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# ENVIRONMENTAL CRIMES SECTION



## MONTHLY BULLETIN

*September 2013*

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### EDITOR'S NOTES:

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**PRACTICE TIP REMINDER FROM THE UNITED STATES ATTORNEYS'  
MANUAL**

5-11.108 Notification of Case Resolutions

When the Environmental Crimes Section is not participating in a case, the United States Attorneys' Offices shall provide the Environmental Crimes Section with notice of felony case resolutions by providing it with copies of disposition documents (including any plea agreements) as soon as possible, but in no event later than seven days after entry of judgment, except as provided in United States Attorney's Manual 5-11.109 and 5-11.117.

This helps us to keep all of you knowledgeable of the most current and accurate information about environmental crimes cases around the country.

If you have significant updates and/or interesting photographs from a case, please email them to [REDACTED]. If you have information concerning state or local cases, please send it directly to the Regional Environmental Enforcement Associations' website: [regionalassociations webpage](#).

REMINDER: We are now producing a *separate* public version of the Environmental Crimes Section Monthly Bulletin. When submitting details about your case developments please bear in mind that the information you provide could be disclosed to the public. As such, it would be very helpful if you would include a press release whenever possible to help ensure that the facts we are using are publically available. If a press release was not issued, then please only provide facts that are appropriate to disclose to the public.

NOTICE: The United States Fish and Wildlife Service and the Environmental Crimes Section have collaborated with West Services on the publication of an updated book of federal fish and wildlife statutes. To obtain a free copy please contact [REDACTED].

The Environmental Crimes Section Intranet Site is available to those who have access to United States Department of Justice operated sites: [Environmental Crimes Section webpage](#). \*An updated "NESHAP Asbestos Prosecutions August 2013" will be posted this week on the Guidance page.\*



**Drawing of a summer flounder (fluke), the subject of a case involving the overharvesting and underreporting of this species. See [\*United States versus Charles Wertz, et al.\*](#), below, for more details.**

## AT A GLANCE:

- [United States versus Taohim](#), \_\_\_ Fed. Appx. \_\_\_ 2013 WL3884232 (11<sup>th</sup> Cir. July 30, 2013).

DISTRICT	CASES	CASE TYPE/STATUTES
Northern District of California	<a href="#">United States versus Dean Trinh</a>	<i>Marine Wildlife Trade/Lacey Act, Conspiracy, Wire Fraud</i>
Southern District of California	<a href="#">United States versus John D. Bittner</a>	<i>Wildlife Researcher/BGEPA</i>
District of Colorado	<a href="#">United States versus East Point LLC et al.</a> <a href="#">United States versus Executive Recycling, Inc., et al.</a>	<i>Septic Tank Discharge/CWA</i> <i>Electronic Waste Export/Mail and Wire Fraud, Smuggling, Obstruction, RCRA</i>
Southern District of Florida	<a href="#">United States versus Data Freight Corporation</a> <a href="#">United States versus Dean Trinh</a>	<i>Caviar Import/Lacey Act</i> <i>Marine Wildlife Trade/Lacey Act, Conspiracy, Wire Fraud</i>
District of Idaho	<a href="#">United States versus Douglas Greiner et al.</a>	<i>Asbestos Abatement/CAA</i>
Southern District of Indiana	<a href="#">United States versus Eric Barnes</a>	<i>Pipeline Testing/False Statement</i>
Eastern District of Louisiana	<a href="#">United States versus Inigo Albina et al.</a>	<i>Vessel/ APPS, Obstruction</i>
Southern District of Mississippi	<a href="#">United States versus Tennie White</a>	<i>Lab Fraud/Obstruction, False Statement</i>
District of New Jersey	<a href="#">United States versus Robert Losasso</a>	<i>Hawk Killings/MBTA</i>

