



Monthly

Bulletin

Environmental Crimes Section

January 2016

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Carvings seized in illegal ivory trafficking operation. See U.S. v. Reppert, [inside](#), for more details on the case.

Send your federal case updates to: Elizabeth.Janes@usdoj.gov

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“The guilty plea entered today by Chem-Solv for illegally storing and transporting hazardous waste is a clear signal to those that would seek to circumvent or disregard transportation-related laws and regulations that there are serious repercussions for doing so,” said Regional Special Agent in Charge William Swallow of the U.S. Department of Transportation Office of Inspector General. [From [press release](#) for Chem-Solv Inc. guilty plea].

District/Circuit	Case Name	Case Type/Statutes
District of Alaska	United States v. James Slade	Mining Operation/CWA
Eastern District of California	United States v. Ezequiel Armas-Ortiz	Marijuana Grow /Drug Charges, Depredation of Public Land
Southern District of California	United States v. Olga Jiminez	Turtle Egg Imports/Smuggling, Lacey Act, Conspiracy
	United States v. Lachelle Rene Thrower	Asbestos Removal Training/False Statement
Southern District of Florida	United States v. Raymond J. Reppert	Ivory Trafficking/Lacey Act
Southern District of Georgia	United States v. Ray F. Mitchell	Waste Storage/RCRA
Southern District of Indiana	United States v. Brian Carmichael	RINS/Conspiracy, False Claims against IRS, Obstruction, Wire Fraud, False Statement, Engaging in Prohibited Financial Transactions, CAA
District of Kansas	United States v. JACAM Manufacturing, LLC	Chemical Company/RCRA, SDWA
Eastern District of Louisiana	United States v. Cheery Way, Inc.	Demolition/CAA
	Walter Oil & Gas Corporation	Oil and Gas Platform/OCSLA
	United States v. John Tokosh	Turtle Smuggling/Lacey Act, Conspiracy, Using Fictitious Name, Recidivist
	United States v. Donald Vidrine	Deepwater Horizon/CWA
Eastern District of Michigan	United States v. Kai Xu	Turtle Imports/Smuggling
Eastern District of Missouri	United States v. Daniel T. Wright	Asbestos Removal/CAA
District of Nevada	United States v. Lumsden Quan	Rhino Horn Sales/Lacey Act, Conspiracy
Northern District of New York	United States v. David L. Frisby	Metal Recycling/Wire Fraud, Conspiracy
Eastern District of North Carolina	United States v. Rustico Y. Ignacio	Vessel/APPS, Conspiracy, Obstruction, Witness Tampering
Southern District of Ohio	United States v. Marietta Industrial Enterprises, Inc.	Oil Spill/Refuse Act, CWA. Recidivist
District of Oregon	United States v. Eoin Ling Churn Yeng	Wildlife Trafficking/Smuggling, Conspiracy

District/Circuit	Case Name	Case Type/Statutes
Eastern District of Pennsylvania	United States v. David Dunham United States v. Matt Brozena United States v. James J. McCullagh	RINS/False Statements, Conspiracy, Wire Fraud, Tax Fraud, Obstruction Wastewater Treatment/CWA, Conspiracy Employee Death/OSHA, False Statement, Obstruction
Southern District of Texas	United States v. Chris Martin	Pet Products/Counterfeit Labels, Smuggling, Conspiracy, Wire Fraud, Mail Fraud
District of Virgin Islands	United States v. Sean Penn	Turtle Killing/ESA
Southern District of Virginia	United States v. Chem-Solv Inc.	Chemical Distributor/RCRA
Southern District West Virginia	United States v. Don Blankenship	Coal Miner Deaths/MSHA, Conspiracy

Trials

***United States v. Don Blankenship*, No. 5:14-CR-00244 (S.D.W.V.), USA Booth Goodwin, AUSAs Steven R. Ruby, Gregory McVey, and Gabriele Wohl.**

On December 3, 2015, Don Blankenship was found guilty by a jury of conspiracy to willfully violate the Mine Safety and Health Act (MSHA) (30 U.S.C. § 820(d); 18 U.S.C. § 371). The conviction of the former Massey Energy CEO stems from an explosion at the Upper Big Branch Mine (UBB) in April 2010 that killed 29 coal miners. Blankenship was acquitted of two false statement counts.

