



Monthly

Bulletin

Environmental Crimes Section

January 2018

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Alligator snapping turtles, Brutus and Caesar, now in the care of the U.S. Fish and Wildlife Service. (See *U.S. v. Leger, et al.*, [inside](#), for more details.)

“The illegal trafficking of wildlife undermines the vital conservation work being done to protect imperiled species like the alligator snapping turtle,” said Edward Grace, Acting Chief of Law Enforcement for the U.S. Fish and Wildlife Service. “Today’s sentencing will hopefully serve as a deterrent to others seeking to exploit and profit from the illegal wildlife trade. I applaud the hard work of everyone here at the Service, as well as our partners at Texas Parks and Wildlife and Louisiana Wildlife and Fisheries, for their dedication to the pursuit of justice in cases such as this.” [From [press release](#) of sentencing in *U.S. v. Leger et al.*]

District/Circuit	Case Name	Case Type/Statutes
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Central District of California	<u>United States v. Starlite Reclamation Environmental Services, Inc., et al.</u> <u>United States v. United Industries, LLC</u>	Wastewater Treatment/CWA Railroad Parts/Refuse Act
Northern District of California	<u>United States v. Peiwen Zhou</u>	Chemical Sales/HMTA, TSCA
Southern District of California	<u>United States v. Luis Valencia et al.</u> <u>United States v. Yon Pon Wong</u>	Tiger Smuggling/Conspiracy Abalone Imports/Lacey Act
District of Connecticut	<u>United States v. William Carl Bartlett</u> <u>United States v. Stephen Craig et al.</u>	Reptile Shipments/Lacey Act Training Certifications/False Statement
Northern District of Florida	<u>United States v. Larry Kenneth Long et al.</u>	Biodiesel Fuel Fraud/Concealing Federal Funds, Conspiracy, Mail Fraud
Southern District of Georgia	<u>United States v. Boasso America et al.</u>	Hazardous Waste Transportation/RCRA
Eastern District of Louisiana	<u>United States v. Kenneth Johns</u>	Oil and Gas Platform/False Statement
Western District of Louisiana	<u>United States v. David Alan Smith</u>	Munitions Sales/Conspiracy, False Statement
District of Maine	<u>Unites States v. Albert Cray</u> ████████████████████ <u>United States v. Yarann Im et al.</u>	Eel Harvesting/Lacey Act Trafficking
Eastern District of Michigan	<u>United States v. Wayne Powell</u> <u>United States v. Oliver Schmidt</u>	Motorcycle Emissions/CAA Diesel Engine Emissions Fraud/CAA, Conspiracy, Wire Fraud
██████████ ██████████	████████████████████	████████████████████
Eastern District of North Carolina	<u>United States v. Lewis Edmond Andrews, Jr., et al.</u>	Dog Fighting/Animal Welfare, Conspiracy, Drugs

District/Circuit	Case Name	Case Type/Statutes
District of South Dakota	<u>United States v. Sheldon Tree Top</u> <u>United States v. Christopher Pomani</u>	Eagle Feather Sales/BGEPA
Eastern District of Texas	<u>United States v. Montaro Williams et al.</u> <u>United States v. Travis Leger et al.</u>	Turtle Sales/Lacey Act
Southern District of Texas	 <u>United States v. Jamal Marshall et al.</u>	 Fish Harvesting/False Statement
Eastern District of Washington	<u>United States v. Donald Holmes et al.</u>	RINS Fraud/Conspiracy, Money Laundering, Wire Fraud
Western District of Wisconsin	<u>United States v. Markos Diderrich</u>	Reptile Shipments/Lacey Act

[illegible]

January 2018

Guilty Pleas

United States v. Sheldon Tree Top, No. 3:17-CR-30026 (D.S.D.), AUSAs Meghan Dilges and Eric D. Kelderman.

On December 29, 2017, Sheldon Tree Top pleaded guilty to two violations of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)).

Between August 7, 2014, and August 14, 2014, Tree Top knowingly transported, sold, and purchased bald and golden eagle parts when Tree Top should have known they were illegally acquired.

Tree Top is one of multiple defendants charged with the illegal trafficking of eagles and other migratory birds between 2013 and 2017. The cases are a result of a two-year undercover operation, dubbed Project Dakota Flyer. Tree Top is scheduled to be sentenced on March 21, 2018.

These cases were investigated by the U.S. Fish and Wildlife Service.



Feathers seized from Tree Top

United States v. Kenneth Johns, No. 2:17-CR-00190 (E.D. La.), AUSA Emily Greenfield.

On December 20, 2017, Kenneth Johns pleaded guilty to making false statements in relation to the veracity of blowout preventer testing on an offshore oil and gas platform in the Gulf of Mexico (18 U.S.C. § 1001(a)(2)).

On November 27, 2012, production and well workover operations were being conducted on the platform and the blowout preventer system (BOP) had to be tested. A BOP system is designed to ensure well control and prevent potential release of oil and gas. On November 28, 2012, Johns and another worker created a false blowout preventer test. The next day when Bureau of Safety and Environmental Enforcement (BSEE) inspectors conducted a routine compliance inspection of the platform, an employee presented the fabricated BOP pressure test chart to the BSEE inspectors with the expectation that it would be a passing test and the inspectors would not find the platform to be in non-compliance. Johns signed the fabricated pressure chart and a schematic of the testing sequence as if he had actually been involved in the testing.

During subsequent investigation, Johns lied and told investigators the BOP chart with his signature was pre-signed and that he had been testing a pump when he made the chart.

Sentencing is scheduled for March 22, 2018.