DISTRICT	CASES	CASE TYPE/STATUTES
Eastern District of New York	<a href="#">United States versus Charles Wertz et al.</a>	<i>Fish Underreporting/Wire Fraud, Records Falsification</i>
Northern District of New York	<a href="#">United States versus Jonathan Deck et al.</a> <a href="#">United States versus Olivia Terrance</a>	<i>Asbestos Dumping in Wetlands/CERCLA, CWA, Wire Fraud, Conspiracy, False Statement, Obstruction</i> <i>Reptile Smuggling/Conspiracy, ESA, Lacey Act</i>
Southern District of New York	<a href="#">United States versus Qiang Wang</a>	<i>Ivory Smuggling/ Conspiracy, Smuggling</i>
Western District of North Carolina	<a href="#">United States versus Jassim Juburi</a>	<i>Vehicle Emissions Tests/CAA, Conspiracy</i>
Northern District of Ohio	<a href="#">United States versus John Mayer et al.</a>	<i>Asbestos Abatement/CAA</i>
Southern District of Ohio	<a href="#">United States versus Lamont P. Pryor</a>	<i>Demolition/CAA</i>
District of Oregon	<a href="#">United States versus Martin Glaves Kuna</a>	<i>Lead Inspector/Wire Fraud</i>
Eastern District of Texas	<a href="#">United States versus Steve Barclay et al.</a> <a href="#">United States versus William L. Musgrove</a>	<i>Alligator Killing/Lacey Act</i> <i>Metal Recovery Facility/CAA Negligent Endangerment</i>
Eastern District of Virginia	<a href="#">United States versus Diana Shipping Services S.A., et al.</a>	<i>Vessel/APPS, Conspiracy, Obstruction, Falsification of Records</i>

Additional Quick Links:

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- ◇ [Trials](#) pp. 6 - 7
- ◇ [Informations/Indictments](#) p. 7
- ◇ [Plea Agreements](#) pp. 7 - 12
- ◇ [Sentencings](#) pp. 12 – 18

## Significant Environmental Decisions

### Eleventh Circuit

**United States versus Taohim, \_\_\_ Fed. Appx. \_\_\_ 2013 WL3884232 (11<sup>th</sup> Cir. July 30, 2013).**

On July 30, 2013, the Eleventh Circuit Court of Appeals affirmed the conviction and sentence of Prastana Taohim in an unpublished per curiam opinion. Taohim, the captain of a commercial vessel, had ordered the first mate to throw hundreds of large plastic pipes overboard into the ocean and not to record the illegal discharge in the ship's garbage record log book. He presented this log book during a Coast Guard inspection in Alabama when the vessel entered the United States. Taohim was convicted of obstruction of agency proceedings, in violation of 18 U.S.C. § 1505, and falsification of records, in violation of 18 U.S.C. §1519.

On appeal, the defendant argued that there was insufficient evidence to prove his intent to commit the crimes because the Coast Guard inspection was not pending when he ordered the pipes to be thrown overboard. He further argued that, even if there was sufficient evidence, he was entitled to a new trial because of (1) improper comments made by the prosecution during his closing and (2) newly discovered evidence that witnesses against him were paid awards for the successful prosecution of the vessel that Taohim worked on (for separate oil pollution charges unrelated to the garbage record book). The court rejected all of Taohim's arguments on appeal.

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## **Trials**

**United States versus Diana Shipping Services S.A., et al., No. 2:13-CR-00040 (E.D. Va.), ECS Trial Attorneys Ken Nelson and Stephen DaPonte, AUSA Joseph Kosky, and ECS Paralegal Jessica Pannett.**

On August 8, 2013, after a two-week bench trial, ship operator Diana Shipping Services, chief engineer Ioannis Prokakis, and second assistant engineer Antonios Boumpoutelos were convicted on all counts. The defendants were found guilty of APPS, obstruction of justice, and falsification of records violations (18 U.S.C. §§ 371, 1505, 1519; 33 U.S.C. § 1908(a)) stemming from the illegal discharge of bilge wastes from the *M/V Thetis*.

Between October 2011 and September 2012, the defendants routinely caused the falsification of the ship's oil record book for the purpose of concealing overboard discharges of sludge and bilge wastes. They also caused and directed others to conceal bypass piping that had been used to make these illegal discharges.

