA. Reiter further pleaded guilty to a money laundering conspiracy.

In the fall of 1999, Scott Reiter worked for or was associated with three Maryland companies that performed asbestos and lead abatement and demolition work at federal and private facilities. Between 1998 and 2007, all three companies participated in the SBA's 8(a) program. For one of the companies, Reiter represented himself to different contractors and subcontractors doing business with the company as the division's manager, project manager, and as a company officer. Muir worked for these companies since 1998 and represented himself as operations manager, project manager, quality control manager and vice president.

Unbeknownst to the SBA and in violation of its regulations, Reiter, Muir, and their co-conspirators exerted significant financial and operational control over the three Maryland corporations in a variety of ways, including: personally indemnifying the liabilities of one of the companies, which enabled it to obtain higher bonding and 8(a) contracts of higher value than the company otherwise would have qualified; for exercising significant control over the contracts bid upon by all three companies; and exercising control over the selection and payment of subcontractors on behalf of two of the companies.

In addition, Reiter and Muir failed to disclose that approximately \$900,000 in bonuses were paid to these defendants and their co-conspirators, and that their bonuses and other compensation far exceeded the compensation paid to the disadvantaged individual. The defendants knew that they and the co-conspirators provided critical bonding, financial and operational support to the three 8(a) certified companies. Furthermore, during the course of the conspiracy, Muir as a company president submitted fraudulent annual updates to the SBA in which he falsely certified that the companies continued to meet the SBA regulations related to eligibility, including those which prohibit financial and operational control of the firm by a non-disadvantaged individual.

Muir is scheduled to be sentenced on October 30, 2008, and Reiter is scheduled to be sentenced on November 10, 2008.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the EPA National Enforcement Investigations Center, the SBA Office of Inspector General, and the Naval Criminal Investigative Service.

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United States v. Simply Aquatics, Inc., et al., No. 1:08-CR-00067 (E.D. Tex.), AUSA Jim Noble

On August 8, 2008, Lyle Hester, a shop foreman, and his son Kevin, the president of Simply Aquatics, each pleaded guilty to a RCRA violation. Both originally were charged in May of this year, along with the company, with conspiracy and four RCRA violations for illegally transporting and disposing of hazardous wastes. The charges against the company will be dismissed.

Simply Aquatics is in the business of installing and servicing water treatment chemical injection systems for municipalities. In the process they used chemicals such as gaseous chlorine and sodium hydroxide to clean out the systems.

In January 2007, investigators with the Environmental Protection Agency and the Texas Commission on Environmental Quality executed a search warrant on Kevin Hester's property and discovered that both Kevin and his father Lyle had buried 113 old compressed gas cylinders in a ten-foot deep hole on the property. The investigators determined that 33 of the cylinders were under high pressure and contained a combined total of 952 pounds of chlorine gas.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Texas Commission on Environmental Quality, and the Texas Environmental Enforcement Task Force.

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Unearthed chlorine gas cylinders

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United States v. Richard Sturgeon, No. 2:08-CR-04032 (W.D. Mo.), AUSA Lawrence Miller ([REDACTED]) and SAUSA Anne Rauche [REDACTED] .

On July 31, 2008, Richard Sturgeon, a former public works director for the City of Lake Ozark, Missouri, pleaded guilty to failing to report the discharge of raw sewage into the Lake of the Ozarks.

This criminal plea is the first in the nation to result from a tip submitted to the U.S. Environmental Protection Agency's tip line web site.

As the public works director, Sturgeon was responsible for overseeing the city's waste water treatment facility and reporting sewage bypasses. Lake Ozark co-owns and operates the Lake of the Ozarks Regional Waste Water Treatment Facility with the City of Osage Beach.

The City of Lake Ozark has a history of overflows and/or bypass events from the waste water treatment facilities' lift stations into the Lake of the Ozarks. Citizen request forms maintained by the city document numerous incidents of lift station sewage bypasses that were never reported to the Missouri Department of Natural Resources ("MDNR"). The city has routinely failed to notify MDNR when the bypasses occurred.

On September 11, 2007, MDNR staff observed a bypass at a lift station resulting in the discharge of 10,000 to 15,000 gallons of raw sewage into the lake. DNR officials informed the city about the bypass, and the city took action to stop the flow. The city, however, did not conduct a cleanup and did not provide written notification of the bypass.

Analysis of lake water conducted two days after the event showed elevated levels of ammonia, nitrogen, and fecal coliform that exceeded the criteria deemed safe for recreation.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Missouri Department of Natural Resources.