This case was investigated by the DOI Office of Inspector General, with assistance from BSEE, and the U.S. EPA Criminal Investigation Division.

Guilty Pleas

***United States v. Peiwen Zhou*, No. 4:17-CR-00091 (N.D. Calif.), AUSA Waqar Hasib.**

On December 20, 2017, Peiwen Zhou pleaded guilty to violating the Hazardous Materials Transportation Act (HMTA) and Toxic Substances Control Act (TSCA) for illegally transporting hazardous materials and failing to properly declare imports of toxic substances between 2012 and 2014 (49 U.S.C. § 5124(a); 15 U.S.C. §§ 2614, 2615).

Zhou is the founder, owner, and chief executive officer of AK Scientific. Zhou and AK Scientific were in the business of purchasing and selling research and specialty chemicals to customers that included universities, research laboratories, and other entities. AK Scientific purchased chemicals from chemical supply companies in South Korea, Poland, India, and New Zealand.

Zhou admitted he did not adequately train employees on HMTA requirements and, as a result, caused employees to ship hazardous materials on a number of occasions without properly labeling, marking, and identifying the packages. Company employees also neglected to complete and file import certifications required under TSCA.

As a result of the plea, Zhou will step down as company CEO and play no role in its shipping or regulatory functions. The company entered into a deferred prosecution agreement in which it agreed to pay a \$100,000 fine and retain an independent monitor to oversee compliance. Pursuant to the deferred prosecution agreement, the charges will be dismissed if AK Scientific abides by the terms of the agreement for three years, including compliance with safety and labelling requirements.

Sentencing is scheduled for April 18, 2018.

This case was investigated by the U.S. EPA Criminal Investigation Division, the U.S. Department of Transportation Office of Inspector General, and the U.S. Department of Homeland Security Homeland Security Investigations.

***United States v. Luis Valencia et al.*, No. 3:17-CR-02856 (S.D. Calif.), AUSA Melanie Pierson.**

On December 19, 2017, Eriberto Paniagua pleaded guilty to conspiring to smuggle a Bengal tiger, an endangered species, into the United States from Mexico (18 U.S.C. § 371). Co-defendant Luis Valencia recently entered the same plea.

On August 18, 2017, Valencia contacted an individual in Mexico to make arrangements to obtain the tiger cub and bring it into the United States. The following day he received a photograph of the cub. On August 23, 2017, Valencia and Paniagua drove into the Otay Mesa Port of Entry with the tiger cub on the floor of their vehicle. Inspectors seized the cub, along with paperwork that did not declare the animal as a CITES-protected species. Paniagua told the port inspectors that the Bengal tiger



Growing tiger cub

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Guilty Pleas

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cub at his feet was merely a “cat.” Valencia stated that he had purchased the tiger for \$300 from an individual he encountered walking a full-sized tiger on a leash in Tijuana.

The Bengal tiger is native to India, Bangladesh, Nepal, and Bhutan. According to the World Tiger Recovery Project, there are only 2,500 animals remaining in the wild. The cub was turned over to the San Diego Safari Park.

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

United States v. Starlite Reclamation Environmental Services, Inc., et al., No. 2:15-CR-00361 (C.D. Calif.), AUSAs Dennis Mitchell and Erik Silber.

On December 19, 2017, plant operator Fernando Torres pleaded guilty to violating the Clean Water Act for making a negligent discharge to a Publically Owned Treatment Works (POTW) in violation of National Pretreatment Standards (33 U.S.C. § 1319(c)(1)(A)). Plant operator Andrew Hucks entered a similar plea in November 2017.

Torres and Hucks were employees of Starlite Reclamation Environmental Services, Inc., a waste disposal service company that treated and disposed of industrial wastewater. The 12-count indictment charges Starlite, company owner/president Christopher Jaramillo, and former vice president Robert Conn with conspiracy and violating the Clean Water Act by regularly engaging in illegal discharges of acidic industrial wastewater into a POTW, as well as tampering with monitoring devices (18 U.S.C. § 371; 33 U.S.C. §§ 1319(c)(2)(A), (c)(4)).

The indictment charges that, between November 2014 and June 2015, the defendants repeatedly and routinely discharged acidic wastewater into the POTW operated by the Inland Empire Utilities Agency, which flowed to a POTW operated by the Sanitation Districts of Los Angeles County. Wastewater was allegedly discharged with an average pH of 3, below its permitted pH level of 5. The defendants are further charged with tampering with monitoring devices by, among other things, placing pH probes in buckets of clean water.

Hucks is scheduled to be sentenced on January 29, 2018, and Torres is set for March 12, 2018. Starlite, Conn, and Jaramillo are scheduled for trial to begin on June 19, 2018.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Inland Empire Utilities Agency, and the Sanitation Districts of Los Angeles County.

Guilty Pleas

***United States v. David Alan Smith et al.*, No. 5:16-CR-00214 (W.D. La.), AUSA Earl Campbell.**

On December 14, 2017, David Alan Smith, the co-owner of Explo Systems Inc., pleaded guilty to conspiracy and false statements concerning the storage of munitions at Camp Minden that led to an explosion (18 U.S.C. §§ 371, 1001).

Explo Systems is a private company whose primary business involved the demilitarization of military munitions and the subsequent resale of the recovered explosive materials for mining operations. The U.S. Army awarded Explo a contract in March 2010 to dispose of 450,000 155 mm artillery propelling charges designated as M119A2 for \$2,902,500. The Army and Explo officials later amended the contract in March 2012 to dispose of 1,350,000 charges for \$8,617,500. The contract required Explo to properly store and dispose of the demilitarized M6, as well as to document the sale of the demilitarized M6 by completing an End User Certificate (EUC). On the EUC, the purchaser of the demilitarized M6 certified the purchase and compliance with applicable federal laws. Once the EUCs were certified, Explo submitted the EUCs to the Army.

