
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

April 2013

EDITOR'S NOTES:

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:

www.regionalassociations.org.

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 generated, 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 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 Intranet Site is available to those who have access to USDOJ operated sites: <http://dojnet.doj.gov/ecs/>.

AT A GLANCE:

Table 1 Cases Included in this Month's Bulletin

DISTRICT	CASES	CASE TYPE/ STATUTES
Northern District of California	United States v. Columbia Shipmanagement et al.	<i>Vessel/ APPS, Obstruction</i>
District of Colorado	United States v. Norman Teltow	<i>Aircraft Painting/ RCRA</i>
District of Delaware	United States v. Columbia Shipmanagement et al.	<i>Vessel/ APPS, Obstruction</i>
Southern District of Florida	United States v. Alberto Diaz Gonzalez	<i>Bird Imports/ Smuggling</i>
District of Maryland	United States v. Rodney R. Hailey	<i>Bio-Diesel Fuel Credits/ CAA, Money Laundering, Wire Fraud</i>
Eastern District of Michigan	United States v. Mark Glover et al.	<i>Ewaste/ RCRA, Counterfeit Goods</i>
Western District of Missouri	United States v. Arkadiy Lvovski et al.	<i>Paddlefish Trafficking/ Lacey Act, Conspiracy</i>
District of New Jersey	United States v. Columbia Shipmanagement et al.	<i>Vessel/ APPS, Obstruction</i>
Western District of New York	United States v. Tonawanda Coke Corporation et al.	<i>Coke Facility/ CAA, RCRA, Obstruction</i>
District of North Dakota	United States v. Hurley Enterprises Inc., d/b/a Hurley's Oilfield Services Mon-Dak Water & Septic Services, LLC	<i>Sewage Waste Collectors/ CWA</i>
DISTRICT	CASES	CASE TYPE/ STATUTES

N.D. Ohio	United States v. Hardrock Excavating LLC et al.	<i>Oil and Gas Industry/ CWA</i>
District of Oregon	United States v. Martin Glaves Kuna	<i>Lead Paint Inspector/ Wire Fraud</i>
District of South Carolina	United States v. Werner Transportation Services Inc.	<i>Trucking Company/ CAA, Negligent Endangerment</i>
Southern District of Texas	United States v. Worthey D. Wiles	<i>Whooping Crane Shooting/ MBTA</i>
Eastern District of Virginia	United States v. Diana Shipping Services S.A. et al.	<i>Vessel/ APPS, Obstruction, Falsification of Records, Conspiracy</i>
Western District of Washington	United States v. Bret A. Simpson	<i>Ship Scrapping/ CWA</i>

Additional Quick Links:

- ◇ [Trials](#) p. 4
- ◇ [Informations/Indictments](#) pp. 5 - 6
- ◇ [Plea Agreements](#) pp. 7 - 8
- ◇ [Sentencings](#) pp. 8 – 12

Trials

United States v. Tonawanda Coke Corporation, No. 1:10-CR-00219 (W.D.N.Y.), ECS Senior Counsel Rocky Piaggione, AUSA Aaron Mango, and ECS Paralegal Lauren DiFilippo.



Tonawanda Coke --courtesy of The Buffalo News

On March 28, 2013, after a five-week trial, a jury convicted Tonawanda Coke Corporation (TCC) and its environmental manager, Mark Kamholz, on multiple counts stemming from the improper operation of this coke facility over almost two decades. TCC was convicted on 11 Clean Air Act violations and three RCRA charges. Kamholz was found guilty of 11 counts of violating the CAA, one count of obstruction of justice, and three counts of violating RCRA.

TCC is a merchant by-product coke facility located in Tonawanda, New York. Coke is used in the steel-mill and foundry industries as an additive in the steel-making process. The evidence proved that the company operated an unpermitted coke oven gas emission source for approximately 19 years. This gas contains several chemical compounds, including benzene. Prior to an EPA inspection in April 2009, Kamholz instructed an employee to conceal the operation of this unpermitted source from inspectors. TCC also operated its quench towers without baffles in violation of its Title V permit. Baffles are required to reduce the amount of particulate matter that escapes into the atmosphere during coke processing. The RCRA charges involve the long-term practice of the unpermitted disposal of coal tar sludge (K087 listed waste) and the disposal of hazardous waste in abandoned rail cars located on the property. Sentencing is scheduled for July 15, 2013.

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

Informations/Indictments

United States v. Diana Shipping Services S.A. et al., No. 2:13-CR-00040 (E.D. Va.), ECS Trial Attorney Ken Nelson and AUSA Joseph Kosky.

