



Monthly

Bulletin

Environmental Crimes Section

April 2015

Inside this Issue:

[Indictments](#)

3

[Guilty Pleas](#)

4-8

[Sentencings](#)

9-16

[Contacts](#)

17

[Announcements](#)

18



See *United States v. Guan*, [inside](#), for details on this case.

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"Calling it 'a very serious offense' Judge Swain said that Guan 'helped to feed a hot market for [rhino horns and elephant ivory]' and further stated that the defendant's conduct 'feeds demand for the slaughter of rare and already endangered species.'"

From sentencing press release issued March 25, 2015, in *United States v. Xiao Ju Guan*.

District	Case Name	Case Type/Statutes
District of Alaska	<u>United States v. Robert Pate et al.</u>	Mine Operation/ CWA
District of Arizona	<u>United States v. Sendero Helicopter Co. et al.</u>	Antelope Hunting/ Airborne Hunting Act
District of Colorado	<u>United States v. Nicholas Rodgers et al.</u>	Big Cat Hunting/Lacey Act, Conspiracy
Middle District of Florida	<u>United States v. Carbofin S.P.A. et al.</u>	Vessel/ APPS
Southern District of Florida	<u>United States v. Curtis W. Waters</u> <u>United States v. Robert Kelton et al.</u>	Marine Wildlife Sales/ Lacey Act Marine Wildlife Sales/ Lacey Act
Eastern District of Louisiana	<u>United States v. XPLOR Energy SPV-1, Inc.</u> <u>United States v. Sean Granger</u>	Oil and Gas Company/CWA Oil Rig/Outer Continental Shelf Lands Act
District of Maryland	<u>United States v. Ireneo Tomo Tuale et al.</u>	Vessel/ APPS
District of Massachusetts	<u>United States v. Paul Ricco</u>	Pesticide Inspections/False Statements
Eastern District of Michigan	<u>United States v. Lip Bor Ng a/k/a Paul Wu</u>	Electronic Waste/Conspiracy
District of Nevada	<u>United States v. Rockwood Lithium, Inc.</u>	Mineral Refiner/MBTA
Eastern District of New York	<u>United States v. American Pallet Recycling et al.</u>	Wooden Pallet Sales/Plant Protection Act, False Statement
Southern District of New York	<u>United States v. Xiao Ju Guan a/k/a Tony Guan</u>	Rhino Horn and Elephant Ivory Sales/Smuggling
Northern District of Ohio	<u>United States v. Christopher L. Gattarello et al.</u>	Demolition/CAA, Conspiracy, Wire Fraud, Money Laundering
Eastern District of Pennsylvania	<u>United States v. Ronan Bakshi et al.</u>	Asbestos Removal/CAA, Falsification of Records, Wire Fraud
Eastern District of Texas	<u>United States v. Cory James Moseley et al.</u>	Dolphin Shooting/MMPA
Western District of Texas	<u>United States v. John A. Brommel</u>	Rhino Horn Sales/Lacey Act
Southern District of West Virginia	<u>United States v. Freedom Industries Inc. et al.</u>	Chemical Spill/Refuse Act, CWA

Indictments/ Informations

United States v. Sendero Helicopter Company et al., No. 3:15-mj-04058 (D. Ariz.), AUSA Patrick J. Schneider.

On March 4, 2015, a complaint was filed charging Sendero Helicopter Company, Chad Smith, Christopher Atkinson, and Andrew King with violating the Airborne Hunting Act (16 U.S.C. § 742j-1(a)(2) and (3)) for using a helicopter to harass pronghorn antelope north of Prescott, Arizona.

According to the complaint, a group of hunters reported seeing a black-and-red helicopter buzz herds and solitary antelopes repeatedly on August 22 and 23, 2014. The animals were disturbed by the chopper's aggressive maneuvers, which appeared to drive them toward the ORO ranch, a large ranch about 45 miles north of Prescott. Smith is the owner of Vaquero Outfitters and the manager of the ranch. Atkinson is the owner of Sendero Helicopter and King is his spotter. All three defendants allegedly denied chasing or herding antelope and Smith stated that they were only herding cattle.

