ENVIRONMENTAL CRIMES SECTION

MONTHLY BULLETIN

November 2011

EDITOR'S NOTE:

If you have other significant updates and/or interesting photographs from a case, please email them to Elizabeth Janes: [redacted]. If you have information concerning state or local cases, please send it directly to the Regional Environmental Enforcement Associations' website: www.regionalassociations.org

The dismantling of this former Navy ship caused several oil spills into the Columbia River. See *U.S. v. Simpson*, inside, for details.

AT A GLANCE:

- United States v. Thorn, ___F.3d___ 2011 WL 4978209 (2nd Cir. Oct. 20, 2011).
- United States v. King, ___F.3d ___ 2011 WL 4537801 (9th Cir. Oct. 3, 2011).
- United States v. Beau Lee Lewis, 2011 WL 4526804 (9th Cir. Sept. 30, 2011).

DISTRICTS	ACTIVE CASES	*CASE TYPE/* STATUTES
D. Ala.	United States v. James Murray	*Jetty Construction/* False
S.D. Fla.	United States v. Scott Greager	Spiny Lobster Harvest/ *Lacey*
N.D. Ga.	United States v. Sabrina Westbrooks Arnot et al.	*ODS Venting/* Misprision,
S.D. Ill.	United States v. Franklin A. Bieri	
N.D. Ind.	United States v. Michael Materna d/b/a/ Materna Mint Farms	*Wastewater Discharge/* CWA
E.D. La.	United States v. Blake Mitchell United States v. Stolthaven New Orleans, LLC United State v. Freddy Langford	*Fish Sales/* Lacey Act *Wastewater Discharge/* CWA misdemeanor *Fish Transport/* Lacey Act
W.D. La.	United States v. Mike LeBleu et al. United States v. City of Pineville [redacted] United States v. Corey Ronsonet	*Oil Refinery/* CAA negligent endangerment, CAA, Obstruction *Acid Discharge/* CWA misdemeanor [redacted] *Bear Killing/* Lacey Act

DISTRICTS	ACTIVE CASES	*CASE TYPE/* STATUTES
E.D. Mich.	United States v. Daniel Clements et al.	*Demolition Project/* CAA
D. Minn.	United States v. Craig L. Staloch	*Bird Colony Destruction/* MBTA
D. Mont.	[redacted] United States v. Robert Darin Fromdahl	[redacted] *Abandoned Hazardous Waste/* RCRA Storage and Transportation
D. Nev.	United States v. William Joseph McCown	*Vehicle Emissions Testing/* CAA
N.D.N.Y.	United States v. Certified Environmental Services, Inc., et al.	*Asbestos Removal and Air Monitoring/* CAA, Mail Fraud, False Statement, Conspiracy
E.D.N.C.	United States v. Enoch Randolph Foy, Jr.	*Wetlands Filling/* CWA
E.D. Okla.	United States v. Integrated Production Services, Inc., et al.	*Natural Gas Drilling/* CWA misdemeanor
E.D. Tenn.	United States v. Lawrence C. Parawan, Jr. United States v. Donald Clark United States v. Johnny Carl Grooms	*Pesticide Use/* FIFRA, MBTA *Municipal Employee/* False Statement *Ginseng Trafficking/* Lacey Act
E.D. Tex.	United States v. Loren Willis et al.	*Fish Exports/* Lacey Act, Conspiracy
D. Utah	United States v. Bugman Pest and Lawn, Inc., et al.	*Pesticide Deaths/* FIFRA
E.D. Va.	United States v. Richard Ertel	*Sperm Whale Teeth Imports/* Lacey Act
D.V.I.	United States v. GEM Manufacturing LLC	*Black Coral Imports/* Lacey Act, ESA
S.D.W.V.	United States v. Frank Zuspan	*Sewage Dumping/* CWA Pretreatment
W.D. Wash.	United States v. Bret A. Simpson	*Ship Dismantling/* CWA Discharge, Failure to Report

Additional Quick Links:

Significant Environmental Decisions

Second Circuit

United States v. Thorn, ___F.3d___, 2011 WL 4978209 (2nd Cir. Oct. 20, 2011).

Joseph Thorn was convicted in 2000 in the Northern District of New York of Clean Air Act violations for directing nearly 700 workers to perform 1,100 asbestos "rip and run" abatements over the course of ten years and for arranging with air monitors and laboratories to falsify thousands of sample results. Thorn was further convicted of promotion money laundering related to his illegal business scheme. In multiple appeals and cross appeals of trial and sentencing issues (*see* 317 F.3d 107 (2d Cir. 2003) and 446 F.3d 378 (2d Cir. 2006)) the Second Circuit ruled favorably for the government on numerous issues, including the existence of a substantial likelihood of death or serious bodily injury, abuse of trust, and the existence of a promotion money laundering scheme that was within the heartland of such offenses.

Following the Supreme Court's fractured decision in *United States v. Santos*, 553 U.S. 507 (2008), Thorn filed a 28 U.S.C. § 2255 motion challenging his money laundering conviction and asking that his 12-year sentence be substantially reduced. The district court granted the motion, dismissed the money laundering conviction, and reduced Thorn's sentence by one year. Both parties appealed. In its third written decision in this case the Second Circuit reversed the district court and reinstated the prior sentence. Accepting the government's argument, the Circuit ruled that it need not reach the question of whether *Santos* applied to this case; it held that Thorn procedurally defaulted by not timely raising the issue of whether he laundered proceeds versus gross profits. The Circuit further found no cause for the procedural default, or actual innocence of the money laundering crime.

Back to Top

Ninth Circuit

United States v. King, ___F.3d ___, 2011 WL 4537801 (9th Cir. Oct. 3, 2011).