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United States v. James Raulerson, No. 1:08-CR-0019 (E.D. Mo.), SAUSA Ann Rauch ([REDACTED]) and AUSA Michael Reap ([REDACTED])

On July 31, 2008, James Raulerson, the owner of a farm in southeastern Missouri, pleaded guilty to violating the Clean Water Act in connection with the dumping of waste products from a biodiesel plant into a canal.

The charges against Raulerson arose after the Missouri Department of Conservation received an anonymous call in October 2007 that a tanker truck had been observed dumping its contents into a canal known as Belle Fountain Ditch. Investigators discovered an undetermined amount of decomposing glycerine in the canal and were able to trace it back to the defendant, who admitted that he dumped glycerine, methanol, and oil into the canal. At least 30,000 fish were killed as a result of the spill.

Sentencing is scheduled for November 24, 2008. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Missouri Department of Natural Resources and the Missouri Department of Conservation.

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United States v. Tia Yang et al., No. 0:08-CR-00150 (D. Minn.), AUSA LeeAnn Bell ([REDACTED])

On July 25, 2008, Pa Lor and Tia Yang each pleaded guilty to with one count of conspiracy to smuggle wildlife. The mother and daughter team also were initially charged with one count of conspiracy to distribute and possess with intent to distribute anabolic steroids.

Between October 2005 and August 2006, the two women conspired to fraudulently bring wildlife into the U.S. for sale and offer wildlife for sale at a booth at the International Marketplace in St. Paul, Minn. The wildlife



Dhoc skins

included parts of Asian elephant, giant squirrel, leopard cat, mongoose, and the elegant flying squirrel. On October 23, 2005, Lor arrived at the Minneapolis-St. Paul International Airport from Laos and did not declare any animal or wildlife items on her Customs and Border Protection Declaration form. During an inspection of Lor's baggage, inspectors discovered approximately 1,388 individual pieces of undeclared wildlife, including two Asian elephant teeth, 17 serow horns, 51 pieces of douc langur (a primate), leopard cat, red or rusty-spotted cat and giant squirrel.

Two undercover buys were made by agents in November of 2005 and June 2006, yielding animal parts from species including slow loris, bear and unidentified primates. A search warrant was executed in August 2006 at the booth that was leased by Yang and operated by Lor, with several wildlife items recovered including: black-striped weasel, gibbon, leaf monkey, monitor lizard, tapir, slider turtles, reticulated python and small-clawed otter.

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Sentencings

United States v. Thomas Libby (D. Ore.), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED] and AUSA Dwight Holton [REDACTED].

On August 25, 2008, Thomas Libby, the former manager of California Shellfish Company Inc., d.b.a. Point Adams Packing Company ("PAPCO") was sentenced for a misdemeanor violation of the Clean Water Act. Libby will complete a one-year term of probation and will pay a \$3,250 fine. PAPCO and its lessee, California Spray Dry ("CSD"), previously pleaded guilty to violating the CWA and are awaiting sentencing for discharging unpermitted chicken processing wastewater from PAPCO's fish processing facility located in Hammond, Oregon.

PAPCO had a NPDES permit to discharge fish processing wastewater from its facility. In June of 2003, PAPCO leased a portion of its facility to CSD. CSD intended to process chicken carcasses at the PAPCO facility for the production of various by-products including flavoring for pet foods. Neither company obtained a modification to the permit to allow the discharge of chicken processing wastewater to the Columbia River. As a result, there were unpermitted discharges beginning in December of 2003 until approximately June of 2004.

Several neighbors of the facility complained about odors from the discharges which led to the investigation of this matter.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from Oregon State Police.

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United States v. Jesse Rivera et al., No. 1:07-CR-00006(D. Alaska), AUSA Steven Skrocki ([REDACTED])

On August 21, 2008, Jesse and Artimeo Rivera were sentenced after pleading guilty last month to a misdemeanor Lacey Act violation stemming from their involvement in illegally selling and shipping halibut caught under the Sitka Sound Subsistence Halibut program. A third defendant, who pleaded guilty Mario Rivera, has not yet been sentenced. The two brothers (Jesse and Mario) and their cousin (Artimeo) were initially charged in a seven-count indictment with conspiracy to violate the

Lacey Act and substantive Lacey Act violations. They each were licensed as subsistence fisherman, which meant that they were only permitted to catch halibut for consumption purposes, and then only allowed to sell \$400 worth of fish in any given year.

In 2004, investigation and evidence obtained from fisheries observers provided grounds for the execution of search warrants on a Seattle seafood wholesaler. As a result of that search, investigators found checks and other records which established that, during the summer of 2003, the Riveras shipped more than 10,000 pounds of subsistence-caught halibut to the wholesaler. In exchange for the halibut, the Riveras were paid more than \$50,000.