The defendants are scheduled for trial to begin on May 27, 2015. This case was investigated by the U.S. Fish and Wildlife Service.

Guilty Pleas

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



Dead Dolphin

On February 18, 2015, brothers Cory James Moseley and Cade Ryan Moseley pleaded guilty to violating the Marine Mammal Protection Act (16 U.S.C. § 1372(a)(2)(A)) for shooting a dolphin.

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.

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. Robert Pate et al.*, No. 14-CR-00103 (D. Ak.), ECS Senior Trial Attorney Chris Costantini, FAUSA Kevin Feldis, SAUSA Dean Ingemanson, and ECS Paralegals Casey Layman and Christopher Kopf.**

On March 4, 2015, Robert Pate pleaded guilty to Clean Water Act violations (33 U.S.C. §§ 1311(a), 1319(c)(2)(A), (c)(4)) stemming from the illegal operation of the Platinum Creek Mine on the Salmon River in Western Alaska. Pate was XS Platinum Inc.'s (XSP) general manager and a senior member of its office staff in Seattle, Washington, from February 2010 to June 2012. XSP held 159 placer mining claims and 36 hard-rock claims totaling more than 4,000 acres at the Platinum Creek Mine, which was situated along the Salmon River and its tributaries. The mine contains placer deposits of platinum metal, along with smaller amounts of gold and palladium.



Turbid ponds near Salmon River

All but 21 of the claims were on land managed by the BLM, with the remaining (undeveloped) claims lying within the Togiak National Wildlife Refuge. The Salmon River is an anadromous fish stream that is important for the spawning of all five species of Pacific salmon (chinook, chum, coho, pink, and sockeye), and the rearing of coho and sockeye salmon. After flowing through

(Continued on page 5)

Guilty Pleas

(Continued from page 4)

BLM land, the Salmon River crosses the Togiak National Wildlife Refuge before entering the Pacific Ocean at Kuskokwim Bay. The mine had been issued a permit with the understanding that it would be recycling all of its wastewater, resulting in “zero discharge.”

Pate documented unpermitted discharges of turbid effluent process water into the Salmon River beginning on July 3, 2010. Turbid process water from the placer mining at the Platinum Creek Mine contained pollutants such as suspended particles and sediments and may have also included waste such as dissolved metals that posed a potential threat to aquatic life. After documenting the first discharges of turbid effluent process water, Pate supervised the construction of a ditch to divert the effluent directly into nearby Squirrel/Platinum Creek, also without a permit. Turbid discharges, which XSP never reported to regulators, continued into the Salmon River for much of the remaining season. When Pate filed XSP’s annual water quality report in January 2011, he falsely wrote that the Platinum Creek Mine had experienced no discharges in 2010. The discharges continued in 2011.

***United States v. Lip Bor Ng a/k/a Paul Wu*, No. 2:15-CR-20098(E.D. Mich.), ECS Trial Attorney Jenn Blackwell, AUSA Lynn Dodge, and RCEC Dave Taliaferro.**

On March 13, 2015, Lip Bor Ng, also known as Paul Wu, pleaded guilty to an information charging him with conspiring to submit false and misleading export information to the United States, to fraudulently and knowingly export electronic waste in violation of United States law, and to export hazardous waste without filing a notification of intent to export with the U.S. Environmental Protection Agency (18 U.S.C. § 371).

On two occasions in 2011, Ng submitted fraudulent export information to the Automated Export System, an electronic database maintained by U.S. Customs and Border Protection. He falsely declared the commodities as plastic and metal scrap, when, in fact, they contained various types of used electronics and computer components, including cathode-ray tube (CRT) monitors. CRT monitors are considered hazardous waste under certain conditions and their export is regulated by the EPA.

Anyone who exports unusable, hazardous CRT monitors must file a notification of intent to export CRT monitors and also must receive permission from the receiving country, in this case, China and Hong Kong, to allow import of this material. Ng did not file the appropriate notification, or receive permission from China and Hong Kong to import the CRT monitors.

Sentencing is scheduled for July 14, 2015. This case was investigated by the U.S. EPA Criminal Investigation Division, U.S. Immigration and Customs Enforcement Homeland Security Investigations, U.S. Department of Commerce, and the U.S. Postal Inspection Service.