On October 15, 2012, an explosion occurred at a munitions storage igloo on Camp Minden. The explosion involved approximately 124,190 pounds of smokeless powder and a box van trailer containing approximately 42,240 pounds of demilitarized M6. The damage destroyed the igloo and trailer, shattered windows of dwellings within a four-mile radius, and derailed 11 rail cars near the igloo.

Smith conspired with others to defraud the United States by impeding authorities from properly monitoring operations at the Camp Minden facility. He also conspired to submit false EUCs. Co-defendants David Fincher, Kenneth Lampkin, William Terry Wright, Lionel Koons, and Charles Ferris Callihan are scheduled for trial to begin on June 4, 2018. They are variously charged in a 32-count indictment with conspiracy, making false statements, and wire fraud violations (18 U.S.C. §§ 371, 1001, 1343).

This case was investigated by the U.S. EPA Criminal Investigation Division, the U.S. Army Criminal Investigation, the Department of Defense Criminal Investigative Service, the Federal Bureau of Investigation, and the Louisiana State Police-Emergency Service Unit.

Guilty Pleas

***United States v. Albert Cray*, No. 2:17-CR-00159 (D. Maine), ECS Trial Attorneys Cassie Barnum and Shane Waller, and ECS Paralegal Ashley Patterson-Chandler.**

On December 13, 2017, Albert Cray pleaded guilty to violating the Lacey Act for illegally harvesting juvenile eels, also known as elvers (16 U.S.C. §§ 3372, 3373).

Cray was a resident of Maine who became involved in the elver fishing industry in 2012. In January 2013, he obtained a license to harvest American eels in Florida. His purpose in obtaining this license was to conceal the origins of illegally harvested elvers by claiming they had been legally harvested in Florida.

In early March 2013, Cray and others traveled from Maine to New Jersey. Over the course of several days, and despite knowing that New Jersey law prohibited the possession of elvers, Cray and his associates caught approximately 91 pounds of elvers in New Jersey, which they then sold to an elver dealer in Maryland. Approximately a week later, they caught 50 additional pounds of elvers in New Jersey that Cray subsequently sold to a Maryland dealer. In total, over the course of the 2013 elver fishing season, Cray dealt in approximately \$253,518 worth of illegally-harvested elvers.

Eels are highly valued in East Asia for human consumption. Historically, Japanese and European eels were harvested to meet this demand; however, overfishing has led to a decline in their population. As a result, harvesters have turned to the American eel to fill the void.

This plea is a result of “Operation Broken Glass,” a multi-jurisdiction U.S. Fish and Wildlife Service investigation into the illegal trafficking of American eels.

***United States v. William Carl Bartlett*, No. 3:17-CR-00270 (D. Conn.), AUSA Hal Chen.**

On December 6, 2017, William Carl Bartlett pleaded guilty to violating the Lacey Act for illegally transporting reptiles (16 U.S.C. §§ 3372(a)(2)(A), 3373 (d)(2)).

Bartlett is a snake and reptile collector. In July 2012, he shipped ten Outer Banks kingsnakes from Connecticut to an individual in Pennsylvania via overnight mail. He had previously taken two of the kingsnakes (designated as a species of special concern) from North Carolina and bred them in Connecticut.

Between April 29 and May 13, 2015, Bartlett transported five Coastal Plain milk snakes from Maryland to his home in Connecticut. He collected the snakes in violation of Maryland law. Sentencing is scheduled for February 28, 2018.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement and the Maryland Natural Resources Police.



Defendant's posting of Coastal Plain milk snakes

Guilty Pleas

***United States v. Montaro Williams et al.*, Nos. 1:17-CR-00040, 00041 (E.D. Tex.), ECS Senior Trial Attorney David Kehoe and AUSA Joe Batte.**

On December 6, 2017, Montaro Williams pleaded guilty to a Lacey Act misdemeanor violation for attempting to transport two alligator snapping turtles to Louisiana (which he illegally caught in Texas) in August 2013 (16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(2)).

In October 2009, (Williams a resident of Louisiana) and another individual were stopped for speeding in Texas. Officials identified seven large alligator snapping turtles in William's truck, advising him that it was illegal for him to possess alligator snapping turtles in Texas. The Texas State Troopers then issued Williams a citation for transporting the turtles from Texas to his home in Louisiana.

In August 2013, Williams was again stopped for speeding by Texas State troopers while he was driving his truck approximately two miles from the Louisiana border. Williams had two alligator snapping turtles in his possession, one weighing approximately ten pounds and the other weighing approximately 40 pounds. He had trapped the animals in Texas, to take back to Louisiana. [See [U.S. v. Leger et al.](#) in Sentencing Section for related case.]

This case was investigated by the U.S. Fish and Wildlife Service, the Louisiana Department of Wildlife and Fisheries, and the Texas Parks and Wildlife Department.

***United States v. Christopher Pomani*, No. 3:17-CR-30118 (D.S.D.), AUSA Meghan Dilges.**

On December 5, 2017, Christopher Pomani pleaded guilty to violating the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)). Pomani is one of multiple defendants charged with the illegal trafficking of eagles and other migratory birds between 2013 and 2017. The cases are a result of a two-year undercover operation, dubbed Project Dakota Flyer. Pomani is scheduled to be sentenced on February 28, 2018.

These cases were investigated by the U.S. Fish and Wildlife Service.



