
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

March 2010

EDITOR'S NOTE:

If you have other significant updates and/or interesting photographs from a case, you may email these to Elizabeth Janes: [REDACTED]. If you have information to submit on state-level cases, please send this directly to the Regional Environmental Enforcement Associations' website: <http://www.regionalassociations.org>

AT A GLANCE

Districts	Active Cases	Case Type / Statutes
S.D. Ala.	<u>United States v. Karen L. Blythe et al.</u>	<i>Seafood Imports/ Conspiracy, Lacey Act, Smuggling, Misbranding</i>
C.D. Calif.	<u>United States v. Gerald Snapp</u>	<i>Elephant Skull Sale/ ESA</i>
N.D. Calif.	<u>United States v. Luke Brugnara et al.</u>	<i>Trout Habitat Degradation/ ESA, False Statements</i>
	<u>United States v. Fleet Management Ltd. et al.</u>	<i>Vessel/ OPA, Obstruction, MBTA, False Statements</i>
	<u>United States v. Chuck Sivil et al.</u>	<i>Bulk Fuel Terminal/ CAA Tampering, False Statements</i>
	<u>United States v. Bai Lin Huang</u>	<i>Asian Arowana Smuggling/ Smuggling, False Statements</i>
S.D. Calif.	<u>United States v. Atticus Gee</u>	<i>Landfill Emissions/ CAA Tampering</i>
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	<u>United States v. Kinder Morgan Port Manatee Terminal LLC</u>	<i>Baghouse Emissions/ CAA</i>
S.D. Fla.	<u>United States v. Robbie Franklin Smith et al.</u>	<i>Queen Conch and Spiny Lobster Imports/ Lacey Act</i>
	<u>United States v. Alfred Raubitschek et al.</u>	<i>Counterfeit Goods/ Trafficking</i>
	<u>United States v. John Buckheim et al.</u>	<i>Spiny Lobster Harvest/ Conspiracy, Lacey Act</i>
N.D. Ga.	<u>United States v. Jennifer Duffey et al.</u>	<i>Munitions Burial/ Conspiracy, RCRA Disposal</i>
D. Hawaii	<u>United States v. Jerome Anches et al.</u>	<i>Freight Distributor/ RCRA Storage</i>
D. Idaho	<u>United States v. Cleve Ouellette</u>	<i>Falsified Drinking Water Tests/ Mail Fraud</i>
S.D. Iowa	<u>United States v. Robert Joe Knapp</u>	<i>Building Demolition/ Conspiracy, CAA</i>
N.D. Ill.	<u>United States v. Dennis Michael Egan et al.</u>	<i>Crewmember Death/ CWA misdemeanor, Misconduct or Neglect of Ship's Officers</i>
M.D. La.	<u>United States v. Travis Dardenne et al.</u>	<i>Alligator Hunting/ Lacey Act, ESA</i>
D. Mass.	<u>United States v. Charles Manghis</u>	<i>Ivory Smuggling/ Conspiracy, Smuggling, False Statements</i>
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W.D.N.Y.	<u>United States v. John Signore</u>	<i>Battery Chips/ RCRA Storage</i>

Districts	Active Cases	Case Type / Statutes
W.D.N.C.	<u>United States v. Howard William Ledford</u>	<i>Wild Ginseng Purchase/ Lacey Act</i>
D. N.M.I.	<u>United States v. Yuquiong Zheng</u>	<i>Pesticide Transportation/ HMTA, Federal Aviation Act</i>
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W.D. Tex.	<u>United States v. Economy Cash & Carry</u>	<i>Wood Pallet Certification/ False Statement, Plant Protection Act</i>
D.V.I.	<u>United States v. Ivan Chu et al.</u>	<i>Coral Shipments/ Conspiracy, Lacey Act, Endangered Species Act, False Statement</i>
W.D. Wash.	<u>United States v. Robert Hurst</u>	<i>Elk Killing/ Lacey Act</i>

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Trials

United States v. Charles Manghis, No. 1:08-CR-10090 (D. Mass.), AUSA Nadine Pellegrini



Sperm whale teeth in defendant's home

On January 28, 2010, Charles Manghis was convicted after a four-day bench trial of multiple felony counts for his participation in an international conspiracy to smuggle wildlife parts, specifically sperm whale teeth and elephant ivory, into the United States. Manghis was found guilty of one count of conspiracy to smuggle wildlife, six substantive counts of smuggling wildlife, and two counts of making false statements to federal agents. He was acquitted of a smuggling and a false statement violation.

For 40 years, Manghis worked as a commercial scrimshaw artist in Nantucket. His merchandise was offered for sale at a well known antique shop in Nantucket and also was displayed on his website. Evidence showed that the defendant bought ivory from persons outside the United States using Ebay and that he conspired with a Ukrainian national and others to smuggle large amounts of sperm whale ivory into the United States. Importing sperm whale ivory into the United States has been banned since the early 1970's.

In June of 2005, agents seized a large quantity of ivory pieces, many with Russian writing and pictures, from Manghis' home and shop. A computer that was seized from the defendant's home provided emails and other evidence of multiple purchases of sperm whale ivory. During the trial, forensic scientists confirmed that the items located in the defendant's home were, in fact, sperm whale teeth.

During the course of the investigation, Manghis lied to federal agents by claiming that he purchased the sperm whale ivory from a person in California and not from anyone located outside the United States. When federal agents questioned him about having Russian-origin teeth in his home, he simply denied that he possessed any.

Sentencing is scheduled for May 6, 2010. This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement, the United States Fish and Wildlife Service Office of Law Enforcement, and Immigration and Customs Enforcement. Assistance also was provided by the Nantucket Police Department and the Massachusetts Environmental Police.