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

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## **Informations/Indictments**

**United States versus Robert Losasso, No. 2:13-mj-08280 (D.N. J.), AUSA Kathleen O'Leary.**

On August 22, 2013, a complaint was filed against Robert Losasso for allegedly shooting four species of hawks in the residential neighborhood where he lived. Losasso is charged with six counts of violating the Migratory Bird Treaty Act (16 U.S.C. § 703) for allegedly shooting hawks (including Coopers Hawks and Red-Tailed Hawks) between December 2012 and April 2013.

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

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## **Plea Agreements**

**United States versus Data Freight Corporation, No. 1:13-CR-20485 (S.D. Fla.), AUSA Norman O. Hemming, III.**

On August 23, 2013, Data Freight Corporation (DATA) pleaded guilty to a single Lacey Act violation (16 U.S.C. §§ 3372, 3373) stemming from the illegal importation of Siberian sturgeon.

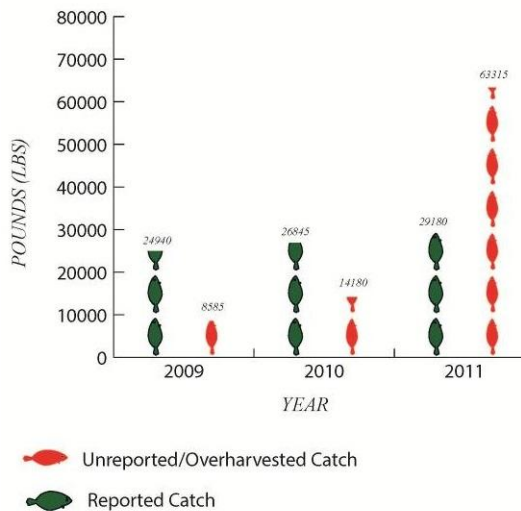
DATA permitted the importation and transportation into the United States of Siberian sturgeon without completing the required documentation, and without declaring the importation of fish or wildlife. This case involved over 468 grams of a caviar product that was to be used in high-end facial cream sold aboard international flights.

Sentencing is scheduled for September 19, 2013. This case was investigated by the U.S. Fish and Wildlife Service.

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**United States versus Charles Wertz et al., No. 2:13-CR-00282 (E.D.N.Y.), ECS Trial Attorney Christopher Hale and ECS Paralegal Casey Layman.**

FV NORSEMAN



On August 15, 2013, Charles Wertz, Jr., and C&C Ocean Fishery, Ltd., (C&C) pleaded guilty to violations stemming from the underreporting of thousands of pounds of summer flounder (fluke) over a three-year period. Specifically, Wertz pleaded guilty to a wire fraud count (18 U.S.C. § 1343) and two falsification of federal records violations (18 U.S.C. § 1519). C&C pleaded guilty to one wire fraud and three falsification of records counts.

Wertz was a Long Island fisherman who fished primarily for fluke from a federally-licensed fishing vessel, the *F/V Norseman*, which he operated with his father until his father passed away in early 2013. The defendant's father also operated C&C, a fish dealer and the holder of a federal fisheries dealer permit, until his death, while his son was a C&C employee.

NOAA regulations require that federally-licensed vessels, like the *Norseman*, file Fishing Vessel Trip Reports (FVTRs) with the federal government. The first entity/person to purchase fish from a federal fishing vessel, such as C&C, is called a fish dealer. Regulations require that fish dealers inform NOAA what and how much fish is purchased on their federal dealer reports. This information is used by NOAA in its ongoing effort to manage for sustainable fisheries. Incorrect or missing data skews statistical catch models and can have a detrimental effect on the livelihood of the fishing community by disrupting the figures utilized by NOAA to allocate fishing quotas.

Between May 2009 and December 2011, the defendants overharvested approximately 86,000 pounds of fluke with an estimated value of almost \$200,000. In an effort to conceal their activities, the defendants submitted falsified documentation to NOAA.

This case was investigated by the NOAA National Marine Fisheries Service, with assistance from the New York State Department of Environmental Conservation Division of Law Enforcement.

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**United States versus Steve Barclay et al., Nos. 9:12-CR-00043, 9:13-CR-00014 (E.D. Tex.), AUSA Jim Noble.**



**Deceased alligator**

On August 13, 2013, hunting and fishing guide Steve Barclay pleaded guilty to violating the Lacey Act (16 U.S.C. §§ 3372(A)(1); 3373(d)(1)(B)) for transporting an alligator that had been illegally killed.