Guilty Pleas

***United States v. Freedom Industries Inc. et al.*, Nos. 2:14-CR-00264, 00275 (S.D.W.V.), AUSAs Philip Wright, Larry Ellis, and Eric Bacaj.**

On March 16, 2015, William E. Tis and Charles E. Herzing each pleaded guilty to a violation of the Refuse Act (33 U.S.C. §§ 407, 411) stemming from the January 2014 chemical release into the Elk River that contaminated drinking water supplies for 300,000 West Virginians.

On January 9, 2014, a leaking chemical silo at Freedom Industries released an estimated 10,000 gallons of 4-methylcyclohexane methanol (MCHM) into the Elk River, forcing West Virginia's governor to issue an order that residents in nine counties not use their tap water. Freedom Industries declared bankruptcy within a week after the spill was discovered. The company faces multiple lawsuits, including a putative class action on behalf of all businesses and individuals harmed by the incident.

The indictment charged Dennis P. Farrell, Gary L. Southern, Herzing and Tis with negligently discharging pollutants, negligently discharging refuse matter, and negligently violating the facility's NPDES permit. The executives allegedly failed to fund repairs that would have kept the facility's equipment environmentally compliant, failed to conduct proper inspections of the tank containing MCHM, and failed to develop and implement a stormwater pollution prevention plan and groundwater protection plan. In addition to the CWA and RHA charges, Southern faces bankruptcy and wire fraud charges. Farrell and Southern are scheduled for trial to begin in October 2015.

The company pleaded guilty on March 23, 2015, to an information charging it with CWA and Refuse Act violations.

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

***United States v. Ronan Bakshi et al.*, Nos. 14-CR-00456, 00158 (E.D. Pa.), SAUSAs Martin Harrell and Patricia C. Miller, and AUSA Mary E. Crawley.**

On March 18, 2015, licensed Asbestos Project Inspector Ronan Bakshi pleaded guilty to a two-count indictment charging him with wire fraud and falsification of records to obstruct a matter within the jurisdiction of EPA (18 U.S.C. §§ 1343, 1519). The charges arose from Bakshi's involvement in an asbestos abatement project at a former church in Philadelphia. Co-defendant Anthony Biello, II, was sentenced on March 9, 2015, to one year and a day of incarceration, followed by two years' supervised release, after previously pleading guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)). Biello will pay \$12,000 in restitution to the City of Philadelphia.

Siloam Ministries, Inc., an HIV community support non-profit, hired Bakshi in 2008 to perform an asbestos survey of the church. Bakshi was responsible for monitoring Biello, the contractor who



Former Church

(Continued on page 7)

Guilty Pleas

(Continued from page 6)

would perform all air sampling and conduct visual inspections during the course of the asbestos project.

After the City of Philadelphia discovered that Biello had not notified it about removing asbestos and had improperly removed some material, Bakshi presented false log books and air monitoring data to City officials in late April 2009, which purported to show that he had been present during asbestos abatement work performed by Biello when he in fact was not. In May, 2009, Bakshi admitted to City personnel that he had not been present when Biello had taken air samples the previous month. In addition, Bakshi billed Siloam for work he later admitted he had not performed, and then billed for additional work resulting from Biello's improper abatement activities.

Bakshi is scheduled to be sentenced on July 21, 2015. This case was investigated by the U.S. EPA Criminal Investigation Division.

***United States v. John A. Brommel*, No. 15-CR-00020 (W.D. Tex.), ECS Trial Attorney Gary Donner, AUSA Greg Gloff and ECS Supervisory Paralegal Lisa Brooks.**

On March 26, 2015, John A. Brommel, the owner of a taxidermy business, pleaded guilty to a Lacey Act false labeling violation for knowingly selling horns from a Black rhinoceros to non-Texas residents and falsifying the bill of sale to conceal the fact that the actual purchasers were not residents of Texas.