The defendant was the manager of a large farming and cattle operation in southern Idaho. He applied to the state's department of water resources for a permit to inject runoff from a creek passing through the facility into a well during the winter months, with the expectation that it would be pumped out in the summer to irrigate crops. However, that application was denied. Subsequently, a company employee informed an investigator for the Idaho Department of Agriculture that back-flow valves at the well had been installed in the wrong direction, which allowed water to flow into the well. The investigator subsequently visited the site and confirmed that wastewater was flowing into the well. The defendant later falsely told the investigator that the valves fed a nearby "irrigation pivot" leading out of the well, when in fact the valves led into the well.

The defendant was indicted on four counts of failing to comply with the Safe Drinking Water Act (and corresponding Idaho law) by willfully injecting water into waste disposal and injection wells without a permit, and on one count of making a materially false statement in a matter within the jurisdiction of the United States. He was convicted by a jury on all counts.

On appeal, the defendant argued, with respect to the SDWA counts: that the government should have been required to prove that the injected water had an adverse effect upon an underground source of drinking water; (2) that Idaho's permitting requirement for injection wells was not part of its "applicable underground injection program" (so that his failure to obtain a permit had not violated the SDWA); (3) and, that even if his unpermitted injections had violated the SDWA, the statute exceeded the authority of Congress under the Commerce Clause. He further argued that his materially false statement had not been in a matter within the jurisdiction of the United States because it had been made to a state agricultural inspector.

Held: The Ninth Circuit affirmed the defendant's conviction. The Court noted that, under the federally-mandated, state-administered SDWA regulatory scheme for the protection of drinking water, a permit applicant had the burden of satisfying the state in the application process that underground injection would not endanger drinking water sources, and thus the government did not have to prove in an enforcement action that such injections would have an adverse impact upon an underground source of drinking water. The court held that the government had to show only that a defendant had failed to comply with a requirement of an applicable underground injection program, in this case by willfully injecting water into a well without a permit, knowing that a permit was required under Idaho law.

The Court further held that Idaho's permit requirements under its Underground Injection Control (UIC) program were entirely within the scope of the SDWA and therefore fully enforceable by the federal government. In approving the states UIC program, the U.S. EPA specifically incorporated by reference the state's entire permitting process into the SDWA; thus a violation of the Idaho UIC permitting system constituted a violation of the federal statute.

The Court also held that federally criminalizing violations of state-administered UIC program requirements did not exceed Congressional authority under the Commerce Clause. Congress determined that the most effective way to ensure clean drinking water was to prevent pollution of underground aquifers in the first place, rather than cleaning them up after the fact, and that a cooperative federal-state program would be an appropriate means of ensuring drinking water safety. A regulatory scheme that affects the safety of underground sources of drinking water "inescapably" has

an effect upon the supply of such water and, therefore, upon interstate commerce. Clearly, the SDWA, including its permitting process under state UIC programs, regulates activities that have a substantial relation to such commerce in providing effective protection of the purity of the nation's drinking water.

Finally, the court found that the defendant had known that the Idaho Department of Agriculture had the authority to examine his wells and injection procedures and knew that that Department was trying to determine whether he was injecting water into wells, without a permit. He lied to the state inspector in order to defeat that investigation and, since injection of fluid into a well without a state permit is a federal crime, the false statement here was made "in a matter within the jurisdiction of the United States."

Back to Top

United States v. Beau Lee Lewis, 2011 WL 4526804 (9th Cir. Sept. 30, 2011).

On September 30, 2011, the Ninth Circuit issued an order affirming Beau Lee Lewis's 2005 conviction and sentencing (after a retrial) on smuggling charges related to the repeated importation of concealed reptiles from Anson Wong in Malaysia to the United States in the late 1990s. This is the fourth opinion issued by the Ninth Circuit in this case.

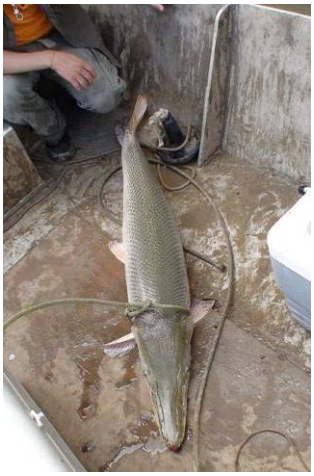
Following Lewis's 2001 conviction related to his involvement in a multi-year wildlife smuggling conspiracy, the Ninth Circuit, addressing only his Speedy Trial Act claims, reversed and remanded for a determination whether re-indictment was appropriate. Lewis was re-indicted, re-tried, and re-convicted, resulting in a 2005 sentence of 23 months' incarceration. Imposition of sentence was stayed pending his second appeal. The Ninth Circuit again addressed only the Speedy Trial Act issue, retaining jurisdiction over the non-Speedy Trial Act issues if the district court determined that re-indictment had been correct. In 2009, a new district court judge determined that re-indictment had been appropriate. Lewis appealed that decision to the Ninth Circuit, which affirmed without addressing any of the issues on which it had retained jurisdiction in *Lewis II*. Lewis filed a motion in the Ninth Circuit asking the court to re-open *Lewis II* for determination of the outstanding issues. The government agreed was the correct next step. The Ninth Circuit withdrew its mandate in *Lewis II* and issued the order affirming the convictions and sentence.

Lewis has not yet served any of his sentence. His co-defendants have all been incarcerated and released, except for Wong, who served 71 months in a U.S. prison, returned to Malaysia after release, and is now serving a five-year prison sentence in Malasia for more recent wildlife smuggling.

Back to Top

Trials

United States v. Loren Willis et al., Nos. 9:11-CR-00028, 1:11-CR-20676 (E.D. Tex., S.D. Fla.), AUSAs Reynaldo Morin and Jaime Raiche.