On March 20, 2013, an 11-count indictment was returned charging Diana Shipping Services, chief engineer Ioannis Prokakis, and second assistant engineer Antonios Boumpoutelos, with charges stemming from the illegal discharge of bilge wastes from the *M/V Thetis*.

The indictment alleges that, between October 2011 and September 2012, the defendants routinely caused the falsification of the oil record book for the purpose of concealing overboard discharges of sludge and bilge wastes. They are further alleged to have caused and directed others to conceal bypass piping that had been used to make these illegal discharges. The defendants are variously charged with conspiracy, APPS, obstruction, and falsification of records violations (18 U.S.C. §§ 371, 1505, 1519; 33 U.S.C. § 1908(a)).

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

[Back to Top](#)

United States v. Arkadiy Lvovski et al., Nos. 2:13-CR-04015, 4016, 4017, and 4018 (W.D. Mo.), ECS Trial Attorneys Jim Nelson and Adam Cullman, AUSA Lawrence Miller, and ECS Paralegal Courtney Smith.

On March 14, 2013, eight individuals were charged with violations stemming from interstate and international trafficking in paddlefish caviar. Arkadiy Lvovskiy, Dmitri Elitchev, Artour Magdessian, Felix Baravik, Petr Babenko, Bogdan Nahapetyan, Fedor Pakhnyuk and Andrew Praskovsky are variously charged with Lacey Act and conspiracy violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B); 18 U.S.C. § 371) for engaging in multiple transactions involving the purchase and processing of paddlefish eggs in 2011 and 2012. In addition to traveling to Missouri for the purpose of buying the eggs and processing them into caviar, one defendant allegedly attempted to export some of the paddlefish eggs in checked luggage on an international flight departing from Dulles International Airport in Washington, D.C.

The global decline in other caviar sources, such as sturgeon, has led to an increased demand for paddlefish caviar. As a result, paddlefish populations are now declining due to over-fishing.

This case was investigated by the United States Fish and Wildlife Service and the Missouri Department of Conservation, with assistance from the Oklahoma Department of Wildlife Conservation.

[Back to Top](#)

United States v. Hardrock Excavating LLC et al., No. 4:13-00113 (N.D. Ohio), SAUSA Brad Beeson.

On February 14, 2013, two individuals and a company were charged with violating the Clean Water Act (33 U.S.C. § 1319(c)(2)(A)) for allegedly discharging brine and oil-based drilling mud that eventually flowed into the Mahoning River, a water of the United States.

Benedict Lupo is the owner of Hardrock Excavating LLC. The company provides services to the oil and gas industry in Ohio and Pennsylvania, including the storage of brine and oil-based drilling

mud. There are approximately 58 mobile storage tanks at the facility and each holds approximately 20,000 gallons.

After receiving an anonymous call in January 2013, inspectors found a hose connected to a storage tank that was discharging wastewater into a stormwater drain at the facility. The stormwater drain flowed into an unnamed tributary of the Mahoning River and ultimately into the river, where an oily sheen was clearly visible. Lupo allegedly directed employee Michael Guesman on numerous occasions to discharge storage tanks at night over a several-month period.

This case was investigated by the Ohio Environmental Protection Agency, the Ohio Department of Natural Resources, the United States Environmental Protection Agency Criminal Investigation Division, the Ohio Bureau of Criminal Investigation, the Youngstown Department of Public Works, and the Youngstown Fire Department.

[Back to Top](#)

United States v. Werner Transportation Services, Inc., No. 3:13-CR-00097 (D.S.C.), AUSA T. DeWayne Pearson.



Ammonia gas cloud--courtesy of WIS TV

On February 6, 2013, Werner Transportation Services, Inc., (Werner) was charged with a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)) stemming from an ammonia leak that killed a woman in 2009.

The indictment alleges that, on July 15, 2009, improper equipment was used during the transfer of 7,000 pounds of ammonia gas to a Werner truck at a Tanner Industries distribution facility. At some point, a hose ruptured, causing approximately 1,800 gallons to spill. The resultant toxic cloud engulfed a car driven by Jacqueline Ginyard who was on her way to work, and subsequently perished. At least seven other people also were hospitalized.

State health officials fined Tanner \$91,000 in 2010 for a series of emergency preparedness procedures that failed during the spill. Tanner also was fined \$23,625 by the state Labor Department for workplace safety violations. Trial against Werner is scheduled to begin on April 9, 2013.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the National Transportation Safety Board.

