
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

March 2012

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

In Memory of Raymond W. Mushal:

On Thursday, March 8, 2012, our friend, colleague, and mentor, Ray Mushal died after a long battle with cancer. Ray's influence on the Environmental Crimes Program and environmental crimes prosecutors cannot be overstated.

His insight, breadth of knowledge, and wisdom were overshadowed only by his kindness.

We will miss him dearly.

AT A GLANCE:

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
S.D. Ala.	<u>United States v. Alexander Alvarez</u>	<i>Feather Sales/MBTA</i>
D. Alaska	<u>United States v. Arne Fuglvog</u>	<i>Fisheries/ Lacey Act</i>
C.D. Calif.	<u>United States v. Peter X. Lam et al.</u> <u>United States v. Chau-Shing Lin et al.</u>	<i>Mislabeled Seafood/Lacey Act; Food, Drug, and Cosmetic Act</i>
N.D. Calif.	<u>United States v. Horizon Lines LLC</u>	<i>Vessel/ False Statement</i>
D. Kan.	<u>United States v. Hugh A. Barker</u>	<i>Demolition Project/ CAA</i>
E.D. Ky.	<u>United States v. Danny Gayheart</u>	<i>Hawk Capture/ MBTA</i>
E.D. La.	<u>United States Edward Hannan et al.</u> <u>United States v. Blake Mitchell</u> <u>United States v. Oakmont Environmental, Inc., et al.</u> <u>United States v. Stolthaven New Orleans, LLC</u>	<i>Wastewater Facility/ CWA</i> <i>Illegal Fish Transport/ Lacey Act</i> <i>Waste Oil Facility/ CWA</i> <i>Liquid Storage Terminal/ CWA misdemeanor</i>
M.D. La.	<u>United States v. Gregory K. Dupont</u>	<i>Alligator Hunting/ Lacey Act</i>
D. Maine	<u>United States v. Stephen Voisine</u>	<i>Bald Eagle Killing/ BGEPA, Firearm Possession</i>

DISTRICTS	ACTIVE CASES	CASE TYPE/STATUTES
E.D. Mich.	<u>United States v. Daniel Clements et al.</u>	<i>Renovation Project/ CAA</i>
W.D. Mo.	<u>United States v. William M. Threatt, Jr., et al.</u>	<i>Renovation Project/ CAA</i>
E.D.N.C.	<u>United States v. Freedman Farms, Inc., et al.</u>	<i>CAFO/ CWA</i>
N.D.N.Y.	<u>United States v. Julius DeSimone et al.</u>	<i>Superfund Dumpsite/ Conspiracy, CWA</i>
W.D.N.Y.	<u>United States v. Kenneth Horan</u>	<i>Asbestos Abatement/ CAA</i>
S.D. N.Y.	<u>United States v. Jai Ping Cheng et al.</u>	<i>Mislabeled Pesticides/ FIFRA</i>
S.D. Ohio	<u>United States v. Scotts Miracle-Gro</u>	<i>Mislabeled Pesticides/ FIFRA</i>
D. Ore.	<u>United States v. Clifford R. Tracy</u>	<i>Gold Mining/ Unlawful Mining Operation</i>
E.D. Tenn.	<u>United States v. Watkins Street Project, LLC et al.</u>	<i>Demolition Project/ Conspiracy, CAA, Obstruction, False Statements</i>
	<u>United States v. Lawrence C. Parawan, Jr.</u>	<i>Pesticide Use/MBTA, FIFRA</i>
S.D. Tex.	<u>United States Clifton Lynn Everts</u>	<i>Alligator Killing/ Lacey Act</i>
W.D. Wash.	<u>United States v. Patrick Dooley</u>	<i>Chemical Disposal/ CWA, Witness Tampering</i>

Additional Quick Links:

- ◇ [Trials](#) p. 4
- ◇ [Plea Agreements](#) pp. 5 - 9
- ◇ [Sentencings](#) pp. 9 – 17

Trials

United States v. Watkins Street Project, LLC, et al., No. 1:09-CR-00144 (E.D. Tenn.), ECS Trial Attorney Todd Gleason, AUSA Matthew Morris, and ECS Paralegal Kathryn Loomis.