Alligator gar

On October 14, 2011, Loren Willis was convicted by a jury after a two-day trial for his role in a conspiracy to violate the Lacey Act (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)B)). Willis was found guilty of conspiring to illegally transport fish, alligator gar, in interstate commerce and for conspiring to illegally label this fish.

In September 2010, Willis and a co-defendant traveled from Florida to Texas to harvest alligator gar from the Trinity River for the purpose of selling the fish in Japan. Willis did not obtain a non-resident Texas fishing license before harvesting the fish. In a sealed plea agreement, a co-defendant admitted he helped to alter documentation to state that the fish were captive bred, which would have exempted them from inspection.

The fish harvested from the Trinity River were transported by the defendants to Florida, from which they later were exported to Japan. The case against a third co-defendant, Michael Rambarran, was transferred to the Southern District of Florida, where he pleaded guilty to a one count of conspiring to submit false records in interstate commerce in violation of the Lacey Act (18 U.S.C. § 371 and 16 U.S.C. §§ 3372(d)(1)(2), 3373(d)(3)(A)) and was sentenced to time served.

Alligator gar is a freshwater fish that can grow up to ten feet in length and weigh 200 pounds. According to evidence presented at trial, Willis and his co-defendants were not satisfied with taking only large brood fish. They eventually attempted to purchase thousands of alligator gar fry from undercover agents, but were unsuccessful.

This case was investigated by the United States Fish and Wildlife Service, the Texas Parks and Wildlife Department, and the Florida Fish and Wildlife Service.

Back to Top

Informations and Indictments

United States v. James Murray, No. 1:11-CR-00295 (S.D. Ala.), ECS Trial Attorney Patrick Duggan and AUSA Gina Vann.

On October 26, 2011, an indictment was returned charging James Murray with a false statement violation stemming from the illegal construction of a jetty into Mobile Bay (18 U.S.C. §1001).

In 1996, Murray applied to the Army Corps of Engineers (Corps) for a permit to build two jetties (amongst other structures) into the Bay. When he was told that the approval process would require an additional permit from the Alabama Department of Environmental Management (which

does not typically allow private jetties due to impacts on coastal resources), he withdrew any mention of the jetty from his permit application. After a Corps inspection, and their approval of his project, Murray immediately built one of the jetties.

In 2000, Murray's neighbor sued, alleging that the jetty was causing erosion to his property. In November of 2006, prior to civil litigation, Murray gave defense counsel a falsified permit from the Corps purporting to authorize the construction of the jetty. Murray also testified at a deposition and at trial that the Corps had authorized construction of the jetty.

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

Back to Top

United States v. Frank Zuspan, No. 3:11-CR-00235 (S.D.W.V.), AUSAs Eric Goes and Perry McDaniel.

On October 4, 2011, commercial waste hauler Frank Zuspan was indicted on a Clean Water Act pretreatment violation (33 U.S.C. §§1371, 1319 (c)(2)(A)) for illegally dumping sewage and portable toilet waste in February 2011.

Zuspan was in the business of cleaning residential and commercial septic systems. He is alleged to have illegally discharged untreated sewage into a pipe leading to the City of Mason's POTW, causing an equipment malfunction and a temporary shutdown of the plant. Zuspan was convicted on similar charges in 2003 and spent 20 days in jail followed by six months' home confinement.

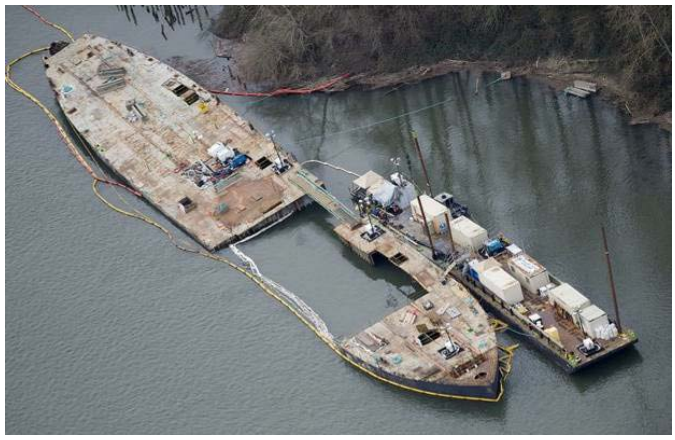
This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

Back to Top

United States v. Bret A. Simpson, No. 3:11-CR-05472 (W.D. Wash.), AUSA James Oesterle and SAUSA USCG Lt. Cdr. Marianne Gelakoska.

On September 29, 2011, Bret A. Simpson, the owner of Principle Metals, LLC, was charged with two violations of the Clean Water Act (33 U.S.C. §§1321(b)(3), 1319(c)(2)(A), 1321(b)(5)).

Simpson is alleged to have unlawfully discharged oil into the Columbia River and to have failed to report the discharge during the dismantling of a former Navy ship.



***M/V* Davy Crockett**

Simpson knew when he purchased the *M/V Davy Crockett* in June 2010, that the vessel contained tanks holding several thousands of gallons of fuel oil and diesel fuel. When the scrapping operation began in October 2010, no arrangements had been made to remove these tanks from the ship. By December, the crew had cut into a structural beam and the ship began to break apart and leak oil where it was moored on the Columbia River. The scrapping operation was briefly halted, but authorities were not notified of the spill. By January 2011, additional oil leaked into the river and the Coast Guard responded with an

administrative order. Simpson satisfied the requirements of the order; however, additional oil was released from the vessel, initiating a state and federal clean up response.

Trial is scheduled to begin on December 12, 2012. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the United States Coast Guard, the United States Coast Guard Investigative Service, the Washington State Department of Ecology, and the Oregon Department of Environmental Quality.

