
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

September 2011



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 concerning state or local cases, please send it directly to the Regional Environmental Enforcement Associations' website: www.regionalassociations.org



Illegal "channel dam". See [U.S. v. Betz et al.](#), inside, for details.

AT A GLANCE:

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Trials**United States v. John L. Yates, No. 2:10-CR-00066 (M.D. Fla.), AUSAs Jeffrey Michelland [REDACTED] and Tama Koss Caldarone ([REDACTED])**

On August 5, 2011, John L. Yates was found guilty by a jury of disposing of evidence to prevent seizure (18 U.S.C. §2232(a)), and destroying evidence to impede or obstruct a federal investigation (18 U.S.C. §1519). He was acquitted of a false statement violation.

According to evidence presented at trial, National Marine Fisheries Service officers boarded the *Miss Katie* in the Gulf of Mexico and discovered 72 undersized red grouper on board the fishing boat. The officers instructed Yates, the captain, to leave the fish onboard the vessel and report back to Cortez, Florida, so that officials could seize the fish. Instead of reporting as instructed, Yates instructed his crew to throw the fish overboard. He is scheduled to be sentenced on November 14, 2011.

This case was investigated by the National Marine Fisheries Service, the United States Coast Guard, and the Florida Fish and Wildlife Conservation Commission.

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United States v. Seaside Aquaculture Inc. et al., No. 6:11-CR-00031 (S.D. Tex.), AUSA Hugo R. Martinez ([REDACTED])

On August 10, 2011, a jury returned a guilty verdict, finding fish farm Seaside Aquaculture Inc., (Seaside) and its owner, Khanh Vu, guilty of the single Migratory Bird Treaty Act (MBTA) violation charged (16 U.S.C. §§703, 707(a)), stemming from the killing of approximately 90 brown pelicans (*Pelecanus occidentalis*).

Evidence at trial established that in October 2010, the Fish and Wildlife Service received a letter from a former Seaside worker alleging that he had witnessed several employees, including Vu, illegally killing many species of birds. In December 2010, an agent inspected the area around the fish farm and photographed several empty shot gun shells and bird carcasses. As a result of the execution of a search warrant in February 2011, agents seized the



Pelican bones

carcasses of approximately 90 brown pelicans, 17 great blue herons, five great egrets, four black-crowned night herons, four turkey vultures, two osprey, two gulls and one scaup (a small diving duck). Company employees denied shooting any birds; however, Vu did admit to shooting six pelicans to prevent them from eating his fish. At trial, the defense unsuccessfully attempted to convince the jury that the birds had died as a result of running into power lines.

Sentencing for Vu and the company is scheduled for November 7, 2011.

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

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Informations and Indictments

United States v. Sea Food Center, LLC, et al., No. 1:11-CR-20564 (S.D. Fla.), AUSA Norman O Hemming, III

On August 19, 2011, a nine-count information was filed charging Sea Food Center, LLC, and company president Adrian Vela, with conspiracy to violate the Lacey Act and substantive Lacey Act violations for selling mislabeled shrimp. The defendants are further charged with four misbranding counts in violation of the Food, Drug and Cosmetic Act.

According to the information, in 2008 and 2009, Vela conspired with Richard Stowell and United Seafood, Inc. to violate the Lacey Act by mislabeling and selling approximately five hundred thousand pounds of shrimp. The shrimp, valued in excess of \$400,000, was ultimately sold to supermarkets in the northeastern United States. Stowell and United Seafood previously pleaded guilty and have been sentenced for their role in the conspiracy.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the Florida Department of Agriculture and Consumer Services.

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United States v. Frank Scaccia et al., No. 1:11-CR-00533 (N.D. Ill.), AUSA Tim Chapman

On August 11, 2011, Frank Scaccia, a former drinking water operator for the Village of Crestwood, and Theresa Neubauer, a former water department supervisor and the current Crestwood police chief, were variously charged in a 23-count indictment with making false statements regarding the source of Crestwood's drinking water.

The indictment alleges that for close to 20 years, Crestwood used a city well to provide water to its residents, which local environmental officials were led to believe had *not* been used, except in emergencies. The Village instead falsely reported that it obtained all of its water from Lake Michigan, which was purchased from the Village of Alsip, Illinois. The well that was being used in Crestwood was found to be contaminated with vinyl chloride at levels above the safe drinking water limits.

It is further alleged that all the monthly operating reports submitted from 1994 through 2007 were not reviewed nor signed by the water operator. In her capacity as water supervisor, Neubauer allegedly signed Scaccia's name on the reports and submitted them to authorities.

