



Monthly

# Bulletin

## Environmental Crimes Section

July 2015

### Inside this Issue:

<a href="#">Decisions</a>	3
<a href="#">Trials</a>	4
<a href="#">Indictments</a>	5-7
<a href="#">Guilty Pleas</a>	8-9
<a href="#">Sentencings</a>	10-18
<a href="#">Contacts</a>	19
<a href="#">Announcements</a>	20

Send your federal case updates to: [redacted]

U.S. Department of Justice  
Environment and Natural Resources  
Division  
Environmental Crimes Section  
PO Box 7611  
Washington, D.C., 20044  
202-305-0321



Approximately 30 barrels of oil were discharged overboard into the ocean from the *M.V. Lindavia*. See [U.S. v. Herm. Dauelsberg GmbH & Co. KG](#), inside, for more details on the case.

"For years, the defendant knowingly stored hazardous waste without regard to the dangers it posed to the public and to the environment," said Lance Ehrig, Acting Special Agent in Charge of EPA's criminal enforcement program for Idaho. "When EPA's emergency response team first arrived on the defendant's property, they found thousands of containers filled with corrosive and ignitable hazardous waste. The situation put human health at serious risk and cleanup cost the government hundreds of thousands of dollars. Today's guilty verdict by a jury demonstrates that the American people demand that if business owners treat our nation's environmental laws with contempt, they be held accountable." From [Spatig conviction press release](#), June 9, 2015.

District	Case Name	Case Type/Statutes
Southern District of Alabama	<a href="#">United States v. Charles E. Mallory</a>	Turtle Killing/ESA
District of Alaska	<a href="#">United States v. Herm. Dauelsberg GmbH &amp; Co. KG</a>	Vessel/APPS
Eastern District of California	<a href="#">United States v. Antonio Garcia-Villa</a>	Marijuana Grow and Forest Fire/Drug Charges, Depredation of Public Land
Southern District of California	<a href="#">United States v. Victor Amezcua</a>	Sewage Disposal/CWA
Southern District of Florida	<a href="#">United States v. Charles Veach</a>	Lobster Harvesting/Lacey Act
District of Hawaii	<a href="#">United States v. Hawaiian Accessories, Inc.</a>	Illegal Wildlife Carvings/ESA, Lacey Act
District of Idaho	<a href="#">United States v. Max Spatig</a>	Concrete Business/RCRA
Northern District of Illinois	<a href="#">United States v. Philip M. Kraus</a> <a href="#">United States v. Dennis Michael Egan</a>	Municipal Water Operator/False Statement Barge Explosion/ CWA, Seamen's Manslaughter
Northern District of Indiana	<a href="#">United States v. Calumite Company LLC</a>	Glass Manufacturer/CAA
Eastern District of Louisiana	<a href="#">United States v. David Rainey</a>	Deepwater Horizon/False Statement
Eastern District of Michigan	<a href="#">United States v. Roy Bradley</a>	Asbestos Removal/
District of New Jersey	<a href="#">United States v. Patrick Elfers</a> <a href="#">United States v. Norbulk Shipping UK, Ltd.</a>	Turtle Sales/Lacey Act, Conspiracy Vessel/APPS, False Statement
Western District of North Carolina	<a href="#">United States v. Jerry F. Parker</a>	Bear Hunts/Lacey Act
Northern District of Oklahoma	<a href="#">United States v. Helena Chemical Company</a>	Pesticide Disposal/FIFRA
District of South Dakota	<a href="#">United States v. Glencoe CampResort II LLC</a>	Illegal Dam/CWA
Middle District of Tennessee	<a href="#">United States v. Southern Grease Company</a>	Grease Disposal/CWA, Conspiracy, False Statement, Mail Fraud
Eastern District of Texas	<a href="#">United States v. Cory J. Mosely</a>	Dolphin Killing/MMPA
Southern District of Texas	<a href="#">United States v. Philip Joseph Rivkin</a>	Biodiesel Fraud/CAA, False Statement, Mail Fraud

## Significant Decisions

***United States v. Crooked Arm*, \_\_\_F.3d\_\_\_ 2015 WL 3542707 (9th Cir. June 8, 2015).**

Defendants Douglas “Vance” Crooked Arm and Kenneth Shane appealed their conditional guilty pleas, which charged them with knowingly and willfully conspiring to kill, transport, offer for sale, and sell migratory birds, including bald and golden eagles, in violation of the Migratory Bird Treaty Act (Count 1). They also were charged with unlawfully trafficking migratory bird parts for selling a fan made of eagle feathers to undercover FWS agents (Count 2). On appeal, the defendants argued that both counts were improperly charged as felonies, and sought to lower them to misdemeanors.

