



Monthly

Bulletin

Environmental Crimes Section

March 2016

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Boat used for illegal halibut fishing in Alaska. See [U.S. v. Petticrew](#), inside, for more details.

Send your federal case updates
to: [REDACTED]

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“Elephants are being slaughtered daily by poachers for their ivory. Each tusk represents one step closer to their extinction,” said Edward Grace, Deputy Chief, Office of Law Enforcement for the U.S. Fish and Wildlife Service. [From press release for guilty plea taken in [U.S. v. Krizan](#)]

District/Circuit	Case Name	Case Type/Statutes
First Circuit Court of Appeals	United States v. Zarauskas	Narwhal Tusk/Smuggling
District of Alaska	United States v. Charles J. Petticrew, Sr. United States v. Clark Dixon	Halibut Fishing/Lacey Act Big Game Hunting/Lacey Act
Central District of California	United States v. Smogz R Us United States v. Isaac Zimmerman	Emissions Testing/CAA, Conspiracy Fish Trafficking/Smuggling, Lacey Act
Eastern District of California	[REDACTED] United States v. Juan Pedro Jimenez	[REDACTED] Marijuana Grow /Drug Charges, Depredation of Public Land
Southern District of California	United States v. Olga Jimenez	Turtle Eggs/Smuggling
[REDACTED]	[REDACTED]	[REDACTED]
Southern District of Florida	United States v. Raymond J. Reppert	Ivory Trafficking/Lacey Act
District of Idaho	United States v. Ben Broyles	Septic Waste/CWA
Southern District of Indiana	United States v. Chris Ducey	RINS/Conspiracy, False Claims against IRS, Obstruction, Wire Fraud, False Statement, Engaging in Prohibited Financial Transactions, CAA
Eastern District of Louisiana	United States v. Robert Kaluza	Deepwater Horizon/CWA
Western District of Missouri	United States v. Arkadiy Lvovskiy	Paddlefish Eggs/Lacey Act
[REDACTED]	[REDACTED]	[REDACTED]
District of New Hampshire	United States v. Christopher Garrity	Direct Discharge/CWA
District of New Jersey	United States v. Martin Kaszycki	Bear Hunt/Lacey Act
Western District of New York	United States v. Ferdinand E. Krizan	Elephant Ivory Sales/Lacey Act
[REDACTED]	[REDACTED]	[REDACTED]
Eastern District of Pennsylvania	United States v. James Crofton	Wastewater Treatment/CWA, Conspiracy
District of South Carolina	United States v. Genaro Anciano	Vessel/Obstruction

District/Circuit	Case Name	Case Type/Statutes
Middle District of Tennessee	<u>United States v. Southern Grease Company</u>	Waste Grease/CWA, Conspiracy, Mail Fraud; False Statement
Eastern District of Texas	<u>United States v. Steven M. Seibert</u> <u>United States v. Rodney Beshears</u>	African Leopard Trophy/Lacey Act, ESA Pipeline Excavation/ CAA
Eastern District of Virginia	<u>United States v. Lumber Liquidators</u>	Timber Product Sales/Lacey Act, Entry of Goods by Means of False Statements
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Southern District of West Virginia	<u>United States v. Dennis Farrell</u>	Chemical Spill/Refuse Act, CWA

Decisions

United States v. Andrew Zaruskas, 2016 WL 524250 (1st Cir. Feb. 10, 2016).

On February 10, 2016, the First Circuit affirmed the conviction of Andrew Zaruskas.

After being convicted by a jury in February 2014 for smuggling narwhal tusks into the U.S. from Canada, money laundering, and conspiracy charges, Zaruskas was sentenced to 33 months in prison. On appeal, the defendant sought reversal of his convictions on two grounds: (1) during a brief exchange with a government witness on direct examination and in closing argument, the prosecutor elicited testimony and made comments that violated the defendant's Fifth Amendment right not to testify and shifted the burden of proof from the government to the defendant; and (2) the district court admitted into evidence certain Border Patrol records, known as "TECS" reports, which are inadmissible hearsay. Zaruskas did not challenge his sentence.

The Court rejected both claims and affirmed the convictions. The court assumed (without deciding) a Fifth Amendment violation. Specifically, it declined to weigh in on a circuit split regarding whether a prosecutor's comments on the defendant's pre-custodial silence constitutes a Fifth Amendment violation. Instead, the Court assumed a Fifth Amendment violation and concluded that reversal of Zaruskas's convictions was not warranted, finding, among other things, that the district court's curative instruction and the strength of the government's evidence assured that any prejudice from the prosecutor's comments had no effect on the jury's verdict. The First Circuit also held that the TECS reports were admissible under Federal Rule of Evidence 803(8). This was an unresolved issue in the First Circuit, and in agreement with three other circuits, the Court concluded that the TECS reports bear all of the indicia of non-adversarial public records and thus it "had little difficulty concluding that the district court properly admitted the TECS reports pursuant to Rule 803(8)."

Trials

United States v. Robert Kaluza, No. 2:12-CR-00265 (E.D. La.), AUSA Jennifer Saulino.