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

[Back to Top](#)**United States v. Johnson Contracting of WNY, Inc., et al., No. 1:11-CR-00241 (W.D.N.Y.), AUSA Aaron Mango**

On August 3, 2011, a 23-count indictment was returned charging two companies and nine individuals with felony charges related to an asbestos abatement project at an apartment complex. The following defendants are variously charged with Clean Air Act, conspiracy, and false statement violations: Johnson Contracting of WNY, Inc. (Johnson Contracting); JMD Environmental, Inc. (JMD); Ernest Johnson (Johnson Contracting president); Rai Johnson (Johnson Contracting supervisor); Evan Harnden (JMD supervisor); and JMD project monitors Brian Scott, Henry Hawkins, and Chris Coseglia. Also charged are city building inspectors Donald Grzebielucha and William Manuszewski, along with Theodore Lehmann, an inspector with the New York State Department of Labor, Asbestos Control Bureau.

The indictment states that, in June 2009, Johnson Contracting was awarded a sub-contract to conduct an asbestos abatement project at Kensington Towers, a six-building complex owned by the Buffalo Municipal Housing Authority. In an environmental survey conducted before the commencement of the abatement project, it was estimated that each building at Kensington Towers contained in excess of 63,000 square feet of regulated asbestos-containing material (RACM).

From June 2009 through January 2010, Johnson Contracting, Ernest Johnson, and Rai Johnson allegedly performed and supervised the stripping and removal of RACM at the Kensington Towers. These three defendants are accused of conspiring to violate the CAA and to defraud the United States, by (among other things) instructing workers to dump RACM down holes cut through the floors at the buildings, by failing to wet the asbestos during removal operations, and by instructing workers to leave this material in the buildings knowing that the buildings were intended for demolition.

During this period, defendants JMD, Harnden, Hawkins, Coseglia, and Scott were subcontracted to perform air sampling and project monitoring on site. As part of the conspiracy, these defendants are alleged to have (among other things) failed to conduct proper air sampling by creating false visual inspection reports certifying that all asbestos had been removed from the buildings.

Building inspectors Grzebielucha and Manuszewski are alleged to have made and used false inspection reports relating to all six Kensington Towers buildings. The indictment states that these two defendants specifically certified in their final inspection reports that all RACM had been removed from the buildings when, in fact, they knew this to be false.

Finally, Lehmann, an inspector employed with the New York State Department of Labor, Asbestos Control Bureau, is charged with a CAA violation for concealing the improper asbestos abatement activities that were occurring at Kensington Towers.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, the United States Department of Housing and Urban Development Office of Inspector General, and the New York State Department of Environmental Conservation Police Bureau of Environmental Crimes Investigations, with assistance from the New York State Department of Labor Asbestos Control Bureau.

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United States v. Todd Reeves et al., No. 1:11-CR-00520 (D.N.J.), ECS Senior Trial Attorney Wayne Hettenbach (██████████) AUSA Matthew Smith (██████████) and ECS Paralegal Kathryn Loomis (██████████)

On August 2, 2011, six individuals were charged (along with two companies) with conspiracy, obstruction, and multiple Lacey Act false labeling and trafficking violations, for their involvement in the illegal harvest of oysters from New Jersey and for their subsequent sale to a fish wholesaler in Delaware. Authorities have also seized ten fishing boats.

Named in the 15-count indictment are Thomas Reeves, Todd Reeves, Renee Reeves, Kenneth W. Bailey, Mark Bryan, and Pamela Meloney. Reeves Brothers, and Harbor House Seafood, which is co-owned by Bryan, are also charged.

According to the indictment, from 2004 through 2007, Thomas and Todd Reeves were oyster fishermen who owned the oyster dealer business Reeves Brothers. Renee Reeves was employed by the company. The Reeves would create reports and records required by state and federal law that claimed they harvested fewer oysters than they actually did, and they would take more oysters from the Delaware Bay than they were allowed under New Jersey law. The fair market retail value of the Reeves' illegal harvest during this time was well in excess of \$600,000, and they over-harvested their quota in some years by as much as 90 percent.

To conceal their illegal harvest, the Reeves, Bryan, and Meloney created records that falsely indicated the amount of oysters the Reeves actually sold to Harbor House. To prevent their actions from being discovered, Bryan and Meloney provided investigators records of Harbor House's purchases from the Reeves that they knew were false.

The indictment further charges that Bryan and Meloney created false records of Harbor House's purchases from Bailey. Like the Reeves, in 2006 and 2007, Bailey allegedly created reports and records that claimed he harvested fewer oysters than he actually did, and he also took more from the Delaware Bay than allowed under New Jersey law.

The indictment identifies ten vessels that were used by the Reeves and/or Bailey to engage in the illegal harvest, and are therefore subject to forfeiture. To ensure that the vessels are available for forfeiture and in the same condition, five of them (the *Janet R*, the *Amanda Laurnen*, the *Miss Lill*, the *Crab Daddy* and the *Conch Emperor*) were seized by U.S. Marshals. The other five vessels (the *Martha Meerwald*, the *Louise Ockers*, the *Linda W*, the *Turkey Jack* and the *Beverly Ray Bailey*) are subject to a restraining order that prohibits their use or operation pending the outcome of the case.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement, and the New Jersey Department of Environmental Protection Division of Fish and Wildlife.