The Ninth Circuit determined that, with regard to Count 1, the felony provisions of 16 U.S.C. § 707(b) are clearly invoked when someone takes a migratory bird with intent to sell. The overt acts alleged included the defendants placing deer carcasses on the land in order to attract and capture birds of prey and conspiring (as defined under 18 U.S.C. § 371) to sell the subsequently obtained birds. The substantive MBTA offense of baiting migratory birds, “the commission of which is the object of the conspiracy,” makes Count 1 a felony charge under 18 U.S.C. § 371.

As to Count 2, the court agreed with the defendants that the sale of the fan constituted a misdemeanor rather than a felony under 16 U.S.C. §§ 703(a) and 707(b). First, the court stated that the felony status of Count 1 did not render moot the challenge to whether Count 2 should be charged as a felony because (a) if the defendants prevailed, the court could give relief by vacating their sentences and remanding for resentencing, and (b) if the defendants were convicted of two felonies, collateral consequences for them would follow.

Next, the court found that Congress did not intend the phrases “migratory birds” and “parts, nests or eggs thereof” to share the same meaning. The felony language in section 707 (b) of the MBTA refers only to “any migratory bird,” necessarily excluding the application of a felony charge to the sale of migratory bird *parts*. Thus, the court concluded the defendants’ sale of the fan containing migratory bird feathers was not a felony.

Finally, the court disagreed with the holding in *United States v. St. Pierre*, and determined that treating the sale of a fan containing migratory bird feathers as a misdemeanor would not lead to an absurd result under the MBTA.

For those of you who have, or may have, cases arising under the Migratory Bird Treaty Act, the 9th Circuit recently ruled that the provisions of the MBTA creating felonies for commercializing in migratory birds or taking such birds with the intent to commercialize them (16 U.S.C. 707(b)), apply only to whole birds and NOT to parts or products thereof. The entirety of the opinion may be read at <http://cdn.ca9.uscourts.gov/datastore/opinions/2015/06/08/13-30297.pdf>. The government does not anticipate any further appeal of this decision. It is the position of ENRD’s Appellate Section that the application of this decision is limited to the 9th Circuit at this juncture. Within the 9th Circuit illegal commercializing in migratory bird parts or taking such birds with the intent to commercialize may still be charged as MBTA misdemeanors.

If you have a case arising under these felony MBTA provisions (outside the 9th Circuit, of course), you can anticipate receiving a motion to dismiss citing this case. Please contact ECS prior to charging any such case so that we may provide you with the latest updates and information from ENRD’s Appellate Section on this issue and discuss any possible alternative or additional charges as well as the likelihood of success on any appeal.

# Trials

**United States v. Max Spatig**, No. 4:12-CR-00302 (D. Idaho), ECS Trial Attorney Adam Cullman, former ECS Senior Trial Attorney Ron Sutcliffe, AUSA Michael Fica, and ECS Paralegals Diana Greenberg and Ashleigh Nye.

On June 8, 2015, a jury convicted Max Spatig on a RCRA storage and disposal violation (42 U.S.C § 6928(d)(2)(A)). Spatig had been in custody since September 2014 due to repeated violations of conditions of release.



*Drums found on defendant's property*

Spatig operated a concrete finishing business known as M&S Enterprises. In June 2010, officials discovered approximately 3,400 containers of waste at his residence, most of which was paint waste, some in heavily corroded and leaking containers. Investigators

also found containers of corrosive wastes including hydrochloric acid. The ensuing EPA cleanup cost just under one-half million dollars, and was the second cleanup Spatig has been involved in. The State of Idaho Department of Environmental Quality conducted the prior cleanup in 2005 at a different property in southeast Idaho.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the Madison County Sheriff's Office.

**United States v. David Rainey**, Nos. 2:12-CR-00265, 00291-00292 (E.D. La.), Deepwater Horizon Task Force, including ECS Trial Attorney Ken Nelson.

On June 5, 2015, a jury found David Rainey not guilty of making false statements (18 U.S.C § 1001) after the court previously dismissed an obstruction of justice charge. Rainey is a former BP executive who had been charged after the *Deepwater Horizon* explosion in April 2010. Rainey had been accused of manipulating his estimates of the amount of oil flowing from the well after the blowout. He was further charged with lying about having done so during an interview with federal investigators almost a year later.

Robert Kaluza and Donald Vidrine are scheduled for trial to begin in February 2016 on charges of involuntary manslaughter and a Clean Water Act violation. Both men served as the BP Well Site Leaders on the *Deepwater Horizon* and were the senior BP decision-makers on the rig.

This case was investigated by the Deepwater Horizon Task Force, which included the FBI, the U.S. EPA Criminal Investigation Division, the EPA Office of Inspector General, the Department of Interior Office of Inspector General, the NOAA Office of Law Enforcement, the U.S. Coast Guard, the U.S. Fish and Wildlife Service, and the Louisiana Department of Environmental Quality.