Brommel admitted to selling the horns from the shoulder mount of a Black rhinoceros in September 2010 to a group of Irish nationals, who included Michael Slattery, Jr. Slattery was previously prosecuted and sentenced to 14 months' incarceration. Brommel, who owned and operated a taxidermy shop for more than 25 years, was identified as part of "Operation Crash" – a nationwide effort led by the U.S. Fish and Wildlife Service and the Justice Department to investigate and prosecute those involved in the black-market trade of rhinoceros horns and other protected species.

This case was investigated by the U.S. Fish & Wildlife Service Office of Law Enforcement.

Guilty Pleas

United States v. Christopher L. Gattarello et al., No. 1:14-CR-00353 (N.D. Ohio), SAUSA Brad Beeson and AUSA James V. Maroney, Jr.

On March 27, 2015, Christopher Gattarello pleaded guilty to Clean Air Act, money laundering, wire fraud, and conspiracy to commit wire fraud violations (18 U.S.C. §§ 1349, 1957; 42 U.S.C. § 7413 (c)(1)) stemming from the illegal demolition of a warehouse in Cleveland and the defrauding of a financial services company out of approximately \$1.2 million.

Gattarello owned and controlled several garbage hauling companies. Co-defendant Robert A. Shaw worked for Gattarello as the chief financial officer for those companies and co-defendant William S. Jackson, Jr., owned and operated a building demolition company.

Gattarello directed Jackson to demolish the National Ac-



Dry Asbestos

me warehouse in 2012 without first abating the asbestos. In 2012, Gattarello and a co-defendant also caused the loss of nearly \$1.2 million from AIM Business Capital, LLC, a company in the business of purchasing accounts receivable, such as invoices billed to customers for goods and services. Shaw and Jackson are scheduled for trial to begin on August 3, 2015, and Gattarello is scheduled for sentencing on June 19, 2015.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, the Federal Bureau of Investigation, and the Internal Revenue Service.

Sentencings

United States v. Ireneo Tomo Tuale et al., Nos. 1:14-CR-00505, 1:15-CR-00005 (D. Md.), ECS Senior Trial Attorney David Kehoe, AUSA Michael Cunningham, and ECS Paralegal Jessica Pannett.

On March 3, 2015, First Engineer Ireneo Tomo Tuale was sentenced to three months' incarceration, followed by one year of supervised release, after previously pleading guilty to violating the Act to Prevent Pollution from Ships (33 U.S.C. § 1908 (a)). Chief Engineer Noly Torato Vidad was previously sentenced to eight months' in prison, followed by one year of supervised release. Vidad pleaded guilty to obstruction of justice and an APPS violation (33 U.S.C. § 1908; 18 U.S.C. § 1505).

Between August 2013, and January 2014, Japanese company Hachiuma Steamship Co, LTD, operated the *M/V Selene Leader*, a 652-foot carrier. In January 2014, under Tuale and Vidad's supervision, engine room crew members used rubber hoses to transfer oily wastes between oil tanks on the ship, bypassed pollution control equipment, and then discharged the wastes directly overboard. These discharges were not recorded in the vessel's oil record book. When the Coast Guard boarded the vessel in Baltimore on January 31, 2014, Vidad obstructed the Coast Guard's investigation by falsifying the oil record book, destroying documents, lying to the Coast Guard, and instructing subordinate crew members to lie to the Coast Guard.

The company was sentenced to pay \$1.8 million in fines and community service, complete a three-year term of probation, and implement an environmental compliance program, after pleading guilty to an APPS oil record book violation.

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



Oily drum

United States v. XPLOR Energy SPV-1, Inc., No. 14-CR-00202 (E.D. La.), former AUSA Matthew Coman.

On March 4, 2015, XPLOR Energy SPV-1, Inc. was sentenced to pay a \$2.5 million fine and make a \$600,000 community service payment to the Louisiana Department of Environmental Quality Trust Fund. The company also will complete a three-year term of probation. XPLOR previously pleaded guilty to knowingly violating the Clean Water Act (33 U.S.C. §§ 1311(a), 1319(c) (2)(A)) in connection with its oil and gas production activities in the Breton Sound Area of the Gulf of Mexico.

Between November 1997 and November 2011, XPLOR operated the MP 35 offshore platform for the purpose of extracting oil and natural gas. During the production process, "produced water" or "brine" was supposed to be disposed of by pumping it into disposal/injection wells located near the platform.