Asbestos-covered demo debris

On January 30, 2012, three men and a demolition company were convicted by a jury of charges related to the illegal demolition of a Chattanooga factory that contained large amounts of asbestos. David Wood, Donald Fillers, James Mathis, and Watkins Street Project LLC, a salvaging business, all were convicted of conspiracy, Clean Air Act, obstruction, and false statement offenses (18 U.S.C. §§ 371, 1001, 1519; 42 U.S.C. § 7413(c)). James Mathis was found guilty of conspiracy and three other substantive CAA counts, and acquitted on one CAA charge. All charges were dismissed against Mathis Companies, Inc.

The evidence proved that, from August 2004 to September 2005, the former Standard Coosa Thatcher Plant was illegally demolished while still containing large amounts of asbestos. Asbestos that had been removed was left in open piles on the property. During the demolition, visible emissions engulfed surrounding businesses, residences, and a day-care center. The defendants attempted to conceal their illegal activities by falsifying documents and by lying to federal authorities.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, and the Chattanooga-Hamilton County Air Pollution Control Bureau.

[Back to Top](#)

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

On January 27, 2012, a jury convicted Patrick Dooley of three Clean Water Act violations (33 U.S.C. § 1319 (c)(2)(A) and (B)) and one count of witness tampering (18 U.S.C. § 1512(b)(3)) related to an August 2010 hazardous materials dumping incident.

Dooley is the president and owner of a business that purchases overstock from other companies, including chemical cleaning products. In August 2010, a 17-year-old employee, following Dooley's instructions, was overcome by deadly chlorine gas while disposing of two chemicals down a toilet. The chemicals reacted to produce chlorine gas of a sufficient concentration to cause the employee to become sick. He recovered from the exposure after being taken by paramedics to an emergency room.



Pallet of chemicals that produced chlorine gas

Sentencing is scheduled for April 27, 2012. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from Seattle Public Utilities and the Washington State Department of Ecology.

[Back to Top](#)

Plea Agreements

United States v. Scotts Miracle-Gro, No. 2:12-CR-00024 (S.D. Ohio), ECS Senior Trial Attorney Jeremy Korzenik, AUSA Mike Marous, RCEC Michael McClary and former ECS Paralegal Rachel Cook.

On February 21, 2012, Scotts Miracle-Gro, (Scotts) the world's largest marketer of branded consumer lawn and garden products, pleaded guilty to 11 FIFRA violations (7 U.S.C. § 136). The company admitted to illegally applying pesticides toxic to birds to wild bird food products, to falsifying pesticide registration documents, to distributing pesticides with misleading and unapproved labels, and to distributing unregistered pesticides. At sentencing, Scotts has agreed to pay a \$4 million fine, and will pay \$500,000 for community service projects.

According to the plea agreement, Scotts admitted that, in an effort to protect its bird food from insect infestation, the company applied to its line of wild bird foods the pesticides *Storcide II* and *Actellic 5E*, neither of which were approved by the Environmental Protection Agency for use in bird foods, the former bearing the warning, "Storcide II is extremely toxic to fish and toxic to birds and other wildlife." Scotts continued to sell the products for six months after employees warned management of the dangers of these pesticides. Until its voluntary recall of these treated bird foods in March 2008, Scotts illegally sold over 70 million units of insecticide-treated bird food.

Scotts also pleaded guilty for the fraudulent conduct of its Federal Registration Manager who submitted false documents to the EPA and to state regulatory agencies in an effort to deceive them into believing that the pesticides were registered with EP when they were not. Scotts pleaded guilty to

illegally selling these unregistered pesticides and to marketing pesticides bearing labels containing false and misleading claims not approved by the EPA.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, and the Environmental Enforcement Unit of the Ohio Attorney General's Office Bureau of Criminal Identification and Investigation.

[Back to Top](#)

United States v. Julius DeSimone et al., No. 5:11-CR-00264 (N.D.N.Y.), ECS Trial Attorney Todd Gleason, AUSA Craig Benedict, and ECS Paralegal Christina Liu.



Waste dumped on open field

On February 17, 2012, Julius DeSimone pleaded guilty to conspiring to violate the Clean Water Act and to defrauding the United States (18 U.S.C. § 371) for his role in the creation of a massive, asbestos-contaminated dumpsite that has been designated a Superfund site. This unpermitted dumpsite was located on a farmer's open field, which also contained wetlands, and is adjacent to the Mohawk River.