On three separate dates in May 2008, Barclay witnessed his client, John A. McCall, shoot and kill three alligators knowing that Texas law limits hunters to one alligator per hunter per season. Barclay subsequently transported one of these alligators to a taxidermy shop.

McCall previously pleaded guilty to a Lacey Act violation and is scheduled to be sentenced on October 8, 2013.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement and the Texas Parks and Wildlife Department Criminal Investigations Division.

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**United States versus Qiang Wang a/k/a Jeffery Wang, No. 13-CR-00452 (S.D.N.Y.), ECS Senior Counsel Richard Udell, AUSA Janis Echenberg, and ECS Paralegal Lisa Brooks.**

On August 8, 2013, Qiang Wang, a/k/a Jeffrey Wang, pleaded guilty to a smuggling and Lacey Act conspiracy violation (18 U.S.C. § 371) for his involvement in an illegal ivory smuggling ring.

Wang operated an antiques business known as Bao Qing Lou Gallery in Flushing, New York. Between approximately January 2011 and February 2013, Wang conspired with at least two others to smuggle objects containing rhinoceros horn and elephant ivory out of the United States knowing that it was illegal to export such items without required permits. Due to their dwindling populations, all rhinoceros and elephant species are protected under international trade agreements. Wang made and used false U.S. Customs Declarations for the packages containing rhinoceros horn and ivory objects in order to conceal the true contents of the packages.

Sentencing is scheduled for October 25, 2013. This case was investigated by the U.S. Fish and Wildlife Service with assistance from the New York State Department of Environmental Conservation Division of Law Enforcement, and the U.S. Immigration and Customs Enforcement's Homeland Security Investigations.

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**United States versus Lamont P. Pryor, No. 3:13-CR-00042 (S.D. Ohio), AUSA Alex Sistla and SAUSA Brad Beeson.**

On August 8, 2013, Lamont P. Pryor pleaded guilty to three Clean Air Act violations (42 U.S.C. § 7413(c)(1)) in connection with his company's mishandling of asbestos during the demolition of a former medical center in 2008.

During the demolition, Pryor and his company, Avalon Commonwealth Inc., removed and sold scrap metal, but left the rest of the demolition debris, including friable asbestos, exposed to the elements. After a local air pollution agency inspected the site in December 2008, the demolition was put on hold. Sentencing is scheduled for November 21, 2013.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio Attorney General Bureau of Criminal Investigations Environmental Enforcement Unit, the Ohio EPA Office of Special Investigations, and the Regional Air Pollution Control Agency.

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**United States versus Dean Trinh, Nos. 3:13-CR-00501, 4:12-CR-10016 (N.D. Calif., S.D. Fla.), AUSAs Maureen Bessette and Tom Watts-FitzGerald.**

**Nurse Shark pup**



On August 7, 2013, Dean Trinh pleaded guilty to conspiracy, Lacey Act, and wire fraud violations (18 U.S.C. §§ 371; 1343; 16 U.S.C. §§ 3372, 3373) stemming from the illegal harvest and sale of California Leopard Sharks and juvenile nurse sharks.

Trinh operated a business in California known as Aquatop USA, LLC, which, among other things, advertised the sale of nurse sharks on eBay and Craig's List. Between August 2009 and October 2009, Trinh admitted to taking undersized California leopard sharks from the San Francisco Bay and selling them to customers in Canada and Florida, through his businesses AquatopUSA LLC, High Tech Auctions, and Hightechauction.com. Trinh also admitted that he conspired to transport, sell, receive, and purchase illegally collected nurse shark pups over the Internet.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the U.S. Fish and Wildlife Service Office of Law Enforcement.

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**United States versus William Lafon Musgrove, No. 4:13-CR-00164(E.D. Tex.), AUSA Jim Noble.****Doorway stained with chemicals**

On August 7, 2013, William Lafon Musgrove pleaded guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)).