Back to Top

[redacted]

Back to Top

United States v. Blake Mitchell (E.D. La.), No. 2:11-CR-00238, AUSA Jordan Ginsberg.

On September 21, 2011, Blake Mitchell was charged in a one-count information with a felony Lacey Act violation (16 U.S.C. §§ 3372(a)(1)(A) and 3373(d)(1)(B)).

According to the information, in January 2010, Mitchell transported and sold red fish in interstate commerce, by providing guiding services to individuals outside the state of Louisiana, knowing that the redfish had been taken in violation of Louisiana state law. Trial is scheduled to begin on December 5, 2011.

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

Back to Top

United States v. Craig L. Staloch, No. 11-mj-00382 (D. Minn.), AUSA Kevin Ueland.

Crushed pelican eggs

On September 14, 2011, farmer Craig L. Staloch was charged with a Migratory Bird Treaty Act violation (16 U.S.C. §§ 703, 707) for allegedly destroying a large colony of American White Pelicans, which are protected under federal law.

In May 2011, a state inspector visited farmland rented by Staloch that was known to have approximately 3,000 pelicans and almost 1,500 active nesting sites. The following day inspectors returned to make an accurate count and found that the colony had been destroyed. Staloch rents acreage next to Minnesota Lake and grows corn and soybeans. This colony of pelicans used to reside on

an island in the lake, but after losing their nesting site they moved to an area by the lake that also happened to be where Staloch planted his crops. Staloch had complained that the birds' feet and droppings had ruined his crops, causing him a loss of $20,000.

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

Back to Top

Plea Agreements

United States v. Mike LeBleu et al., Nos. 2:11-CR-00130, 00227, 00266 (W.D. La.), ECS Trial Attorney Christopher Hale, ECS Senior Trial Attorney Richard Udell, USA Stephanie Finley, and ECS Paralegal Ben Laste.

Kiddie pool filled with oil

On October 31, 2011, Mike LeBleu pleaded guilty to an information charging him with one count of negligent endangerment under the Clean Air Act (42 U.S.C. § 7413(c)(4)). LeBleu was the asphalt facilities manager at the Pelican Refinery (PRC) in Lake Charles, Louisiana. During August and September 2007, LeBleu oversaw the treatment and testing of 39,438 barrels of PG 64-22 asphalt that was emitting high levels of hydrogen sulfide (H2S), an extremely hazardous substance.

The high H2S asphalt was stored in an unpermitted tank that was vented to the atmosphere so that fumes containing H2S were released to the outside air. LeBleu stated that he saw "blue smoke" emitting from the tank's elbow joints. During the treatment process, he ordered subordinates to conduct tests of the asphalt without proper protective equipment. In doing so, these people were exposed to unsafe levels of the gas and placed in imminent danger of death and serious bodily injury. PRC previously pleaded guilty to two CAA violations and one obstruction charge (42 U.S.C. §§ 7661a(a), 7413(c)(1); 18 U.S.C. § 1519). PRC knowingly operated the refinery without properly functioning pollution prevention equipment, as required by its Title V permit. The company admitted that due to the pollution prevention equipment not working, pollutants including benzene, toluene, ethyl benzene, and xylene (collectively known as "BTEX") and the H2S, were illegally released into the atmosphere from the main refinery stack, leaks at pipes and joints, the barge loading dock, and tanks with roofs that were improperly certified and fitted. The obstruction charge stems from false statements made in a 2006 report submitted to the Louisiana Department of Environmental Quality. Company Vice President Byron Hamilton pleaded guilty in July of this year to two CAA negligent endangerment violations (42 U.S.C. § 7413(c)(4)).

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Louisiana State Police, with assistance from the Louisiana Department of Environmental Quality.

Back to Top

United States v. Daniel Clements et al., No. 2:11-CR-20433 (E.D. Mich.), AUSA Jennifer Blackwell and SAUSA Jim Cha.

On October 24, 2011, Daniel Clements pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) stemming from his involvement in an illegal asbestos removal project. Co-defendant Brian Waite remains charged in a three-count indictment with conspiracy to violate the CAA and substantive CAA violations, with trial set to begin on November 14, 2011.

Between December 2010 and February 2011, Clements failed to have workers wet regulated asbestos-containing materials (RACM) that were removed from a former Ford plant in Utica, Michigan, during renovation of the building. According to an asbestos survey of the plant, the building contained over 60,000 linear feet of RACM. During the removal, the defendants allegedly directed workers to tear down the RACM while it was dry and to place it into plastic bags without wetting it. To speed up the process Clements instructed workers to meet a daily goal of removing 1,000 feet of material. The workers sometimes kicked or threw the RACM to the ground, causing larger pieces to break apart and fit more easily into bags.

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

Back to Top

United States v. City of Pineville, No. 1:11-CR-00265 (W.D. La.), AUSA Joseph Jarzabek.

On October 21, 2011, the City of Pineville pleaded guilty to a misdemeanor Clean Water Act 33 U.S.C. §§ 1311(a), 1319(c)(1)(A)) violation stemming from an illegal discharge from a pumping station in September 2008. Following heavy rainfall from Hurricane Gustav, the City of Pineville's Huffman Creek Pumping Station illegally discharged hydraulic fluid over the levee and into Bayou Maria, which ultimately empties into the Red River.

Investigation confirmed that the source of the discharge was equipment at the City of Pineville's Huffman Creek Pumping Station, which was known by city personnel to be in disrepair. Sentencing is scheduled for January 4, 2012.

This case was investigated by the Louisiana Environmental Crimes Task Force, which is comprised of the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, the Louisiana Department of Environmental Quality Criminal Investigation Division, and the Louisiana State Police.

Back to Top

United States v. Enoch Randolph Foy, Jr., No. 4:11-CR-00100 (E.D.N.C.) AUSA Banu Rangarajan.