Co-defendants Mazza & Sons, Inc. (a New Jersey solid waste management company), company owner Dominick Mazza,

and his associates Donald Torriero and Cross Nicastro II, remain charged in a seven-count indictment for their participation in a multi-year scheme to illegally dump thousands of tons of pulverized construction and demolition debris that was processed at Lieze Associates, d/b/a Eagle Recycling, and Mazza & Sons solid waste management facilities. This debris was then transported to and dumped at Nicastro's farm in Frankfort, New York, much of which contained federally-regulated wetlands. The dumping and excavating operations were managed on-site by DeSimone.

According to court documents, Torriero and other conspirators concealed the illegal dumping by fabricating a New York State Department of Environmental Conservation (DEC) permit and forging the name of a DEC official on the fraudulent permit. Once the conspirators learned that they were under investigation, they began a systematic pattern of document concealment, alteration, and destruction by destroying and secreting documents responsive to grand jury subpoenas and falsifying and submitting environmental sampling to the U.S. Environmental Protection Agency.

The indictment charges the defendants with conspiracy to defraud the U.S., to violate the Clean Water Act and CERCLA, and to commit wire fraud. Torriero also is charged with wire fraud for his fabrication and transmission of the fake permit the conspirators used to conceal the dumping. Mazza & Sons and Dominick Mazza are charged with violating the CERCLA requirement to report the release of toxic materials, along with obstruction of justice. Mazza is additionally charged with making false statements to EPA agents (18 U.S.C. §§ 371, 1001, 1343, 1519; 42 U.S.C. § 9603(b)).

This case was investigated by the New York State Environmental Conservation Police, Bureau of Environmental Crimes; the United States Environmental Protection Agency Criminal Investigation Division; the Internal Revenue Service; the New Jersey State Police, Office of Business Integrity Unit; the New Jersey Department of Environmental Protection; and the Ohio Department of Environmental Protection.

[Back to Top](#)

United States v. Alexander Alvarez, No. 1:12-CR-00027 (S.D. Ala.), ECS Senior Trial Attorney Georgiann Cerese and AUSA Michael Anderson.

On February 15, 2012, Alexander Alvarez pleaded guilty to a three-count information charging Lacey Act and felony Migratory Bird Treaty Act violations (16 U.S.C. §§ 703, 707(b)(2), 3372, 3373(d)(1)(b)). The defendant admitted to illegally selling migratory bird parts including feathers from red-tailed hawks, peregrine falcons, and anhingas from between January 2007 and March 2009.

According to court documents, Alvarez communicated via email with an individual in Louisiana and eventually exchanged two anhinga tails for a crested caracara tail, a Harris’s Hawk tail and \$400. Alvarez later sent 14 sets of anhinga tail feathers to this individual and asked him to photograph and offer the tails for sale. Alvarez received payment from the Louisiana individual for the anhinga tail feathers that were sold. After the execution of a search warrant at Alvarez’s home, feathers from several migratory bird species were seized.

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

[Back to Top](#)



[Back to Top](#)

United States v. Gregory K. Dupont d/b/a Louisiana Hunters, Inc., No. 3:10-CR-00140 (M.D. La.), ECS Trial Attorneys Shennie Patel and Sue Park, and ECS Paralegal Christina Liu.



Deceased alligator

On February 10, 2012, Gregory Dupont pleaded guilty to a felony Lacey Act violation (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)) for illegally guiding out-of-state sport hunters to unauthorized areas to hunt American alligators.

In September 2006, Dupont, a licensed alligator hunter and owner of Louisiana Hunters, Inc., guided clients to an area for which he did not have the appropriate CITES tags. During this illegal hunt, the defendant took his clients to a property where one of his clients killed an American alligator. Dupont tagged the alligator illegally with a tag for another hunting area.

Alligator hunting is a highly regulated activity in Louisiana since alligators were over-hunted years ago. 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 only hunt in the areas designated by the tags. Louisiana regulations also prohibit alligator hunters, like Dupont, from purchasing alligators from anyone; only designated fur buyers and fur dealers are allowed to purchase alligators.