[Back to Top](#)

Plea Agreements

United States v. Columbia Shipmanagement et al., Nos. 1:13-CR-00029, 2:13-CR-00193, 2:12-CR-00816 (N.D. Calif., D. Del., D.N.J.), ECS Senior Trial Attorney Richard Udell, ECS Trial Attorney Stephen DaPonte, AUSAs Kathleen O’Leary, Edmond Falgowski, and Stacey Geis.
M/T King Emerald



On March 21, 2013, Columbia Shipmanagement (Deutschland) GmbH (CSM-D), a German corporation, and Columbia Shipmanagement Ltd. (CSM-CY), a Cypriot company, pleaded guilty in three districts to APPS and obstruction violations (33 U.S.C. § 1908(a); 18 U.S.C. §§ 1505, 1519). The pleas stem from the intentional bypass of pollution prevention equipment and the falsification of oil record books on three oil tankers and one container ship.

An investigation of the *M/T King Emerald* was launched in May 2012, after several crew members provided cell phone photos and other evidence to Coast Guard officers conducting a routine inspection. The *King Emerald* was engaged in various types of illegal discharges of bilge waste dating back to August 2010. The illegal discharges of both sludge and oily bilge waste were made at night off the coast of Central America, including a discharge within the Exclusive Economic Zone of Costa Rica where a national park is located. The ship’s second engineer, Jeffrey Lupera, previously pleaded guilty to an obstruction violation.

The Delaware investigation began in September 2012, after several crew members provided the Coast Guard with photographs and video of illegal discharges that had been made through the ship’s sewage system. Other evidence indicated that sludge had been put into the ship’s cargo tanks, not incinerated onboard as reported. A whistleblower also was involved in reporting the violations on the *M/V Cape Maas* to the Coast Guard in San Francisco. He provided a video showing the operation of the oily water separator pumping overboard without the use of the oil content monitor.

Violations on a fourth ship, the *M/T Cape Taft*, were recently disclosed as it was anchored in New York waters and destined for New Jersey. After the company was informed, an internal investigation revealed that the ship’s oily water separator had been flushed with fresh water by the crew. The oil record book had been altered as well.

These cases were investigated by the United States Coast Guard.

[Back to Top](#)

United States v. Norman Teltow, No. 1:13-00027 (D. Colo.), ECS Trial Attorney Jim Nelson.

On March 12, 2013, Norman Teltow pleaded guilty to a RCRA violation (42 U.S.C. § 6928(d)(2)(A)) for the illegal treatment of hazardous waste. His aircraft painting company, Gold Metal Paint (GMP), no longer exists as a viable entity in Colorado.

After GMP was inspected in April 2010, Teltow sealed off a trench drain in the paint-stripping area which led to an underground tank. The owner of the hangar used by GMP hired a hazardous waste disposal company to pump out the contents of the underground tank, which Teltow knew contained methylene chloride, a listed hazardous waste. When the disposal company was unable to completely empty the tank, Teltow sent company employees into the tank to remove the sludge and solids that remained. Many suffered from headaches, dizziness, and nausea after being exposed to the chemicals.

After Teltow sealed off the drain, GMP began treating methylene chloride by evaporating it on the floor of the paint-stripping area overnight. This practice began in April 2010, and continued until May 2011. Teltow knew that company workers were illegally dumping mixtures containing methylene chloride onto the hangar floor so that the waste would evaporate.

In May 2011, when evaporation proved unsuccessful, Teltow drilled a hole in the trench drain, re-opening a path for liquid to flow into the underground tank. He is scheduled to be sentenced on June 10, 2013.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, with assistance from inspectors at the Occupational Safety and Health Administration and the Colorado Department of Public Health and Environment.

[Back to Top](#)

United States v. Michael J. Redding, Jr., No. 4:12-CR-00058 (E.D. Mo.), AUSA Dianna Collins.

Drum of hazardous waste

On March 1, 2013, Michael J. Redding, Jr., pleaded guilty to two RCRA violations (42 U.S.C. §§ 6928(d)(1), (d)(2)(A), (d)(5)) stemming from the transportation and abandonment of hazardous waste.

Redding acquired equipment and assets from a bankrupt printing business. In April 2010, the defendant directed a five-man crew to remove items from the buildings, including drums containing hazardous waste. Those drums were then transported, without manifests, to another facility that was not permitted to store hazardous waste.

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

[Back to Top](#)

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

On February 8, 2013, Martin Graves Kuna pleaded guilty to one count of wire fraud (18 U.S.C. § 1343) for conducting business as a certified lead-based paint inspector, when in fact, he was not properly certified to do this work.