## Indictments/Informations

### ***United States v. Antonio Garcia-Villa, No. 1:15-CR-00159 (E.D. Calif.), AUSA Karen Escobar.***

On June 18, 2015, Mexican nationals Antonio Garcia-Villa and Uriel Silva-Garcia were charged in a four-count indictment with drug violations and damaging public land and natural resources as a result of cultivating marijuana near Little Poso Creek, which drains into the Kern National Wildlife Refuge (21 U.S.C. § 841; 18 U.S.C. § 1361).

According to court documents, Garcia and Silva were found at the cultivation site in May 2015. Agents removed 8,596 marijuana plants from the site, along with pesticides, fertilizer, trash, water lines, and equipment. The cultivation activities caused extensive damage to the land and natural resources. Native trees and plants were cut down, steep hillsides were terraced to plant the marijuana, and water was diverted to irrigate the plants.



*Pesticide found at grow site*

This case was investigated by the U.S. Forest Service, the Kern County Sheriff's Office, and ICE Homeland Security Investigations.

### ***United States v. Hawaiian Accessories, Inc., No. 1:15-CR-00442 (D. Hawaii), AUSA Leslie Osborne, Jr.***

On June 15, 2015, a 21-count superseding indictment was returned charging a corporation and five individuals with violations stemming from the illegal import and export of carvings made from walrus, sperm whale, and black coral.

The indictment alleges that, between June 2013 and May 2015, Hawaiian Accessories, Curtis P. Wilmington, Sergio T. Biscocho, Kauilani Wilmington, Elmer Biscocho, and Kauioakaala Chung conspired to import merchandise consisting of walrus ivory carvings, whale bone carvings, black coral carvings and/or other products derived from protected species of wildlife into the U.S. The defendants are charged with conspiracy, smuggling and Lacey Act violations (16 U.S.C. §§ 3372(a)(1)(d)(1); 18 U.S.C. §§ 371, 554, 545).

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

## **Indictments/Informations**

***United States v. Philip M. Kraus, No. 15-CR-00342 (N.D. Ill.), AUSA Timothy Chapman.***

On June 10, 2015, Philip M. Kraus was charged with six false statement violations (18 U.S.C. § 1001).

Kraus, a former certified water operator for the Village of Dolton, Illinois, allegedly engaged in a multi-year scheme to falsify drinking water samples collected between January 2008 and August 2013 for the Village of Dalton.

The Village of Dolton was obligated to collect 25-30 samples of its drinking water monthly to test for the presence of total coliform bacteria. The samples were required to be taken from designated sites around Dolton. The indictment alleges that Kraus routinely collected samples from only one or a few locations, and falsified the collection forms to make it appear as if the sampling had been properly conducted. The false sampling data was sent to the Illinois Environmental Protection Agency, which implements the federal Safe Drinking Water Act program in Illinois.

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

## Guilty Pleas

***United States v. Patrick Elfers, No. 2:15-CR-00327 (D.N.J.), AUSA Kathleen O'Leary.***

On June 30, 2015, Patrick Elfers pleaded guilty to conspiring to violate the Lacey Act for trafficking in a variety of turtle species (16 U.S.C. §§ 3372(a)(2)(A); 3373(d)(1)(B); 18 U.S.C. § 371).

Between December 2011 and March 2014, Elfers advertised a variety of turtles for sale on wildlife trade websites from his home in New Jersey. He shipped turtles to purchasers in New York by tying them in tube socks to restrict their movement, and packing the socks in boxes that were neither designed nor appropriate for the shipment of live animals. Among the species sold were Spotted Turtles, North American Wood Turtles, and Eastern Box Turtles. New Jersey has designated the North American Wood Turtle as threatened. The Spotted Turtle and Eastern Box Turtle are listed by the State as a species of special concern.

As part of his plea, Elfers will forfeit more than 40 turtles, including three Gulf Coast Box Turtles, one African Spur Thigh Tortoise, and one Elongated Tortoise.

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

***United States v. Victor Amezcua, No. 15-CR-01645 (S.D. Calif.) AUSA Melanie Pierson.***

On June 23, 2015, Victor Amezcua pleaded guilty to violating the Clean Water Act (33 U.S.C. §§ 1319(c)(2)(A), 1345) for dumping raw sewage at Camp Pendleton.

Amezcua drove a vacuum truck that was used to collect sewage from portable toilets. On at least four occasions during 2013 and 2014, he pumped sewage into a ravine on base instead of disposing of it in large holding tanks designated to be pumped out for disposal at the base's sewage treatment plants.

Amezcua is scheduled to be sentenced on September 28, 2015.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Naval Criminal Investigative Service.