Miners testified about the unsafe working conditions at UBB, the excessive MSHA violations, and organized efforts to obstruct and interfere with MSHA inspectors. Blankenship knew about the rampant violations, and was warned by employees that conditions were ripe for a serious accident that could result in fatalities. The evidence also showed that Blankenship received daily updates on safety violations and helped to perpetuate them.

In addition to Blankenship's conviction, Alpha Natural Resources (which acquired Massey in June 2011) entered into a civil settlement and was ordered to pay \$200 million. The agreement also established a foundation dedicated to mine safety and health research, with close to \$50 million set aside to fund the foundation. Massey Energy mine superintendent Gary May was sentenced to 21 months' incarceration, followed by three years' supervised release, and was ordered to pay a \$20,000 fine. Former Massey executive David Hughart was sentenced to 42 months' incarceration, followed by three years' supervised release. He also will perform 150 hours of community service.

Blankenship is scheduled to be sentenced on April 6, 2016.

This case was investigated by the FBI and the Department of Labor Office of Inspector General.

Indictments/Informations

United States v. David Dunham, No. 5:15-CR-00602 (E.D. Pa.), AUSAs Nancy E. Potts and John Gallagher.

On December 21, 2015, a 101-count indictment was unsealed charging David Dunham and Ralph Tommaso with engaging in a multi-million dollar conspiracy to defraud individuals and the government in a green energy scam. Specifically, they are charged with conspiracy, providing false statements to the government, wire fraud, tax fraud, and obstruction of an IRS audit and a U.S. Department of Agriculture examination (18 U.S.C. §§ 371, 1001, 1343, 1519; 26 U.S.C. §§ 7206(1), 7212(a)).

Between 2010 and 2012, Dunham and Tommaso operated, respectively, the companies Smarter Fuel, Inc. and Environmental Energy Recycling Corporation, LLC, coordinating the activities of these companies, and then formally merging them under the umbrella of Greenworks Holdings, LLC. According to the indictment, the defendants falsely claimed to have produced and sold renewable fuel for which they misappropriated approximately \$50 million in payments, subsidies, and other benefits. Dunham and Tommaso allegedly defrauded government programs intended to encourage the production of renewable fuel. By claiming credits for renewable fuel that they never produced (and that otherwise did not qualify) the defendants allegedly stole tens of millions of dollars from the government. It is further alleged that Dunham and Tommaso stole millions more by fraudulently claiming and generating tradable credits that they sold to unsuspecting purchasers who believed these credits satisfied their legal obligation to introduce a certain quantity of renewable fuel per year.

The defendants, through their companies, collected used cooking oil from restaurants and other food service locations, sometimes processing it to remove hard particles, water, and other waste. They then sold this cleaned cooking oil primarily to renewable fuel producers that used it as a “feedstock” ingredient in their production process. Dunham and Tommaso did not sell their cleaned cooking oil as a final fuel, but allegedly fraudulently claimed to, applying for and receiving government subsidies for every gallon that they produced. Their claims vastly exceeded their actual production.

In 2010, Dunham and Tommaso allegedly claimed subsidies and other payments on more than 17.5 million gallons of product, when they produced less than six million gallons. In 2011, they allegedly claimed subsidies and other payments of more than 18 million gallons, when they only produced about 7.5 million gallons. Of the cleaned used cooking oil they did produce, the vast majority did not qualify for credit or subsidy. The defendants’ fraudulent claims included more than one million gallons of wastewater that was the byproduct of their processes to clean debris and pollutants from used cooking oil, the non-fuel sales of their product as a feedstock ingredient to be used by biofuel producers in buyers’ production of biofuel, and transactions that existed on paper only, where the defendants did not produce or even possess the product for which they generated subsidies.