On February 27, 2016, a jury acquitted BP Exploration and Production Inc. (BP) Supervisor Robert Kaluza of a misdemeanor Clean Water Act violation (33 U.S.C. § 1319(c)(1)(A)). Kaluza is the final defendant to be prosecuted for the 2010 *Deepwater Horizon* oil spill disaster. Supervisor Donald Vidrine previously pleaded guilty to a misdemeanor CWA. In June 2015, a jury acquitted BP Vice President David Rainey of making false statements, after the court dismissed an obstruction charge (18 U.S.C. §§ 1001; 1505). Engineer Kurt Mix was convicted in 2013 of obstruction of justice (18 U.S.C. § 1512(c)(1)), but the court granted a new trial. The government declined to retry, and Mix pleaded guilty to a misdemeanor count of intentionally causing damage without authorization to a computer (18 U.S.C. § 1030).

Halliburton Energy Services and former manager Anthony Badalamenti pleaded guilty to destruction of evidence (18 U.S.C. § 1030(a)(5)(A)). BP pleaded guilty to 11 counts of seaman's manslaughter for negligently causing the deaths of the men killed in the disaster, one CWA misdemeanor, a MBTA violation, and an obstruction count (18 U.S.C. §§ 1115, 1505; 33 U.S.C. §§ 1319 (c)(1)(A), 1321 (b)(3); 16 U.S.C. §§ 703, 707(a)).

BP was sentenced to pay a total monetary penalty of \$4 billion, more than \$2 billion of which will go to environmental restoration projects along the Gulf Coast.

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

United States v. Steven M. Seibert, No. 4:15-CR-00047 (E.D. Tex.), AUSA Jim Noble.

On February 18, 2016, after deliberating for three hours, a jury convicted Steven M. Seibert on Lacey Act and Endangered Species Act violations (16 U.S.C. §§ 1540(b)(1), 3372(d)(2)) for his involvement in the shipment of an African Leopard trophy mount from Oklahoma to Texas.

Seibert is the owner/operator of the Triple S Wildlife Ranch located in Oklahoma. He offered guided hunts of domestic and exotic wildlife on this 3,000 acre high-fenced ranch, and commercially traded in taxidermy via his website "Wildlife Creations."

In August 2012, the U.S. Fish and Wildlife Service learned that Seibert was offering to sell a full-body African Leopard trophy mount (an endangered species) for \$3,995 on his website. Based upon previous interactions with Seibert, the agents knew that he was aware of the restrictions on trading in endangered species.



African Leopard

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Trials

(Continued from page 5)

Acting as a Texas buyer, an agent in an undercover capacity, contacted Seibert for the purpose of purchasing the leopard mount. Seibert told the “buyer” that although the leopard trophy was in his inventory in Oklahoma, he could sell the leopard to a Texan so long as they could “keep it straight” that the leopard was actually being sold by another Texas resident. Upon delivery of the mount, the driver gave the agent an invoice indicating that the seller was a Texas resident. When questioned, the driver stated that Seibert had told him to tell “anyone who asked” that the leopard had come from Texas.

Agents subsequently questioned Seibert who falsely stated that the leopard came from Texas and had never left the state. The delivery truck, however, had been under surveillance during the time it left Oklahoma to its arrival in Texas. Seibert then claimed that he was only helping another Texas resident sell a leopard mount that had been sold at a Ft. Worth auction. Investigators confirmed that that leopard was different from the one Seibert had sold from his home in Oklahoma.

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

Indictments/Informations

***United States v. Smogz R Us*, No. 16-CR-00049 (C.D. Calif.), AUSAs Heather Gorman and Mark Williams.**

On February 3, 2016, a 44-count indictment was returned charging nine defendants with conspiracy and Clean Air Act violations (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(A)) for conducting hundreds of fraudulent smog check inspections (known as “clean piping”) over an eight-month period.

Smogz R Us was a shop located in South Los Angeles. As part of California’s plan to meet air quality standards, the state’s Bureau of Automotive Repair oversees a vehicle inspection program that requires vehicles to undergo emissions tests commonly called a smog check.

The indictment states that the defendants entered vehicle identification information into the smog testing equipment (known as the Emissions Inspection System) to make it appear that a particular vehicle was being tested. They then performed the emissions test on a second “substitute vehicle” to obtain a passing result for the vehicle that was not actually tested. This process of “clean piping” was allegedly used to conduct more than 1,300 fraudulent smog checks at Smogz R Us, and nearly all of the vehicles supposedly tested were not present at the testing station.

According to the indictment, once the bogus tests were completed, the defendants caused fraudulent Certificates of Compliance to be submitted to California’s Vehicle Information Database, falsely certifying the vehicles had passed the smog checks.