Sentencings

(Continued from page 9)

In November, 2011, XPLOR transferred ownership and operation of the facility to another corporation. The platform's new owner discovered that the platform was continuously discharging produced water containing oil and other chemicals directly into the Gulf. The new owner immediately contacted regulatory authorities to report the discharge. The ensuing investigation revealed that the defendant company had knowingly discharged this wastewater between October 2009 and November 18, 2011.

The case was investigated by the U.S. EPA Criminal Investigation Division and the Louisiana Department of Environmental Quality.

United States v. Paul Ricco, No. 3:14-CR-30040 (D. Mass.), AUSA Carlos A. Lopez.

On March 4, 2015, Paul Ricco, a former inspector for the Massachusetts Department of Agriculture (MDAG), was sentenced to complete a two-year term of probation. He previously pleaded guilty to making false statements on inspection reports he submitted to federal regulators (18 U.S.C. § 1001(a)(2)).

From March 2010 through May 2012, Ricco was in charge of the Producer Establishment Inspection program at the MDAG, where he inspected establishments that produce, sell and/or distribute pesticides. Ricco submitted 15 reports for inspections he did not perform. These reports were subsequently provided to the U.S. EPA in an effort to conceal the fact that he was not conducting the inspections.

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

United States v. Carbofin S.P.A. et al., Nos. 8:14-CR-00500, 00501, 00508 (M.D. Fla.), ECS Trial Attorney Ken Nelson, AUSA Matthew Mueller, and ECS Paralegal Jessica Pannett.



"Magic Hose" connected to overboard discharge valve

On March 5, 2015, Carbofin S.P.A. was sentenced to pay a \$2,150,000 fine and make a \$600,000 community service payment to the National Marine Sanctuary Foundation.

Carbofin previously pleaded guilty to three APPS violations (18 U.S.C. § 1908(a)) for maintaining a false oil record book that failed to record illegal overboard discharges of oily wastes from the *M/T Marigola* in 2013 and 2014. While conducting a routine inspection of the *Mari-gola* in April 2014, crew members provided Coast Guard inspectors with cellphone video of a black hose being used to discharge oily bilge waste directly overboard. After examining valves and finding oily residue on the hose, the inspectors confirmed that the hose had been used to bypass pollution-prevention equipment and to discharge

(Continued on page 11)

Sentencings

(Continued from page 10)

wastes overboard.

Chief Engineer Carmelo Giano was sentenced after previously pleading guilty to an APPS violation. Giano was sentenced to pay a \$5,000 fine and a one-year term of probation. Second engineer Alessandro Enrico Messori, who also pleaded guilty to violating APPS, was previously sentenced to pay a \$1,500 fine, a five-year term of probation, and must obtain permission from the government before returning to the U.S. while on probation.

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

United States v. Nicholas Rodgers et al., No. 1:14-CR-00018 (D. Colo.), ECS Trial Attorney Mark Romley and ECS Senior Trial Attorney Ron Sutcliffe.

On March 11, 2015, Nicholas Rodgers was sentenced to a three-year term of probation, with a special condition of six months' home confinement. Rodgers also was ordered to pay a \$5,000 fine and perform 50 hours of community service. Between 2007 and 2010, Rodgers and Christopher Loncarich illegally captured and maimed mountain lions and bobcats as part of a scheme to make it easier for their clients to hunt the cats. Both pleaded guilty to Lacey Act conspiracy violations (18 U.S.C. § 371).

Loncarich is a big game outfitter and hunting guide who operates mainly in western Colorado along the border with Utah. He outfits and guides hunts for mountain lions and bobcats in the Book Cliffs Mountains, which span the Colorado-Utah border. The hunting season for the cats runs from November to March when snow is likely to be on the ground. After the dogs would discover a cat's tracks in the snow, they followed the animal until they cornered it, enabling the hunter to kill it.