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United States v. Patrick Dooley, No. 2:11-CR-00252 (W.D. Wash.), AUSA Jim Oesterle (██████████)

On July 27, 2011, Patrick Dooley was charged in a four-count indictment for conduct arising from an incident in which a company employee, following Dooley's instructions, was overcome by deadly chlorine gas while disposing of chemicals.

Dooley is the president and owner of Bargains, Inc., a business that purchases overstock from other companies, including chemical cleaning products. On August 13, 2010, the indictment alleges that a 17-year-old employee dumped multiple five-gallon buckets of bleach together with containers of a commercial laundry soap into a toilet at the facility. The soap was highly acidic and when mixed with the bleach in the toilet bowl generated chlorine gas. A concerned citizen alerted first responders

to the incident after observing that the teenager was suffering an intense reaction to the gas, ultimately losing consciousness. He recovered from the exposure after being taken by paramedics to the emergency room.

Dooley is charged with two Clean Water Act pretreatment violations for illegally discharging hazardous substances into the sewer. He also is charged with knowingly discharging into a sewer system a pollutant which could cause personal injury. He also is charged with a CWA violation for discharging a substance to a POTW with a pH lower than 5.0. It also is alleged that Dooley tampered with a witness by instructing another employee to lie to investigators concerning his employment status.

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Plea Agreements

United States v. Rodger D. DeVries, No. 2:11-CR-00026 (W.D. Mich.), ECS Senior Trial Attorney David Kehoe [REDACTED] and USA Don Davis [REDACTED].



Polar Bear trophy

On August 22, 2011, Rodger D. DeVries pleaded guilty to a violation of the Marine Mammal Protection Act (MMPA) (16 U.S.C. § 1372(a)(2)(B)) for illegally importing a polar bear trophy mount from Canada into Michigan.

In November 2000, DeVries obtained a license from the Nunavut Territory in Canada to hunt and kill a polar bear from the Foxe Basin. Knowing that polar bears from the Foxe Basin could not be imported into the United States, the defendant had the polar bear trophy stored in Canada.

The MMPA prohibits importation of polar bear trophies or parts unless the Secretary of the Interior has made a determination that, in doing so, the region would still maintain sustainable population levels. The Secretary has not made such a determination for the Foxe River Basin.

In July 2007, DeVries travelled to Canada to retrieve the trophy. He then transported the trophies by boat from Ontario across the border to port in Raber Ray, Michigan. A few days later, the defendant moved the trophy to his home and then sold the boat.

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

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United States v. Steven Robinson, No. 11-CR-00513 (N.D. Calif.), AUSA Stacey Geis ([REDACTED])

On August 18, 2011, Steven Robinson pleaded guilty to one Lacey Act violation for illegally importing 52 Clipperton Angelfish.

Robinson, a tropical fish dealer, admitted that in late April 2009, he took a four-day voyage to the Clipperton atoll for the purposes of finding and collecting Clipperton Angelfish without a permit. Robinson further admitted that in May 2009, he imported through his company, Cortez Marine International, 52 of the fish but labeled them as a more common species of angelfish known as

Holacanthus passer or "Blue passer," which are found in Mexican waters where Robinson was permitted to fish. The defendant further admitted that once the fish were brought into the United States, he deceived federal wildlife authorities for several days by continuing to claim the fish were Blue passer when he knew they actually were Clipperton Angelfish.

The Clipperton Angelfish (*Holacanthus limbaughi*) is a rare species of fish found only in the waters of Clipperton Island, an uninhabited atoll under French authority. Fishing for the Clipperton Angelfish in the Clipperton atoll requires permission from the French government. Because the fish are so rare, each live fish can command several thousand dollars in U.S. markets and up to \$10,000 in Asian markets.

Robinson is scheduled to be sentenced on November 30, 2011. This case was investigated by the United States Fish and Wildlife Service.

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Clipperton Angelfish

United States v. Americas Marine Management Services, Inc., d/b/a Antillean Marine, No. 1:11-CR-20348 (S.D. Fla.), AUSA Jaime Raich ([REDACTED])

Titan Express

On August 11, 2011, Americas Marine Management Services, Inc., (AMMS) a cargo ship vessel operator d/b/a Antillean Marine, pleaded guilty to one count of failure to maintain an accurate oil record book, in violation of 33 U.S.C. § 1908(a); and one count of failing to submit reports to the National Ballast Information Clearinghouse (NBIC), in violation of the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. § 4711(g)(2)).