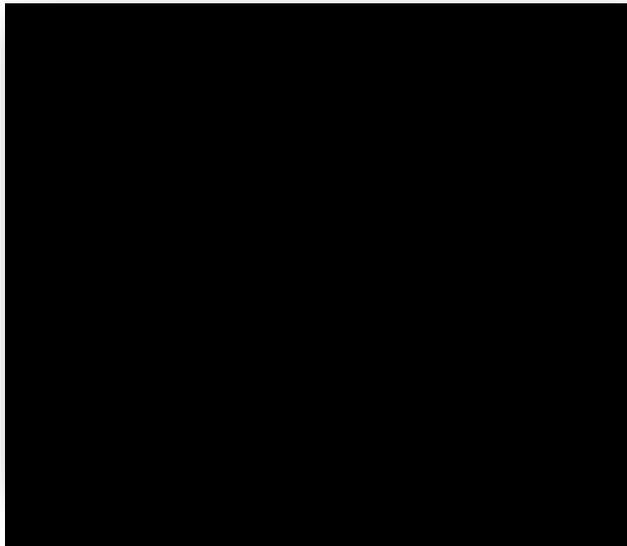
The following individuals are named in the indictment: Cheerline May Young, the company owner and operator; her daughter, Cheerline Marie “Cici” Young, and sons Jermaine Elroy Williams and Mark Anthony Young; Mario Mesa, Jaime Patrick Alvarez, Darnell Tyrone Usher, Lavell Fay Davenport, and Miguel Angel are also named in the indictment.

In a related case, Joshua Ebow is charged with similar conduct at Smog Pro Inc., another former Los Angeles smog check station.

These cases were investigated by the U.S. EPA Criminal Investigation Division.

Guilty Pleas

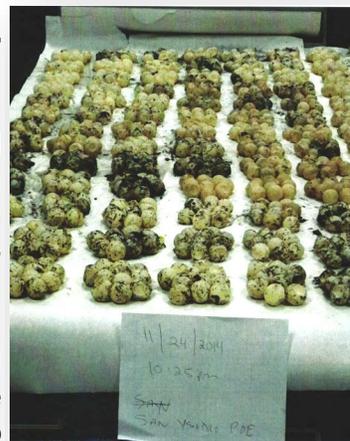
[REDACTED]



United States v. Olga Jimenez, No. 15-CR-02867 (S.D. Calif.), AUSA Melanie Pierson.

On February 19, 2016, Olga and Jose Jimenez pleaded guilty to a smuggling violation (18 U.S.C. § 545) in connection with the smuggling of approximately 900 sea turtle eggs from endangered Olive Ridley and Kemp's Ridley sea turtles into the United States from Mexico.

In November 2014, Olga Jimenez boarded a bus destined for Tijuana with a large cooler containing a number of small plastic bags filled with sea turtle eggs. Jose Luis Jimenez drove from Hemet, California, to the Mexican border and crossed into Mexico as a pedestrian with two small coolers. At the bus station in Tijuana, the defendants moved the sea turtle eggs from the large cooler to the two smaller ones, concealing them under layers of ice, fish, and shrimp. They then gave the coolers to the owner of a pickup truck to bring into the United States, telling the driver the coolers contained fish and shrimp. The defendants then crossed back into the U.S. through the pedestrian lanes, after which Olga Jimenez placed a call to one of the occupants of the truck to confirm that the eggs had successfully entered the U.S.



Sea turtle eggs

Sentencing is scheduled for May 6, 2016. This case was investigated by the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration Office of Law Enforcement.

Guilty Pleas

United States v. Genaro Anciano, No. 2:16-CR-00134 (D.S.C.), ECS Trial Attorney Christopher Hale and AUSA Matt Austin.

On February 18, 2016, Captain Genaro Anciano pleaded guilty to an obstruction violation (18 U.S.C. § 1505) for impeding a U.S. Coast Guard inspection onboard the *T/V Green Sky*, a chemical and petroleum tanker. Anciano was employed by Aegean Shipping Management S.A. (ASM), and was the highest-ranking officer aboard the vessel.



M/V Green Sky

The charge stems from a Coast Guard investigation in late August 2015 into the bypass of pollution prevention equipment, including the use of a “magic device,” on the *Green Sky*. Anciano stated that members of the ship’s engine room, including a senior officer, admitted to illegally discharging overboard. These admissions occurred prior to the August 2015 Coast Guard inspection at the Port of North Charleston. During the investigation, Anciano made several false and misleading statements to the Coast Guard to cover up the illegal conduct.

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

United States v. Ferdinand E. Krizan, No. 15-CR-00187 (W.D.N.Y.), AUSA Aaron Mango.

On February 17, 2016, Ferdinand E. Krizan pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372(1)(1), 3373(d)(1)(B)) for trafficking in elephant ivory.

In November 2013, Krizan purchased two elephant tusks from an auction house in Quebec, Canada, for \$4,320 CAD. He had the tusks shipped to an address in Ontario, Canada, where he subsequently transported them into the U.S. In May 2014, Krizan sold the two tusks (along with four additional elephant tusks) to a Massachusetts resident for \$50,000.



Ivory seized from Krizan

In addition to this transaction, Krizan admitted to either buying or selling numerous other wildlife items, including: (1) a Narwhal tusk he sold for \$8,000 (2) two elephant tusks he sold for \$66,000 (3) one elephant tusk he purchased for \$3,130 CAD; (4) one hippo ivory carving he sold for \$1,400 (5) one bronze and elephant ivory figurine he sold for

(Continued on page 10)

Guilty Pleas

(Continued from page 9)

\$3,700, and (6) one carved coral figurine he sold for \$3,400. The total value of the wildlife Krizan trafficked was \$141,877.