The indictment further charges that Dunham and Tommaso provided false information and altered and forged documents and records to government and private

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Indictments/Informations

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auditors in an effort to conceal their fraud. Dunham also is charged with underreporting his taxable income for 2009 and 2010. In his filings for these years, Dunham allegedly altered the dates on sales invoices, and delayed generating invoices on other sales, in order to avoid paying taxes on these sales until a subsequent tax year. He also obstructed an IRS audit of Smarter Fuel.

In a related matter, William Barnes, a professional engineer, was previously charged with two counts of conspiring to provide false statements to the U.S. Environmental Protection Agency. Barnes was allegedly hired to help the companies register for the EPA's program as renewable fuel producers and conspired with the company owners to provide false engineering reports to the EPA.

This case was investigated by the U.S. EPA Criminal Investigation Division, the IRS Criminal Investigations, the Department of Agriculture OIG, the U.S. Postal Inspector Service, and the FBI.

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

On December 15, 2015, Matthew Brozena and his company, MAB Environmental Services, Inc., (MAB), were charged with conspiracy to violate the Clean Water Act and substantive CWA violations (18 U.S.C. § 371; 33 U.S.C. §§ 1319(c)(2),(c)(4)). James Wetzel, James Crafton, and Stephen Fritz also are charged with CWA violations.

The indictment alleges 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.

The charging documents allege that Brozena directed his employees at MAB, 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.

Indictments/Informations

United States v. Rustico Y. Ignacio, No. 15-CR-00108 (E.D.N.C.), ECS Trial Attorneys Shane Waller and Brendan Selby, AUSA Banu Rangarajan, and ECS Paralegal Jessica Pannett.

On December 11, 2015, Chief Engineer Rustico Yabut Ignacio and Second Engineer Cassius Flores Samson were charged in a nine-count indictment with crimes relating to the illegal discharge of oily wastes directly into the sea.

Oceanfleet Shipping Limited is a Greek shipping company that operates the cargo carrier *M/V Ocean Hope*. According to the indictment, in 2015 Samson bypassed pollution prevention equipment with an unauthorized



M/V Ocean Hope

hose connection, or “magic pipe,” to discharge oil sludge directly overboard. Samson also ordered crewmembers on numerous occasions to pump oily mixtures from the vessel’s bilges into the sea using a different pump rather than processing it through the proper equipment.

To hide the illegal discharges, Ignacio and Samson allegedly maintained a fictitious oil record book that failed to record the disposal, transfer, or overboard discharge of oil from the vessel. The oil record book also contained false entries stating that pollution prevention equipment had been used when it had not.

The indictment further alleges that the defendants ordered subordinate crewmembers to lie to the Coast Guard during an inspection in North Carolina. The crewmembers were instructed to deny knowledge of the pipe used to discharge sludge and to tell the inspectors that the oily water separator had been used when they knew this to be untrue.

Samson and Ignacio are charged with APPS, conspiracy, obstruction, and witness tampering charges. Samson also is charged with an additional false statement violation (18 U.S.C. §§ 371, 1001(a)(2), 1505, 1512(b)(3), 1519; 33 U.S.C. § 1908(a)).

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

Indictments/ Informations

***United States v. Eoin Ling Churn Yeng*, No. 3:15-mj-00173 (D. Ore.), AUSA Ryan Bounds.**

On December 9, 2015, a complaint was unsealed following the arrest of Malaysian nationals Eoin Ling Churn Yeng and Galvin Yeo Siang Ann. The two are charged with conspiracy and smuggling orangutan skulls and parts of other protected wildlife into the United States (18 U.S.C. §§ 371, 545).

According to the complaint, the investigation into Yeng and Ann began in 2013, when a routine search of an international package revealed a helmeted hornbill mandible that was being shipped to a residence in Oregon. Helmeted hornbills are listed as endangered under the Endangered Species Act (ESA) and protected by CITES.