In June 2011, Musgrove was the vice president and operations manager of Industrial Precious Metals Recovery Incorporated. The defendant admitted to allowing the release of nitrogen oxides into the ambient air through an open doorway, instead of utilizing the company's air scrubber, which was broken at the time. The facility was adjacent to other commercial properties with employees onsite.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Texas Commission on Environmental Quality Environmental Crimes Unit.

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**United States versus Eric Barnes, No. 1:13-CR-00160 (S.D. Ind.), ECS Senior Trial Attorneys Jennifer Whitfield and David Kehoe, and AUSA Steven DeBrot.**

On July 30, 2013, a five-count information and a plea agreement were filed against Eric Barnes charging him with false statement violations (18 U.S.C. § 1001) for falsifying documents in connection with safety testing of a natural gas pipeline compressor station.

Barnes was employed with a company called the U.S. Inspection Service, a company that conducted, among other things, non-destructive testing (NDT) of pipeline welds. NDT is any test method that examines an object, material, or system without impairing its future use. Barnes was employed as a Level II Radiograph Technician and was responsible for conducting non-destructive tests of pipeline welds (x-rays) and for interpreting and reporting the results of the tests.

From approximately June through October of 2008, the defendant was assigned to conduct these tests on a natural gas pipeline compressor station in Bainbridge, Indiana. The results of the testing (which included evaluation of pipe welds based on x-rays) are recorded on a reader sheet. The reader sheet must be maintained by the owner of the pipeline as proof of “non-destructive” testing of the pipeline as required by U.S. DOT Pipeline Hazardous Materials Safety Act regulations. Barnes admitted that he created five different reader sheets that falsely confirmed the testing of certain pipe welds.

This case was investigated by the U.S. Department of Interior Office of Inspector General.

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**United States versus John Mayer et al., No. 3:13-CR-00242 (N.D. Ohio), AUSA Thomas A. Karol and SAUSA James J. Cha.**

On July 26, 2013, John Mayer and Timothy Bayes pleaded guilty to violating the Clean Air Act (42 U.S.C. § 7413(c)(1)) for the illegal removal of asbestos-containing material.

Between September 2010 and December 2010, Mayer directed individuals to remove insulation-containing asbestos from boilers, duct work, and pipes in a former manufacturing facility to sell the scrap metal. The insulation was not wetted during the removal process nor were regulators properly notified of the project.

Under Mayer's direction, Bayes dumped approximately 80 garbage bags filled with the asbestos-containing insulation at various locations throughout Toledo. Mayer pleaded guilty to four CAA counts and Bayes pleaded guilty to one CAA violation. Sentencing is scheduled for November 25, 2013.

This case was investigated by the Northwest Ohio Environmental Crimes Task Force, which includes the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, and the Ohio Environmental Protection Agency.

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## Sentencings

**United States versus Jonathan Deck et al., No. 5:11-CR-00264 (N.D.N.Y.), ECS Trial Attorneys Todd Gleason and Gary Donner, AUSA Craig Benedict, Paralegal Puja Moozhikkattu, and OLS Lab Tech Elga Ozols.****Frankfort farm**

On August 29, 2013, Jonathan Deck was sentenced to serve 15 months' incarceration, followed by three years' supervised release. Deck is the seventh and final defendant in this case involving the dumping of a significant amount of asbestos-contaminated debris into a wetlands at an upstate New York farm. Julius DeSimone was sentenced to serve a five-year term of probation with a special condition of six months' home confinement. Donald Torriero was sentenced to serve 36 months' incarceration followed by three years' supervised release. Torriero, DeSimone, and Deck were held jointly and severally responsible for \$492,494 in restitution for cleanup costs.

From 2006 through 2011, the defendants illegally dumped thousands of tons of asbestos-contaminated pulverized construction and demolition debris that had been processed at Eagle



Recycling's and Mazza & Sons Inc.'s, New Jersey-based solid waste management facilities. This debris was then transported to and dumped at Cross Nicastro's farm in Frankfort, much of which contained federally-regulated wetlands.