As part of the plea, Krizan will forfeit approximately 100 elephant ivory carvings. Sentencing is scheduled for May 19, 2016.

This case was investigated by the U.S. Fish and Wildlife Service and the N. Y. State Department of Environmental Conservation.

[REDACTED]

United States v. Rodney Beshears, No. 2:14-CR-0006 (E.D. Tex.), AUSA Jim Noble.

On February 9, 2016, Rodney Beshears, owner of Taz N Sons Pipeline Construction Company, pleaded guilty to violating the Clean Air Act (42 U.S.C. § 7413(c)(1)) for the illegal removal of an asbestos-covered pipeline.

In October, 2011, Beshears, and others under his direction, began the excavation and removal of a Kinder Morgan Tejas Pipeline. Beshears was informed by another contractor that the pipeline was coated with asbestos-containing material (ACM). In December 2011, a state inspector also informed Beshears of the ACM coating. A few weeks later, the defendant received training on the proper removal of ACM.



Pipeline excavation

In January 2012, Beshears excavated another pipeline and was again alerted to the

(Continued on page 11)

Guilty Pleas

(Continued from page 10)

presence of asbestos by a state inspector. He continued to excavate the pipe through March 2012 without wetting the coating, removing and pulverizing the ACM to expose the pipe for cutting.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Texas Commission on Environmental Quality Criminal Investigation Division, and the Texas Department of Parks and Wildlife.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Guilty Pleas

***United States v. James Crofton*, Nos. 2:15-CR-00412, 00413, 00595 (E.D. Pa.), AUSA Sarah Grieb and RCEC Patricia Miller.**

Between February 1 and 3, 2016, three employees of MAB Environmental Services, Inc., pleaded guilty to Clean Water Act violations. James Wetzel, James Crafton, and Stephen Fritz pleaded guilty to tampering with a monitoring device (33 U.S.C. § 1319(c)(4)). MAB and company owner Matthew Brozena remain charged with conspiracy and CWA violations (18 U.S.C. § 371; 33 U.S.C. §§ 1319(c)(2), (c)(4)).

The indictment states that Brozena and MAB contracted to operate wastewater treatment plants for its customers BC Natural Chicken and Buckingham Valley Nursing Center. These facilities were permitted to discharge from their wastewater treatment plants into nearby waters under specified conditions. Brozena allegedly directed his employees, including Wetzel and Fritz, to discard samples when Brozena believed that the pollutants in the samples would exceed the permit limits. The charges also allege that, at Brozena's direction, Wetzel, Crafton, Fritz, and other MAB employees falsely reported samples and test results.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the Pennsylvania Department of Environmental Protection.

Sentencings

~Correction: This case was inadvertently omitted from the February edition of the Bulletin~

United States v. Charles J. Petticrew, Sr., Nos. 15-CR-00004, 00005 (D. Alaska), AUSA Jack Schmidt.

On January 4, 2016, father and son Charles “Chuck” J. Petticrew, Sr., and Charles “Jeff” J. Petticrew, Jr., were sentenced for illegally fishing for halibut in the Gulf of Alaska.

Between June 2010 and May 2013, the Petticrews conspired to falsify fishing locations on Alaska Department of Fish and Game (ADF&G) Longline Fishery Logbook entries, Individual Fishing Quota (IFQ) landing permits, and ADF&G Halibut Tickets indicating that they had fished in a specific management area, when, in fact they were in a different area. The illegally caught halibut was valued at more than \$23,000.

Petticrew, Sr., pleaded guilty to a felony Lacey Act conspiracy charge (18 U.S.C. § 371) for falsifying IFQ records. He was sentenced to pay a \$90,000 fine and will complete a five-year term of probation. Petticrew, Jr., pleaded guilty to a misdemeanor Lacey Act violation 16 U.S.C. §§ 3372(d)(2); 3373(b)(3)(B)) for falsifying IFQ records. He will pay a \$10,000 fine and complete a five-year term of probation. Both defendants will install and pay for a vessel monitoring system for any vessel they use or any vessel that is used on behalf of the family corporation.

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

Sentencings

***United States v. Martin Kaszycki*, No. 2:15-mj-08052 (D.N.J.), AUSA Kathleen O’Leary.**

On February 26, 2016, Martin Kaszycki was sentenced after previously pleading guilty to two Lacey Act violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)) for illegally killing and transporting an American black bear in October 2012. Kaszycki will pay a \$5,000 fine, make a \$1,250 community service payment, complete a three-year term of probation, publish an apology in the New Jersey Hunting and Trapping Digest, and is prohibited from hunting and fishing during the term of probation. The community service payment will go toward the Woodlands Wildlife Refuge for the care and release of orphaned black bears.

After shooting the bear in New Jersey (two months prior to open season) Kaszycki took the animal back to New York. He told a N.Y. weigh station employee that he had hunted the bear in the Sterling State Forest (where such hunting would have been legal at that time). The employee then produced a bear data form containing false information that he gave to Kaszycki. Kaszycki informed a taxidermy shop that he had hunted the bear in New York, which caused the taxidermist to create an additional falsified document.