Rhino hornbill

U.S. Fish and Wildlife agents initiated an undercover operation named “Operation Pongo” (inspired by the orangutan’s genus Pongo). The investigation revealed that the defendants were co-owners of an online business that regularly smuggled endangered wildlife into the United States from 2004 to 2015, selling a variety of wildlife items to multiple individuals and businesses around the country. Undercover agents ultimately purchased three orangutan skulls, four helmeted hornbill skulls, one CITES-protected rhino hornbill head, one ESA-protected babirusa (wild pig) skull, one CITES-protected langur skull, and one ESA-protected dugong (marine mammal) rib.

Operation Pongo was conducted by the U.S. Fish and Wildlife Service, with assistance from the Department of Justice Office of International Affairs, the U.S. State Department, the FBI Legal attaché in Kuala Lumpur, NOAA, BLM, and the Multnomah County Sheriff’s Office.

Indictments/Informations

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

On December 8, 2015, Olga and Jose Jimenez were indicted 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.

According to the indictment, in November 2014, Olga Jimenez boarded a bus destined for Tijuana with a large cooler containing a number of small plastic bags filled with 911 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 allegedly 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



Confiscated sea turtle eggs

pickup truck to bring to the United States, telling the driver the coolers contained fish and shrimp. According to the indictment, 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.

The defendants are charged with conspiracy, smuggling, and Lacey Act violations (18 U.S.C. §§ 371, 545; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(A)).

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

***United States v. Cheery Way, Inc.*, No. 2:15-CR-00290 (E.D. La.), AUSA Emily Greenfield.**

On December 4, 2015, an information was filed charging Elaine Chiu and her company, Cheery Way, Inc., with violating the Clean Air Act (42 U.S.C. § 7413(c)(2)(B)).

In April 2011, the defendants undertook the demolition of the Mississippi Queen Riverboat and allegedly failed to notify the Louisiana Department of Environmental Quality that the vessel's wall and ceiling tiles contained asbestos.

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

Guilty Pleas

***United States v. Walter Oil & Gas Corporation*, No. 2:15-CR-00245 (E.D. La.), AUSA Jon Maestri.**

On December 22, 2015, Walter Oil & Gas Corporation pleaded guilty to a felony violation of the Outer Continental Shelf Lands Act (33 U.S.C. § 1321 (b)(5)(C)) for failing to immediately notify the proper agency of a hazardous waste spill in connection with its oil and gas operations.

On March 31, 2014, employees were cleaning out an underwater oil pipeline using a remote operated vehicle (ROV). The contents of the pipeline were supposed to be collected and brought to the surface for disposal. During the ROV's ascent, the holding container leaked approximately 60 plus gallons of oil. Supervisors were made aware of the discharge, but failed to report it. Sentencing is scheduled for March 10, 2016.

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

***United States v. Chem-Solv Inc.*, No. 7:15-CR-00106 (W.D. Va.), ECS Senior Trial Attorney Jim Nelson, AUSA Jennie Waering, and ECS Paralegal Casey Layman.**

On December 22, 2015, Chem-Solv Inc., formerly known as Chemicals & Solvents Inc., pleaded guilty to RCRA storage and transportation violations (42 U.S.C. §§ 6928 (d)(5), (d)(2)(A)).

Chem-Solv operates a chemical blending and distribution facility in Roanoke, Virginia, as well as distribution facilities in other states. Chem-Solv is in the business of purchasing chemicals and reselling them to customers, generating hazardous waste in the process.

In June 2012, several hundred gallons of ferric chloride spilled at the Roanoke facility. Although most of the waste was cleaned up, some of it flowed onto an adjoining property. The company arranged for the waste to be removed to a disposal facility, but did not tell the transporter that it was hazardous waste. The waste was therefore not properly tested, placarded, or manifested.

In December 2013, Chem-Solv was given advance notice of an EPA inspection. As a result, employees were directed to load three trailers with illegally stored waste in an attempt to prevent inspectors from discovering it. Two of the three trailers were taken offsite. The third trailer, which was not roadworthy, was stored on the company's property until law enforcement officers discovered it when they executed a search warrant in November 2014.