Rodgers, Loncarich, and other assistant guides trapped the cats in cages prior to hunts and released them when the client was nearby. They shot them in the paws or legs, or placed leg-hold traps on them to keep the cats from moving. Knowing that many of these hunters did not have proper tags or licenses to shoot the animals in Utah, the defendants helped them bring the cats to Colorado and provided false seals for the hides. Loncarich sold mountain lion hunts for between \$3,500 and \$7,500 and bobcat hunts for \$700 to \$1,500.

Loncarich was sentenced to 27 months' incarceration, followed by three years' supervised release. His two daughters also have been prosecuted. This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement, the Colorado Parks and Wildlife, and the Utah Division of Wildlife Resources.

United States v. Curtis W. Waters, No. 4:14-CR-10024 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On March 11, 2015, Curtis W. Waters was sentenced to complete a three-year term of probation with a special condition of three months' home confinement. Waters previously pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)) for offering more than 100 specimens of *Ricordea florida* for sale, a species of coral that is very popular in saltwa-

(Continued on page 12)

Sentencings

(Continued from page 11)

ter aquariums.

Waters holds a Saltwater Products License (SPL) issued by the Florida Fish & Wildlife Conservation Commission. The SPL authorized him, among other things, to harvest live *Ricordea florida*, which is native to the salt water reefs of South Florida. In August 2013, Waters contacted an individual in Colorado (who was cooperating with agents) advising that he would be in the Keys collecting marine specimens and would have “more” *Ricordea florida* for sale. At the direction of U.S. Fish and Wildlife Service agents, the cooperator ordered 150 *Ricordea*. On September 2, 2013, Waters called the buyer, confirming the order would be sent via Federal Express. The buyer received the package in Colorado a few days later with an invoice for \$600 (\$4 each). The cash was subsequently deposited into Waters’ account.

This case was investigated by the U.S. Fish and Wildlife Service and NOAA, both of which are participants in “Operation Rock Bottom,” a long-term investigation into the illegal harvesting and sale of marine life resources from the Florida Keys.

Sentencings

***United States v. American Pallet Recycling et al.*, No. 2:14-CR-00102 (E.D.N.Y.), ECS Senior Counsel Rocky Piaggione.**

On March 12, 2015, American Pallet Recycling (APR) was sentenced to pay a \$100,000 fine. Company owner Raymond Viola will pay a \$1,000 fine, complete a two-year term of probation, and relinquish control of his company to his son. The defendants previously pleaded guilty to charges stemming from the improper treatment of wood pallets. Viola pleaded guilty to violating the Plant Protection Act, and APR pleaded guilty to a false statement violation (7 U.S.C. § 7734; 18 U.S.C. § 1001).

APR builds, repairs, and sells wooden pallets used in the national and international shipment of commercial goods. Pallets such as those manufactured and recycled by APR are the most common type of wood packaging material (WPM). WPM is omnipresent in international trade due to its use in storing and preventing damage to commodities. WPM also is a recognized pathway for the introduction and spread of plant pests. Highly destructive wood borers and beetles have been introduced into countries through the importation of untreated WPM.

During the 2007-2011 period, APR falsely represented (using counterfeit stencils) that pallets it sold had been heat-treated in compliance with International Plant Protection Convention standards. Viola violated the Plant Protection Act by using the counterfeit stencils. This case was investigated by the U.S. Department of Agriculture.

***United States v. Sean Granger*, No. 14-CR-00252 (E.D. La.), AUSA Emily Greenfield.**

On March 18, 2015, Sean Granger was sentenced to pay a \$3,000 fine and a three-year term of probation. Granger previously pleaded guilty to tampering with a method of record required to be maintained under the Outer Continental Shelf Lands Act (43 U.S.C. §§1350(c)(3)).

Granger was a supervisor for a coil tubing services crew that performed coil tubing services on a drilling rig well located in the Gulf of Mexico. Prior to starting the coil tubing services, Granger tested his coil tubing unit's blowout preventer (BOP). A coil tubing unit should not be placed into service until all the BOP components have passed pressure testing.

The results of BOP tests were recorded on a circular graphic chart known as the BOP pressure test chart. To record pressures, a test chart is placed into a chart recorder that has a needle with a pen attached to it. As the recorder rotates, the needle makes a record on the test chart of how much pressure the BOP components are holding. The BOP test chart is the record that inspectors review to determine if the BOP units are functioning properly.