Feathers seized from Pomani

Sentencings

United States v. Lewis Edmond Andrews, Jr., et al., No. 7:16-CR-00122 (E.D. N.C.), AUSA Laura Howard.

On December 22, 2017, Lewis Edmond Andrews, Jr., was sentenced after previously pleading guilty to conspiring to buy, sell, receive, transport, deliver, and possess dogs intended for use in an animal fighting venture and to distributing heroin (18 U.S.C. §§ 49, 371; 7 U.S.C. § 2156; 21 U.S.C. § 841)). Andrews will serve 108 months' incarceration, followed by three years' supervised release. The court also sentenced Ronnie Jeremy Thompson to 48 months' incarceration, followed by three years' supervised release, after pleading guilty to a similar conspiracy charge as well as unlawful possession of a dog intended for use in an animal fighting venture.



Dog found on defendant' Cook's property

In early December, the court sentenced several other defendants in this case: Leo Junior Chadwick to 60 months' imprisonment, three years' supervised release, and a \$25,000 fine; Aaron Richardson to 96 months' imprisonment, three years' supervised release, and a \$25,000 fine; William Jay Farrior to 48 months' imprisonment and five years' supervised release; Cedric Gerard Cook to 45 months' imprisonment, three years' supervised release, and a \$5,000 fine; James David Martin to complete a four-year term of probation, including six months' home confinement; and James Leslie Golden, III, to complete a four-year term of probation and perform 100 hours of community service.

Faced with the evidence in this investigation, Chadwick, Cook, and Martin pleaded guilty to conspiracy to violate the Animal Welfare Act (18 U.S.C. §§ 371, 49(a); 7 U.S.C. §§ 2156(a)(1), 2156(b)). Richardson pleaded guilty to possessing and transporting dogs for dog fights (18 U.S.C. § 49(a); 7 U.S.C. § 2156(b)). Golden pleaded guilty to a misdemeanor charge for attending a dog fight (7 U.S.C. § 2156(a)(2)(A)). Farrior pleaded guilty to a conspiracy to distribute crack and cocaine (21 U.S.C. § 846).

Andrews and Thompson are the last to be sentenced in this multi-defendant case involving illegal dog fighting and drug trafficking. These cases are the result of an investigation that began in October 2015, by several law enforcement agencies focusing on dog fighting and drug trafficking in Eastern North Carolina. Utilizing multiple confidential informants, they infiltrated a dog-fighting group and attended four different dog fights with members of the group. The members purchased, bred, sold, and trained American Pit Bull Terriers to use them in illegal fights.

The investigation revealed that Andrews had been involved in breeding and fighting dogs for several decades and that Chadwick had been involved in raising and training dogs

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Sentencings

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for the past 35 years. Evidence taken from Cook's Facebook account showed that he had admitted to fighting dogs since he was 14 or 15 years old. Thompson had gained notoriety for his training of dogs for particular fights, commanding \$1,200 per dog for the four-to-six week "keep" period leading up to a fight. Martin hosted one of the fights on his property, while Golden attended two of the fights.

Upon the arrests of the defendants in December 2016, agents executed search warrants on four properties suspected of containing dogs and dog fighting paraphernalia. Agents seized approximately 156 dogs, including some that were pregnant at the time. On Andrews's property, investigators seized 64 pit bull-type dogs. Many of them were found outside in makeshift wooden boxes or plastic barrels and chained to the ground with heavy chains and collars. On Chadwick's property, agents found some dogs inside Chadwick's residence, in small, filthy, wire crates. On all four scenes, investigators found substantial dog fighting paraphernalia, including weighted collars and heavy chains used to condition dogs, and break sticks with dried blood that are used to pry apart dogs' jaws during fights.

The American Society for the Prevention of Cruelty to Animals took the animals into its custody and care, and provided detailed medical and behavioral analyses on each dog.

This case was investigated by the Federal Bureau of Investigation; the Jacksonville Police Department; and the Onslow County Sheriff's Office; with assistance from the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Wilmington Police Department; the New Hanover County Sheriff's Office; the North Carolina State Highway Patrol; the North Carolina State Bureau of Investigation, the U.S. Department of Agriculture Office of Inspector General; the U.S. Marshal's Service, and the Cumberland County Sheriff's Office.

United States v. Larry Kenneth Long et al., No. 4:16-CR-00030 (N.D. Fla.), AUSA Michael T. Simpson.

On December 20, 2017, Larry Kenneth Long was sentenced to 12 months' incarceration, followed by two-years' supervised release, after previously pleading guilty to a mail fraud conspiracy (18 U.S.C. §§ 371, 1341, 1349). On December 18, 2017, a jury convicted co-defendant Lee John Maher of conspiracy to commit mail fraud and with retaining and concealing federal funds, knowing that they were wrongly taken (18 U.S.C. §§ 371, 641, 1349).

Maher and Long were officers of Clean Fuel Lakeland, which operated a biodiesel facility out of Lakeland, Florida, in 2009 and 2010. When federal money became available for energy initiatives under the American Recovery and Reinvestment Act of 2009, the men applied for a \$2,480,000 grant from the U.S. Department of Energy through the Florida Governor's Energy Office. The defendants fraudulently obtained funds under the grant by falsely claiming that Clean Fuel had spent \$2,480,000 to buy and install a generator to run the biodiesel plant. As proof that the generator had been purchased, they submitted eight bogus bank checks to the Governor's Energy Office, reflecting generator payments that had never actually been made. Based upon their false submissions, Clean Fuel received

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Sentencings

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\$2,232,000 in grant funds in December 2010. The funds were immediately disbursed from Clean Fuel's bank account through Maher's other bank accounts, with Long receiving \$22,320 (or one percent). The defendants did not use any of the grant funds towards the purchase of a generator. The defendants perpetuated their scheme through the submission of false progress reports until November 2012. The grant funds were ultimately recovered through federal asset seizure and forfeiture actions.