This case was investigated by the U.S. EPA Criminal Investigation Division and the U.S. DOT Office of Inspector General, with assistance from the Virginia Department of Environmental Quality, the Roanoke City Police Department, the Roanoke Fire-EMS Department, and the Blue Ridge Environmental Task Force.



Stored hazardous waste

Guilty Pleas

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

On December 18, 2015, Raymond J. Reppert 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 (Raymies), 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. USPIS 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 shipped parcels for other people as part of his business.

On February 20, 2014, CBP detained a second parcel consigned to the address in Guangdong, China. The customs declaration form described the item as a "resin carving". FWS personnel identified and photographed the elephant ivory carving found in the parcel. The credit card sales receipt for the parcel was signed by Reppert and video footage captured the defendant dropping off the parcel at the post office. Several other shipments were made by Reppert in March and April, 2014, all destined for China containing undeclared ivory carvings. Sentencing is scheduled for February 25, 2016.

This case was investigated by the U.S. Fish and Wildlife Service, ICE Homeland Security Investigations, the U.S. Postal Inspection Service, and Customs and Border Protection.

***United States v. Jay Grierson*, No. 14-CR-00454 (D. Colo.), ECS Trial Attorney Mark Romley.**

On December 16, 2015, Jay Grierson pleaded guilty to three misdemeanor Lacey Act violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)) for his involvement in illegal outfitting and guiding activities. Co-defendant Gerald Sickels pleaded guilty to conspiring to violate the Lacey Act (18 U.S.C. § 371) for his involvement in illegal hunting activities from 2008 to 2010.

During this period, the defendants directed unlicensed elk hunts for five out-of-state hunters in a trophy elk hunting unit in Colorado. The average wait to receive a license to hunt in the trophy unit was 10 to 15 years.

This case was investigated by the U.S. Fish and Wildlife Service and the Colorado Department of Parks and Wildlife.

Guilty Pleas

***United States v. James Slade*, No. 14-CR-00103 (D. Alaska), ECS Senior Trial Attorney Chris Costantini, FAUSA Kevin Feldis, SAUSA Karla Perrin, and ECS Paralegals Casey Layman and Christopher Kopf, with assistance from ECS Trial Attorney Cassandra Barnum.**

On December 11, 2015, James Slade pleaded guilty to a felony Clean Water Act violation (33 U.S.C. § 1319(c)(2)(a)). Slade, a former Chief Operating Officer of XS Platinum, Inc. (XSP), was previously convicted by a jury on two misdemeanor lesser-included CWA counts (33 U.S.C. § 1319(c)(1)(A)). The jury deadlocked on two CWA felonies and the conspiracy count. Slade was acquitted on one CWA charge and a false statement violation. After the government informed Slade's counsel that it intended to seek a retrial on the deadlocked counts, ensuing negotiations resulted in the felony plea and one misdemeanor CWA conviction.

The XSP mine was situated along the Salmon River, which is important for the spawning of all five species of Pacific salmon (chinook, chum, coho, pink, and sockeye). After flowing through Bureau of Land Management land, the Salmon River crosses the Togiak National Wildlife Refuge before entering the Pacific Ocean at Kuskokwim Bay. During 2010 and 2011, the defendants systematically discharged large amounts of heavily polluted mine wastewater into the river. Turbid water was observed for miles below the mine, extending all the way to the ocean. In addition, defendants made false statements that there were no discharges and that the wastewater was being recycled. General Manager Robert Pate and plant operator James Staeheli previously pleaded guilty to CWA violations. Staeheli is scheduled to be sentenced February 10, 2016 and Pate is set for March 7, 2016.

This case was investigated by the U.S. Department of Interior BLM Office of Law Enforcement and Security and the U.S. EPA Criminal Investigation Division.