Nicastro, Dominick Mazza, and his company were convicted by a jury in October 2012 of conspiracy to defraud the United States, as well as to violate the Clean Water Act and CERCLA (18 U.S.C. § 371). In addition, they were convicted of obstruction of justice and of violating the CERCLA requirement to report the release of toxic materials (18 U.S.C. § 1519; 42 U.S.C. § 9603(b)). Dominick Mazza also was convicted of making false statements to EPA agents (18 U.S.C. § 1001). Nicastro, Dominick Mazza, and Mazza & Sons, Inc., were sentenced to serve lengthy terms of incarceration and were ordered to pay fines and restitution. DeSimone previously pleaded guilty to a multi-pronged conspiracy (18 U.S.C. § 371), and Torriero pleaded guilty to conspiracy to commit mail fraud and to two substantive wire fraud violations (18 U.S.C. §§ 371; 1343). Deck pleaded guilty to conspiracy to commit wire fraud (18 U.S.C. § 371).

This case was investigated by the New York State Department of Environmental Conservation Division of Law Enforcement, Bureau of Environmental Crimes; the U.S. EPA 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.

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**United States versus Tennie White, No. 3:12-CR-00126 (S.D. Miss.), ECS Trial Attorney Richard Powers, AUSA Gaines Cleveland, and ECS Paralegal Lisa Brooks.**

On August 26, 2013, Tennie White was sentenced to serve 40 months' incarceration, followed by three years' supervised release. She also will pay a \$1,000 fine. White, the owner, operator, and manager of Mississippi Environmental Analytical Laboratories, Inc., was previously convicted of two false statement violations and one obstruction of justice count (18 U.S.C. §§ 1001, 1505).

From February to August 2009, White created three false discharge monitoring reports (DMRs) and one fictitious laboratory report, causing the falsification of another DMR. She also lied to an agent during the investigation.

This case was investigated by the U.S. EPA Criminal Investigation Division.

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**United States versus Olivia Terrance et al., No. 8:12-CR-00376 (N.D. N.Y.), AUSA Craig Benedict.**

On August 23, 2013, Olivia Terrance was sentenced to serve 18 months' incarceration, followed by three years of supervised release. A fine was not assessed. Terrance previously pleaded guilty to participating in a conspiracy to violate the Lacey Act and the Endangered Species Act (18 U.S.C. § 371), and to illegally export wildlife from the United States.

Terrance admitted that, in 2009 and 2010, she smuggled turtles and reptiles worth hundreds of thousands of dollars from the United States to Canada where they were sold to retailers and collectors. She was apprehended when law enforcement officials followed her by car and helicopter after she received a shipment of wildlife and transported it by boat into Canada. Co-defendant Dennis Day awaits extradition from Canada.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from the Department of Homeland Security, the Canadian Wildlife Service, the Royal Canadian Mounted Police, the Canada Border Services Agency, and the Mohawk Nation Tribal Police.

[Back to Top](#)**United States versus John D. Bittner, No. 13-CR-01391 (S.D. Calif.), AUSA Melanie Pierson.**

On August 13, 2013, wildlife researcher John D. Bittner was sentenced to pay a \$7,500 fine and will complete a three-year term of probation. Bittner previously pleaded guilty to a violation of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)) for the unlawful take of a Golden Eagle.

In his studies of birds and wildlife, Bittner captured and banded eagles and other migratory birds to track their movements. His federal bird banding permit expired in January 2010. A few weeks later, he notified authorities asking that it be renewed as soon as possible. He was told that the permit would not be renewed until he submitted delinquent data for birds banded from the previous four years. The Fish and Wildlife Service relies heavily on data collected by permit holders to obtain the most complete and accurate picture of eagle populations within the United States.

Despite not having a permit, Bittner captured and banded 144 migratory birds between January and August 2010, including at least one Golden Eagle. As part of his sentence, he was ordered to account to the Bird Banding Lab for 623 missing bird bands and also to provide the government with raw data that he had gathered from eagles between 2007 and 2012. Bittner had been unwilling to provide this data, claiming it was his intellectual property. The court ordered that the data could only be shared among government agencies to preclude the public from locating the eagles' nests.

This case was investigated by the U.S. Fish and Wildlife Service.