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Informations and Indictments

United States v. John Loder et al., Nos. 8:10-CR-00013 and 00059 (M.D. Fla.), ECS Trial Attorney Lana Pettus [REDACTED] and AUSA Cherie Krigsman [REDACTED].

On February 19, 2010, an indictment charging four defendants was unsealed following their arraignment on conspiracy, Clean Air Act and false statement charges. John Loder, Stephen J. Spencer, Guy Gannaway, and Keith McConnell are named in the 11-count indictment.

Between November 2004 and early 2007, the defendants were involved in the purchase and renovation of apartment complexes for the purpose of converting them to condominiums. Loder and Spencer were partners in an entity called Sun Vista Development Group, which coordinated the renovation of the complexes. They also were members of corporate entities that purchased the complexes to be renovated and converted. Guy Gannaway was the majority owner of Gannaway Builders, Inc. ("GBI"), which was the general contractor on the renovation and conversion projects. Keith McConnell was a GBI employee.

In at least two of the complexes slated for renovation and conversion, the ceilings within the buildings were coated with a "popcorn" ceiling texture that contained significant amounts of asbestos. During the course of the renovations, the targets disturbed and caused others to disturb large quantities of the popcorn ceiling texture without notice to regulators and without following the work practice standards for asbestos. They also submitted documents to local regulators and caused documents to be submitted to local regulators that falsely characterized and omitted information concerning the violations in an attempt to avoid detection and to minimize or avoid administrative penalties. Co-defendant James Roger Edwards recently pleaded guilty to being an accessory-after-the-fact for his failure to notify or report an improper removal of asbestos.

This case was investigated by United States Environmental Protection Agency Criminal Investigation Division, with assistance from the Florida Department of Law Enforcement.

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United States v. Robert Joe Knapp et al., No. 4:10-CR-00025 (S.D. Iowa), ECS Trial Attorney Gary Donner [REDACTED] AUSA Debra Scorpiniti [REDACTED], and SAUSA Kristina Gonzales.

On February 25, 2010, an indictment was returned charging Robert Joe Knapp, the owner of Equitable, L.P., and Knapp's supervisor, Russell William Coco, with committing violations of the Clean Air Act while they were overseeing the demolition and renovation of The Equitable Building.

The indictment describes an approximately two-year-long operation in which several floors of The Equitable Building, located in downtown Des Moines, were illegally demolished while still containing large amounts of asbestos. The indictment further alleges that any asbestos that was removed from the building during the demolition and renovation project was done so illegally, placed into open dumpsters, and improperly disposed of in a landfill.

The 11-count indictment charges the defendants with conspiracy to defraud the United States and to violate the Clean Air Act, as well as with substantive CAA NESHAP violations. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Iowa Department of Natural Resources.

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United States v. James Robert Durr, No. 1:10-CR-00098 (D.N.J.), ECS Senior Trial Attorney Elinor Colbourn [REDACTED] and ECS Trial Attorney Mary Dee Carraway [REDACTED].

On February 17, 2010, an indictment was returned charging James Robert Durr with an Endangered Species Act (ESA) and a false statement violation stemming from his clear cutting trees near a stream that impacted the habitat area of the bog turtle, a threatened species.

According to the indictment, Durr purchased a farm property in December 2005, which he called Turtle Creek Farm. The property included a free flowing perennial stream that flowed into and out of a bog area that Durr knew to be the habitat of a significant population of the threatened bog turtle (*Clemmys muhlenbergii*). Immediately upon taking possession of the property, the defendant clear cut the buffer zone around the stream and ditched it just upstream of, and including part of, the bog turtle habitat. He also recontoured a field adjacent to the newly clear cut area, resulting in up to two feet of sediment being deposited in the stream. Subsequent surveys for bog turtles revealed that there is no longer a viable population in this habitat. The bog turtle has been listed as a threatened species under the ESA since 1997, and it is listed by the State of New Jersey as endangered, primarily due to habitat loss.

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

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United States v. Yuqiong Zheng, No. 1:10-CR-00027 (D.N.M.I.), AUSA Beverly McCallum [REDACTED]

On February 9, 2010, Yuqiong Zheng was charged in a two-count indictment stemming from the alleged importation of undeclared pesticides from the People's Republic of China.

On October 9, 2008, the defendant attempted to transport the pesticide Buprofezin, a hazardous material, onboard an airplane. She has been charged with a violation of the Hazardous Materials Transportation Law and with a violation of the Federal Aviation Act.

This case was investigated by the U.S. Department of Transportation Office of Inspector General and the U.S. Environmental Protection Agency Criminal Investigation Division, with the assistance from the U.S. Coast Guard Investigative Service, Federal Aviation Administration, and the Commonwealth of the Northern Mariana Islands Divisions of Environmental Quality and Customs.

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United States v. Karen L. Blyth, et al., No. 1:10-CR-00011 (S.D. Ala.), ECS Senior Trial Attorney Wayne Hettenbach [REDACTED] ECS Trial Attorney Susan Park [REDACTED] and AUSA Deborah Griffin [REDACTED].

On January 28, 2010, a 28-felony count indictment was returned charging Karen Blyth, David H.M. Phelps and John J. Popa with conspiracy, as well as a Lacey Act violation, smuggling and misbranding violations.