From May 2008 to September 2012, Kuna advertised his services as a certified lead-based paint inspector via the Internet. Over the course of the scheme, the defendant provided potential customers with documentation showing them that he was properly credentialed. He then transmitted bids, billing invoices, and inspection reports for which he received payment. Despite being told in January 2012 by federal investigators that he must cease this activity, Kuna continued working as an inspector through September 2012, conducting more than ten such home inspections, including homes where children resided. Sentencing is scheduled for April 23, 2013.

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

[Back to Top](#)

Sentencings

United States v. Mark Glover et al., No. 2:12-CR-20282 (E.D. Mich.), AUSA Jennifer Blackwell.

On March 22, 2013, Mark Glover was sentenced to serve 30 months' incarceration followed by two years' supervised release. He also was ordered to pay a \$10,000 fine. Discount Computers, Inc., (DCI) will pay a \$2 million fine and almost \$11,000 in restitution. Glover and DCI previously pleaded guilty to violations stemming from the overseas shipment of electronic waste. Glover pleaded guilty to one count of trafficking in counterfeit goods and DCI pleaded guilty to trafficking in counterfeit goods and illegally storing and disposing of hazardous waste, in violation of RCRA (18 U.S.C. § 2320(a); 42 U.S.C. § 6928(d)(2)(A)).

Between May 2007 and July 2011, the defendants exported used cathode ray tube monitors (CRTs) to foreign countries, including Egypt. Because Egyptian customs would not accept CRTs that were more than five years past the date of manufacture, the defendants created counterfeit labels to reflect a more current date that were placed on the CRTs. Equipment, including TV tubes and CRTs that DCI had stored between February and November 2010, were found abandoned in a warehouse.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division. [Back to Top](#)

United States v. Hurley Enterprises, Inc. d/b/a Hurley's Oilfield Services, No. 4:13-CR-00001 (D.N.D.), AUSA Cameron W. Hayden and ECS Senior Trial Attorney Christopher J. Costantini.

Sewage discharge



On March 22, 2013, Hurley Enterprises d/b/a Hurley's Oilfield Services (Hurley) pleaded guilty to a felony Clean Water Act violation ((33 U.S.C. §§1319 (c)(2)(A), 1345(e)) stemming from the dumping of sewage. The company was sentenced to pay a \$50,000 fine and to implement an environmental compliance plan, which will be monitored over a two-year period by the North Dakota Department of Health.

Hurley is a sewage waste collection company that services oil well drilling sites in the Bakken/ Three Forks drilling operations in North Dakota. Hurley dumped domestic septage waste at various locations that resulted in the pooling of the waste as well as entry of the waste into waterways. At one dump site, toilet paper mixed with human waste was dumped down a steep embankment and into a ravine that led to Cottonwood Lake. At another site, domestic septage ran into an unnamed tributary that flowed into Epping Spring Brook Dam. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

[Back to Top](#)

United States v. Mon-Dak Water & Septic Services, LLC, No. 4:13-CR-00002 (D.N. D.), AUSA Cameron W. Hayden and ECS Senior Trial Attorney Christopher J. Costantini.

On March 22, 2013, Mon-Dak Water & Septic Services, L.L.C. (Mon-Dak) pleaded guilty to a felony Clean Water Act violation (33 U.S.C. §§1319 (c)(2)(A), 1345(e)) stemming from the dumping of sewage. The company was sentenced to pay a \$50,000 fine and will implement an environmental compliance plan, which will be monitored over a two-year period by the North Dakota Department of Health.

Mon-Dak is a sewage waste collection company that services oil well drilling sites in the Bakken/ Three Forks drilling operations in North Dakota. Mon-Dak dumped domestic septage waste at various locations that caused pooling of the waste as well as entry of the waste into waterways. More than five million gallons of domestic septage waste was dumped between January 2011 and May 2012.

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

[Back to Top](#)

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



M/V Davy Crockett

On

March 18, 2013, Bret A. Simpson, the owner of Principle Metals, LLC, was sentenced to serve four months' imprisonment followed by eight months' home confinement as a condition of three years' supervised release. He also will perform 100 hours of community service. A fine was not assessed.