Corps inspector near contaminated dirt

On October 18, 2011, Enoch Randolph Foy, Jr., pleaded guilty to illegally filling a wetlands (33 U.S.C. §§ 1311(a), 1319(c)(2)(A), and 1344). Foy operated a farm in Trenton, North Carolina. The defendant and a co-conspirator used 60 dump truck loads of dirt (that was actually contaminated with petroleum) to fill in a wetlands, which are adjacent to a tributary of the Trent River, a water of the United States. At the time of the violation, Foy and his farm participated in a state and federal wetland conservation program for which they received funds.

This case was investigated by the North Carolina State Bureau of Investigation, the United States Department of Agriculture Office of Inspector General, the Naval Criminal Investigative Service, the United States Army Corps of Engineers, and the United States Environmental Crimes Protection Agency Criminal Investigation Division.

Back to Top

United States v. Lawrence C. Parawan, Jr., No. 4:11-CR-00023 (E.D. Tenn.), AUSA James T. Brooks.

On October 17, 2011, Lawrence C. Parawan, Jr., pleaded guilty to a two-count information charging him with a FIFRA and an MBTA violation (7 U.S.C. § 136, 16 U.S.C. §§ 703, 707) stemming from the illegal use of carbofuran, also known as Furadan. Parawan admitted to lacing a chicken carcass with the pesticide in December 2010, and placing it in an open field, which resulted in the deaths of opossums, coyotes, a skunk, a neighbor's dog, and a Northern Harrier hawk, a migratory bird.

Sentencing is scheduled for January 30, 2012. This case was investigated by the Bedford County Sheriff's Department, the Tennessee Wildlife Resource Agency, the United States Fish and Wildlife Service, the United States Environmental Protection Agency Criminal Investigation Division, and the Tennessee Department of Agriculture Regulatory Services.

Back to Top

United States v. Stolthaven New Orleans, LLC, No. 2:11-CR-00169 (E.D. La.), AUSA Dorothy Taylor.

On October 13, 2011, Stolthaven New Orleans pleaded guilty to a misdemeanor Clean Water Act violation (33 U.S.C. § 1319(c)(1)(A)) for the negligent discharge of acid into the Mississippi River in March 2008.

Stolthaven operates a bulk liquid storage and transfer terminal that is adjacent to the Mississippi River. It receives and stores a variety of both hazardous and non-hazardous products in fixed-roof tanks. In 2005, the company contracted to store fluorosilicic acid (FSA), a toxic chemical used in the manufacture of circuit boards and chips. Due to its corrosivity, the owners of the FSA advised Stolthaven that the chemical must be stored in a quarter-inch rubber-lined stainless steel tank.

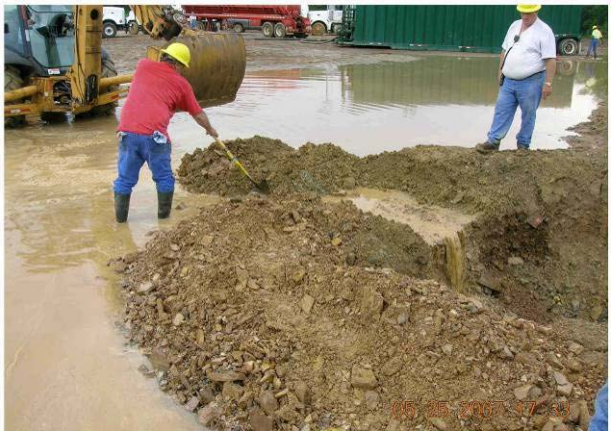
Additionally, all hosing, tubes, valves, and couplings were to be lined with high-density polyethylene. Stolthaven altered the contract, however, and used a tank lined with Plastite 4100 instead of a rubber-lined tank. The Plastite product was supposed to be comparable to rubber, just cheaper. As a result, however, numerous intermittent releases of FSA were recorded from the Stolthaven facility in 2007 and continued until the tank experienced a catastrophic rupture in March 2008, causing the spill of approximately 468,000 gallons of the chemical into the Mississippi River.

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

Back to Top

United States v. Integrated Production Services, Inc., et al., Nos. 6:11-CR-00050 and 00068 (E.D. Okla.), ECS Senior Trial Attorney Dan Dooher and AUSA Doug Horn.

On October 11, 2011, Integrated Production Services, Inc. (IPS), pleaded guilty to a negligent violation of the Clean Water Act 33 U.S.C. § 1319(c)(1)(A)), stemming from natural gas well drilling operations.



Clean up from breach of berm

In 2007, this oil and natural gas well drilling contractor was performing work at the Pettigrew natural gas well site in Atoka County, Oklahoma. The company's operations included fracking, which entails the use of drills and hydrochloric acid to penetrate through bedrock and deeper layers under the earth's crust. On May 2007, a tank leaked hydrochloric acid onto the surface of the well site, which also was flooded due to a recent heavy rain event. Rather than taking the necessary steps to properly remove the rainwater from the site, Gabriel Henson, an IPS supervisor, drove a company pickup truck through the earthen berm, causing the discharge of the rainwater and an estimated 400-700 gallons of hydrochloric acid into Dry Creek, a tributary of Boggy Creek.

Henson previously pleaded guilty to a misdemeanor CWA violation and has not yet been scheduled for sentencing.

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

Back to Top

United States v. Scott Greager, No. 4:11-CR-10012 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On October 12, 2011, Scott Greager pleaded guilty to a Lacey Act conspiracy violation (18 U.S.C. § 371, 16 USC §§ 3372(a)(1), (a)(2)(a), 3373 (c)(1) and (2)) for his involvement in the sale and transport of spiny lobster in violation of harvest requirements, licensing provisions, and bag and trip limits.