Blyth and Phelps owned a seafood supply company in Arizona and also were co-owners with Popa and others of a seafood wholesaler in Pensacola, Florida, which sold seafood to customers in Alabama and the Florida Panhandle. From approximately October 2004 through November 2006, the defendants conspired to sell falsely labeled and unlawfully imported fish. Specifically, they bought and sold imported catfish from Vietnam that had been falsely labeled and imported without paying the applicable duties, and then sold that catfish as grouper. They also routinely substituted cheaper fish for more expensive fish by selling Lake Victoria perch as grouper, selling imported catfish as grouper, and

selling grouper as snapper. Moreover, they were selling live oysters for which the harvest date had been changed to a more recent date. Trial is scheduled to begin on June 28, 2010.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement; Department of Homeland Security, Immigration and Customs Enforcement; United States Air Force Office of Special Investigations; and the Department of Defense Criminal Investigative Service.

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United States v. Dennis Michael Egan et al., No. 10-CR-00033 (N.D. Ill.), AUSA Timothy Chapman [REDACTED] and SAUSA Crissy Pellegrin [REDACTED]

On January 13, 2010, Dennis Michael Egan and Egan Marine Corporation (“EMC”) were charged in a three-count indictment with offenses related to a 2005 explosion and sinking of an EMC barge, the *EMC-423*, on the Chicago Sanitary and Ship Canal that resulted in the death of an EMC crew member, Alexander Oliva. Egan and EMC were charged with misconduct or neglect of ships’ officers for negligently causing Oliva’s death and with a misdemeanor Clean Water Act violation for the discharge of oil into a water of the United States.



Explosion from barge

At the time of the explosion, the barge, which was slightly smaller than a football field, was loaded with approximately 600,000 gallons of clarified slurry oil (“CSO”), a byproduct of petroleum refining, and was being pushed by a “tow boat,” the *Lisa E*, being piloted by Egan. The indictment alleges that Egan and EMC were negligent in allowing Oliva to use an open flame (namely, a propane fueled “rosebud torch”) to heat a cargo pump on the deck of the barge, a short distance from which stood a vertical standpipe that was venting CSO vapors from one of the barge’s cargo compartments to the deck of the *EMC-423*. Egan and two other crew members survived the blast. Much of the CSO and other varieties of oil aboard the *EMC-423* were discharged into the canal.

This case was investigated by the Coast Guard Investigative Service and the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. Ivan and Gloria Chu, No.10-CR-0003 (D.V.I.), ECS Trial Attorney Christopher Hale [REDACTED] and AUSA Nelson Jones [REDACTED]

On January 14, 2010, an 18-count indictment was returned charging Taiwanese nationals Ivan Chu and Gloria Chu with conspiracy, false statement, Lacey Act false labeling, Endangered Species Act, and false classification violations, stemming from their involvement in illegal coral shipments.

The indictment names the Chus, who operate a raw coral supply and jewelry parts business in Taipei under the name Peng Chia Enterprise Co., Ltd., as the main suppliers of illegal coral to a group of businesses in the U.S. The indictment alleges that the shipments lacked the appropriate CITES documentation and/or the coral was mislabeled, typically as a type of plastics product.

This case was investigated by the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, with assistance from United States Immigration and Customs Enforcement and Border Protection.

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Plea Agreements

United States v. Atticus Gee, No. 09-CR-004121 (S.D. Calif.), AUSA Melanie Pierson

On February 18, 2010, Atticus Gee pleaded guilty to tampering with a monitoring method stemming from his preparation of false landfill gas emission reports by copying data he had in his possession without conducting the actual monitoring.

According to the indictment, between October 2004 and May 2007, Gee was employed as a technician by a company under contract with the San Diego County Department of Public Works and was responsible for taking readings of the emissions of landfill gases from several closed landfills within the County of San Diego. When landfills reach their final capacity, they can be capped by covering them with earth and other substances. In order to prevent underground fires, methane extraction vents are to be installed. The emissions to the air from such methane extraction vents are regulated in San Diego by permits issued by the San Diego County Air Pollution Control District. Those permits place limits on the emissions and require periodic monitoring reports and certifications of compliance to be submitted by the San Diego County Department of Public Works. On September 23, 2005, an underground fire was discovered at the Palomar Airport Landfill, although no unusual readings had been reported in the monitoring data from the methane extraction wells and migration probes at that location.

Sentencing is scheduled for May 14, 2010. This case was investigated by United States Environmental Protection Agency Criminal Investigation Division and the Federal Bureau of Investigation.

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United States v. Kinder Morgan Port Manatee Terminal LLC, No. 8:10-CR-00076 (M.D. Fla.), AUSA Cherie Krigsman.



Baghouse

On February 17, 2010, Kinder Morgan Port Manatee Terminal LLC ("KMPMT"), a Delaware company doing business in Manatee County, Florida, *agreed* to plead guilty to four violations of the Clean Air Act stemming from its baghouse dust emissions. The plea is scheduled to be taken on March 11, 2010. At the time of sentencing, the company has further agreed to pay a \$750,000 fine and to make a \$250,000 community service payment to the National Fish and Wildlife Foundation. It also will serve a two-year term of probation and implement an extensive environmental compliance plan.

According to the information and plea agreement, KMPMT operates a dry bulk material handling and storage facility, which covers six acres and includes four warehouses. It receives and ships materials such as granular fertilizer products and cement clinker by railcar, truck, and ship. When these granular materials are loaded and unloaded incorrectly, they generate particulate matter, an air pollutant regulated by

the Clean Air Act. Facilities are required to operate baghouse air pollutant control systems, in order to control particulate emissions. These systems further require permits to ensure their proper operation

Investigation revealed that, from in or about 2001 through March 2008, KMPMT's baghouse systems were in poor condition, and several were not fully operational during the times specified in various permits. In August 2006 and August 2007, the company's local managers and supervisors falsely stated in Florida Department of Environmental Protection ("FDEP") permit applications that KMPMT would operate and maintain its air pollution emissions and control equipment in accordance with regulations, knowing that the baghouses were not being operated and maintained properly. From October 2006 through March 2008, company management failed to notify the FDEP that its baghouse air pollution control systems were out of compliance.