***United States v. Philip Joseph Rivkin, No. 4:14-CR-00250 (S.D. Tex.), ECS Trial Attorney Leslie Lehnert.***

On June 15, 2015, Philip Joseph Rivkin, a/k/a Felipe Poitan Arriaga, pleaded guilty to a mail fraud count and a Clean Air Act false statement violation (18 U.S.C. § 1341; 42 U.S.C. § 7413). Rivkin had been charged in a 68-count indictment with wire fraud, mail fraud, Clean Air Act false statements, and money laundering violations for his fraudulent involvement in the federal renewable fuel program.

Starting around February of 2009, Rivkin operated and controlled several companies in the fuel and biodiesel industries, including Green Diesel LLC, Fuel Streamers Inc., and Petro Constructors LLC, all based in Houston. As part of his scheme to defraud, Rivkin claimed to have produced millions of gallons of biodiesel at Green Diesel's Houston facility and then generated and sold renewable identification numbers (RINs) based upon this claim. In reality, no biodiesel was ever produced at the Green Diesel facility. The scheme enabled Rivkin to generate and sell in excess of 59 million fraudulent RINs

*(Continued on page 9)*

# Guilty Pleas

(Continued from page 8)

resulting in at least \$51 million in sales. In addition, Rivkin created a false quarterly report and submitted that false statement to EPA to maintain the apparent legitimacy of his claims of biodiesel production, importation, and RIN generation. As part of his plea, Rivkin has agreed to forfeit at least \$51 million.

This case was investigated by the U.S. EPA Criminal Investigation Division, the U.S. Secret Service, IRS Criminal Investigation, and Homeland Security Investigations. Assistance was provided by the Guatemalan Special Investigations Unit to uncover the fraudulent nature of Rivkin's Guatemalan citizenship, leading to his expulsion from Guatemala and return to the United States.

***United States v. Southern Grease Company, No. 3:15-CR-00033, (M.D. Tenn.), AUSA William Abely.***

On June 9, 2015, Southern Grease Company and its owner and president, George Butterworth, pleaded guilty to violating the Clean Water Act, conspiring to violate the CWA, and making a false statement to EPA investigators. Southern Grease also pleaded guilty to mail fraud. (18 U.S.C. §§ 371, 1001, 1341; 33 U.S.C. § 1319(c)(2)(A)). Gerald McGee, the former operations manager, previously pleaded guilty to similar charges.

Southern Grease was in the business of collecting and disposing of FOG (fats, oils, and grease) waste. Rather than disposing of waste grease at proper facilities, the company dumped it into various restaurant grease interceptors. On multiple occasions, the waste grease illegally dumped by Southern Grease caused damage to a municipal sewer system after the grease overflowed from an interceptor and clogged the operation of a pump station. The defendants lied to EPA agents (as well as during a municipal audit) about how the waste was being disposed. Approximately \$392,000 seized from Southern Grease and Butterworth will be forfeited and used towards the payment of a criminal fine.

Sentencing is scheduled for September 14, 2015. This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the FBI.

## Sentencings

### ***United States v. Dennis Michael Egan, No. 10-CR-00033 (N.D. Ill.), AUSA Timothy Chapman and SAUSA Crissy Pellegrin.***

On June 26, 2015, Judge James B. Zagel sentenced Dennis Michael Egan to six months' imprisonment and Egan Marine Corporation (EMC) to three years' probation for negligently causing the death of an EMC crewmember and negligently discharging oil into the waters of the United States, in violation of the Clean Water Act (18 U.S.C. § 1115; 33 U.S.C. § 1319(c)(1)(A)). The defendants were convicted in June 2014 following a three-week bench trial. The court further ordered the defendants jointly and severally responsible for \$5,338,000 in restitution to the National Pollution Funds Center and \$1,400,000 to the estate of the deceased crewmember, Alex Oliva, for his lost future earnings.



*Barge after fatal explosion*

In January 2005, an explosion occurred aboard an EMC tank barge (a vessel slightly shorter than a football field), while it was transiting the Chicago Sanitary and Ship Canal in Chicago, Illinois. At the time of the explosion, the *EMC-423* was loaded with approximately 600,000 gallons of clarified slurry oil (CSO), a petroleum refining byproduct. The evidence proved that Egan and the company were negligent in directing crewmember Alexander Oliva to use an open flame from a propane-fueled torch to heat a cargo pump on the deck of the barge in preparation for offloading the CSO. The flame was used because the barge's onboard heating system was disconnected from the cargo pump. The use of an open flame on a loaded petroleum barge is unlawful under Coast Guard regulations and violates industry safety standards.

The explosion occurred after the flame from the torch ignited hydrocarbon vapors emanating from one of the barge's cargo tanks. Oliva was killed in the blast, which tore off approximately two-thirds of the deck plating and caused several large pieces of equipment to land on the banks of the canal and the Cicero Avenue Bridge during rush hour traffic. Although it caused some property damage, the flying debris did not cause any additional injuries to other crew members or bystanders.