AMMS operated the *Titan Express* from a terminal on the Miami River. During an inspection in August 2010, the Coast Guard found ample evidence of illegal overboard discharges and false records in the oil record book. Specifically, the sensor on the oil water separator was filled with oily waste. A compressed air line running throughout the engine room was also filled with oily waste, which sprayed out of the line when opened by inspectors. An entry made in the night orders book in January 2010, stated "Always pump out the bilge water. When finished, wash the pump with sea water for 20 minutes to clean out the line. If you don't, you'll bring

pollution problems in Miami especially.”

The company also failed to submit reports to the NBIC in advance of the ship’s arrival to the Port of Miami. The NBIC is a joint program of the Smithsonian Environmental Research Center and the United States Coast Guard. Its mandate is to understand and prevent the introduction of non-indigenous species to the fresh, brackish, and saltwater environments of the United States. Sentencing is scheduled for October 21, 2011.

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

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United States v. Leslie W. Hardwick, Jr., No. 3:11-CR-00127 (W.D. La.), AUSA Cytheria Jernigen (██████████).

On July 25, 2011, Leslie Hardwick pleaded guilty to a FIFRA and a MBTA violation (7 U.S.C. §§136j (a)(2)(G) and 136l (b)(1)(B); 16 U.S.C. §§703 and 707(a)) stemming from the illegal application of a pesticide and the killing of several animals, including migratory birds.

In January 2011, state wildlife officials were notified that Aldicarb (aka Temik) had been mixed with meat and illegally used as bait that was then placed around a 600-acre hunting preserve known as Bosco Lodge (Bosco). Investigators determined that Leslie Hardwick, a Bosco employee, was responsible for mixing the pesticide with the meat and for distributing the contaminated meat on Bosco property as well as adjacent property. When questioned, Hardwick stated that he was trying to kill coyotes.

Agents located approximately 60 dead animals and birds including 17 coyotes, 16 raccoons, 12 opossums, four Bobcats, and four migratory birds including a hawk, an owl, and two sparrows.

Hardwick is scheduled to be sentenced on November 7, 2011. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the United States Fish and Wildlife Service, and the Louisiana Department of Wildlife and Fisheries Law Enforcement Division.

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Sentencings

United States v. Dov Shellef et al., No. 03-CR-00723 (E.D.N.Y.), ECS Trial Attorney James Nelson (██████████) and DOJ Tax Division Attorney Mark Kotila (██████████)

On August 23, 2011, William Rubenstein was sentenced to time-served (four months) followed by two years of supervised release. He was ordered to pay \$940,230 in restitution to the U.S. Treasury in excise taxes and an additional \$10,000 fine. Rubenstein pleaded guilty in February 2009 to conspiracy to defraud the U.S. by interfering with the IRS's collection of excise taxes. Co-defendant Dov Shellef was sentenced earlier this year to serve 60 months’ incarceration, followed by three years’ supervised release, and to forfeit \$1,102,540, which was derived from the value of the funds that he laundered.

A jury convicted Shellef in January 2010 in a retrial on 86 counts, which included conspiracy to defeat the excise taxes on ozone-depleting chemicals, money laundering, wire fraud, and a variety of tax violations. In August 2010, the court granted a partial judgment of acquittal, finding that the jury had properly convicted on 53 of the 86 counts charged in the indictment. It concluded, however, that

the evidence was insufficient to support the convictions on money laundering charged in 33 counts, stating that the counts were duplicative of the several wire fraud counts. It further found that the evidence was insufficient to show that those transactions involved the proceeds of unlawful activity.

Shellef and Rubenstein, operating as Dunbar Sales, Inc., and Steven Industries, Inc., originally were convicted by a jury in July 2005 on 130 counts, stemming from their failure to pay approximately \$1.9 million in taxes due on domestic sales of trichlorotrifluoroethane, an ozone-depleting chemical commonly referred to as CFC-113. Once widely used as an industrial solvent and as a refrigerant in centrifugal chillers for large buildings, CFC-113 now has a limited domestic market and is used in relatively small quantities for laboratory and analytical purposes. The original convictions, however, were reversed on misjoinder grounds in March 2008, and a superseding indictment was filed. Shellef was retried in a five-week trial that began in December 2009.

The defendants represented to manufacturers that they were purchasing CFC-113 for export, causing the manufacturers to sell it to them tax-free. They then sold the product in the domestic market without notifying the manufacturers or paying the excise tax. In addition to conspiracy to defeat the excise tax, Shellef also was convicted of personal income tax evasion, subscribing to false corporate tax returns, wire fraud, and money laundering.

This case was investigated by the Internal Revenue Service, with assistance from the United States Environmental Protection Agency Criminal Investigation Division, the Drug Enforcement Agency, and the Defense Criminal Investigative Service.