A parallel enforcement action brought against the company by state officials resulted in FDEP ordering a \$331,000 civil penalty. Corrective actions under the order include conducting compliance stack testing on the repaired baghouses, repairing the transfer towers and conveyor systems, creating an employee training program, and implementing a management tracking system to ensure future compliance through testing, record keeping and maintenance.

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

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United States v. Seng Her, No. 09-CR-00365 (D. Minn.), AUSA William Otteson [REDACTED].

On February 11, 2010, Seng Her pleaded guilty to a smuggling violation stemming from her smuggling elephant parts and dead birds into the United States from southeast Asia.

Her was stopped by U.S. Customs officials at the Minneapolis-St. Paul International Airport in November 2007 after visiting Laos. Along with parts of an Asian elephant, an endangered species, the defendant also had in her possession several dead birds including yellow-vented flowerpeckers, tailorbirds, prinias and passerines, without the required documentation.



Her previously was warned in writing by the U.S. Fish and Wildlife Service in 2007 about importing undeclared wildlife into this country. She had been stopped in 2005 at the Twin Cities airport with pieces of elephant hide, birds and other wildlife, including several threatened and endangered species, in her belongings.

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

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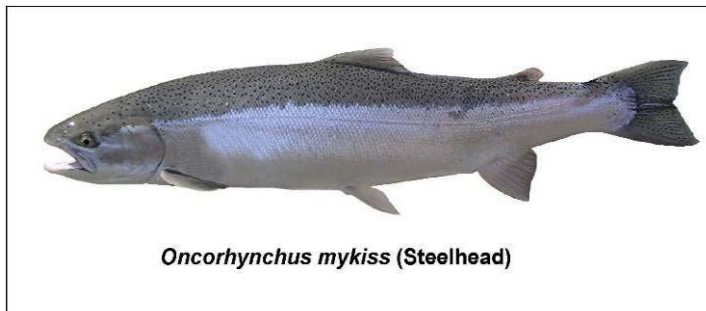
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United States v. Luke Brugnara et al., No. 3:08-CR-00236 (N.D. Calif.), AUSAs Maureen Bessette [REDACTED] and Thomas Newman [REDACTED]



On January 26, 2010, Luke Brugnara pleaded guilty to a six-count indictment which charged four counts of "taking" steelhead trout in violation of the Endangered Species Act and two counts of making a false statement during the course of the investigation. Charges against the Brugnara Corporation were dismissed as a condition of the plea agreement.

According to court documents, Brugnara intentionally blocked the flow of Little Arthur Creek, an important watershed for steelhead, through his private dam on property purchased by his corporation in 2001 in Gilroy, California. Steelhead are known to migrate upstream of the dam on this property, and the population of steelhead in the Little Arthur Creek, running through the defendant's property, is listed as a threatened species. One of the reasons for this decline in steelhead populations is that their access to historic spawning and rearing areas upstream of dams has been blocked.

From approximately January 2007 through April 2007, the defendant closed off the portal in his dam which had allowed the steelhead to migrate upstream. State and federal investigators located and observed numerous trapped adults downstream of the dam that were unable to migrate upstream to suitable spawning habitat. A federal fisheries biologist determined the trapped adult steelhead were of paramount importance to the survival of the species due to their low number found in the Pajaro River watershed and recommended that the adults be rescued and moved upstream. When the rescue team arrived to move the steelhead upstream, investigators found that they had disappeared, but there remained significant evidence of recent poaching and trapping activities.

During the investigation Brugnara made false statements to local law enforcement officers stating that he had not taken the fish that were caught in his dam and that he had not used the type of fishing lure that was capable of catching steelhead trout.

This is the first federal criminal case in the country charging an individual with the taking of steelhead through blocking access to upstream habitat. Sentencing is scheduled for May 5, 2010.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the California Department of Fish and Game.

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United States v. Robbie Franklin Smith et al., No. 1:08-CR-20644 (S.D. Fla.), AUSA Tom Watts-FitzGerald

On January 22, 2010, Robbie Franklin Smith, a Bahamian native, pleaded guilty to charges stemming from the illegal import of queen conch and spiny lobster from the Bahamas to the United States in violation of the Lacey Act and of Bahamian law.

In December 2005, a vessel operated by a Miami-based seafood dealer, James Hanson, was intercepted by a Coast Guard patrol vessel. During a boarding and inspection, officers found more than 1,000 pounds of undeclared spiny lobster and approximately 340 pounds of queen conch, which had been supplied to Hanson in the Bahamas by Smith. Hanson's intention was to land the seafood in the United States and market it through Hanson Seafood, Inc., a company which he owned. Between June and December 2005, on approximately a dozen occasions, Hanson purchased spiny lobster and conch from Smith and imported it illegally into the United States using boats owned through his companies and employees of his companies. According to court documents, the total fair market value of the trips exceeded \$87,000.

Hanson, who received a lesser sentence for cooperating with the government's investigation, was sentenced to pay a \$75,000 fine, ordered to perform 300 hours of community service, and complete a three-year term of probation. He further was ordered to relinquish any claim to the proceeds of the seized product, which was valued at \$13,930. J.R.J.T., Inc., which is wholly-owned by Hanson, was ordered to forfeit the boat used in the commission of the offense, a 37.8-foot sport fishing vessel, valued at approximately \$750,000. Smith is scheduled to be sentenced on April 6, 2010.