Maher is scheduled to be sentenced on March 9, 2018.

This case was investigated by the U.S. Secret Service, the Florida Department of Agriculture and Consumer Services Office of Inspector General, and the U.S. Department of Energy Office of Inspector General.

***United States v. Donald Holmes et al.*, Nos. 15-CR-00141, 15-CR-06044, 06047, 06048 (M.D. Fla., E.D. Wash.), ECS Trial Attorney Adam Cullman; AUSAs Sara Sweeney, Megan Kistler, and Scott T. Jones; and RCECs Karla Perrin and Jennifer Lewis.**

On December 20, 2017, Donald Holmes was sentenced to 78 months' incarceration, followed by three years' supervised release. Holmes was also held jointly and severally liable for \$15,693,341.67 in restitution.

Previously, Holmes and his co-defendant Scott Johnson pleaded guilty to conspiracy to commit wire fraud and conspiracy to defraud the government by making fraudulent claims for tax credits (18 U.S.C. §§ 286, 1349). Johnson was sentenced to 97 months' incarceration, followed by three years' supervised release. He was also held jointly and severally liable for the restitution to the Internal Revenue Service. The multi-state scheme involved a plan to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel credits and claiming alternative fuel tax credits.

Holmes was the vice president and COO of Gen-X Energy Groups (Gen-X) and Scott Johnson was the founder and CEO. Nancy Bush-Estes, her husband Richard Estes, Thomas Davanzo, and Robert Fedyna worked with Gen-X and its subsidiary, Southern Resources and Commodities (SRC), to carry out crimes in 2013 and early 2014. Davanzo and Fedyna set up several shell companies related to Gen-X throughout the country, including two in Florida. They worked with the Washington-based Gen-X companies to repeatedly cycle batches of renewable biofuels through the shell companies. With each cycle of the old product, Gen-X falsely claimed it had generated new biofuel, thereby generating fraudulent Renewable Identification Numbers (RINs) and improperly receiving new alternative fuel tax credits from the IRS. Afterwards, the shell companies used false paperwork to represent the "fuel" as "feedstock."

From March 2013 to March 2014, the co-conspirators generated at least 60 million fraudulent RINs that were based on fuel that was either never produced or was merely re-processed at the Gen-X or SRC facilities. They received at least \$42 million from the sale of these fraudulent RINs to third parties. In addition, Gen-X fraudulently received approximately \$4,360,700 in tax credits for this fuel.

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This case was investigated by the U.S. Secret Service, the U.S. EPA Criminal Investigation Division, and IRS Criminal Investigations.

Sentencings

***United States v. Yon Pon Wong*, No. 3:17-CR-02443 (S.D. Calif.), AUSA Melanie Pierson.**

On December 18, 2017, Yon Pon Wong was sentenced to complete a five-year term of probation and pay a \$15,000 fine. Wong previously pleaded guilty to violating the Lacey Act for illegally importing \$3 million worth of abalone (16 U.S.C. §§ 3372(d)(1), 3373(d)(3) (A)).

Wong, doing business as Lucky Company, imported the abalone using commercial invoices that falsely identified the seller. Between February 2012 and July 2015, he imported 43 shipments for a total of approximately 148,500 pounds of abalone from Mexico. The invoices falsely stated the seller to be Exportadora De Mariscos De Mexico, SA de CV, and included an erroneous address. By providing a false name and address, authorities were unable to identify the seller to verify that the abalone was purchased lawfully. If Wong had purchased legally caught abalone, he would have possessed a lawful commercial invoice from the seller in Mexico.

Abalone is a highly regulated fishery in Mexico. Mexico requires that commercial invoices provide sufficient information to allow tracking of the seafood to its lawful origin.

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

***United States v. Travis Leger et al.*, Nos. 1:17-CR-00040, 00041 (E.D. Tex.), ECS Senior Trial Attorney David Kehoe and AUSA Joe Batte.**

On December 15, 2017, Travis Leger, Jason Leckelt, and Rickey Simon were sentenced, after previously pleading guilty to Lacey Act conspiracy charges, for illegally trafficking alligator snapping turtles (18 U.S.C § 371). Leger was sentenced to 21 months' incarceration, and Leckelt was sentenced to 16 months, followed by three years' supervised release. Simon will complete a three-year term of probation.

Alligator snapping turtles are the largest freshwater turtles in the world. They can weigh more than 200 pounds and live 100 years or longer. Leger, Leckelt, and Simon took more than 60 alligator snapping turtles in Texas and transported them back to their property in Louisiana to sell during the spring and summer of 2016. In July 2016, agents executed a search warrant and seized 30 large alligator snapping turtles from ponds located at one of the defendant's property.

Leger admitted to selling a live, illegally-taken 171-pound turtle in May 2016 for \$1,000, and another live, illegally-taken 168-pound turtle for \$500 in June 2016. The U.S. Fish and Wildlife Service agents later seized the turtles from the buyer, and the turtles are being cared for at a private facility. Leger admitted that the market value of all the turtles that he caught illegally in Texas and then sold in Louisiana was between \$40,000 and \$95,000. Leger also agreed to forfeit all of the turtles seized from his property in Sulphur, Louisiana, and will permit the U.S. Fish and Wildlife Service to return to the property, drain the ponds, and seize all alligator snapping turtles remaining in the ponds. Similarly, Leckelt, who is Leger's half-brother, admitted that the market value of the turtles that he illegally caught in Texas and sold in Louisiana was between \$15,000 and \$40,000.