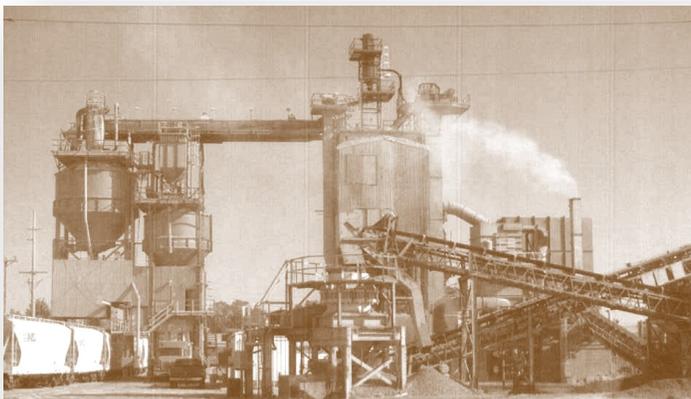
This case was investigated by the U.S. Guard Investigative Service and the U.S. EPA Criminal Investigation Division.

## Sentencings

***United States v. Calumite Company LLC*, No. 2:14-CR-00086 (N.D. Ind.), former ECS Senior Counsel Jim Morgulec, AUSA Toi Houston, and RCEC Dave Mucha.**

On June 26, 2015, Calumite Company LLC was sentenced to pay a \$325,000 fine, complete a two-year term of probation, and implement an environmental compliance plan. Calumite previously pleaded guilty to two Clean Air Act false statement violations (42 U.S.C. § 7413(c)(2)(A)).

Calumite is a manufacturer of a powdery additive used in the production of glass. The company collects slag (a waste product of the steel industry), dries it in a hot gas oven, crushes it into a fine powder,



*Calumite facility*

and ships it off-site to glass manufacturers, who then use it as an additive to lower the temperature at which sand can be melted into glass. Calumite's Portage, Indiana, facility was subject to a CAA Title V Operating Permit that required, among other things, that the company operate, maintain, and monitor several baghouses on site to control and minimize emissions of fine particulate. One of the baghouses, known as the loadout baghouse, was used to collect emissions of particulate that occurred during the loading of product onto tractor trailers and rail cars for shipment.

A differential pressure gauge (DP gauge) attached to each baghouse continuously monitored and measured the efficiency and effectiveness of the baghouses and helped to determine whether they were operating properly. Calumite's permit required that DP gauges on the baghouses be read daily, while the baghouses were operating, and that the results be recorded on daily maintenance log sheets. The company also was required to submit quarterly reports to Indiana Department of Environmental Management (IDEM) that certified compliance with the permit and that noted any "deviations," or violations of the permit.

The company did not maintain the loadout baghouse in operating condition and the DP gauge was broken. Nevertheless, employees continued to load tractor trailers and rail cars with product for shipment off-site. Employees knowingly continued to routinely fill out daily logs that falsely reflected DP gauge monitoring readings that were within the range allowed by the permit. Finally, employees knowingly caused false information to be submitted to IDEM in quarterly reports by failing to report that the DP gauge on the loadout baghouse was broken.

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

## Sentencings

### ***United States v. Charles E. Mallory, No. 1:15-CR-00012 (S.D. Ala.), AUSA Mike Anderson.***

On June 22, 2015, Charles E. Mallory was sentenced to five months' incarceration, followed by one year of supervised release. In August 2014, Mallory, a recreational fisherman, caught and killed a Kemps Ridley sea turtle. Because of the unusual catch, several witnesses told Mallory he needed to release the sea turtle. Instead Mallory killed it and placed it in a cooler. Mallory previously pleaded guilty to violating the Endangered Species Act (16 U.S.C. § 1538).

This case was investigated by the Dauphin Island Police Department, the Alabama Department of Conservation Marine Resource Division, and the NOAA Office of Law Enforcement.

### ***United States v. Glencoe CampResort II LLC, No. 5:13-CR-50085 (D.S.D.), AUSA Meghan Dilges.***

On June 22, 2015, Glencoe CampResort II L.L.C. (Glencoe) and Sean Clark were sentenced after pleading guilty to violating the Clean Water Act. Both will complete four-year terms of probation and were ordered jointly and severally responsible for \$250,000 in fines and community service payments.

Clark purchased Glencoe in January 2009. Bear Butte Creek runs through the property and is a state-designated cold water fishery. The creek is further designated as a navigable water of the United States. During the Sturgis Motorcycle Rally, the creek is used



*Illegally constructed dam*

by Glencoe campers for recreational purposes. It also is used by downstream property owners for watering livestock. After noticing a lack of water in the creek in July 2012, concerned citizens contacted local authorities who discovered that a sizeable dirt dam had been illegally constructed across the creek at Glencoe. The defendants were issued Notices of Violation and Cease and Desist orders, but they refused to remove the dam.