Sentencing is scheduled for June 20, 2012. This case was investigated by the Louisiana Department of Wildlife and Fisheries and the United States Fish and Wildlife Service.

[Back to Top](#)

United States v. Philsynergy Maritime Inc. et al., No. 2:12-CR-00044 (E.D. La.), AUSA Dee Taylor.

On February 9, 2012, Philsynergy Maritime Inc., the owner of the *M/V Golden Sakura*, pleaded guilty to an APPS violation (33 U.S.C. § 1908(a)) stemming from false entries made in an oil record book presented to Coast Guard inspectors in August 2011.

Investigation confirmed that, from February 2011 through August 2011, the crew routinely discharged oily bilge water overboard without using the oily water separator (OWS). The OWS was used only when an oily sheen was visible on the water. Chief engineer Wilfredo Sombra remains charged with APPS and false statement violations and is scheduled for trial to begin on April 2, 2012. The company is scheduled to be sentenced on May 5, 2012.



M/V Golden Sakura

This case was investigated by the United States Coast Guard with assistance from the United States Environmental Protection Agency Criminal Investigation Division.

[Back to Top](#)

United States v. Jai Ping Cheng et al., Nos. 1:12-CR-00032 and 1:11-CR-01100 (S.D.N.Y.), AUSA Janis Echenberg.

On February 3, 2012, Jai Ping Chen pleaded guilty to two FIFRA violations (7 U.S.C. § 136). On September 19, 2011, after 12 arrests and the seizure of thousands of packages containing illegal pesticides, Cheng and Cheng Yan Huang were charged with conspiracy and FIFRA violations for their roles in the illegal distribution and sale of unregistered and misbranded pesticides.

These pesticides, which were seized from dozens of locations throughout Manhattan, were particularly dangerous because the packaging could lead people to mistake them to contain cookies or cough medicine. The chemicals were not registered with the EPA and were missing required label warnings, thus providing consumers no way of knowing how dangerous the products were or how best to protect themselves from harmful exposure. A woman was hospitalized after accidentally ingesting one of the pesticides, believing it to be medicine.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division, the New York State Department of Environmental Conservation, United States Immigration and Customs Enforcement's Homeland Security Investigations, and the United States Postal Inspection Service.

[Back to Top](#)

United States v. William M. Threatt, Jr., et al., No. 4:10-CR-00191(W.D. Mo.), AUSA David Ketchmark.

Dilapidated home

On February 1, 2012, William Threatt pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) stemming from the illegal removal of asbestos during a renovation project involving multiple buildings. Anthony Crompton pleaded guilty to a similar charge.

Threatt was the president and owner of The Citadel Plaza Redevelopment Site, a 250,000 square foot tract of land. From April 2001 to July 2006, the defendants violated the CAA by illegally removing and disposing of asbestos from more than two hundred structures, most of which were older, dilapidated residences. As a site operator, Crompton

directed the workers who performed the demolition work.

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

[Back to Top](#)

United States v. Hugh A. Barker, No. 6:11-CR-10160 (D. Kan.), AUSA Alan Metzger.

On January 23, 2012, Hugh A. Barker pleaded guilty to one count of violating the NESHAPS provisions for asbestos under the Clean Air Act (42 U.S.C. §7413(c)(2)(B)). In October 2008, Barker and his company, Barker Sand and Gravel, began demolishing a building in Harper, Kansas. The defendant failed to file a required notification of plans for the demolition. An inspection by the Kansas Department of Health and Environment determined that debris from the building included floor tile containing asbestos.

Barker previously pleaded guilty in 2008 to a felony Clean Water Act violation. He is scheduled to be sentenced on April 9, 2012. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

[Back to Top](#)

Sentencings

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

On February 17, 2012, Brian Waite was sentenced to serve a year and a day of incarceration after pleading 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 Daniel Clements previously entered a similar plea and was sentenced on February 13th to pay a \$3,000 fine, and to a two-year term of probation that includes six months' home confinement. Between December 2010 and February 2011,

the defendants failed to have workers wet regulated asbestos-containing materials (RACM) that were removed from a former Ford Motor Company plant in Utica, Michigan, during renovation.