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United States v. Wadji Waked, No. 2:10-CR-00011 (D. Nev.), ECS Senior Trial Attorney Ron Sutcliffe (██████████) and AUSA Roger Yang (██████████)

On August 23, 2011, Wadji Waked was sentenced to complete a three-year term of probation including six months' home confinement. Waked also will perform 40 hours of community service. He is one of ten defendants who pleaded guilty to violating the Clean Air Act (42 U.S.C. §7413 (c)(2)(A)). All ten of the defendants charged in this "clean scanning" investigation have pleaded guilty to CAA violations for causing false test results to be transmitted to the Nevada Department of Motor Vehicles (DMV). Typically 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.

These defendants 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. As a result, in 2008 alone there were more than 4,000 false vehicle emissions certificates issued in Las Vegas. The database allows investigators to check the vehicle identification number that the emissions tester enters against the vehicle actually tested. Las Vegas and the surrounding Clark County are required by the EPA to conduct air emissions testing due to significant concentrations of carbon monoxide and ozone measured in the area.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Nevada Department of Motor Vehicles.

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United States v. Honey Creek Contracting Company, et al., No. 2:11-CR-0050 (S.D. Ohio), AUSA Mike Marous (614) 469-5715 and RCEC Brad Beeson (440) 250-1761.

On August 23, 2011, Honey Creek Contracting Company (Honey Creek), and company owner A. David Sugar, were sentenced for their involvement in the improper removal of asbestos. Sugar was sentenced to complete a three-year term of probation, which includes spending the first 15 weekends in

jail, followed by 21 weeks of home confinement. He also will pay a \$10,000 fine. Honey Creek was ordered to pay a \$30,000 fine and will pay for employees involved in the illegal asbestos removal to obtain baseline X-rays.

The defendants pleaded guilty in March 2011, to a five-count information charging them with violations stemming from an illegal renovation of the Weirton Steel Plant (WSP). Specifically, they pleaded guilty to conspiracy to violate the Clean Air Act and to four CAA NESHAP violations (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(1)).

In July 2004, Sugar purchased the steel plant on behalf of Honey Creek for renovation. Prior to the defendants' purchase of the facility, an environmental consultant determined that there was approximately 30,000 linear feet of asbestos piping throughout the entire plant. Almost 6,000 linear feet of pipe was located in a single area (known as the "Green Room") where the majority of the insulation was intact. The consultant was not retained, however, to remove the asbestos from the plant.

Beginning in approximately August 2004, Sugar participated in and oversaw the renovation activities. As the crew began to remove dry asbestos-covered pipe from the Green Room, they simply dropped it to the ground floor. After an inspection of the facility by state environmental officials in 2005, a licensed asbestos removal contractor was brought in to properly finish the job.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, and the Ohio Environmental Protection Agency.

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United States v. T.P. Construction, No. 4:11-CR-00065 (D. Mont.), AUSA Kris McLean [REDACTED]

On August 23, 2011, T.P. Construction was sentenced to pay a \$25,000 fine and to complete a one-year term of probation, stemming from a misdemeanor Clean Water Act violation (33 U.S.C. §1319(c)(1)(a)) for the negligent discharge of sewage.

In November and December 2009, investigators were informed that sewage had been found on tribal lands on the Fort Belknap Reservation, after several individuals allegedly had hired T.P. Construction to pump their household septic systems. Subsequent investigation indicated that several company employees were illegally dumping waste on the Reservation in November 2009.

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

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United States v. Peter Balestracci, No. 4:11-CR-00002 (D. Idaho), ECS Senior Trial Attorney Ron Sutcliffe [REDACTED], **ECS Trial Attorney Jim Nelson** [REDACTED] **and ECS Paralegal Christina Liu** [REDACTED]

On August 22, 2011, Peter Balestracci was sentenced to complete a three-year term of probation, with his hunting privileges suspended, and he will pay \$1,200 in restitution to the State of Idaho. Balestracci previously pleaded guilty to a misdemeanor Lacey Act violation (16 U.S.C. §§3372(a)(2)(A), (a)(4) and 3373(d)(2)), for transporting an illegally tagged mule deer.

In October 2008, Balestracci participated in a deer hunt based at the Trail Creek Lodge. After he shot a deer, he tagged it with a tag issued to his son, rather than his own. He then transported the deer to a meat processor in Wyoming, who then sent the meat to the defendant's home in Nevada. Balestracci transported the trophy parts of the deer to Nevada.

The defendant was a frequent guest at the Lodge, which has been owned by Sidney Davis since approximately 1992. The area around the lodge contains world-class trophy elk and abundant deer. Davis pleaded guilty in May of this year to a Lacey Act violation and to making false statements during a bankruptcy proceeding, and is scheduled to be sentenced on October 24, 2011.

This case was investigated by the Idaho Department of Fish and Game and the United States Fish and Wildlife Service.