This case was investigated by the National Oceanic and Atmospheric Administration Office for Law Enforcement, the United States Fish and Wildlife Service, and United States Immigration and Customs Enforcement, with assistance from the Ministry of Agriculture and Marine Resources, Department of Marine Resources, of the Commonwealth of the Bahamas.

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United States v. Jennifer Duffey et al., No. 09-CR-00512 (N.D. Ga.), AUSA Susan Coppedge

Napthalene buried underground

On December 17, 2009, Jennifer Duffey and John Duffey pleaded guilty to conspiring to illegally dispose of hazardous waste. Jennifer Duffey and John Duffey ran Joint Military Development Services ("JMDS"), a company engaged in conducting military training exercises for the United States' armed forces. In its work with the military, JMDS purchased approximately 560 "napalm bursts" for use in military exercises. These napalm bursts are explosives and contain naphthalene which is federally-listed as hazardous if it is a waste and can cause liver and neurological damage. JMDS did not

possess a permit to dispose of this hazardous waste.

On two separate occasions, Jennifer Duffey instructed an employee to dig a hole in the woods on property adjacent to the warehouse out of which JMDS operated and bury the naphthalene. This property belonged to a third party who was unaware that hazardous waste had been buried on his land. For a second disposal in mid-November 2008, John Duffey instructed an employee to use face masks so that the strong, noxious odor would not affect them while they dug a hole and buried the remaining napalm bursts. John Duffey monitored the two employees who disposed of the hazardous waste in November.

Sentencing is scheduled for April 12, 2010. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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Sentencings

United States v. Jerome Anches et al., No. 1:08-CR-00577 (D. Hawaii) AUSA Marshall Silverberg

On February 22, 2010, Jerome Anches was sentenced to pay a \$300,000 fine plus \$84,000 in restitution, the latter due immediately. He also will complete a five-year term of probation after previously pleading guilty to a RCRA storage violation.

Anches was the president of Martin Warehousing and Distribution ("MWD"). MWD was in the business of transporting and distributing freight. In August 2001, there was a hazardous waste spill involving the puncture of a 55-gallon drum of tetrachloroethylene by a MWD forklift driver. MWD

contacted the Honolulu Fire Department, which arrived and contained the spill. MWD also contacted Pacific

Environmental Company ("PENCO"), which specialized in the clean-up of hazardous waste sites and the disposal of hazardous waste. Shortly thereafter, PENCO employees arrived to clean-up the site. After providing samples of this material to be tested by a lab, PENCO verified that the waste must be treated as hazardous and placed the material in a container on MWD's property.

PENCO prepared manifests and hazardous waste labels for Anches and informed him that the company could transport the waste for proper disposal for approximately \$16,500. Anches declined the offer due to the cost and let the waste sit without proper permitting until February 2005.

In February 2005, Anches agreed to sell the MWD property to RRL, Inc., and to co-defendant Stephen Swift, the *de facto* "responsible corporate officer" for RRL. The contract required that the hazardous waste be manifested and properly removed from the property. Swift or one of his employees, however, simply moved the container down the street from the RRL offices. The waste was moved again about a week later, from the street to property owned by Swift, without a manifest. Swift continued to unlawfully store this waste from February 2005 to May 2008.

In a letter dated January 4, 2008, the Department of Health for the State of Hawaii wrote to Swift's attorney and asked a number of questions, including whether Swift had taken care of a container with the hazardous waste located on his property. Swift responded with a number of false



Drums of hazardous waste

statements, including that the container located on the Haleahi property did not contain waste but rather "damaged freight." Swift remains set for trial to begin on March 30, 2010.

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

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United States v. Fleet Management Ltd. et al., No. 3:08-CR-00160 (N.D. Calif.), ECS Senior Trial Attorney Richard Udell [REDACTED] and AUSAs Stacey Geis [REDACTED] and Jonathan Schmidt [REDACTED].

On February 19, 2010, Fleet Management Ltd. ("Fleet"), a Hong Kong ship management company, was sentenced to pay a \$10 million fine, with an additional \$2 million community service payment to be devoted to funding marine environmental projects in San Francisco Bay. Fleet also will complete a three-year term of probation and will implement an enhanced compliance program.

Fleet previously pleaded guilty to Oil Pollution Act, obstruction, and false statement violations after being charged in a third superseding indictment with acting negligently and being a proximate cause of the oil discharge from the *M/V Cosco Busan* and for the killing of migratory birds. Fleet further admitted to obstructing justice and to making false statements by falsifying ship records after the vessel crashed into the San Francisco Bay Bridge in November 2007. The collision caused a gash measuring approximately 150 feet long by 12 feet high on the port side of the ship, puncturing two of the ship's fuel tanks and damaging the fendering system on the Delta tower of the bridge, resulting in a significant environmental clean-up. At least 2,000 migratory birds died, including Brown Pelicans, Marbled Murrelets and Western Grebes. The Brown Pelican is a federally endangered species and the Marbled Murrelet is a federally threatened species and an endangered species under California law. The ship's captain, John Cota, currently is serving a sentence of 10 months' incarceration.

This case was investigated by the United States Coast Guard Criminal Investigative Service, the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, the United States Fish and Wildlife Service, and the California Department of Fish and Game, Office of Spill Prevention and Response.

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United States v. Alfred Raubitschek et al., No. 2:09-CR-20664 (S.D. Fla.), AUSA Tom Watts-FitzGerald [REDACTED]



Pistol grips with counterfeit trademarks

On February 17, 2010, Alfred Raubitschek and William Harvey were sentenced after pleading guilty to trafficking in counterfeit goods. The two were involved in the smuggling of pistol grips into the United States that had been manufactured from a prized Brazilian hardwood and subsequently marked with counterfeit Smith & Wesson Corp. registered trademarks.