[Back to Top](#)**United States versus Douglas Greiner et al., No. 3:13-CR-00021 (D. Idaho), ECS Senior Trial Attorney Ron Sutcliffe and AUSA D. Marc Haws.**

On August 12, 2013, Douglas Greiner and Bradley Eberhart were sentenced after previously pleading guilty to a Clean Air Act NESHAPs violation (42 U.S.C. § 7413(c)(1)). The two will each serve six months of incarceration and six months' home confinement, followed by six months' supervised release. The court ordered that Eberhart will be held jointly and severally responsible for \$3.98 million in restitution. The amount of restitution Greiner will be responsible for will be determined at a later date. Eberhart also is required to perform 200 hours of community service.

The defendants were employees of Owyhee Construction Inc., and were assigned as the onsite supervisor and superintendent of a project known as the Riverside Water and Sewer District. The project involved the renovation/replacement of the City of Orofino's water lines during the spring and fall of 2009 and the spring of 2010. Existing waterlines were known to consist of asbestos-containing concrete pipe that was approximately 5,000 feet in length. When Eberhart and other employees removed the regulated asbestos-containing material (RACM), they failed to: adequately wet all RACM exposed during cutting or disjoining operations; place the RACM in sealed, leak-tight containers with appropriate warning labels; and dispose of the asbestos at a licensed facility. Greiner was responsible for the disposal of RACM removed from trenches on private property in Orofino.

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

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**United States versus Jassim Juburi, No. 3:12-CR-00084 (W.D.N.C.), AUSA Steven Kaufman.****Emissions testing device**

On August 9, 2013, Jassim Juburi was sentenced to serve 18 months' incarceration followed by three years' supervised release, for conducting more than 500 false vehicle emission inspections. Juburi also will pay a \$15,000 fine, which, if paid in full, may reduce the term of supervised release to two years.

The defendant worked at Central Auto Inspection & Repair (Central Auto) as a mechanic and a vehicle emissions inspector licensed by the state of North Carolina. As a state-licensed emissions inspector, he conducted onboard diagnostic inspections to test vehicle emissions. From August 2010 to March 2012, Juburi conducted 534 illegal vehicle emissions inspections, using surrogate vehicles to falsely pass those that would have otherwise failed the test. This practice is known in the industry as "clean scanning." Juburi charged as much as \$100 to clean scan a vehicle. He previously pleaded guilty to a Clean Air Act conspiracy violation (18 U.S.C. § 371).

This case was investigated by the U.S. EPA Criminal Investigation Division, the N.C. State Bureau of Investigation Diversion and Environmental Crimes Unit, and the N.C. Department of Motor Vehicles License and Theft Bureau, with assistance from the N.C. Division of Air Quality Mobile Sources Compliance Branch.

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**United States versus East Point LLC et al., No. 1:13-CR-00106 (D. Colo.), AUSA Suneeta Hazra and SAUSA Micheal Melito.**



**Hose pumping sewage into ditch**

On July 29, 2013, East Point LLC and company owner John A. Paquette were each sentenced to pay \$10,000 fines after previously pleading guilty to charges stemming from the dumping of 1,000 gallons of raw sewage into the Oligarch irrigation ditch in June 2012. The company pleaded guilty to a felony Clean Water Act violation (33 U.S.C. §§ 1311(a), 1319(c)(2)(A)) and Paquette pleaded guilty to a misdemeanor CWA violation (33 U.S.C. §§ 1311(a), 1319(c)(1)(A)).

East Point is a storage facility that had a portable septic tank. In June 2012, a city maintenance crew witnessed Paquette's truck pull up to the ditch and start pumping sewage. The Oligarch, which is one of the oldest irrigation ditches in Longmont, runs from McIntosh Lake to Union Reservoir. Both lakes are popular recreational sites and are currently well below normal levels, due to drought conditions.

This case was investigated by the Colorado Environmental Crimes Task Force, which includes the U.S. EPA Criminal Investigation Division and the Colorado Attorney General's Office Special Prosecutions Unit.