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United States v. Geraldine Betz et al., No. 6:11-CR-60090 (D. Ore.), ECS Trial Attorney Jessie Alloway [REDACTED] and SAUSA Patrick Flanagan [REDACTED].

On August 22, 2011, Geraldine Betz and Stephen Ponder pleaded guilty to, and were sentenced for, the unlawful discharge of multiple truck loads of rock and other debris into a side channel of the McKenzie River, in violation of the Rivers and Harbors Act (33 U.S.C. §§ 407 and 411.)

Neighbors Betz and Ponder each owned property located along a side-channel of the McKenzie River and had long been concerned about the erosion of the river banks along their property. In the spring of 2008, the defendants



Dammed creek

discussed constructing a “channel dam” to stabilize the bank and to stop the flow. In November 2008, Betz hired a construction company to bring rock to her property to build a dam, with Ponder agreeing to help pay for the project. At the direction of the defendants, approximately eight to 12 dump-truck loads of rock and other material were placed into the entrance of the McKenzie River from the side-channel.

Betz and Ponder were each sentenced to serve three years of probation. Betz also will pay a \$6,500 fine, as well as make a \$3,500 community service payment to the Oregon Governor’s Fund for the Environment. Ponder was sentenced to pay a \$1,625 fine and to make an \$875 community service payment to the same fund. The Oregon Governor’s Fund for the Environment is a sustained granting fund managed by the National Fish and Wildlife Foundation to benefit the coastal areas and rivers and streams passing through the District of Oregon.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, with assistance from the United States Fish and Wildlife Service.

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United States v. Clemente N. DiMuro, Jr., No. 1:11-CR-20268 (S.D. Fla.), ECS Senior Trial Attorney Georgiann Cerese [REDACTED] and AUSA Tom Watts-FitzGerald [REDACTED].

On August 16, 2011, Clemente N. DiMuro, Jr., was sentenced to time served, followed by six months of home detention, and one year of supervised release for his role in the illegal sale of aninga feathers. DiMuro also will perform 250 hours of community service and is prohibited from hunting, fishing, or trapping while on supervised release. DiMuro previously pleaded guilty to a violation of the Migratory Bird Treaty Act (MBTA) for selling and offering to sell migratory bird parts.

According to court documents, the defendant communicated via MySpace with an individual in Utah and supplied that individual on multiple occasions with anhinga feathers which the person in Utah then sold to others, including an undercover federal wildlife agent. In March 2009, the defendant's MySpace home page listed his occupation as "feather man." Evidence documenting DiMuro's sale of anhinga feathers to the Utah individual was obtained during the execution of a search warrant at this person's residence in March 2009.

The defendant admitted to illegally selling feathers from anhingas (also known as waterbirds or snakebirds) between December 2008 and March 2009. Anhingas are found in the Everglades as well as in southern swamps and shallow waters.

This case was investigated by the United States Fish and Wildlife Service in cooperation with the Navajo Nation Department of Fish and Wildlife.

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United States v. EPPS Shipping Company, No. 3:11-CR-00058 (D.P.R.), ECS Trial Attorney Ken Nelson [REDACTED] and AUSA Marshal Morgan [REDACTED]

On August 18, 2011, EPPS Shipping Company (EPPS) was sentenced to pay a \$600,000 fine and will make a \$100,000 community service payment to support projects used to rehabilitate and protect coral reefs in Guanica Bay, Puerto Rico. The company also will complete a five-year term of probation and implement an environmental compliance plan.

EPPS previously pleaded guilty to a two-count information charging an APPS violation and a false statement violation (33 U.S.C. § 1908(a), 18 U.S.C. § 1001) stemming from the unlawful discharges of oily waste at sea and the failure to record those discharges in the oil record book.

The *M/V Carib Vision* was a 5,070 ton ocean-going ship owned and controlled by EPPS. The ship was registered in St. Kitts and Nevis and was engaged in international trade. During a port call made in November 2010 in Puerto Rico, inspectors uncovered evidence that the crew used the emergency bilge discharge system to pump oily waste directly into the ocean. The crew further failed to record these illegal discharges in the vessel's oil record book.

This case was investigated by the United States Coast Guard.

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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 [REDACTED]

On August 11, 2011, Sabrina Westbrooks Arnot pleaded guilty to a Clean Air Act violation (42 U.S.C. §§7671(c)(1) and 7413(c)(1)) for her involvement in the venting of HCFC-22 into the environment. She is scheduled to be sentenced on October 14, 2011.

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.