On June 4, 2012, there were irregularities in the BOP testing process. Rather than properly document the pressures of the BOP components or remedy the irregularities in the testing, Granger tampered with the pressure test chart by turning it on the recorder. When inspectors reviewed the pressure test chart a few days later, they were unable to determine whether the BOP on the coil tubing unit was functioning properly.

This case was investigated by the Department of Interior Office of Inspector General and the Bureau of Safety and Environmental Enforcement.

Sentencings

***United States v. Rockwood Lithium, Inc.*, No. 2:13-CR-00254 (D. Nev.), ECS Senior Counsel Bob Anderson and AUSA Kathryn Newman.**

On March 20, 2015, the court extended the term of probation for Rockwood Lithium an additional eighteen months. The company needs more time to obtain an avian rehabilitation permit from the U.S. Fish and Wildlife Service, a requirement of the environmental compliance plan.

In October 2013, Rockwood Lithium pleaded guilty to a Migratory Bird Treaty Act charge (16 U.S.C. §§ 703, 707(a)) related to unlawful takings of migratory birds at the company's Silver Peak lithium extraction and refinement site in Nevada. The facility contains 24 groundwater collection and concentration ponds covering 3,850 acres. The process gradually concentrates the naturally-occurring lithium carbonate until 2,450 acres of the ponds are considered "salt-saturated." Hundreds of thousands of migratory birds use the ponds at the Silver Peak facility every year for feeding and resting. The highly salinated ponds kill birds that ingest salt and become encrusted and/or poisoned.

Rockwood Lithium was sentenced in October 2013 to pay a \$15,000 fine and to make a \$75,000 community service payment to the National Fish and Wildlife Foundation to fund projects supporting migratory bird habitat. During the first eighteen months of probation, Rockwood Lithium took many steps to remediate the problems that caused the unlawful taking, and constructed a rehabilitation facility. However, it has been unable to meet all of the requirements for obtaining a rehabilitation permit. With the original term of probation scheduled to expire in April, the government and Rockwood Lithium agreed to seek an extension.

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



Salt-encrusted bird

Sentencings

***United States v. Robert Kelton et al.*, No. 4:14-CR-10029 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On March 23, 2015 Robert V. Kelton and Bruce Brande were sentenced after previously pleading guilty to Lacey Act and conspiracy violations (16 U.S.C. §§ 3372 (a)(2)(A), 3373(d)(1); 18 U.S.C. § 371) for the illegal sale and purchase of live rock and *Ricordea florida*, a species of coral. Kelton was sentenced to two years' imprisonment, followed by three years' supervised release. Brande was sentenced to one year and a day of incarceration, followed by one year of supervised release. Neither defendant was ordered to pay a fine and both received reduced sentences for providing substantial assistance to the government.



Live rock with marine life attached

Beginning in February 2008 through July 2011, Kelton and Brande conspired with other marine life collectors located in the Florida Keys to purchase quantities of live rock with marine life attached to it, such as *Ricordea florida*, which was illegally harvested and transported from the Florida Keys National Marine Sanctuary. Records seized in the case reflect more than \$37,000 in wholesale sales of live rock with *Ricordea florida* and other marine life through the business known as D. R. Imports, Inc. (DRI). To conceal the transactions, the defendants produced numerous false invoices, reflecting sales of live rock with marine life attached, purportedly imported from Haiti, to marine life collectors in the Keys. Between January 2009 and December 2012, Kelton and Brande submitted false documents to federal officials for shipments of marine wildlife imported from the Dominican Republic and Haiti for commercial re-sale. Comparison of the entry documents with records seized from DRI proved that the value of the declared wildlife had been intentionally understated by \$352,594.

This case was investigated by the NOAA Office of Law Enforcement and the U.S. Fish and Wildlife Service Office of Law Enforcement.