Jesse Rivera was sentenced to serve six months' imprisonment and will pay a \$40,000 fine. Artimeo Rivera will serve one month in a half-way house and pay a \$5,000 fine. Both also will complete a three-year term of probation with a special condition that prohibits them from engaging in any commercial or subsistence fishing.

This case was investigated by the National Marine Fisheries Service, Division of Law Enforcement.

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United States v. David Williams, No. 1:07-CR-00376 (D. Hawaii), ECS Assistant Chief Joe Poux
([REDACTED]), AUSA Ronald G. Johnson, Chief of the USAO Major Crimes Section [REDACTED]
[REDACTED] AUSA William L. Shipley ([REDACTED]) and USCG Commander Timothy P. Connors
([REDACTED])

On August 20, 2008, David Williams, a Chief Warrant Officer in the U.S. Coast Guard and the Main Propulsion Assistant for the Coast Guard Cutter *RUSH*, was sentenced to pay a \$5,000 fine, serve a two-year term of probation and complete 200 hours' community service. Williams pleaded guilty in May of this year to an 18 U.S.C. §1001 false statement violation.

Williams originally was charged in August 2007 in a two-count indictment with obstructing the investigation of the overboard discharge of bilge wastes, authorized by Williams, through a deep sink, which then drained directly into Honolulu Harbor. He was further charged with making a false statement.

As the Main Propulsion Assistant, he oversaw the maintenance of the main diesel engines and other machinery in the engine room for the *RUSH*, a 378-foot high endurance cutter stationed in Honolulu. According to the indictment, on or about March 8, 2006, Williams authorized the direct discharge of bilge wastes through the sink into Honolulu Harbor, bypassing the oily water separator. Approximately a week later, the State of Hawaii Department of Health received an anonymous complaint that the ship's crew members were ordered to pump approximately 2,000 gallons of bilge waste into Honolulu Harbor. On May 1, 2006, investigators from the United States Coast Guard Investigative Service and the Environmental Protection Agency received confirmation from personnel who had personally been involved that bilge wastes indeed had been discharged into the harbor.

When questioned by investigators, Williams denied authorizing personnel to discharge bilge waste and also denied knowledge of any bypasses.

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

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United States v. Robert Becker, No. 1:07-CR-0002 (D. Alaska), AUSA Stephen Cooper [REDACTED]
[REDACTED]

On August 14, 2008, Robert Becker was sentenced to pay a \$20,000 fine and will complete a five-year term of probation. Becker pleaded guilty earlier this year to two Lacey Act violations for the

sale of unlawfully possessed fish and for making a false record of fish sold in interstate commerce, plus an 18 U.S.C. § 1001 false statement violation.

A 12-count superseding indictment was filed against Becker in February 2008 with additional Lacey Act charges for fisheries violations. The new charges stated that, in February and March, 2005, Becker conspired with others to falsify Individual Fishing Quota ("IFQ ") records and that he falsified a prior Notice of Landing and a Landing Report for 4,000 pounds of halibut. Becker reported the fish on the quota of another IFQ cardholder who was not present during this trip.

Becker had earlier been charged in connection with three unlawful fishing trips in November 2004 and January 2005 to the Fairweather Grounds in the Gulf of Alaska during which some 17,000 pounds of Demersal Shelf Rockfish were taken. During these three fishing trips, the Fairweather Grounds and all of the East Yakutat Section were closed to directed fishing.

Becker falsified his fish landing tickets and his logbook to reflect that the fishing took place in open waters. The total wholesale value of Becker's unlawfully caught fish was nearly \$25,000.

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

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United States v. Kinder Morgan Bulk Terminals, Inc., No. 3:08-CR-00185 (D. Ore.), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED] and AUSA Dwight Holton [REDACTED].

On August 13, 2008, the Kinder Morgan Bulk Terminals, Inc. ("KMBT") pleaded guilty to, and was sentenced for, violating the Ocean Dumping Act. The court sentenced KMBT to pay \$240,000. Of this amount, \$84,000 will fund various environmental projects in Oregon administered by the National Fish and Wildlife Fund through the Oregon Governor's Fund for the Environment.

This case arose out of an investigation of the *J/A Aladdin Dream II*, a bulk cargo vessel. KMBT, which operates the terminal for a Canadian customer, received an off-specification load of potash at its Portland T-5 Terminal in August of 2003. Inspectors hired by the customer discovered the off-specification potash, which is similar to "lite salt," and is used as a fertilizer, had clumped due to water exposure, rendering the load not fit for sale to large buyers of potash. There was no time to run the conveyors backwards so they could unload the bad potash and it had to be loaded onto the vessel. A terminal employee paid the ship's master to store the contaminated product on deck for the purpose of disposing of it at sea.