Beard, Joyner, Daniel Arnot, and Sabrina Westbrooks Arnot, were charged in a 14-count indictment with conspiracy to release ozone-depleting substances into the environment, along with 13 substantive CAA violations. Beginning in early August 2008, the defendants targeted businesses in several counties with commercial-sized air conditioners. Daniel Arnot, working with his wife, Sabrina, or with his other accomplices, dismantled the air conditioning units so that they could steal the

copper and aluminum parts. This required that they cut through a copper coil to remove the copper parts, causing the release of hydrochlorofluorocarbon 22 (also known as HCFC-22) into the atmosphere. After dismantling the air conditioners, the defendants sold the copper and aluminum parts to scrap metal recycling businesses. All together, the defendants dismantled 37 air conditioning units from 14 locations. Beard pleaded guilty to conspiracy (18 U.S.C. 371; 42 U.S.C. §§7671(c)(1) and 7413(c)(1)) and to nine CAA counts; Joyner pleaded guilty to conspiracy and to a single CAA charge; Daniel Arnot pleaded guilty to all 14 counts.

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

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United States v. Larry Dees, Sr., et al., Nos. 3:11-CR-00029 and 00030 (M.D. La.), ECS Senior Trial Attorney Claire Whitney (REDACTED)

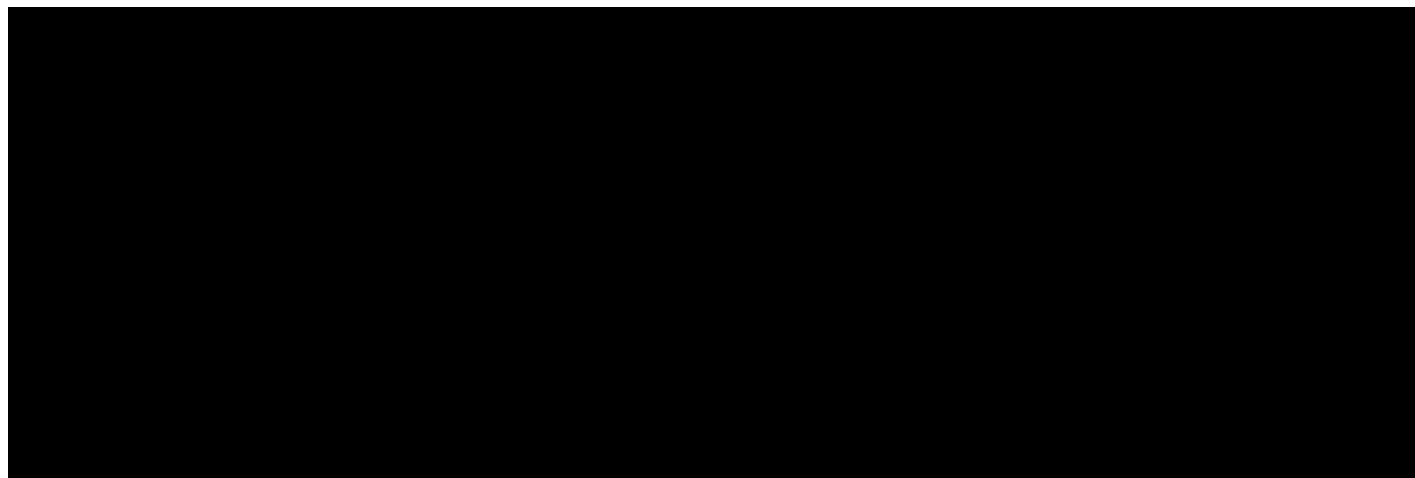
On August 10, 2011, Larry Dees, Sr., and Larry Dees, Jr., were sentenced after previously pleading guilty to two Lacey Act violations (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)) for leading sport hunters to unauthorized areas to hunt American alligators in violation of the Endangered Species Act and Louisiana law. Both will complete three-year terms of probation and were ordered to pay \$2,000 fines. The fine against Larry Dees, Jr., however, was suspended due to an inability to pay. During the term of probation, the defendants will be prohibited from hunting under various restrictions.

On three dates in September 2009, Dees, Sr., and Dees, Jr., licensed alligator helpers, guided out-of-state alligator sport hunters to unapproved areas, that is, areas for which they did not have appropriate state authorization to hunt. During one of these trips a sport hunter killed a trophy-sized alligator that was over nine feet long.

Alligator hunting is a highly regulated activity in Louisiana since alligators were over-hunted for many years. The state's regulations set up a strict system which allocates alligator hide tags (also known as CITES tags) to licensed alligator hunters every year. The tags are property-specific and hunters may hunt only in the areas designated by the tags. Alligator helpers are not issued tags, but are given tags by alligator hunters. Helpers are required to comply with all alligator regulations, including ensuring they are hunting in areas designated by the tags they receive from hunters.

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

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[Back to Top](#)**United States v. Peter DeFilippo et al., No. 2:10-CR-20013 (E.D. Mich.), AUSA Jennifer Blackwell () and SAUSA Crissy Pellegrin ()**

On August 9, 2011, Peter DeFilippo was sentenced to serve 13 months' imprisonment, followed by two years' supervised release. He also will pay a \$5,000 fine and an additional \$5,000 in restitution to a worker for medical expenses. David Olsen, Joseph Terranova, and DeFilippo previously pleaded guilty to charges stemming from their involvement in an illegal asbestos-removal project.