After questioning by New Jersey wildlife officials, Kaszycki went back to the state forest with the bear’s remains to create a fake kill site. He then escorted the officials to the site in an attempt to prove that this was where he had killed it. This case was investigated by the U.S. Fish and Wildlife Service and the New Jersey Division of Fish and Wildlife.

***United States v. Raymond J. Reppert*, No. 1:15-CR-20759 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On February 25, 2016, Raymond J. Reppert was sentenced to a three-year term of probation, with a special condition of 12 months’ home detention, and 100 hours of community service. A fine was not assessed. Reppert previously pleaded guilty to a Lacey Act false labeling violation (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A) (i)) for his involvement in an illegal ivory trafficking operation.

Reppert was doing business as Raymie’s Commercial & Residential Moving, a packing and shipping company specializing in antiques. On February 14, 2014, U.S. Customs and Border Protection (CBP) officers at the Miami International Mail Facility identified a parcel being exported from the United States, which was referred to the Fish and Wildlife Service for inspection. An inspector determined that the package (destined for Guangdong, China) contained elephant ivory. The sender listed an invalid Dania, Florida, address. The accompanying documentation described the contents as “resin carvings” with a declared value of \$60.

A search of a CBP database located over 245 matching records, including shipments from a post office in Pompano Beach, Florida. Postal inspectors verified that the name and return addresses for those shipments also were false. A postal clerk knew the sender as “Raymie,” a regular customer who



Elephant Tusk

(Continued on page 15)

Sentencings

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

On February 18, 2016, Southern Grease Company was sentenced to pay a \$280,000 fine, and was held jointly and severally responsible for \$48,380 in restitution. Company owner and president George Butterworth was previously sentenced to two months' incarceration, followed by one year of supervised release. Former operations manager Gerald McGee was sentenced to 30 days' incarceration, followed by two years' supervised release.

Southern Grease was in the business of collecting and disposing of fats, oils, and grease waste. Between September 2011 and December 2014, rather than properly dispose of the waste grease, the company dumped it into various restaurant grease interceptors. On multiple occasions, the grease caused damage to a municipal sewer system after it overflowed from an interceptor and clogged the operation of a pump station. The defendants lied to EPA agents (and to municipal auditors) about how the waste was being disposed.

The defendants pleaded guilty to violating the Clean Water Act, conspiring to violate the CWA, and making a false statement to EPA investigators (18 U.S.C. §§ 371, 1001; 33 U.S.C. § 1319 (c)(2)(A)). Southern Grease also pleaded guilty to one count of mail fraud, arising from its fraudulent promises to customers and municipalities regarding the waste grease disposal (18 U.S.C. § 1341).

The restitution is to be paid as follows: \$34,277 to the City of Clarksville Gas and Water Department, and \$16,103 to the Water Authority of Dickson County. The company also will forfeit \$113,500

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the FBI.

Sentencings

***United States v. Chris Ducey*, No. 1:13-CR-00189 (S.D. Ind.), ECS Assistant Chief Tom Ballantine, USAO Senior Litigation Counsel Steven DeBrotta, SEC SAUSA Jake Schmidt, and ECS Paralegal Casey Rybak.**

On February 18, 2016, Chris Ducey was sentenced to 72 months' incarceration, followed by three years' supervised release. He was held jointly and severally responsible (with Joseph Furando and Brian Carmichael) for more than \$56 million in restitution.

Brothers Chris, Chad and Craig Ducey previously pleaded guilty to charges stemming from their involvement in a scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel incentives. Furando was sentenced to 20 years' incarceration, followed by three years' supervised release.

From 2007 through 2012, E-biofuels owned a biodiesel manufacturing plant in Middletown, Indiana. E-biofuels was owned and operated by Carmichael and the Duceys. In late 2009, Furando, Caravan Trading Company and CIMA Green began supplying E-biofuels with biodiesel that had already been used to claim tax credits and RINs. Because these incentives had already been claimed, Furando could purchase the biodiesel at low prices, sometimes for more than \$2 per gallon less than biodiesel that was still eligible for the credits. He then illegally re-certified it to sell at a much higher market price.

Furando, his companies, and his Indiana co-defendants realized substantial per-gallon profits through this scheme, sometimes in excess of \$12,000 per truckload. Over the course of approximately two years, the defendants fraudulently sold more than 35 million gallons of fuel for a total cost of over \$145.5 million. The defendants realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers. Furando, Caravan Trading and CIMA Greed pleaded guilty to all charges: conspiracy, wire fraud, false statements, obstruction, engaging in prohibited financial transactions, and money laundering.

The Duceys pleaded guilty to conspiracy, false claims against the Internal Revenue Service, wire fraud, and lying to the EPA and the IRS (18 U.S.C. §§ 287, 371, 1001(a)(1), 1343, 1519, 1957; 42 U.S.C. § 7413(c)(2)(A)). In particular, Chad Ducey, an engineer by training, caused a third-party engineer to submit false reports to justify the production at E-biofuels. Those reports claimed that E-biofuels was using the chemical process of transesterification to produce biodiesel, when in fact, the company simply re-sold biodiesel that had been made by others and already had been used to claim biodiesel incentives.