From May 2007 through March 2009, Greager was the owner of Holiday Seafood Key West (Holiday Seafood). Using a Florida Wholesale Dealer's License issued in the name of Conch Republic Seafood Company, Greager knowingly made numerous purchases of spiny lobster in excess of the legal daily limit of 250. Greager also admitted that he made payments from an account in the name of Holiday Seafood to co-conspirators for lobster they harvested, and he attempted to conceal the illegal

activity from the State of Florida by issuing required trip tickets in the name of another individual. On seven separate occasions in August 2008, Greager purchased more than 5,000 pounds of lobster with a wholesale value of almost $40,000.

Wholesale dealers, such as Greager and Holiday Seafood, were prohibited from purchasing lobster without first confirming that the seller possessed all required licenses and endorsements, and thereafter making truthful and accurate reports of the transactions to the State.

This case was investigated by the National Oceanic and Atmospheric Administration Office for Law Enforcement.

Back to Top

United States v. Bugman Pest and Lawn, Inc., et al., Nos. 2:11-CR-00017 and 00295 (D. Utah), AUSA Jared Bennett.

On October 11, 2011, Bugman Pest and Lawn, Inc. and employee Coleman Nocks each pleaded guilty to a single FIFRA violation (7 U.S.C. §§ 136*l*(b)(1)(B), 136j(a)(2)(G)). Coleman admitted to misapplying the pesticide Fumitoxin in August 2009 at a residence in which two young children subsequently died and four other family members became ill. He admitted to applying Fumitoxin pellets into a burrow system within 15 feet of Nathan and Brenda Toone's home, which was inconsistent with the product's labeling and exceeded the required dosage.

Employee Raymond Wilson, Jr., and the company remain charged in a separate indictment with five FIFRA violations for the mis-application of Fumitoxin in four additional homes.

Nocks is scheduled for sentencing on December 20, 2011. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Layton City Police Department.

Back to Top

United States v. Franklin A. Bieri, No. 3:11-CR-30174 (S.D. Ill.), AUSA Kevin Burke.

On October 5, 2011, salvage business owner Franklin Bieri pleaded guilty to an information charging him with two counts of violating the Clean Air Act (42 U.S.C. §7413(c)(1)).

Bieri was the owner of a demolition and salvage business known as Mississippi River Construction Company. Sometime prior to March, 2010, Bieri arranged to purchase the former Emerson Electric facility in Washington Park, Illinois. The facility consisted of seven buildings located on approximately seven acres. The defendant intended to salvage the metal from pipes, boilers, wires, and other components from the buildings at the site, after which the buildings were to be demolished.

Bieri admitted that he was aware of the presence of asbestos-containing material in the buildings. Nevertheless, he hired and directed untrained workers to remove the material who failed to use proper removal and disposal procedures, such as wetting the asbestos, properly labeling the bagged material to alert others, and ensuring its proper disposal within the appropriate section of the landfill. Bieri also admitted that he failed to provide written notification to the Illinois Environmental Protection Agency at least ten working days prior to beginning the asbestos stripping and removal work.

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

Back to Top

United States v. Richard Ertel, No. 3:11-CR-00227 (E.D. Va.), ECS Trial Attorney Gary Donner and AUSA Dave Maguire.

Sperm whale teeth

On October 3, 2011, Richard Ertel pleaded guilty to a two-count information charging him with violating the Lacey Act (16 U.S.C. §§3372 and 3373) for the illegal importation and trafficking of sperm whale teeth.

According to the plea agreement, from April 2002 to June 2007, Ertel was in the business of buying and selling sperm whale teeth that he purchased from sources in the Ukraine and then sold to customers in Virginia and elsewhere in the United States. Much of this business was conducted via the Internet.

Sentencing is scheduled for January 9, 2012. This case was investigated by the National Oceanic and Atmospheric Administration and the United States Customs and Boarder Protection.

Back to Top

United States v. Donald Clark, No. 1:11-CR-00063 (E.D. Tenn.), AUSA Matthew Morris.

On September 27, 2011, municipal sewage treatment plant operator Donald Clark pleaded guilty to 12 of the 72 false statement violations (18 U.S.C. §1001) charged in connection with the operation of the City of Niota, Tennessee's, sewage treatment plant.

As the sewage treatment plant operator, Clark admitted to creating 12 discharge monitoring reports covering the period from January 2008 through December 2010, in which he falsely represented that the wastewater had been treated with chlorine and tested for residual chlorine prior to discharge to the Little North Mouse Creek. Sentencing is scheduled for January 9, 2012.

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

Back to Top

[redacted]

United States v. Corey Ronsonet, No. 6: 11-CR-00164 (W.D. La.), AUSA Joseph T. Mickel.

Defendant and bear hide

On August 17, 2011, Corey Ronsonet pleaded guilty to a misdemeanor violation of the Lacey Act (16 U.S.C. §§ 3372, 3373) for illegally acquiring and transporting a Louisiana black bear, an endangered species.

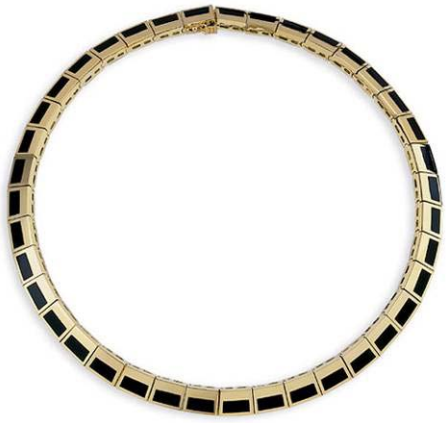
On May 2011, wildlife agents were notified by a citizen that the remnants of a black bear had been discovered in Iberia Parish, Louisiana. Follow-up investigation led to the discovery of the cape and other bear remains on property adjacent to Ronsonet's residence. When interviewed by agents, the defendant admitted that he shot the bear on Weeks Island in February 2009. He further stated that he had brought the bear home intending to make a rug from it, but changed his mind and buried the animal's remains to avoid detection by authorities.