Clark pleaded guilty to a felony CWA violation and Glencoe pleaded guilty to a negligent CWA charge (33 U.S.C. §§ 1311(a), 1319(c)(2)(A), 1319(c)(1)(A)). They each are responsible for complying with an administrative consent order and implementing an environmental compliance plan. The defendants will pay an \$84,000 fine, an \$83,000 community service payment to Meade County, and an \$83,000 payment to the South Dakota Department of Environment and Natural Resources (DENR). Clark also will perform 100 hours of community service.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Meade County Sheriff's Office, the DENR, the U.S. Army Corps of Engineers, and the South Dakota Attorney General's Office.

# Sentencings

## *United States v. Charles Veach, No. 14-CR-10021 (S.D. Fla.), AUSA Tom Watts-FitzGerald.*

On June 17, 2015, fishermen and brothers Charles Veach, Tyson Veach, and Ryan Veach were sentenced after previously pleading guilty to Lacey Act charges (16 U.S.C §§ 3372 (a)(1), (2)(a), 3373(d)(1), (2)) for illegally harvesting spiny lobsters in the Florida Keys.

Each will serve six months' incarceration, followed by one year of supervised release. They were ordered to pay \$25,000 each, to be divided as follows: \$25,000 to the Lacey Act Reward Fund, and \$50,000 to the National Fish and Wildlife Foundation. Half of the \$50,000 will go toward the repair of a 32-foot forfeited fishing vessel to render it fully operational, the remaining \$25,000 will support the study, preservation, and maintenance of the Florida Keys National Marine Sanctuary. Their

company, Super Grouper, will complete a five-year term of probation after previously pleading guilty to a Lacey Act violation.

During fishing trips in August 2009, the defendants were tracked and videotaped via surveillance aircraft, which documented their placement of illegal artificial habitats (known as casitas) within the Florida Keys National Marine Sanctuary. They also were photographed harvesting spiny lobster that was sold to a wholesale dealer in Key West.

As part of their agreement, the defendants surrendered a list of their illegal harvesting sites and were required to remove all the sites at their own expense from federal and state waters under agent supervision, prior to sentencing. They also were required to surrender their various lobster and dive endorsements to the State of Florida.

Commercial fish wholesale buyer and fish dealer Dennis Dallmeyer previously pleaded guilty to a conspiracy violation, but failed to appear for sentencing and is considered a fugitive.

This case was investigated by the NOAA Office of Law Enforcement, and the U.S. Fish and Wildlife Service Office, with assistance from Customs and Border Protection and the Florida Fish and Wildlife Conservation Commission.



*Surveillance photo of defendants' vessel*

## Sentencings

***United States v. Norbulk Shipping UK, Ltd.*, Nos. 15-CR-00116, 00294 (D.N.J.), ECS Trial Attorney Joel LaBissonniere and AUSAs Kathleen O’Leary and Matthew Smith.**

On June 17, 2105, Norbulk Shipping UK was sentenced after pleading guilty to failing to maintain an accurate oil record book in violation of the Act to Prevent Pollution from Ships (APPS) and providing false statements to the U.S. Coast Guard in the vessel’s garbage record book (33 U.S.C. § 1908; 18 U.S.C. § 1001(a)(3)). The company will pay a \$750,000 fine and complete a three-year term of probation. Chief mate Valerii Georgiev pleaded guilty to an APPS violation on June 15, 2015, and was sentenced to three months’ incarceration on July 8, 2015.

On April 29, 2014, under Georgiev’s direction, crew members dumped 20 barrels of hydraulic oil from the *M/V Murcia Carrier*, a Panamanian-flagged refrigerated cargo vessel operated by Norbulk Shipping. Each barrel dumped overboard contained approximately 55 gallons of oil from the ship’s hydraulic cranes. The discharges occurred while the vessel was in international waters off the coast of Florida, while in route from Costa Rica to Gloucester, New Jersey. Georgiev then presented falsified oil record and garbage record books to Coast Guard personnel when the vessel arrived in New Jersey.

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

## Sentencings

### ***United States v. Jerry F. Parker, No. 2:13-CR-00015 (W.D.N.C.), AUSA Richard Edwards.***

On June 8, 2015, Jerry F. Parker was sentenced after being convicted by a jury of violating the Lacey Act for engaging in illegal black bear hunts (16 U.S.C. §§ 3372(a)(2)(A), 3372(c)(1), 3373(d)(1)(B),(d)(2)). Parker will be incarcerated for one month, followed by eight months' home confinement as a condition of one year of supervised release. He also will pay a \$1,500 fine.