According to an asbestos survey of the plant, the building contained more than 60,000 linear feet of RACM. During the removal, the defendants directed workers to tear out the RACM while it was dry and to place it into plastic bags without wetting it. To speed up the process they instructed workers to meet a daily goal of removing 1,000 feet of material. The workers sometimes kicked or threw the material to the ground, causing larger pieces to break apart.

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

[Back to Top](#)

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

On February 16, 2012, Blake Mitchell was sentenced to pay a \$1,000 fine, and will complete a three-year term of probation to include two months' home detention. He also will pay \$529.40 in restitution to the Louisiana Department of Wildlife and Fisheries.

Mitchell previously pleaded guilty to a one-count information charging a felony Lacey Act violation (16 U.S.C. §§ 3372(a)(1)(A) and 3373(d)(1)(B)). 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.

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

[Back to Top](#)

United States v. Kenneth Horan et al., No. 6:11-CR-06171(W.D.N.Y.), AUSA John J. Field.

On February 15, 2012, Kenneth Horan was sentenced to serve a year and a day of incarceration followed by two years' supervised release. He also will pay a \$10,000 fine. Horan previously pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) for illegally removing and disposing of regulated asbestos-containing material (RACM).

In October 2009, Horan supervised a crew that removed more than 375 linear feet of boiler pipe wrapped in RACM, which was not properly wetted. Additionally, the individuals on the crew were not licensed asbestos abatement contractors.

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

[Back to Top](#)

United States v. Horizon Lines LLC, No. 3:12-CR-00055 (N.D. Calif.), AUSA Owen Martikan.

On February 14, 2012, Horizon Lines LLC pleaded guilty to, and was sentenced for, false statement violations (18 U.S.C. § 1001) stemming from false entries made in the *SS Horizon Enterprise* oil record book.

The Coast Guard boarded the vessel in October 2010 when it docked at the port of Oakland. Ship's engineers had tricked the pollution control equipment and false entries had been made in the oil record book that was presented to inspectors omitting mention of these bypasses. The company will pay a \$1 million fine and will make a \$500,000 community service payment to the National Fish and Wildlife Foundation. Horizon was further ordered to conduct a fleet-wide audit and implement an environmental compliance plan during a three-year term of probation.

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

[Back to Top](#)

United States v. Freedman Farms, Inc., et al., No. 7:10-CR-00015 (E.D.N.C.), ECS Trial Attorney Mary Dee Carraway, AUSA J. Gaston Williams, and ECS Paralegal Rachel Van Wert.



Freedman Farms lagoon

On February 13, 2012, Freedman Farms, Inc. was sentenced to pay a \$500,000 fine and \$925,000 in restitution (with recipients to be determined in 30 days). The company also will make a \$75,000 community service payment to the Southern Environmental Enforcement Network and implement an environmental compliance plan to include an annual training program. William “Barry” Freedman was sentenced to serve six months’ incarceration followed by six months’ home confinement. After a week of trial, the company pleaded guilty in July 2011 to a felony Clean Water Act violation and Freedman pleaded guilty to a misdemeanor CWA charge (33 U.S.C. §§ 1311(a); 1319 (c)(1)(A) and (c)(2)).

Freedman and the family-owned company are in the business of raising hogs for market. This farm housed approximately 4,800 hogs. The waste from the hogs was directed to two nearby lagoons for treatment and disposal. In December 2007, witnesses observed hog waste in the stream known as Browder’s Branch that leads from the farm. State officials were notified and pumps and tanker trucks were brought in to remove approximately 169,000 gallons of hog waste from the stream. Investigators determined that more than 332,000 gallons of waste had been discharged into Browder’s Branch over a five-day period. Officials did not find evidence of pumping system failure, vandalism, or accidental discharge. Documents provided by Freedman falsely stated that he had properly disposed of the waste during some of this period using the approved methods of applying treated hog waste to crops located on other parts of Freedman Farms’ land.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, and the North Carolina State Bureau of Investigation, with assistance from the Environmental Protection Agency Science and Ecosystem Support Division.

[Back to Top](#)

United States v. Danny Gayheart, No. 5:11-CR-00055 (E.D Ky.), AUSA Roger West.