DeFilippo contracted through his company, Excel Demo, Inc., to supervise the demolition of a fire-damaged building at Harbour Club Apartments. This defendant knew that the building contained regulated asbestos-containing materials (RACM), and he also knew that he was required to have the RACM properly removed during the demolition. Despite this knowledge, DeFilippo instructed others to remove the RACM without the presence of a certified professional and without complying with work practice standards. Terranova was a supervisor for GFI Management Services, Inc. (the property management company for Harbour Club), and Olsen is a firefighter who also worked for DeFilippo. Olsen pleaded guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. §7413(c)(4), Terranova pleaded guilty to a false statement violation (18 U.S.C. §1001), and DeFilippo pleaded guilty to a CAA violation (42 U.S.C. §7413 (c)(1)). Charges against Excel, a sham corporation, were dismissed.

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

[Back to Top](#)**United States v. Mike Vierstra, No. 1:10-CR-00204 (D. Idaho), AUSA George Breitsameter (208) 334-1211 and RCEC Dean Ingemansen ()**

On August 3, 2011, Mike Vierstra was sentenced to serve 60 days' incarceration as a condition of a three-year term of probation. He also was ordered to pay a \$12,000 fine. Vierstra is the owner and operator of Vierstra Dairy, a concentrated animal feeding operation with approximately 1,200 cows. The defendant was previously convicted by a jury of negligently discharging processed wastewater from pipes and ditches at his dairy operations into the Low Line Canal, a water of the United States, without a permit (33 U.S.C. §§1311 and 1319(c)(1)(A)).

On June 1, 2009, a dairy inspector responded to a complaint of an unauthorized discharge into the canal. The inspector observed the discharge in the canal and traced it back to the Vierstra Dairy. After the defendant was advised of the discharge, he closed off a valve that had been left open by one of his employees.

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

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United States v. Atsushi Yamagami et al., No. 2:11-CR-00082 (C.D. Calif.), AUSA Dennis Mitchell

Turtles found in luggage

On August 1, 2011, Norihide Ushirozako was sentenced to time served, followed by two years' supervised release. A fine was not assessed. Japanese nationals Atsushi Yamagami and Ushirozako were charged earlier this year with conspiracy, smuggling, and Endangered Species Act violations for smuggling more than 50 live turtles and tortoises into the United States on a flight from Japan in January 2011.

The turtles and tortoises were hidden in snack food boxes found in a suitcase. At the time of their arrests, one of the defendants stated that he had been involved in eight prior trips from Japan to the U.S. where live turtles and tortoises were concealed in luggage. Several return trips were made taking native turtles and tortoises from the U.S. back to Japan as well. Among the species found were Fly River turtles, Indian Star tortoises, Chinese Big Headed turtles, and Malayan Snail-eating turtles, all of which are CITES-protected species. Yamagami and Ushirozako both pleaded guilty to a smuggling violation (18 U.S.C. §545) and Yamagami is scheduled to be sentenced on October 31, 2011.

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

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

On August 1, 2011, Charles Manghis was sentenced to serve a two-year term of probation to include 30 days of intermittent incarceration. Manghis also will pay a \$50,000 fine and was ordered to forfeit a number of ivory carvings.

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 (18 U.S.C. §371; 18 U.S.C. §545; 18 U.S.C. § 1001). He was acquitted of a smuggling and a false statement violation. Co-defendant Andriy Mikhalyov pleaded guilty to a conspiracy violation, and was sentenced to time served in January of this year. The court further ordered that he be deported back to Ukraine.

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 Mikhalyov (a Ukrainian national) and others to smuggle large amounts of sperm whale ivory into the United States. 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 between he and Mikhalyov 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.

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 the United States Immigration and Customs Enforcement. Assistance also was provided by the Nantucket Police Department and the Massachusetts Environmental Police.

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United States v. Timothy A. Isom, No. 11-CR-05250 (W.D. Wash.), AUSA Jim Oesterle

On July 28, 2011, Timothy A. Isom pleaded guilty to, and was sentenced for, taking and possessing a bald eagle in violation of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)).

In February 2011, Washington State Department of Fish and Wildlife officers received a report that a bald eagle had been shot in southwest Washington. Responding to the location, the officers retrieved a dead bald eagle, which had been shot with a large caliber gun. Witnesses identified Isom as the shooter. Isom was sentenced to serve a two-year term of probation and must complete 120 hours of community service at a nearby National Wildlife Refuge. He also will forfeit all hunting licenses, give up licensed hunting for two years, and forfeit the gun used to shoot the eagle.

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

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Dead eagle