In 2011, Parker and co-defendant Walter H. Stancil engaged in a number of illegal hunting activities, including using chocolate candy as bait at a site that one of the defendants described as "probably the most active bait site in the United States." Stancil is scheduled to be sentenced on July 28, 2015.

This case was investigated by the U.S. Fish and Wildlife Service, the U.S. Forest Service, the North Carolina Wildlife Resources Commission, and the Georgia Department of Natural Resources.

### ***United States v. Roy Bradley, No. 2:13-CR-20622 (E.D. Mich.), AUSA Janet Parker.***

On June 4, 2015, Roy C. Bradley, Sr., was ordered to pay \$14,600 in restitution to fund baseline medical testing for four victim workers who were exposed to friable asbestos. Bradley was sentenced in March of this year to 60 months in prison, followed by 24 months' supervised release.

Bradley was convicted by a jury on all four Clean Air Act counts charged (42 U.S.C. § 7412(h)) for illegally removing asbestos during the demolition of a large church between August 2010 and September 2011. The project involved converting the church into a school. Evidence at trial proved that substantial quantities of asbestos were improperly removed by Bradley's workers during the project. Bradley failed to provide the workers with appropriate protective gear, caused the asbestos to be made friable, and thereby repeatedly exposed his own workers and subcontractors to potentially harmful asbestos fibers.

Co-defendant Rodolfo Rodriguez previously pleaded guilty to a perjury charge and was sentenced to 21 months' incarceration for providing conflicting information to a grand jury.

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



*Damaged asbestos piping*

## Sentencings

### ***United States v. Herm. Dauelsberg GmbH & Co. KG, No. 3:15-CR-00042 (D. Alaska), AUSAs Yvonne Lamoureux and Kevin Feldis.***

On June 3, 2015, Herm. Dauelsberg GmbH & Co. KG was sentenced to pay a \$600,000 fine and a \$150,000 community service payment. The company violated APPS by discharging almost 2,000 gallons of oily water into the sea off the coast of Alaska and presenting false records to the U.S. Coast Guard (33 U.S.C. § 1908(a)).

Herm. Dauelsberg is the operator of the *M/V Lindavia*, a cargo container ship that operates under the flag of the Republic of Liberia. Between January 27, 2015 and February 11, 2015, the vessel travelled from South Korea to China arriving in Dutch Harbor, Alaska. During the trip between China and Alaska, crewmembers discharged approximately 1,430 gallons of oily water directly overboard. On February 11, 2015, while the vessel was approximately 100 miles off the coast of Alaska, crewmembers discharged at least 350 gallons of oily water directly into the sea. When the ship was boarded by the Coast Guard, the oil record book failed to reflect these overboard discharges.

The company will complete a three-year term of probation, during which it must implement an environmental compliance plan. The community service payment will go to the National Fish and Wildlife Foundation to be used for research, projects, and education designed to benefit the marine environment off the coast of Alaska and/or the natural resources or wildlife contained within Alaska.

Herm. Dauelsberg was on probation from a previous case in the Central District of California. It admitted that it violated a condition of its probation by committing a new violation of the law. Herm. Dauelsberg's probation in that case was revoked and a new three-year term of probation was imposed, with a special condition that it fund and implement an environmental compliance plan. The new three-year term of probation will run concurrent with the term of probation imposed in the Alaska case.

This case was investigated by the U.S. Coast Guard Investigative Service and the U.S. EPA Criminal Investigation Division.



*Crew pumping oily waste into drums to be dumped overboard*

## Sentencings

### ***United States v. Cory J. Moseley, No. 1:15-CR-0007 (E.D. Tex.), AUSA Joseph A. Batte.***

On June 3, 2015, brothers Cory J. Moseley and Cade R. Moseley were sentenced after previously pleading guilty to violating the Marine Mammal Protection Act for shooting a dolphin (16 U.S.C. § 1372(a)(2)(A)). Each will complete a one-year term of probation and were held jointly and severally liable for a \$500 fine and \$7,353 in restitution.

On July 26, 2014, Cory and Cade Moseley were fishing on Cow Bayou near Orangefield, Texas, when they spotted two bottlenose dolphins stranded in the bayou. They both shot at the dolphins with a compound bow and Cade Moseley hit one of them. The dolphin swam away, but later died. Wildlife agents were notified by a fisherman that there was a dead dolphin in the bayou. The second dolphin was rescued.

The restitution will be paid as follows: \$2,753 to the Texas Marine Animal Stranding Network and \$4,780 to the Texas Parks and Wildlife Department. Each defendant also will perform 25 hours of community service with each of these entities.

This case was investigated by the NOAA Office of Law Enforcement, the U.S. Coast Guard Investigative Service, and the Texas Parks and Wildlife Department.