On February 13, 2012, Danny Gayheart was sentenced to serve a three-year term of probation to include 100 hours of community service and \$1,655.50 in restitution. He previously pleaded guilty to two felony violations of the Migratory Bird Treaty Act (16 U.S.C. §§ 703, 707 (b)(2)) stemming from his capture of three red tail hawks in March 2011, causing harm to one bird and breaking the leg on a second bird that had to be euthanized. The restitution will be paid to the Raptor Rehabilitation of Kentucky to cover the expense of rehabilitating the two surviving birds and releasing them back into the wild.

This case was investigated by the United States Fish and Wildlife Service and the Kentucky Department of Fish and Wildlife Resources.

[Back to Top](#)

United States v. Stephen Voisine, No. 1:11-CR-00017 (D. Maine), AUSA Todd Lowell.

On February 13, 2012, Stephen Voisine was sentenced to serve a year and a day of incarceration, followed by two years' supervised release, for the killing of a bald eagle and possession of a firearm (16 U.S.C. § 668 (a); 18 U.S.C. § 922(g)(9)) after a 2004 conviction on a misdemeanor domestic violence charge. Investigation confirmed that the defendant shot the eagle in October 2009 with a high power rifle.

This case was investigated by the United States Fish and Wildlife Service; the Maine Warden Service; and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

[Back to Top](#)

United States v. Peter X. Lam et al., No. 2:07-CR-00449 (C.D. Calif.), ECS Assistant Chief Elinor Colbourn, ECS Trial Attorney Mary Dee Caraway, and AUSA Joe Johns.

On February 13, 2012, Peter X. Lam was resentenced to serve 41 months' incarceration (versus 63 months from the prior sentencing) and must forfeit \$12 million, which was the same amount previously ordered. The Ninth Circuit previously affirmed Lam's convictions stemming from the sale of illegally imported fish (Vietnamese catfish falsely labeled as sole, among other things), but remanded him for sentencing.

Lam and co-defendant Arthur Yavelberg were convicted by a jury in October 2008 for their roles in a scheme to import misbranded Vietnamese catfish (*Pangasius hypophthalmus*). Lam was found guilty of conspiring to import mislabeled fish in order to avoid paying federal import tariffs. He also was convicted on three counts of dealing in fish that he knew had been illegally imported (18 U.S.C. §§ 371, 545(2)(b)). Yavelberg was convicted of a misdemeanor conspiracy for trading in misbranded food.

Two Virginia-based companies, Virginia Star Seafood Corp., of which Lam was president, and International Sea Products Corporation, illegally imported more than ten million pounds, or \$15.5 million worth, of frozen fish fillets from Vietnamese-owned companies Binh Dinh, Antesco, and Anhaco between May 2004 and March 2005. These companies were affiliated with Cafatex, one of the largest producers in Vietnam of Vietnamese catfish. Although the fish imported by Virginia Star and International Sea Products was labeled and imported as sole, grouper, flounder, snakehead, channa and conger pike (a type of eel), DNA tests revealed that the frozen fish fillets were in fact *Pangasius hypophthalmus*, aka catfish.

This case was investigated by the Department of Homeland Security Immigration and Customs Enforcement, the National Oceanic and Atmospheric Administration National Marine Fisheries Service, and the United States Food and Drug Administration.

[Back to Top](#)

United States v. Chau-Shing Lin et al., No. 2:11-CR-00297 (C.D. Calif.), ECS Assistant Chief Elinor Colbourn, AUSA Joe Johns, and ECS Paralegal Kathryn Loomis.

On February 13, 2012, Chau-Shing (aka Duke) Lin was sentenced to pay a \$60,000 fine, to complete a three-year term of probation, and to perform 100 hours of community service. Christopher Ragone will pay a \$5,000 fine, complete a three year term of probation, and perform 100 hours of community service. The defendants previously pleaded guilty to Lacey Act trafficking (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)) and misbranding violations (21 U.S.C. §§ 331(c)(a), 333(a)(1)) for the marketing, sale, and mislabeling of catfish between June 2004 and February 2006. Seafood Solutions,

Inc. was recently sentenced to pay a \$700,000 fine and will make a community service payment of \$300,000 to the National Fish and Wildlife Foundation. In addition, the company will complete a three-year term of probation, forfeit all remaining inventory of the falsely labeled fish, and implement a corporate compliance plan.