Raubitschek was sentenced to time served of six weeks' incarceration, followed by seven months' home confinement and three year' supervised release. Raubitschek also will pay a \$3,000 fine. Harvey was previously sentenced after cooperating with the government. He will complete a three-year term of

probation and pay a \$5,000 fine.

The two defendants were involved in the illegal importation of more than 260 sets of custom-made pistol grips, designed for Smith & Wesson firearms. The grips, which were fabricated from protected species of Brazilian rosewood were pre-drilled and mounted with metallic medallions intended to mimic the genuine Smith & Wesson logo on legitimately produced product, in violation of the trademark.

The gun grips imported into the United States were falsely described on invoices and other documents as “rough cutting board samples”. The defendants also failed to provide required notices to the Fish and Wildlife Service for the import of protected rosewood, and further failed to secure the required export permits from Brazil. Rosewood, or *Dalbergia nigra*, is a highly prized Brazilian hardwood often used to make high-end musical instruments and equipment.

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

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United States v. John Signore, No. 1:09-CR-00339 (W.D.N.Y.), AUSA Aaron Mango [REDACTED]

On February 17, 2010, John Signore was sentenced to serve two years’ probation, pay a \$3,000 fine, and complete 40 hours of community service. Signore recently pleaded guilty to one RCRA count for his involvement in the storage of shredded battery cases (known as “chips”), a hazardous waste.

Signore was a plant manager at the Tulip Corporation, which reprocessed and recycled these chips into a useable material. Tulip purchased the chips from various suppliers, and they were delivered to the plant in tractor trailers. Each load contained approximately 40,000 pounds of chips, a significant proportion of which were contaminated with lead.

From approximately October 2004 through July 2007, at Signore’s direction, the chips were occasionally stored outside the facility, with the amount steadily increasing as processing equipment broke down and the surplus of chips increased. In July 2007, state hazardous waste inspectors observed approximately 80,000 pounds of chips being stored without a permit. Samples of chips analyzed for lead confirmed that they were hazardous waste.

This case was investigated by the New York State Department of Environmental Conservation and the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. Cleve Ouellette, No. 1:09-CR-00230 (D. Idaho), AUSA Wendy Olson [REDACTED]

On February 16, 2010, Cleve Ouellette, a former organic chemist and supervisor with Analytical Laboratories, Inc. (“ALI”), was sentenced to serve six months’ home confinement as a condition of three years’ probation, and also will pay a \$3,000 fine. Ouellette previously pleaded guilty to a mail fraud violation stemming from his preparation of fraudulent drinking water test results.

The defendant was responsible for conducting public drinking water system lab tests using a Gas Chromatography/Mass Spectrometer (“GC/MS”). The lab was required to conduct all analyses according to state and federal environmental regulations, which included the proper calibration of the GC/MS testing instrument. Beginning in January of 2004 and continuing through April of 2005, the defendant knowingly failed to calibrate the GC/MS instrument on approximately 80 percent of the days he conducted public water system drinking water tests. Ouellette subsequently prepared

fraudulent reports based upon these test results and caused invoices to be prepared and mailed to the public water system clients for whom the tests had been conducted.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and Office of Inspector General.

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United States v. Travis Dardenne et al., Nos. 3:09-CR-00113 and 00114 (M.D. La.), ECS Senior Trial Attorney Claire Whitney [REDACTED] and AUSA Corey Amundson [REDACTED]

On February 4, 2010, Travis Dardenne and Jeffery Brown were each sentenced to pay a \$2,000 fine and to complete a one-year term of probation. Dardenne and Brown previously pleaded guilty to a Lacey Act misdemeanor charge for knowingly attempting to acquire an American alligator in violation of the Endangered Species Act. They also are prohibited from hunting during the term of probation.

In September 2006, the two licensed alligator hunters guided an out-of-state alligator sport hunter to an area for which Dardenne and Brown did not have appropriate state authorization to hunt. The sport hunter killed a trophy-sized alligator in the unapproved area. For the purpose of maintaining a healthy alligator population, Louisiana strictly regulates the hunting of alligators in the wild. Trophy-sized alligators are highly sought after by hunters, and guides frequently take hunters to them regardless of state restrictions.

This case was investigated by the Law Enforcement Division of the Louisiana Department of Wildlife and Fisheries and the United States Fish and Wildlife Service Office of Law Enforcement.

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United States v. John Buckheim et al., No. 4:09-CR-10026 (S.D. Fla.), AUSA Tom Watts-FitzGerald [REDACTED]

On February 2, 2010, John Buckheim and Nick Demauro were sentenced for their involvement in illegally harvesting spiny lobsters. They each will serve one year and a day of incarceration to be followed by two years of supervised release. The court also ordered the defendants to reimburse \$10,560 to the United States Marshall's Service and \$12,187 to the Miami-Dade Police Department Intergovernmental Bureau for investigative costs involved in dive support operations. Buckheim and Demauro pleaded guilty to a Lacey Act conspiracy count for illegally harvesting the lobsters from artificial habitat placed in the Florida Keys National Marine Sanctuary ("FKNMS") during the summer of 2008 and extending into early 2009. The fair market retail value of illegally harvested lobster by the defendants was greater than \$155,000.