In addition, Craig Ducey pleaded guilty to a related \$58.9 million securities fraud, which victimized more than 625 investors and share-holders of Imperial Petroleum, a publicly-traded company and the parent company of E-biofuels. E-biofuels pleaded guilty to similar charges. Carmichael was sentenced to five years' incarceration, to be followed by three years' supervised release and is liable for the restitution. Furando's companies, CIMA Green and Caravan Trading, which are largely defunct, must serve two years' probation to ensure that remaining assets are properly directed toward victims. Toward that end, the court imposed, but suspended, the fines. E-biofuels also is jointly and severally liable for the restitution; the company, however, is in bankruptcy and its few remaining assets are being distributed to creditors and victims through the bankruptcy process.

This case was investigated by the U.S. EPA Criminal Investigation Division, IRS Criminal Investigations, the FBI, and the Securities and Exchange Commission, with assistance from the U.S. Secret Service and the U.S. Department of Agriculture OIG.

Sentencings

United States v. Dennis P. Farrell, Nos. 2:14-CR-00264, 00275-00277 (S.D.W.V.), AUSAs Philip Wright, Larry Ellis, and Eric Bacaj and RCEC Perry McDaniel.

On February 17, 2016, Freedom Industries owner Gary Southern was sentenced to 30 days' incarceration, followed by six months' supervised release, and will pay a \$20,000 fine. Former owner Dennis P. Farrell was sentenced on February 11, 2016, to the same terms. Both previously pleaded guilty to negligent Clean Water Act violations and to violating the Refuse Act (33 U.S.C. §§ 407, 411, 1311, 1318, 1319(c)(1)(A)) for their involvement in the 2014 Elk River chemical spill.

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 300,000 residents in nine counties not use their tap water. The company declared bankruptcy within a week after the spill was discovered. It faces multiple lawsuits, including a putative class action on behalf of all businesses and individuals harmed by the incident.

Southern and Farrell failed to properly inspect a tank containing the MCHM; failed to develop and implement a spill prevention, control and countermeasures plan; failed to develop and implement a stormwater pollution prevention plan and groundwater protection plan, as required by NPDES, and failed to properly maintain the containment area surrounding the tanks at the facility and to make necessary repairs to ensure the containment area would hold a chemical spill.

Former company owners William E. Tis and Charles E. Herzing each pleaded guilty to violating the Refuse Act. Herzing was sentenced on February 2, 2016, to pay a \$20,000 fine and will complete a three-year term of probation. Tis was sentenced on February 8, 2016, to the same terms. Environmental consultant Robert J. Reynolds and tank farm plant manager Michael E. Burdette pleaded guilty to negligent violations of the CWA (33 U.S.C. § 1319(c)(1)(A)). Reynolds was sentenced on February 1, 2016, to pay a \$10,000 fine and will complete a three-year term of probation. Burdette was sentenced on February 4, 2016, to pay a \$2,500 fine and a three-year term of probation.

Freedom Industries pleaded guilty to a felony and a misdemeanor CWA charge, and a Refuse Act violation. The company was sentenced on February 4, 2016, to pay a \$900,000 fine and will complete a five-year term of probation.

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



Equipment used to contain chemical spill

Sentencings

United States v. Isaac Zimmerman, No. 2:09-CR-00805 (C.D. Calif.), AUSA Diana M. Kwok.

On February 17, 2016, Isaac Zimmerman was sentenced to a year and a day of incarceration, followed by one year of supervised release. A fine was not assessed. After being extradited from Mexico, Zimmerman pleaded guilty to smuggling charges (18 U.S.C. § 554) stemming from the illegal trafficking of *Arapaima gigas* (the world's largest freshwater fish) to Canada.

Zimmerman was charged in 2009, along with his his wife, Leonor Catalina Zimmerman, and his company, River Wonders LLC. While Leonor Zimmerman pleaded guilty to a Lacey Act violation in 2010, Isaac Zimmerman fled the United States after prosecutors filed additional charges for his continuing to illegally export fish while on bond. U.S. Fish and Wildlife Service agents tracked Zimmerman's movements through Europe, to Israel, and eventually to Mexico. After a four-year manhunt, Zimmerman was arrested in March 2015.

Leonor Zimmerman was sentenced in 2011 to 21 months' probation and to pay a \$1,500 fine. River Wonders pleaded guilty to the attempted smuggling of ten *Arapaima gigas*. As the company is defunct, it was only sentenced to pay a \$400 special assessment.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from ICE Homeland Security Investigations, U.S. Customs and Border Protection, and Interpol.

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United States v. Clark Dixon, No. 4:15-CR-00023 (D. Alaska), AUSA Steven Skrocki.