Duke Lin is the president and founder of Ocean Duke Corporation, a seafood importer located in Torrance, California. Ragone purchased, marketed, and sold frozen seafood products, including frozen catfish fillets. Seafood Solutions, Inc., is affiliated with Ocean Duke Corporation.

In June 2004, Lin's company began to sell a fish it declared to customs as "ponga." The fish being imported at this time as ponga was *Pangasius hypophthalmus*, a species in the catfish family. The fish was then sold under brand names and in boxes labeled in part as "Paradise Grouper" and "Falcon Baie Grouper" with the sole listed ingredient of "ponga."

Between July 2005 and February 2006, a wholesale distributor that had purchased the fish returned approximately \$411,000 worth of the product labeled as "Paradise Grouper" and "ponga" or "Falcon Baie Grouper" and "ponga" after it had determined that the product was not grouper. Seafood Solutions agreed to be invoiced for and received the returned product, knowing that it had been inaccurately labeled. Defendants Lin, Ragone and Seafood Solutions, resold and transported the fish in interstate commerce even after its return from the customer, knowing that it was misleadingly labeled. From February 2006 to April 2006, Ragone sold approximately \$2 million worth of *Pangasius* fillets knowing that the product was misleadingly labeled.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the Department of Homeland Security Immigration and Customs Enforcement.

[Back to Top](#)

United States v. Edward Hannan et al., Nos. 2:09-CR-00217, 2:11-CR-00148 (E.D. La.), AUSA Dorothy Taylor.

On February 9, 2012, Edward Hannan was sentenced to pay a \$15,000 fine and will complete a three-year term of probation with a special condition of six months' home detention. Hannan also will perform 100 hours of community service.

The defendant was the manager of St. Bernard Well Service, a company in the business of handling process waste water from other facilities. One of these facilities was Linder Oil Company (Linder), an offshore oil and gas platform operator. In July 2007, a Louisiana Department of Environmental Quality inspector observed two discharges from the Linder facility.

Further investigation disclosed that the facility accumulated approximately 600 barrels per month of process wastewater, which was illegally discharged in the Breton Sound once a month for approximately six months through an unpermitted discharge pipe. Hannan pleaded guilty to a felony Clean Water Act violation (33 U.S.C. § 1319 (c)(2)(A)) stemming from those discharges Linder was sentenced in 2009 to pay a \$50,000 fine and \$20,000 in community service after pleading guilty to a violation of the Rivers and Harbors Act (33 U.S.C. § 407).

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

[Back to Top](#)



Illegal discharge of water into Breton Sound

United States v. Oakmont Environmental, Inc. et al., Nos. 2:11-CR-00212 and 00213 (E.D. La.), AUSA Dorothy Taylor.



Oakmont Environmental facility

February 8, 2012, Oakmont Environmental, Inc. was sentenced to pay a \$5,000 fine and will complete a three-year term of probation. Company owner Clifton Karr was sentenced to serve three months' home confinement as a condition of a three-year term of probation. He also will pay a \$3,000 fine.

Oakmont was in the business of receiving waste oil from a variety of sources and was responsible for separating the water from the oil, shipping the oil to a recycling plant, and discharging the treated waste water to the local POTW. From September 2007 through May 2009, the company discharged approximately 3.6 million gallons of oily waste water directly into the Harvey Canal, a navigable water.

The company previously pleaded guilty to a felony Clean Water Act violation (33 U.S.C. § 1319 U.S.C. (c)(2)(A)) and Karr pleaded guilty to a misdemeanor CWA violation 33:1319(c)(1)(A).

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

[Back to Top](#)

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[Back to Top](#)

United States v. Arne Fuglvog, No. 3:11-CR-00067 (D. Alaska), AUSA Aunnie Steward.

On February 7, 2012, Arne Fuglvog was sentenced to serve five months' incarceration followed by one year of supervised release. He also was ordered to pay a \$50,000 fine. Fuglvog previously pleaded guilty to a Lacey Act misdemeanor charge (16 U.S.C. § 3373(d)(3)(B)) for a fisheries violation. At the time of the violation, Fuglvog was a fisheries advisor to Alaska Senator Lisa Murkowski and was a member of the North Pacific Fishery Management Council.