A sentencing date has not yet been scheduled. This case was investigated by the United States Fish and Wildlife Service, with assistance from the Louisiana Department of Wildlife and Fisheries.

Back to Top

Sentencings

United States v. GEM Manufacturing LLC, No. 2:11-CR-00019 (D.V.I.), ECS Trial Attorney Christopher Hale and AUSA Nelson Jones.



Black coral bracelet

On October 26, 2011, GEM Manufacturing LLC was sentenced to pay a $1.8 million fine, plus fund an additional $500,000 in community service projects, complete a 42-month term of probation, and forfeit jewelry and sculptures valued at $1.4 million, along with 13,655 pounds of raw black coral valued at $751,000 to $1.02 million. GEM also will implement an environmental compliance plan.

The company previously pleaded guilty to Lacey Act and Endangered Species Act counts (16 U.S.C. §§ 3372(d), 3373 (d)(3(A), 1538 (c), 1540(b)) stemming from the company's purchase of thousands of pounds of CITES Appendix II black coral in 2009 that were falsely labeled and lacked required certificates. The coral was then used in the manufacture of

high-end jewelry and art figurines. Black coral is polished to a high sheen, worked into artistic sculptures, and used in inlaid jewelry. It is typically found in deep waters, and many species have long life spans and are slow-growing. In the last few decades, pressures from overharvesting and the introduction of invasive species have threatened this group of coral. Recent seizures of illegal black coral around the world have led many to believe that black coral poaching is on the rise.

In a related case Gloria and Ivan Chu previously were sentenced to serve 20 months' and 30 months' incarceration, respectively, for their role in illegally providing black coral to GEM. They each also were ordered to pay $12,500 fines.

These cases were investigated by the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, with support from Immigration and Customs Enforcement and the FWS National Forensics Laboratory.

Back to Top

United States v. Certified Environmental Services, Inc., et al., No. 5:09-CR-00319 (N.D.N.Y.), ECS Trial Attorneys Todd Gleason and former ECS Attorney Jessica Alloway, AUSA Craig Benedict, and ECS Paralegal Katherine Loomis.

On October 21, 2011, Certified Environmental Services, Inc. (CES), an asbestos air monitoring company and laboratory, along with managers Nicole Copeland and Elisa Dunn, and employee Sandy Allen, were sentenced for conspiring to violate the Clean Air Act, to commit mail fraud, and to defraud the United States. They also were convicted by a jury of substantive CAA violations and mail fraud, while CES and Dunn in addition, were convicted of making false statements to federal law enforcement (18 U.S.C. §§371, 1341, 1001; 42 U.S.C. §7413(c)(1)).

CES will pay a $20,000 fine, pay $117,000 in restitution, and complete a five-year term of probation. Copeland will pay $23,000 in restitution and complete a five-year term of probation with special conditions to include 12 consecutive weekends of incarceration and the performance of 200 hours of community service. Dunn and Allen were sentenced to time served, followed by three years' supervised release. They each were ordered to pay $5,000 in restitution and will perform 200 hours of community service. All defendants are prohibited from engaging in any asbestos-related air monitoring activities, with the restitution to be paid to fraud victims and for reimbursement of cleanup costs.

The convictions stem from a decade-long scheme in which asbestos was illegally removed and left behind in numerous buildings and homes in Syracuse and other upstate New York locations, while CES gave the abatement contractors false air results to use to convince building owners that the asbestos had been properly removed. Frank Onoff, who previously pleaded guilty to conspiracy to defraud the United States, to violate the CAA, to violate the Toxic Substances Control Act, and to commit mail fraud, was sentenced to time served, followed by three years' supervised release. He will pay $5,000 in restitution, perform 200 hours of community service, and is prohibited from engaging in any asbestos-related air monitoring.

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

Back to Top

United States v. Robert Darin Fromdahl, No. 4:11-CR-00033 (D. Mont.), AUSA Kris McLean.

On October 19, 2011, Robert Darin Fromdahl was sentenced to complete a three-year term of probation to include 180 days in community confinement. He also will pay $51,594 in restitution to EPA for cleanup costs and perform 200 hours of community service. Fromdahl pleaded guilty to RCRA storage and transportation violations (42 U.S.C. §§ 6928(d)(1), (d)(2)(A)) stemming from the discovery of 45 drums containing hazardous waste on property owned by a Native American tribe.

Abandoned drums

In June 2010, a rancher discovered the drums on property he was leasing from the Ft. Peck tribe. The owner of the property stated that Fromdahl (the owner of an electroplating business) paid him $500 in 2009 to store the drums, but did not indicate that the drums contained anything hazardous.

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

Back to Top

United States v. Sabrina Westbrooks Arnot et al., Nos. 2:11-CR-00032 and 2:10-CR-00024 (N.D. Ga.), AUSA Paul Rhineheart Jones (404) 581-6270.

On October 14, 2011, Sabrina Westbrooks Arnot was sentenced to serve a three-year term of probation after previously pleading guilty to misprision of a felony (18 U.S.C. § 4). In August 2008 Arnot and co-defendants were involved in a scheme to dismantle commercial-sized air conditioners for scrap metal causing the venting of hydrochlorofluorocarbon 22 (HCFC-22) into the environment.