Simpson previously pleaded guilty to two violations of the Clean Water Act (33 U.S.C. §§1321(b)(3), 1319(c)(2)(A), 1321(b)(5)) for unlawfully discharging oil into the Columbia River, and for failing to report those discharges. Simpson was aware at the time he purchased the *M/V Davy Crockett*, a former Navy vessel, that it contained several thousand gallons of fuel oil and diesel fuel. When the scrapping operation began in October 2010, no arrangements were made to remove the fuel tanks from the ship. By December, the crew had cut into a structural beam and the ship began to break apart and leak oil where it was moored on the Columbia River. The scrapping operation was briefly halted, but authorities were not notified of the spill. By January 2011, additional oil leaked into the river and the Coast Guard responded with an administrative order. Simpson satisfied the requirements of the order; however, additional oil was released from the vessel, initiating a state and federal cleanup response.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the United States Coast Guard, the Washington State Department of Ecology, and the Oregon Department of Environmental Quality.

[Back to Top](#)

United States v. Alberto Diaz Gonzalez, No. 2:12-CR-20809 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**Cuban Bullfinches**

On March 8, 2013, Alberto Diaz Gonzalez was sentenced to serve a two-year term of probation with a special condition of 120 days' home confinement. A fine was not assessed. Gonzalez previously pleaded guilty to smuggling charges (18 U.S.C. § 545) for importing undeclared wildlife from Cuba.

In October 2012, the defendant was intercepted at Miami International Airport returning to the United States aboard a flight from Cuba. When questioned by Customs officials, the defendant claimed not to be carrying any wildlife. In a subsequent pat-down, 16 Cuban bullfinches were found concealed in a plastic cylinder in his pocket and sewn into the interior of his pants. Upon further questioning, Gonzalez admitted that he had obtained the birds during his trip to Cuba and had intended to sell them upon his return to the United States. Much of the wildlife brought into this country is subject to quarantine to protect both commercial and wild bird species from exposure to diseases such as Newcastle's and other maladies against which they would have no natural immunity. Cuba also is considered a high-risk source country for highly pathogenic avian influenza.

This case was investigated by the United States Fish and Wildlife Service and Customs and Border Protection, with technical assistance from the United States Department of Agriculture Miami Import-Export Facility Veterinary Services.

[Back to Top](#)

United States v. Worthey D. Wiles, No. 2:13mj-00259 (S.D. Tex.), AUSA Hugo Martinez.**Whooping Crane**

On March 6, 2013, Worthey D. Wiles pleaded guilty and was sentenced for killing a whooping crane, in violation of the Migratory Bird Treaty Act. Wiles was ordered to pay a \$5,000 fine and will make a \$10,000 community service payment to the non-profit organization Friends of Aransas and Matagorda Island National Wildlife Refuges. He also will serve a one-year-term of probation.

In January 2013, Wiles was a guest hunter at the St. Charles Bay Hunting Club, which is located inside a designated critical habitat for whooping cranes. While hunting in the marsh adjacent to San Jose Island, Wiles shot and killed a juvenile whooping crane. After contacting Texas Parks and Wildlife, Wiles told state game wardens he thought the whooping crane was a sandhill crane. Officials verified that it was a whooping crane.

Whooping cranes are an extremely rare bird. The juvenile bird killed by Wiles is believed to have been one of only 34 juveniles that migrated 2,500 miles from Canada during the fall to Port Aransas. The whooping crane population that winters in Texas is the only self-sustaining wild population of whooping cranes in the world.

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. Rodney R. Hailey, No. 1:11-CR-00540 (D. Md.), AUSA Stefan Cassella and RCEC David Lastra.

On February 26, 2013, Rodney R. Hailey was sentenced to serve 151 months' incarceration (with credit for time served) to be followed by three years' supervised release. He also was ordered to pay \$42,196,090 in restitution to more than 20 companies and will forfeit \$9.1 million in property and cash.

Hailey was previously convicted by a jury on all 42 counts charged, including money laundering, wire fraud, and violations of the Clean Air Act (18 U.S.C. §§ 1343, 1957; 42 U.S.C. § 7413(c)(2)(A)) stemming from the fabrication of documentation related to the production of bio-diesel fuel.

In March, 2009, Hailey registered his business, Clean Green Fuel (CGF), with the EPA as a producer of bio-diesel fuel, claiming that CGF would produce bio-diesel fuel in a production facility located in

Maryland. The evidence proved that Hailey, who claimed to be a bio-diesel fuel producer, had only generated false renewable identification numbers (RINs) on his computer and marketed them to brokers and oil companies. When investigators attempted to inspect his facility they were directed to an empty warehouse containing no biodiesel production equipment. The defendant sold more than 32 million RINs to a variety of companies for more than \$9 million, which he then spent on cars, jewelry, and property.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the U.S. EPA Office of the Inspector General, the Internal Revenue Service Criminal Investigation Division, the United States Postal Inspection Service, and the United States Marshals Service.

[Back to Top](#)