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**United States versus Executive Recycling, Inc., et al., No. 1:11-CR-00376 (D. Colo.), AUSA Suneeta Hazra and SAUSA Lillian Alves.**



**Hong Kong Container Port Terminal**

On July 17 and 23, 2013, Executive Recycling (ER), its president Brandon Richter, and its former vice president Tor Olson, were sentenced for convictions arising out of the unlawful export of electronics waste (e-waste) to China. Richter and the company were held jointly and severally responsible for \$70,134 in restitution. The company also will pay a \$4.5 million fine. Richter will serve 30 months' incarceration followed by three years' supervised release and pay a \$7,500 fine. Olson will serve 14 months' incarceration, followed by three years' supervised release and pay a \$5,000 fine. Olson will pay \$17,536 in restitution. A forfeiture order in the amount of \$142,241 also was filed. The restitution will be paid in varying amounts to five counties and to the Denver Newspaper Agency.

The defendants were convicted by a jury in December 2012, of mail and wire fraud, smuggling, obstruction of justice, and a RCRA violation (18 U.S.C. §§ 554, 1341, 1343, 1519; 42 U.S.C. § 6928(d)(4)). From February 2005 through January 2009, ER operated as a recycling company in Denver, Colorado, that specialized in environmentally-friendly recycling of e-waste. The company assured customers that it would properly and completely dispose of e-waste in the United States. The e-waste collected included Cathode Ray Tubes (CRTs), which are the glass video display component of electronic devices. CRTs are potentially hazardous waste because they contain lead.

The investigation of ER began after a *60 Minutes* story aired in November 2008 that followed a shipping container loaded with used computer monitors from the company's Colorado facility through a port in Tacoma, Washington, to its final destination in Hong Kong in April 2008. Hong Kong customs officers rejected the shipment because used CRTs are considered a hazardous waste under Chinese law. The container was returned to the United States, where it was searched by agents who recovered 296 CRTs, and twenty boxes of broken computer monitor parts. All monitors tested exhibited the hazardous waste characteristic of toxicity for the presence of lead above the regulatory threshold of 5 mg/L.

This case was investigated by the U.S. EPA Criminal Investigation Division and U.S. Immigration and Customs Enforcement.

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**United States versus Inigo Albina et al., Nos. 2:13-CR-00049 and 00073 (E.D. La.), AUSA Emily Greenfield.**

On July 24, 2013, chief engineer Inigo Albina was sentenced to pay a \$10,000 fine and will complete a three-year term of probation. Albina previously pleaded guilty to an obstruction violation (18 U.S.C. § 1505) stemming from his actions after the *M/T Stolt Facto* was boarded by the Coast Guard in January 2013.

From October 2012 through January 2013, the ship made illegal overboard discharges of oily water. At the time of the Coast Guard boarding, they found equipment used to by-pass the oil water separator. When questioned, all but one crewmember claimed to have no involvement with the discharges. After inspectors left the ship, Albina met with the crew and told them to deny knowledge of the by-pass if they were questioned again. Second engineer Anselmo Capillanes previously pleaded guilty to an APPS violation (33 U.S.C. § 1908) for directing crew members to bypass the oil water separator and to dump untreated bilge wastes overboard. He was sentenced to pay a \$15,000 fine and will complete a two-year term of probation.

This case was investigated by the U.S. Coast Guard.

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**United States versus Martin Glaves Kuna, No. 3:13-CR-00050 (D. Ore.), AUSA Michelle Kerin.**

On July 22, 2013, Martin Glaves Kuna was sentenced to serve 14 months' incarceration followed by three years' supervised release. Kuna also was ordered to pay restitution in the amount of \$2,372, to be divided among 14 victims.

From May 2008 to September 2012, Kuna advertised his services to customers via the Internet that he was certified to perform lead-based paint inspections and testing in homes when in fact, he was not properly certified to do so. Over the course of the scheme, he provided potential customers with documentation showing them that he was properly credentialed. Kuna then transmitted bids, billing invoices, and inspection reports for which he received payment. Despite being told by federal investigators in January 2012 to cease this activity, the defendant continued working as an inspector through September 2012, conducting more than ten such home inspections, including homes where children resided. Kuna pleaded guilty to one count of wire fraud (18 U.S.C. § 1343) in February 2013.

This case was investigated by the U.S. EPA Criminal Investigation Division.

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