Artificial habitats are prohibited from being placed on the seabed in the FKNMS. The defendants admitted to sinking a vessel in this protected area for the purpose of creating an artificial lobster habitat. In taped conversations, the defendants further admitted to possessing the GPS coordinates for well over 300 illegal artificial habitat locations. Spiny lobster may only be harvested during the commercial season, which runs from August 6 through March 31 of the following year. As part of the sentencing, the defendants will continue to remove the artificial habitat they had placed in the FKNMS. After pleading guilty, under the supervision of FKNMS personnel the defendants have been removing the illegal habitat at their own expense. Thus far, approximately 300 sites have been removed. Buckheim also was ordered to forfeit a 1999 Pathfinder vessel and a 2006 GMC pick-up truck, which were used in the commission of the criminal offenses. Due to an intervening sale of the vessel, Buckheim was ordered to forfeit the proceeds of that sale, which amounted to \$1,000.

This case was investigated by the National Oceanic and Atmospheric Administration Office for Enforcement, the United States Fish and Wildlife Service, with assistance from the Florida Fish and

Wildlife Conservation Commission, and the Miami-Dade Police Department Underwater Recovery Unit.

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United States v. Wayne Breitag et al., No. 1:09-CR-10035 (D.S.D.), ECS Trial Attorney James Nelson [REDACTED] AUSA Timothy Maher [REDACTED] and ECS Paralegal Bettina Bammer-Whitaker [REDACTED]

On February 1, 2010, Wayne Breitag was sentenced to serve six months' home confinement and to pay a \$20,000 fine. Breitag was convicted by a jury after a retrial for smuggling a leopard hide into the United States in violation of CITES. He also was found guilty of two Lacey Act violations. The defendant's sentence includes three years' supervised release during which he is barred from hunting or being with anyone who is hunting. He also will forfeit the hide.

Breitag traveled to South Africa in August 2002 to hunt leopards while guided by Jan Groenewald Swart, a South African outfitter, doing business as "Trophy Hunting Safaris." After Breitag killed a leopard, Swart arranged to have the hide smuggled from South Africa into Zimbabwe, where he purchased fraudulent CITES export permits for the hide. Breitag then submitted applications to the U.S. Fish and Wildlife Service falsely claiming that he had hunted and killed the leopard in Zimbabwe. In November 2004, inspectors seized a shipment of five leopard hides and three leopard skulls at the Denver International Airport, which included the hide of the leopard that Breitag had illegally killed in South Africa in 2002. Co-defendant Swart served an eighteen-month prison sentence, and was deported upon his release.

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

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United States v. Economy Cash & Carry, No. 3:09-mj-06732 (W.D. Tex.), ECS Senior Counsel Rocky Piaggione [REDACTED] and AUSA Steven Spitzer [REDACTED]

On January 28, 2010, Economy Cash & Carry pleaded guilty to and was sentenced for the first criminal prosecution of a violation of the Plant Protection Act related to the falsification of a required certificate stamp. The company was sentenced to pay a \$22,000 fine as a result of this misdemeanor violation.

Michael Sayklay, the former company vice president and warehouse manager, previously pleaded guilty to a felony false statement violation for his role in the certificate stamp falsification. Specifically, Sayklay admitted to falsifying stamps that certified wood pallets had been heat-treated to prevent infestation, and were suitable for use in international transportation. In 2006, the defendant was responsible for having the false stamp affixed to his company's wood pallets that were used to carry products back and forth across the U.S./Mexico border.

The United States Department of Agriculture ("USDA") requires the heat treatment of wood pallets used in international transactions. The requirement is to prevent insects, parasites and plant diseases from entering the United States in wood packaging materials. Pallets that carry products transported within the United States are not required to be heat treated.

Economy Cash & Carry uses wood pallets to transport food products and pharmaceuticals sold in both the United States and Mexico. In his capacity as the warehouse manager, Sayklay was responsible for directing the transfer of products destined for Mexico from untreated pallets to treated pallets. Instead of following this procedure, however, he devised a copy of a certification stamp that was used by a legitimate wood pallet treating company. The defendant subsequently had hundreds of untreated domestic pallets falsely stamped as if they were treated, saving the time to transfer products

between pallets as well as the cost of treatment. Sayklay neglected to notice, however, that the falsified stamp he used was smaller than the legitimate stamp.

Consequently, other companies that received the fraudulently stamped pallets from Mexico sent them for repair to the legitimate stamp owner who then notified the government about the falsification. An investigation by USDA resulted in the seizure of fraudulently stamped pallets at the U.S./Mexico border.

This case was investigated by the United States Department of Agriculture.

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United States v. Gerald Snapp, No. 2:09-CR-00122 (C.D. Calif.), AUSA Dennis Mitchell

On January 28, 2010, Gerald Snapp was sentenced to serve a three-year term of probation which includes three months' home detention and 100 hours of community service.

Snapp was convicted by a jury last year of an Endangered Species Act violation for attempting to sell to an undercover agent the skull of an Asian elephant on Craigslist. According to evidence at trial, the defendant obtained the skull of a captive Asian elephant, which had lived at the Los Angeles Zoo prior to being euthanized. In December 2008, Snapp posted an advertisement on Craigslist offering to sell the skull for \$9,000. After being made aware of the posting, the United States Fish and Wildlife launched an undercover investigation, with an agent engaging in a series of emails, meetings and recorded phone calls with the defendant. In one such call, Snapp demonstrated his knowledge of CITES by describing the regulations to the agent.