Simon sold a 120-pound alligator snapping turtle that was illegally caught in Texas

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Sentencings

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to an undercover agent in May of 2016. Simon further obstructed justice by deleting text messages from his phone prior to being interviewed by law enforcement. Simon deleted the messages after Leger called and warned him that game wardens were coming to the Sulphur property to take the turtles out of the ponds. Simon also made false statements to law enforcement during the execution of the search warrant, denying that he had ever fished for alligator snapping turtles in Texas.

Co-defendant Montaro Williams recently [pleaded guilty](#) to a misdemeanor Lacey Act violation for knowingly attempting to transport two alligator snapping turtles to Louisiana (which he illegally caught in Texas) in August 2013.

These cases were investigated by the U.S. Fish and Wildlife Service, the Louisiana Department of Wildlife and Fisheries, and the Texas Parks and Wildlife Department.

***United States v. Jamal Marshall et al.*, Nos. 4:17-CR-00318, 00319 (S.D. Tex.), ECS Trial Attorney Shane Waller and AUSA Craig Feazel.**

On December 15, 2017, fisherman Jamal Marshall was sentenced to six months' incarceration, followed by six months' home confinement, and three years' supervised release. Co-defendant Jacob Brown was recently sentenced to two months' incarceration and four months' home confinement, followed by three years' supervised release. Both pleaded guilty to making a false statement and were held jointly and severally liable for \$9,487 in restitution to the Texas Parks and Wildlife Foundation (18 U.S.C. § 1001(a)(2)).

Between February and March 2016, Marshall paid Brown \$200 per trip to help him illegally harvest fish. Brown knew that Marshall would sell the fish to restaurants in Houston.

On March 26, 2016, Marshall, Brown, and a third fisherman traveled into federal waters for the purpose of harvesting fish. At that time, the three were aware that the fishing season for vermilion snapper was open, but the red snapper season was closed. They also knew that the recreational catch limit per trip for vermilion snapper was 10 per person and, when the season was open, they were limited to two red snapper per person. Despite this knowledge, they illegally caught 488 red snapper and 154 vermilion snapper. They stored the fish inside coolers and storage compartments aboard the vessel.

A Coast Guard patrol vessel stopped them as they headed back to shore. When questioned about the purpose of their trip, Brown and Marshall said that had been fishing off-shore and that the five coolers on board contained ice and drinks. A subsequent inspection of the defendants' vessel revealed approximately 1,690 pounds of red snapper, 156 pounds of vermilion snapper, and 128 pounds of grouper, with a total retail value of approximately \$30,000. After further questioning, Brown and Marshall falsely claimed that the fish had been caught for a church fish fry, and that they had never sold any fish to restaurants or seafood dealers.

This case was investigated by NOAA Office of Law Enforcement with assistance from the U.S. Coast Guard, and Texas Parks and Wildlife.

Sentencings

United States v. Boasso America et al., Nos. 4:16-CR-00218, 4:15-CR-00145, 4:17-CR-00157 (S.D. Ga.), AUSAs Tania Groover and Carlton R. Bourne.

On December 14, 2017, Boasso America was sentenced after previously pleading guilty to violating Resource Conservation and Recovery Act (RCRA) for the illegal transportation and dumping of hazardous waste (42 U.S.C. § 6928(d)(1)). The company will pay a \$500,000 plus \$50,000 in restitution to the Georgia Department of Natural Resources. Boasso will complete a five-year term of probation, implement an environmental compliance plan, and publish a public apology in at least one national newspaper and two major Georgia newspapers in addition to posting it on it’s website for 30 days after sentencing

Boasso’s guilty plea follows the RCRA convictions of two of its former employees, Ray Mitchell and Maurice Miller, for their involvement in the illegal transportation and dumping of hazardous waste. Miller was previously sentenced to 28 months’ incarceration, and Mitchell was sentenced to 20 months. Both also will complete three-year terms of supervised release.

Boasso provides transportation services for tanks containing hazardous wastes, including naphthalene. The company’s Garden City facility stored and transported the tanks. In 2015, rather than properly transporting and disposing of drums and totes, Mitchell and Miller illegally transported and dumped a significant amount of naphthalene into the ground of a nearby Savannah neighborhood. Further investigation revealed that Boasso employees fabricated invoices in an effort to hide the illegal dumping.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the Georgia Department of Natural Resources, the Savannah-Chatham Metropolitan Police Department, and the Savannah Fire and Emergency Services Hazardous Materials team.

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***United States v. Wayne Powell*, No. 2:17-CR-20374 (E.D. Mich.), ECS Senior Counsel Kris Dighe, AUSA Craig Weier, and ECS Paralegal Ashley Patterson-Chandler.**

On December 14, 2017, Wayne Powell, a former employee of American Suzuki Motor Corporation, was sentenced to one day time-served, a one-year term of probation, and a \$2,500 fine. Powell previously pleaded guilty to violating the Clean Air Act for submitting a false end-of-year report to the U.S. EPA (42 U.S.C. § 7413(c)(2)(A)).

Powell, a Suzuki government relations analyst, was responsible for submitting documents to EPA regarding the company's compliance with motorcycle emission standards. Powell submitted Suzuki's 2012 application to EPA for a "certificate of conformity," which allows a vehicle manufacturer to sell vehicles in the United States. Rather than seek certification of each motorcycle engine "family," Suzuki had opted to combine multiple engine families and average their emissions based on the number of motorcycles in each family. At the end of each model year, Suzuki was required to submit to EPA an end-of-year report to show that it was in compliance with emission standards.