On February 11, 2016, cable TV hunting show host Clark Dixon was sentenced to 16 months' incarceration, followed by three years' supervised release, for his role as a leader and guide in a multi-year multi-defendant poaching operation on the Noatak National Preserve. Dixon, a Mississippi resident, pleaded guilty to two felony violations of the Lacey Act (16 U.S.C. § 3372(a)(2)(A); 3373(d)(2)) admitting that he hunted big game as a nonresident without a guide and illegally transported and outfitted



Defendant with grizzly bear

non-resident hunters in the pursuit and take of game on the Preserve from 2008 through 2013. Dixon will pay a \$75,000 fine and forfeit 17 animals including a grizzly bear, Dall sheep, moose, and caribou, along with bows and several rifles.

In 2010, Dixon assisted Clarence M. Osborne in the illegal take of a grizzly bear, by, among other things, hunting without proper permits. Dixon further falsified a hunt record claiming the bear was killed by his father, Charles Dixon. Both Dixons assisted Mississippi resident Osborne in killing the grizzly bear on the Preserve. Charles Dixon was sentenced to pay a \$15,000 fine, \$10,000 in restitution to the Preserve, and a five-year term of probation. He also forfeited his STOL Quest SQ-4 aircraft, valued at \$200,000, which was used to transport the hunters.

Osborne was sentenced (after pleading guilty to two Lacey Act violations) to pay a \$65,000 fine and \$19,500 in restitution. He also will forfeit a grizzly bear mount, a Bull Moose mount, three caribou mounts, and a .375 H&H rifle and scope. In addition to the grizzly, Osborne killed a Bull Moose.

Tennessee resident Fulton Wold was sentenced to pay a \$7,500 fine, \$1,000 in restitution, and will complete a two-year term of probation. Wold pleaded guilty to a Lacey Act violation for illegally killing a Bull Moose and a caribou in September 2009 without the proper permits or non-resident tags. He will forfeit both mounts. Mississippi resident Terry Goza was sentenced pay a \$5,000 fine and will compete a one-year term of probation. Goza pleaded guilty to a Lacey Act violation for taking a Dall sheep ram in the Preserve.

Mississippi resident Shannon Dale Hooks and Louisiana resident Lance David Walker each were sentenced to pay \$5,000 fines and \$10,000 in restitution. They will complete three-year and four-year terms of probation, respectively. Both pleaded guilty to misdemeanor Lacey Act violations.

Alaska resident Randolph Goza was ordered to pay a fine of \$25,000 and \$12,000 in restitution for assisting in the unlawful take of a Dall sheep. He also will complete a five-

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year term of probation, after pleading guilty to a misdemeanor violation of the Lacey Act.

Mississippi resident Robert Viner was cited by investigators for the illegal transport of an unlawfully taken brown bear and paid a \$3,250 fine. The National Park Service also cited The Outdoor Syndicate, LLC, in Reno, Nevada, its owner Michael P. Dianda, and a production company, Zap Lab, Ltd, in Reno, Nevada, for commercial filming on the Preserve without a permit. Footage from Osborne, Wold's and Goza's hunts was shown on the show.

This investigation (dubbed Operation Syndicate) conducted by the U.S. Fish and Wildlife Service and the National Park Service, resulted in the prosecution of nine defendants who were collectively sentenced to pay \$208,250 in fines and \$62,500 in restitution.

United States v. Juan Pedro Jimenez, No. 1:15-CR-00193 (E.D. Calif.), AUSA Karen Escobar.

On February 8, 2016, Juan Pedro Jimenez was sentenced to five years' incarceration, after pleading guilty to drug charges (21 U.S.C. § 841) for his involvement in a large-scale marijuana cultivation operation in the Sierra National Forest. He also had been charged with depredation to public lands (18 U.S.C. § 1361).

Jimenez was found at the grow site in early July 2015. Agents removed approximately 7,000 marijuana plants and found fertilizer, trash, water lines, and propane tanks throughout the area. The cultivation activities caused extensive damage to the land and natural resources. Native trees and plants were cut down, steep hillsides were terraced, and water was diverted from a nearby creek to irrigate the plants.

This case was investigated by the U.S. Forest Service and Mariposa County Sheriff's Office.

United States v. Arkadiy Lvovskiy, No. 13-CR-04016 (W.D. Mo.), ECS Senior Trial Attorney Jim Nelson, AUSA Lawrence Miller, and ECS Paralegal Casey Rybak.

On February 4, 2016, Arkadiy Lvovskiy, Dmitri Elitchev, and Artour Magdessian each were sentenced to two-year terms of probation, after pleading guilty to Lacey Act trafficking violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)). Fines were not assessed. Petr Babenko was sentenced to two years' probation and will forfeit a vehicle.

Babenko was convicted by a jury in August 2015 of illegally buying and selling paddlefish. After deliberating for less than an hour, he was convicted on conspiracy to violate the Lacey Act and Lacey Act trafficking violations (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(1)(B)). The other defendants previously pleaded guilty to illegally trafficking in paddlefish and paddlefish eggs, in violation of the Lacey Act.

In April 2011, Lvovskiy and Elitchev traveled to Missouri where they illegally



Paddlefish

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purchased five female paddlefish and a container of paddlefish eggs. They also processed these eggs into caviar and transported it from Missouri to Colorado. In March 2012, Lvovskiy and Elitchev returned to Missouri to purchase eight more female paddlefish. They processed the eggs into caviar and transported them from Missouri to Colorado.