### ***United States v. Helena Chemical Company, No. 4:15-CR-00087 (N.D. Okla.), AUSA Joel-lyn A. McCormick***

On May 4, 2015, Helena Chemical Company was sentenced after pleading guilty to a FIFRA violation for unlawfully disposing of a restricted pesticide (7 U.S.C. § 136j (a)(2)(G)).

On May 22, 2013, Helena Chemical employees disposed of chemicals, including Atrazine and S-Metolachlor, two of the main active ingredients in Medal II AT, a restricted-use pesticide, in a manner inconsistent with the labeling for Medal II AT. The company discharged unused pesticide onto the ground, allowing it to run onto an adjacent property, and into the Little Cabin Creek.



*Pesticide discharged onto ground where it flowed into a nearby creek.*

Helena Chemical was sentenced to pay a \$150,000 fine and make a \$75,000 community service payment to the Oklahoma Department of Environmental Quality to fund environmental projects, initiatives, emergency responses, and/or education dedicated to the preservation and restoration of the environment and waters of the U.S. The company also will complete a four-year term of unsupervised probation.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Oklahoma Department of Agriculture.

## Environmental Crimes Section Attorneys

Position	Name	Phone
Chief	Deborah Harris	
Deputy Chief	Joseph Poux	
Assistant Chief	Thomas Ballantine	
Assistant Chief	Elinor Colbourn	
Assistant Chief	Wayne Hettenbach	
Senior Litigation Counsel	Howard P. Stewart	
Senior Litigation Counsel	Richard Udell	
Senior Counsel	Robert Anderson (Montana)	
Senior Counsel	Kris Dighe	
Senior Counsel	Rocky Piaggione	
Senior Trial Attorney	Georgiann Cerese	
Senior Trial Attorney	Christopher Costantini	
Senior Trial Attorney	Daniel Dooher	
Senior Trial Attorney	Todd Gleason	
Senior Trial Attorney	David Kehoe	
Senior Trial Attorney	Jeremy Korzenik	
Senior Trial Attorney	Lana Pettus	
Senior Trial Attorney	Jennifer Whitfield	
Trial Attorney	Cassandra Barnum	
Trial Attorney	Jennifer Blackwell	
Trial Attorney	Mary Dee Carraway	
Trial Attorney	Ryan Connors	
Trial Attorney	Adam Cullman	
Trial Attorney	Gary Donner	
Trial Attorney	Patrick Duggan	
Trial Attorney	Ethan Eddy	
Trial Attorney	Thomas Franzinger	
Trial Attorney	Christopher Hale	
Trial Attorney	Joel LaBissonniere (NOAA)	
Trial Attorney	Leslie Lehnert	
Trial Attorney	James Nelson	
Trial Attorney	Ken Nelson	
Trial Attorney	Brandy Parker (USCG)	
Trial Attorney	Shennie Patel	
Trial Attorney	Richard Powers	
Trial Attorney	Mark Romley (Colorado)	
Trial Attorney	Brendan Selby	
Trial Attorney	Lauren Steele	
Trial Attorney	Shane Waller	

## Announcements

In November 2014, a number of federal animal protection statutes were assigned to the Environmental Crimes Section for criminal enforcement purposes. [Title 5 of the USAM](#) been revised to include the following: Animal Fighting Venture Prohibition Act, Animal Welfare Act, Horse Protection Act, Humane Methods of Livestock Slaughter Act, 28-Hour Law, and the Animal Crush Video Prohibition Act. ECS has added a new [Animal Prosecutions Cruelty](#) page to its website that contains helpful materials to assist prosecutors working these cases. Please contact [redacted] if you have any questions.

Michael Fisher, Legal Counsel Division Director for OCEFT USEPA, has written an article concerning the need for felony agents to continued to be authorized to carry firearms. It was published in the Bureau of National Affairs Daily Environmental Report: <http://www2.epa.gov/sites/production/files/2015-06/documents/disarm-epa-fisher.pdf>.

The first of two issues of the U.S. Attorney's Bulletin devoted to wildlife crimes was published in [May 2015](#) and features articles on current issues related to the Lacey Act; wildlife charges in oil spill cases; forensics in wildlife cases; illegal, unreported, and unregulated (IUU) fishing and seafood fraud; the use of the criminal enforcement to stop the growing threat of invasive species; restitution in wildlife cases and the use of civil and administrative alternatives to criminal enforcement. These articles reflect the contributions of prosecutors in ECS, ENRD's Appellate, Law and Policy, and Wildlife and Marine Resources Sections, Assistant U.S. Attorneys, and agents, scientists and regulators at FWS, NOAA and USDA. The second issue will be published in September 2015.

New press releases have been added to the [ECS Webpage](#). We have also updated the Contacts for ECS, AUSAs, and EPA, as well as editing the Articles page.

Please send information regarding State and local cases to the [Regional Environmental Enforcement Association's Webpage](#). Updates on federal cases should be sent to [\[redacted\]](#)