From 2001 to 2006, as the owner and operator of the *F/V Kamilar*, Fuglvog had permits to fish in the Gulf of Alaska for sablefish and halibut. On several occasions during this period, Fuglvog fished in one regulatory area and then falsely reported that the fish were caught in a different area. Specifically, in 2005, the defendant possessed a permit for sable fish in the area designated as "Western Yakatat." His permit allowed him to catch approximately 30,000 pounds of sablefish in the Western Yakatat area in 2005; however, he actually caught more than twice that amount of sablefish (approximately 63,000 pounds) in the Western Yakatat in 2005. Fuglvog concealed this illegal catch

by submitting documents stating that he had landed the additional fish in a different area. The value of the illegally caught fish was approximately \$100,000.

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

[Back to Top](#)

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

On February 6, 2012, Donald Clark was sentenced to serve six months' incarceration, followed by six months' home confinement, and a two-year term of supervised release. He also will perform 150 hours of community service. A fine was not assessed. Clark, a municipal sewage treatment plant operator, previously pleaded guilty to 12 of the 72 false statement violations charged (18 U.S.C. § 1001) 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.

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

[Back to Top](#)

United States v. Clifford R. Tracy, No. 1:11-CR-30027 (D. Ore.), AUSA Doug Fong.

On February 6, 2012, gold miner Clifford Tracy was sentenced to serve 12 months' incarceration and will pay \$4,360 in restitution to the Bureau of Land Management. Tracy was convicted by a jury of conducting an unlawful mining operation (43 C.F.R. § 3809), but was acquitted of a misdemeanor Clean Water



Illegal mining operation

Act violation (33 U.S.C. § 1311(a)). The charges stemmed from a mining operation involving the Stray Dog placer claim, which is a surface mining operation involving the extraction of gold from surface soil and gravel. The claim was located in the Bureau of Land Management's Medford District on Galice Creek, which flows into the Rogue River. This particular creek provides critical habitat for endangered Coho salmon.

In June 2011, the defendant was told by BLM officers that he needed to shut down his operation after a sediment plume was discovered in the creek. Tracy, who represented himself at trial, ignored authorities and essentially argued that he could do what he wanted even if he was breaking the law because this was public land.

This case was investigated by the United States Bureau of Land Management and the United States Environmental 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 January 30, 2012, Lawrence C. Parawan, Jr., was sentenced to complete a two-year term of probation, pay a \$500 fine, and perform 80 hours of community service. Parawan previously 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.

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](#)



[Back to Top](#)

United States v. Clifton Lynn Everts, No. 6:12-CR-00004 (S.D. Tex.), AUSA Hugo Martinez.



Agent with alligator

On January 23, 2012, Clifton Lynn Everts was sentenced to pay a total of \$14,000 after pleading guilty to a Lacey Act violation (16 U.S.C. §§ 3372, 3373) for transporting an illegally killed American alligator. Everts was ordered to pay a \$10,000 fine to go into the Lacey Act Reward Fund, and make an additional \$4,000 payment toward the Texas Parks and Wildlife Operation Game Thief Program. He also will complete a one-year term of probation.

The defendant owns and operates Twisted Forks, an alligator hunting guide service. He came under investigation after an issue of *Texas Fish and Game* magazine featured an article that described Everts' hunting alligators at night, which is illegal.

Further investigation confirmed that the defendant illegally killed an alligator in May 2010 by forging the tag that was attached to the animal, and then transporting the animal to a taxidermist.

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

[Back to Top](#)

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

On January 17, 2012, Stolthaven New Orleans, LLC, was sentenced to pay a \$200,000 fine, complete a two-year term of probation, and make a \$150,000 community service payment to be divided between several agencies. The company previously 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, 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. Stanley Littleboy et al., Nos. 5:11-CR-50024 and 50025 (D.S.D.), AUSA Eric Kelderman.

On January 5, 2012, Stanley Littleboy was sentenced to serve five months' incarceration followed by one year of supervised release. A fine was not assessed. Littleboy previously pleaded guilty to two violations of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668 (a)) for unlawfully selling parts of a Bald Eagle and a Golden Eagle in June 2009 and May 2010. Ernie Stewart entered a similar plea on January 10th and is scheduled to be sentenced on March 30, 2012. Stewart admitted to illegally selling eagle feathers, a set of wings, and a tail in June 2010.

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