In April 2012, Lvovskiy, Elitchev, and Magdessian traveled to Missouri with co-defendant Felix Baravik. They befriended covert Fish and Wildlife Service agents who were posing as fishermen staying in the same area. The defendants purchased two female paddlefish from the agents, as well as three more female paddlefish from other sources, in excess of the Missouri take and possession limits. The defendants processed the eggs from the paddlefish into caviar and transported it from Missouri to Colorado. The retail value of the caviar is estimated to be between \$30,000 and \$50,000.

The trial of Andrew A. Praskovsky is scheduled for April 25, 2016. This case was investigated by the U.S. Fish and Wildlife Service and the Missouri Department of Conservation, with assistance by the Oklahoma Department of Wildlife Conservation.

United States v. Christopher Garrity, No. 1:15-CR-00156 (D.N.H.), AUSA Alfred Rubega.

On February 2, 2016, Christopher Garrity was sentenced to pay a \$5,000 fine and will complete a one-year term of probation. Garrity previously pleaded guilty to violating the Clean Water Act for knowingly discharging a pollutant into the Piscataqua River, a navigable water, without a permit (33 U.S.C. §§ 1311, 1319(c)(2)(A)).

In June 2013, investigators witnessed polluted water being discharged from a tanker truck located at the Grimmel Industries facility. A hose led from the tanker directly into the Piscataqua River. Garrity, the terminal manager at the time of the discharge, was responsible for connecting the hose to the truck. EPA brought a civil case in 2011 against the company for similar discharges.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the Portsmouth Harbor Master's Office of the Pease Development Authority, Division of Ports and Harbors.

United States v. Ben Broyles, No. 15-CR-00224 (D. Idaho), AUSA Michael Mitchell.

On February 2, 2016, Ben Broyles and The Rooter Guy, LLC, were sentenced for negligently violating the Clean Water Act (33 U.S.C. §§ 1317(d), 1319(c)(1)(A)). Broyles and the company each were held jointly and severally responsible for a \$17,000 fine and \$4,000 in restitution to the City of Hayden. Broyles also will perform 100 hours of community service, and both will complete three-year terms' of probation.

The company was licensed to collect septic waste from commercial and residential customers. Between March and May 2014, the defendants pumped septic waste into the City's POTW, which was not designed to accept and treat this waste.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the City of Hayden, the Hayden Area Regional Sewer Board, the FBI, the U.S. Forest Service, U.S. Secret Service, and the Kootenai County Sheriff's Office.

Sentencings

***United States v. Lumber Liquidators, Inc.*, No. 2:15-CR-00126 (E.D. Va.), ECS Trial Attorneys Patrick Duggan and Christopher Hale, AUSAs Steve Haynie and Kevin Hudson, and ECS Paralegal Diana Greenberg.**

On February 1, 2016, Lumber Liquidators, Inc., was sentenced after previously pleading guilty to Entry of Goods by Means of False Statements, and misdemeanor Lacey Act violations (18 U.S.C. § 542; 16 U.S.C. §§ 3372(a)(1),(a)(2)(B), 3373(d)(2)) related to its importation of timber products, marking the first felony conviction for timber importation crimes. The company will pay a \$7.8 million fine, forfeit \$969,175, and make \$1.23 million in community service payments. It will complete a five-year term of probation, to include the implementation of an environmental



Siberian Tiger

compliance plan and independent audits. In addition, the company will pay more than \$3.15 million through a related civil forfeiture. The \$7.8 million fine is the largest criminal fine to date for Lacey Act violations.

Lumber Liquidators imported millions of dollars worth of timber harvested from Far East Russia, the home of the last 450 wild Siberian tigers. Illegal logging is considered the primary risk to the tigers' survival, because they are dependent on intact forests for hunting and because Mongolian oak acorns are a chief food source for the tigers' prey species. The timber was then shipped from Russia to China to be manufactured into hardwood flooring. Much of the Russian timber had been illegally harvested under Russian law, as Lumber Liquidators imports alone exceeded by more than 800 per cent the amount permitted to be harvested from a specific concession. Other timber was falsely declared upon entry into the U.S., either as having been harvested in Germany or as a species of oak found only in Western Europe. Additionally, seven shipments of mahogany were falsely declared upon import as originating in Indonesia. The wood actually came from the Myanmar Timber Enterprise, a company under sanction by the U.S. Treasury with which U.S. companies are prohibited from transacting business.

This case was investigated by the U.S. Fish and Wildlife Service and Homeland Security Investigations as part of "Operation Oakenshield."

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Assistant Chief	Jennifer Whitfield	20 [REDACTED]
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Senior Counsel	Rocky Piaggione	20 [REDACTED]
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Trial Attorney	Christopher Hale	[REDACTED]
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Trial Attorney	Brandy Parker (USCG)	2 [REDACTED]
Trial Attorney	Shennie Patel	2 [REDACTED]
Trial Attorney	Richard Powers	2 [REDACTED]
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Announcements

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].

If you are in need of sentencing data for your wildlife or pollution cases, please contact [REDACTED] with your search requests.