***United States v. Xiao Ju Guan a/k/a Tony Guan*, No. 1:14-CR-00506 (S.D.N.Y), ECS Senior Litigation Counsel Richard Udell, AUSA Janis Echenberg, and ECS Supervisory Paralegal Specialist Lisa Brooks.**



Carvings seized from defendant's business

On March 25, 2015, Xiao Ju Guan (Tony Guan) was sentenced to 30 months incarceration and will forfeit a variety of wildlife items made from elephant ivory and coral seized during a search of his business. Guan previously pleaded guilty to smuggling endangered black rhinoceros horns from the United States to Canada (18 U.S.C. § 554). He was arrested in New York City after he attempted to purchase two endangered black rhinoceros horns from undercover U.S. Fish and Wildlife Service agents for \$45,000. Guan is

(Continued on page 16)

Sentencings

(Continued from page 15)

a Canadian citizen and the owner of Bao Antiques, a company based in Canada and Hong Kong.

Guan and co-conspirators smuggled into Canada more than \$500,000 worth of rhino horns and sculptures made from elephant ivory and coral from various U.S. auction houses by driving them across the border or by having packages mailed directly to Canada with false paperwork and without the required declaration or permits. One part of the criminal scheme was to falsely describe the wildlife in order to conceal the wildlife smuggling. For example, a rhino horn purchased in Florida, was claimed in Customs paperwork to be a “Wooden Horn” worth \$200. Guan also recruited college-age family members and acquaintances to assist him with smuggling the wildlife items. During the search of Guan’s business, Canadian law enforcement also discovered illegal narcotics, including approximately 50,000 ecstasy pills.

The investigation of Guan and his company is part of Operation Libation, a segment of Operation Crash targeting the trafficking and smuggling of rhinoceros horns. This case was investigated by the U.S. Fish and Wildlife Service, with assistance from Environment Canada’s Wildlife Enforcement Directorate.

United States v. Bonita Witt-Hird, No. 2:14-CR-00216 (S.D.W.V.), AUSA Erik Goes and RCEC Perry McDaniel.

On March 26, 2015, Bonita Witt-Hird was sentenced to a year and one day of incarceration, followed by one year of supervised release. Witt-Hurd previously pleaded guilty to a Clean Water Act violation for filing fraudulent water quality reports.

Witt-Hird was formerly employed as the office manager for Richmorr Associates, Inc., an environmental engineering firm that provides water sampling services to wastewater treatment plants throughout West Virginia. From April of 2012 to June of 2013, Witt-Hird admitted to filing approximately 80 false reports with the West Virginia Department of Environmental Protection. These false reports made it appear that current water quality sampling had been performed for the wastewater plants when, in fact, the test results had been copied from previous years.

Witt-Hurd also pleaded guilty to obstructing an IRS investigation and has served a year and a day in prison for that offense. The new term of incarceration is consecutive to this earlier sentence.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the West Virginia Department of Environmental Protection and the Federal Bureau of Investigation.

Environmental Crimes Section Attorneys

Position	Name	
Chief	Deborah Harris	
Deputy Chief	Joseph Poux	
Assistant Chief	Thomas Ballantine	
Assistant Chief	Elinor Colbourn	
Assistant Chief	Kris Dighe	
Assistant Chief	Wayne Hettenbach	
Senior Litigation Counsel	Howard P. Stewart	
Senior Litigation Counsel	Richard Udell	
Senior Counsel	Robert Anderson (Montana)	
Senior Counsel	James A. Morgulec	
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	Ronald Sutcliffe (Idaho)	
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

ECS is working with EOUSA on two issues of the U.S. Attorneys' Bulletin devoted to wildlife crimes. The first, coming out in May, will feature articles on current issues arising under the Lacey Act, wildlife charges in oil spill cases, forensics in wildlife cases, 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.

ECS prosecutors participated in NOAA's annual In-Service agent and officer training at FLETC in March, providing legal updates for the agents. ECS will do the same for the annual FWS In-Service in April and early May, also at FLETC. AUSAs that would like to have particular topics covered with the FWS agents, please pass such information to Robert Anderson [REDACTED].

For those of you who going to the upcoming Environmental Crimes Seminar to be held at the NAC on May 5th - May 8th, 2015, we look forward to seeing you!

New press releases have been added to the [ECS Webpage](#). We have updated the ECS Contacts, and redesigned the Manual page. Several Manual Chapters are being edited and are close to ready for posting!

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