KMBT saved approximately \$78,000 for its customer by avoiding landfill costs for disposal of the product.

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

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United States v. Nicki Phung et al., No. 4:08-CR-00203 and 204 (N.D. Calif.), AUSA Maureen Bessette [REDACTED]

Stuffed tiger wrapped in cloth

On August 8, 2008, Nicki Phung was sentenced to serve six months' home confinement as a condition of three years' probation, and Phung will pay \$5,000 in restitution to a non-profit organization that protects great cats, throughout the world.

Phung and co-defendant Steven Tieu pleaded guilty in April of this year to illegally importing a mounted stuffed tiger from Ho Chi Minh City, Vietnam, into San Francisco International Airport in December 2007. Tigers are listed as an endangered species and neither defendant had obtained either an export permit from Vietnam or an import permit from the United States. Specifically, Phung pleaded guilty to a Lacey Act violation and Tieu pleaded guilty to an ESA violation.

Tieu previously was sentenced to serve ten months' home confinement as a special condition of three years' probation and will pay \$5,000 in restitution to Panthera, a wild cat conservation organization. Tieu also will fund a plaque to be posted with an exhibit at the San Francisco Museum of Natural History educating the public about endangered wild felines.

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

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United States v. Jason Becks, No. 4:08-CR-00198 (E.D. Mo.), SAUSA Anne Rauch [REDACTED]
and AUSA Michael Reap [REDACTED]

On August 7, 2008, Jason Becks was sentenced to serve 12 months and one day imprisonment after pleading guilty in May of this year to a RCRA disposal violation. Becks was further ordered to pay \$29,000 in restitution to the United States EPA for clean up costs.

Becks was hired in January 2008 to complete an environmental site assessment at Economy Tire, Inc., in St. Louis, Missouri. Becks contracted with the owner of the building to remove and dispose of six 55 gallon drums inside the building for \$600. The defendant then took the drums to another location where he abandoned them.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Missouri Department of Natural Resources.

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United States v. Dakota Pork Industries, No. 4:08-CR-40001 (D.S.D.), AUSA Dennis Holmes [REDACTED]

On August 5, 2008, Dakota Pork Industries ("DPI") was sentenced to pay a \$50,000 fine plus \$175,000 restitution to the City of Mitchell, which was paid in full at the time of sentencing. The company pleaded guilty in March of this year to a Clean Water Act violation for tampering with a monitoring device.

DPI formerly operated a meat-processing plant that discharged wastewater into the City of Mitchell's POTW. The company's industrial users permit required continuous pH monitoring since

the company had previously discharged waste water with levels that were as low as 5 and as great as 12.5. PH levels this extreme could cause damage to POTW equipment.

Beginning at an unknown date and continuing until about October 2004, DPI employees periodically readjusted the calibration screw on the pH monitor after hearing the alarm that indicated the pH levels were outside permitted levels. This action, in turn, caused the recorded results to falsely indicate the discharge was within limits.

At other times, after observing that the effluent was exceeding permit limits, employees also would remove the monitoring probe from the effluent stream and place it in a beaker of clean water or buffering solution for extended periods of time, causing false results to be recorded. Finally, on occasion, employees submitted false pH data to the city in its monthly reports.

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

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United States. Clive Brown, No. 08-CR-60186 (S.D. Fla.), AUSA Tom Watts-FitzGerald (

On July 30, 2008, Clive Brown pleaded guilty to, and was sentenced for, an Endangered Species Act violation for illegally importing endangered sea turtle parts and eggs into the United States. Brown was sentenced to pay a \$1,000 fine and will complete a two-year term of probation.

On April 20, 2008, Brown entered the United States at Fort Lauderdale International Airport on a flight from Jamaica. During a routine examination by a Customs agent



Sea turtle flipper and eggs

the defendant was found to be carrying 11 sea turtle eggs and a segment of a sea turtle shoulder with an attached flipper.


Forensic DNA analysis at NOAA's Center for Coastal Environmental Health and Biomolecular Research in Charleston, South Carolina, identified the sea turtle eggs and flipper as originating from a Hawksbill sea turtle.

This case was investigated by the National Oceanic and Atmospheric Administration Office for Enforcement and the Agricultural Specialists of Customs and Border Protection.

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Are you working on Pollution or Wildlife Crimes Cases?

*Please submit case developments with photographs to be included
in the *Environmental Crimes Monthly Bulletin* by email to:*


Elizabeth R. Janes
Program Specialist
Environmental Crimes Section
U.S. Department of Justice

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