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

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United States v. Robert Hurst, No. 3:09-CR-05733 (W.D. Wash.), AUSA Jim Oesterle



Roosevelt bull elk

On January 25, 2010, Robert Hurst pleaded guilty to and was sentenced for hunting, killing, and transporting a trophy Roosevelt bull elk from within Olympic National Park. Hurst was placed on three years' of probation and was required to immediately forfeit all hunting licenses, stamps, or permits, cease all wildlife hunting and not seek any hunting license, stamp or permit during the term of probation. The defendant was further ordered to perform 80 hours of community service and forfeit all parts of the illegally taken elk. At the sentencing hearing the court noted that "this animal was a prize possession

of each and every citizen who enjoys the park, and that possession has been taken away."

Hurst entered the Olympic National Park in September 2007 along the remote south boundary. He called the trophy elk within bow range by a common tactic known as "bugling" and then killed it by using a bow and arrow. A few days after killing and dressing the animal, Hurst was contacted by a

wildlife agent about the elk parts in his possession. Forensic analysis tied the animal parts to the kill site within Olympic National Park.

Olympic National Park was originally the Olympic National Monument established in March 1909 by President Theodore Roosevelt for which the Roosevelt Elk are named. President Franklin Roosevelt established the Olympic National Park in June 1938. Protection of the Roosevelt Elk was one of the primary forces driving the establishment of both areas and providing enjoyment of the species in their natural environment for future generations. Olympic National Park also is an International Biosphere Reserve and World Heritage Site.

The two-year investigation was conducted jointly by Washington Department of Fish and Wildlife Enforcement Program, the United States Fish and Wildlife Service, and the National Park Service, with assistance from the U.S. Fish and Wildlife Forensic Laboratory and National Park Service Rangers.

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United States v. Chuck Sivil et al., Nos. 3:09-CR-00395 and 906 (N.D. Calif.), AUSAs Stacey Geis and Jeff Rabkin

On January 22, 2010, Chuck Sivil was sentenced to serve one year of home confinement as a condition of a three-year term of probation. He also will complete 200 hours of community service that will be geared toward the health impacts of air pollution. Sivil previously pleaded guilty to violating the Clean Air Act in connection with his supervision of the operations at Shore Terminals LLC's bulk fuel terminal located in Selby, California.

Shore Terminals distributed ethanol and jet fuel products stored at its tank farm by loading fuel trucks with a device known as a truck loading rack. When trucks are loaded with fuel in this manner, significant amounts of volatile organic compounds are emitted into the ambient air unless the pollutants are captured with a vapor recovery unit ("VRU"). When combined with sunlight, VOCs create ground ozone, which is a major component of smog.

From approximately July 2005 through December 2006, Sivil was the senior manager of operations and compliance at the facility. During this time, Shore Terminals experienced problems with its VRU that caused it to malfunction and shut down. To avoid delays in loading trucks, company employees, under Sivil's supervision, repeatedly used a bypass switch that allowed them to load ethanol using the truck loading rack while the VRU was not operating.

During an inspection in August 2006 by a state air quality inspector, Sivil initially told the inspector that an electrical problem had caused the VRU to cease operating. He later admitted that this was not true and yet continued to direct his employees to use the bypass switch for several more months. Sivil pleaded guilty to a CAA felony count for tampering with a monitoring device.

Shore Terminals, which owned and operated the facility during this time, was convicted last year for making false statements that related to these violations. The company was sentenced to pay a \$1.75 million fine and will pay an additional \$750,000 toward community service projects that are related to air quality. Specifically, \$500,000 will be paid into the National Fish and Wildlife Fund and \$250,000 will be paid to the Bay Area Clean Air Foundation. Shore Terminals was further ordered to implement a comprehensive environmental compliance plan.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Bay Area Air Quality Management District.

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United States v. Bai Lin Huang, No. 3:09-CR-00473 (N.D. Calif.), AUSA Stacey Geis [REDACTED]

On January 21, 2010, Bai Lin Huang was sentenced to serve one year and one day of incarceration and will pay a \$3,000 fine for the smuggling of Asian Arowana, an endangered species, commonly known as Asian Bonytongue, "dragon fish" or "lucky fish." Huang previously pleaded guilty to one count of smuggling and one count of making a false statement, admitting to smuggling more than two dozen Asian Arowana fish on two separate occasions in 2005. Huang also admitted that he deceived both wildlife inspectors and agents during the course of the investigation, including providing false documents from China indicating that a shipment that contained the "lucky fish", disguised as "assorted Koi," had been sent to Huang by mistake, which Huang knew to be untrue. Huang further admitted to previously selling Asian Arowana on the black market in the past, and to being paid up to \$2,000 per fish.

The Asian Bonytongue fish are highly desired by the Asian community due to the belief that the fish will bring good fortune to the owner. Asian Arowana fish are protected under the Endangered Species Act through CITES. An individual fish can be sold for between \$2,000 - \$10,000 depending on its size and color. It is illegal to trade in this fish without a permit.

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

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United States v. Howard William Ledford, No. 1:09-mj-66 (W.D.N.C.), ECS Trial Attorney Shennie Patel [REDACTED].


On January 12, 2010, Howard William Ledford was sentenced to serve a one-year term of incarceration. Ledford previously pleaded guilty to two Lacey Act violations for the illegal purchase of wild ginseng over a two-year period.

From 2003 through 2005, the Fish and Wildlife Service conducted an undercover operation to identify the illegal interstate and foreign sales/purchases of ginseng. Ginseng has declined from historic levels and continues to be under threat from overexploitation because demand and price for its roots remain high. Wild ginseng generally does not reproduce until it is eight years old. Some varieties of ginseng root can sell for as much as \$1,000 a pound in the Asian market, where it is revered for its medicinal properties. Individuals who transport or buy and sell ginseng in interstate commerce must obtain the required export certificates and permits. Ledford unlawfully purchased wild ginseng worth approximately \$109,000.

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