The average combined emissions of hydrocarbons and nitrogen oxides for the 23,528 Class III model year 2012 motorcycles Suzuki imported, distributed, and sold in the U.S., violated the emission limit. The first end-of-year report Powell submitted to EPA in 2013 purported to utilize "banked credits" to offset the excess emissions. However, because Suzuki had not participated in the banked credit program and thus had no credits to use, EPA informed Powell it could not accept that report. Subsequently, on March 28, 2014, Powell submitted an amended end-of-year report to EPA in which he had altered the numbers of four motorcycle engine families, resulting in a falsified calculation that was within the emission limit. Powell also falsely represented to EPA in the email that

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accompanied the amended report that “[t]he computer software that we use to gather this information did not count all of the units” and that he had “corrected some mistakes on the 2012 report.”

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

***United States v. Yarann Im et al.*, Nos. 2:16-CR-00126, 127, 129 (D. Maine), ECS Trial Attorneys Cassie Barnum and Shane Waller, and ECS Paralegal Ashley Patterson-Chandler.**

On December 14, 2017, Yarann Im and Thomas Choi were sentenced to six months’ incarceration, followed by three years’ supervised release. Choi also will pay a \$25,000 fine. Michael Bryant was previously sentenced to pay a \$5,000 fine, \$45,000 in restitution, and will complete a three-year term of probation. The restitution will be paid to the states of Massachusetts, New Jersey, and Virginia.

Im, Choi, Bryant, George Anestis, Mark Green, and Mark Reno previously pleaded guilty to violating the Lacey Act for trafficking in more than \$1.9 million worth of juvenile American eels, also known as “elvers” (16 U.S.C. §§ 3372, 3373). They illegally harvested, sold, transported, or exported elvers, knowing they had been harvested in violation of New Jersey, Massachusetts and other state’s laws. Further, as a means of concealing the illegal sale and export of elvers, the defendants used Maine or Florida eel harvest licenses (theirs or others) to claim that they were obtained legally from Maine or Florida waters. Elver export declaration packages submitted to authorities included this false documentation used to disguise the illegal origins of the elvers and to facilitate their export from the United States. Anestis and Green are scheduled to be sentenced on April 19th and Reno is set for April 20, 2018.

This case is a result of “Operation Broken Glass,” a multi-jurisdiction U.S. Fish and Wildlife Service investigation into the illegal trafficking of American eels.

[illegible]

On December 8, 2017, United Industries, LLC (UI), was sentenced and pleaded guilty to violating the Refuse Act for depositing railcar parts into the Port of Long Beach (33 U.S.C. §§ 407, 411). The company was ordered to pay a \$5 million fine and further ordered to pay \$20 million in restitution to be divided among the following three companies: TTX Company, Pacer International, and Greenbrier Company, all of whom owned and operated railcars that were improperly serviced and repaired.

Railcar parts retrieved from the Port

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Terminal Island, California, in the Port of Long Beach.

Between approximately 1999 and 2014, UI conducted inspections and repairs for railcars owned, operated, and/or maintained by TTX Company, Pacer International, Greenbrier Company, and others. UI employees were required to inspect railcars according to guidelines established in the Field Manual of the Association of American Railroads Interchange Rules (AAR Field Manual) to determine what repairs, if any, were necessary. If an employee determined that a repair was necessary under the AAR Field Manual guidelines, the employee was required to conduct the repair. Each repair was then billed to the owner of the railcar.

Instead of following protocol, UI employees in Long Beach and elsewhere, knowingly failed on many occasions to properly inspect the railcars. At times, they removed functioning parts and replaced them with new or reconditioned parts, even though the parts being replaced did not meet AAR criteria for "condemnation." This was known in the industry as making repairs to "green parts." UI employees also picked random repairs to make on the railcars without conducting an inspection, knowing the repairs were unnecessary. The railcar owners were then charged for these improper repairs.

In order to conceal evidence of the unnecessary repairs from inspectors, UI employees dumped railcar parts into the Port of Long Beach, a navigable water of the United States, from the shore alongside the Terminal Island repair facility. After conducting two dives near the terminal in 2009, divers discovered a "large debris field" recovering approximately 14 railcar roller bearing adapters, six roof liners, and six brake shoes from the ocean floor. None of the adapters or roof liners would have needed to be replaced and only one brake shoe showed signs that it may have needed replacement.

In its plea agreement, UI also acknowledged that, between 2008 and 2014, it encouraged employees to increase repair charges and billing by conducting the unnecessary and improper repairs on railcars. The company further admitted that between 2008 and 2009, some of its employees knowingly threw and deposited railcar parts from the shore alongside its Terminal Island Facility into the Port of Long Beach on multiple occasions to conceal the improper repairs. UI is no longer involved in the railcar repair business.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Federal Bureau of Investigation, the Federal Rail Administration; and the Los Angeles Port Police.

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***United States v. Stephen Craig et al.*, Nos. 3:12-CR-00269, 3:15-CR-00053 (D. Conn.), AUSA Douglas Morabito.**

On December 7, 2017, Stephen Craig was sentenced to six months' incarceration, followed by three years' supervised release, and will pay a \$20,000 fine. Craig previously pleaded guilty to making a false statement stemming from his lead paint and asbestos certification business (18 U.S.C. § 1001).