Arnot's husband Daniel was previously sentenced along with co-defendants Justin Joyner and Corey Beard to time served, concurrent with prior sentencing for state-level charges. Joyner and Arnot were each sentenced to serve 21 months' incarceration, followed by 36 months of supervised release. Beard was sentenced to serve 14 months' incarceration, followed by 36 months of supervised release. All three will perform 240 hours of community service and were held jointly and severally liable for the payment of $13,000 in restitution to Dunlap Stainless, Inc.

Beginning in early August 2008, the defendants targeted businesses in several counties with commercial-sized air conditioners. They dismantled the units so that they could steal the copper and aluminum parts for sale to scrap metal recycling businesses. This required that they cut through a copper coil to remove the copper parts, causing the venting of the HCFC-22. All together, the defendants dismantled 37 air conditioning units from 14 locations. Beard pleaded guilty to conspiracy and to nine CAA counts (18 U.S.C. §371; 42 U.S.C. §§ 7671g(c)(1), 7413(c)(1)); Joyner pleaded guilty to conspiracy and to a single CAA charge; Arnot pleaded guilty to all conspiracy and CAA counts charged.

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

Back to Top

United States v. Freddy Langford, No. 2:11-CR-00158 (E.D. La.), AUSA Jordan Ginsberg (504) 680-3000.

On October 13, 2011, Freddy Langford was sentenced to pay a $2,000 fine and will complete a one-year term of probation. Langford previously pleaded guilty to a felony Lacey Act violation (16 U.S.C. §§3372(a)(2)(A), 3373(d)(2)) for knowingly transporting and selling tilapia, a species of fish not native to Louisiana.

Langford was the president of Langford Aquatics, based in Lakeland, Florida, which was in the business of raising and selling fish for stocking private ponds. In July 2006, Langford sold and transported a truck-load of tilapia from Florida to a buyer in Louisiana in violation of Louisiana state regulations.

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

Back to Top

United States v. Michael Materna d/b/a Materna Mint Farms, No.11-CR-00069 (N.D. Ind.), AUSA Donald Schmid.

On October 5, 2011, Michael Materna was sentenced to serve eight months' home confinement as a condition of a two-year term of probation. Materna also was ordered to pay a $20,000 fine. Materna d/b/a Materna Mint Farms, pleaded guilty to knowingly discharging pollutants without a permit in violation of the Clean Water Act (33 U.S.C. §1319(c)(2)). In this case, water was discharged into a stream last summer at a temperature hot enough to scald a dog to death in front of the dog's owner.

The defendant is a mint farmer who operates a still that boils down mint leaves into mint oil using water heated to temperatures between 160 and 190 degrees. The wastewater discharged was not cooled before it was discharged from the facility into a roadside ditch, which then flowed into the stream. After the dog's owner brought the incident to the attention of authorities it was determined that Materna was operating the still without a permit and discharging water that was well over the 90 degree standard set by the state.

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

Back to Top

United States v. Johnny Carl Grooms, No. 2:10-CR-00087 (E.D. Tenn.), AUSA Neil Smith.

On October 3, 2011, Johnny Carl Grooms was sentenced to serve 54 months' incarceration followed by three years' supervised release. A fine was not assessed. Grooms previously was convicted by a jury of charges that included Lacey Act violations (16 U.S.C. §3372) for illegally trafficking in ginseng. Specifically, he was found guilty of conspiring to distribute oxycodone and cocaine, interstate travel to further drug trafficking, possession of oxycodone with the intent to distribute, distribution of cocaine, possession of firearms by a convicted felon, and illegally trafficking in ginseng.

Evidence at trial established that the U.S. Fish and Wildlife Service received reports in the fall of 2008 that the defendant was illegally trafficking in wild American ginseng, a protected plant. An agent posing as a ginseng dealer contacted Grooms in September 2008 at his business, the Park Entrance Grocery in Cosby. In addition to discussing the illegal trafficking in ginseng, Grooms also

was observed selling drugs, including oxycodone, hydrocodone, and Xanax, from the counter at the store.

Grooms delivered multiple pounds of wild ginseng to the undercover agent on four occasions in November and December 2009, and January and February 2010. He had not obtained a dealer permit or kept records of ginseng sales as required by Tennessee state law. Ginseng roots that had been marked by the National Park Service in the Great Smoky Mountains National Park also were found in the ginseng sold by Grooms. He acknowledged in recorded conversations that he knew this ginseng had been illegally taken from the Park.

This case was investigated by the United States Fish and Wildlife Service; the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Cocke County Sheriff's Office; the National Park Service; the Tennessee Wildlife Resources Agency; the Tennessee Bureau of Investigation; and the Federal Bureau of Investigation.

Back to Top

United States v. William Joseph McCown, No. 2:10-CR-00007 (D. Nev.), ECS Senior Trial Attorney Ron Sutcliffe and AUSA Roger Yang.

On September 21, 2011, William Joseph McCown was sentenced to pay a $4,000 fine and serve four years' probation. McCown was the final defendant to be sentenced out of ten who pleaded guilty to violating the Clean Air Act (42 U.S.C. § 7413 (c)(2)(A)). All were involved in a "clean scanning scheme" causing false vehicle emission test results to be transmitted to the Nevada Department of Motor Vehicles (DMV). The testers used a vehicle they knew would pass the emissions test to produce a false result for a vehicle that could not otherwise pass the test.

The cases came to the attention of Nevada authorities in 2008 when the DMV hired a contractor to create a vehicle identification database to uncover possible emissions testing fraud. The project revealed that, in 2008 alone there were more than 4,000 false vehicle emissions certificates issued in Las Vegas. The database allowed investigators to check the vehicle identification number that the emissions tester enters against the vehicle actually tested. Ultimately, ten inspectors were targeted for prosecution based upon the number of clean-scans performed. Of these, nine had more than 200 falsifications with McCown having the most at 758.

These cases were investigated by the Environmental Protection Agency and the Nevada Department of Motor Vehicles.

Back to Top