Craig owned Boston Lead Company LLC (BLC), a company that provided industrial hygiene and safety services. Doing business as Environmental Training and Assessment (ETA), BLC offered a variety of training courses to those working with lead paint and asbestos. Craig was the training manager and a primary instructor and his son, Matthew Craig, provided instruction and assisted with course administration, including grading examinations.

To obtain certification, an individual must successfully complete an approved 32-hour lead abatement worker initial training course. In August 2011, ETA offered this course at its Middletown facility. An undercover EPA agent attended the course to obtain a lead abatement worker initial course completion certificate. The agent skipped the first two days, and was two hours late on the third day. Thereafter, the agent attended the course for a total of approximately 15 hours, including approximately three hours of hands-on training. Stephen Craig was aware that the agent did not attend the full training course.

At the conclusion of the course, the agent paid Stephen Craig \$525 and was allowed to take the test, which was graded by Matthew Craig. The agent intentionally failed the test. Knowing that he had failed, Matthew Craig completed questions that the agent had left blank and corrected a sufficient number of questions to bring the grade up to a passing 80 percent. Matthew Craig subsequently issued the agent a false certificate of completion.

Matthew Craig previously pleaded guilty to making a false statement and was sentenced in March 2013 to two years' probation and ordered to perform 100 hours of community service.

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

Sentencings

***United States v. Oliver Schmidt*, No. 2:16-CR-20394 (E.D. Mich.), ECS Senior Trial Attorney Jennifer Blackwell, Securities and Financial Fraud Unit Chief Benjamin D. Singer, Criminal Division Trial Attorney David M. Fuhr, AUSA John K. Neal, and ECS Law Clerk Jon DeCarlo.**

On December 6, 2017, Oliver Schmidt, a former general manager of Volkswagen AG's U.S. Environment and Engineering office, was sentenced to 84 months' incarceration and will pay a \$400,00 fine. Schmidt previously pleaded guilty to violating the Clean Air Act (CAA) in connection with VW's sales of "clean diesel" vehicles in the United States. Schmidt, a German national, specifically pleaded guilty to conspiracy to defraud the United States, to commit wire fraud, and to violate the CAA; and to one count of violating the CAA (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(A)).

In the spring of 2014, a non-governmental organization in the United States published results of a study that showed substantial discrepancies in nitrogen oxide (NOx) emissions from certain VW vehicles when measured on the road compared to standard drive cycle tests. During the summer of 2015, Schmidt became aware of the existence of cheating software that had been in place for years in certain VW diesel vehicles and that had caused the emissions discrepancies. Specifically, Schmidt learned that the vehicle would emit substantially higher amounts of NOx when the software detected that the car was not being tested.

During the summer of 2015, Schmidt participated in discussions with other VW employees to determine how to respond to questions from U.S. regulators about VW's diesel vehicles without revealing the defeat device. After a meeting with VW management in July 2015, VW management instructed Schmidt to seek a meeting with a senior employee of the California Air Resources Board (CARB) and to obtain approval from CARB for the sale of additional VW diesel vehicles in the United States without disclosing the fact that VW was cheating on emissions tests. During two meetings in August 2015, Schmidt attempted to obtain approval for the sale of additional VW diesel vehicles by responding to questions from CARB without revealing what he knew was the truth – that the real cause for the VW vehicle's substantially higher emissions on the road was that the company had intentionally installed software designed to cheat and evade emissions testing.

Schmidt also knew that, in August 2015, employees submitted to the U.S. EPA two reports pursuant to the CAA that were fraudulent and misleading. He also knew that VW was falsely marketing diesel vehicles to the U.S. public as being compliant with U.S. environmental regulations and environmentally friendly, by promoting increased fuel economy, among other things. Schmidt and co-conspirators obstructed justice and caused losses to victims of more than \$150 million.

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

Announcements

***New DOI Memorandum Concerning MBTA and Incidental Take:

On December 22, 2017, the Department of the Interior published a Memorandum (M-37050) from the Principal Deputy Solicitor (Exercising the Authority of the Solicitor Pursuant to Secretary's Order 3345). The Memorandum finds that the statutory prohibitions of the Migratory Bird Treaty Act (MBTA) regarding pursuing, hunting, taking, capturing, killing, or attempting to do the same apply only to affirmative purposeful actions that have as their purpose the taking or killing of migratory birds, their nests, or their eggs, and that reduce migratory birds, their nests, or their eggs, by killing or capturing, to human control. The Memorandum finds that the MBTA does not apply to incidental takings caused by industrial activities such as oil and gas or wind power operations. The Memorandum recognizes that this interpretation is contrary to the prior practice of the Department. The Memorandum addresses only the MBTA, and does not address the Bald and Golden Eagle Protection Act, for instance. Questions should be directed to Senior Counsel for Wildlife Programs [REDACTED].***

The [Bald and Golden Eagle Protection Act](#) chapter of the Manual (Vol. 2, Ch. 11) has been updated, as well as the [AUSA contacts](#) on the webpage.

As a reminder, ECS now tracks **worker safety and animal welfare crimes** in addition to our pollution and wildlife docket [see [Section 5-11.101](#) of the U.S. Attorneys' Manual.] Please send us pleadings and other relevant information about your worker safety and animal welfare cases so that we can maintain a database for these cases and provide an accurate and complete description of case issues and strategies, developments in case law, and useful pleading examples.

Please send [REDACTED] any pleadings you believe would be useful for posting in the [Brief Bank](#). Older materials are still available on the [Document Bank Archives](#) page.

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

Please notify ECS of any appeals taken in your cases, as per [Section 5-11.118](#) of the U.S. Attorneys' Manual.

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Trial Attorney	John Cashman (USCG)	████████
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