***United States v. Chris Martin*, No. 4:15-CR-00372 (S.D. Tex.), Asst. Deputy Chief John H. Zacharia (CCIPS), and AUSAs Jennifer Lowery and Kebharu Smith.**

On December 11, 2015, Chris Martin and Lam Ngoc Tran pleaded guilty to trafficking in counterfeit labels for their involvement in smuggling pet products with fictitious labels into the United States (18 U.S.C. § 2320(a)(2)).

A total of five individuals (Iain Nigel MacKellar, Allen Smith, William Humphreys, Martin, and Tran) were charged with conspiracy to commit wire fraud, mail fraud and trafficking in counterfeit labels, and smuggling goods into the United States. Mackellar and Tran also were charged with wire fraud, mail fraud, trafficking in counterfeit labels and smuggling (18 U.S.C. §§ 317, 545, 1341, 1343, 2320(a)). The defendants are suspected members of one of the largest known groups of importers of counterfeit packaged pet products.

The indictment alleges that using false labels the defendants smuggled veterinary products that were not manufactured for the U.S. market into this country for distribution, including Frontline and Frontline Plus pesticides manufactured by Merial Pharmaceutical Company (Merial). In some cases, the defendants allegedly imported the products into the

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Guilty Pleas

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U.S. under the pretense that the products were destined for use by charitable organizations, but instead distributed the products to large retail outlets for commercial sale. Merial did not participate in or authorize the alleged unlawful conduct. All known counterfeit veterinary products have been removed from store shelves. Martin and Tran admitted to their involvement in the scheme.

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

United States v. David L. Frisby, No. 5:15-CR-00310 (N.D.N.Y.) AUSA Sean O'Dowd.

On December 10, 2015, David L. Frisby pleaded guilty to conspiracy to commit wire fraud (18 U.S.C. § 1349) in connection with a scheme to defraud scrap metal brokerage firms. Frisby admitted to soliciting contracts for the disposal of batteries and other metal waste under false pretenses.

Between February 2012 and January 2014, Frisby and co-conspirators claimed to be representatives of a scrap metal recycling firm that was authorized by the EPA to dispose of metal waste by shipping it to Korea. They then charged victims for recycling services that they never provided.

To further the scheme, Frisby, a former CEO for D&L Heritage Enterprises, Inc., (a company that was dissolved in 2009) provided his co-conspirators with D&L Heritage incorporation documents that were fraudulently altered and e-mailed to victims during the solicitation process. Victims of the fraud transferred approximately \$154,200 to bank accounts maintained by Frisby, who retained a portion of the funds for his personal benefit and distributed the remainder to his co-conspirators.

Sentencing is scheduled for April 27, 2016.

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

United States v. James J. McCullagh, No. 2:15-CR-00237 (E.D. Pa.), AUSA Mary Kay Costello.

On December 9, 2015, James J. McCullagh pleaded guilty to four counts of making false statements, one count of obstruction of justice, and one count of willfully violating an Occupational Safety and Health Administration (OSHA) regulation causing death to an employee (18 U.S.C. §§ 1001, 1505; 29 U.S.C. § 666(e)).

McCullagh, the owner of James J. McCullagh Roofing, failed to provide fall protection equipment to his employees. On June 21, 2013, one of his employees was killed after falling approximately 45 feet from a roof bracket scaffold while performing roofing work for McCullagh. During the OSHA investigation, McCullagh attempted to cover up his actions by falsely stating (on four different occasions) that he had provided fall protection equipment, including safety harnesses, to his employees. He also told an OSHA Compliance Safety and Health Officer that his employees had been wearing safety harnesses tied off to an anchor point when he saw them earlier in the day prior to the fall. McCullagh further directed employees to falsely state that they had fall protection,

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including safety harnesses, on the day of the incident.

McCullagh is scheduled to be sentenced on March 29, 2016.

This case was investigated by the U.S. DOL OIG, with assistance from OSHA and OSHA OIG.

United States v. Ray F. Mitchell, No. 4:15-CR-00145 (S.D. Ga.), AUSAs Tania Groover and Charlie Bourne.

On December 2, 2015, Ray F. Mitchell, former wastewater treatment plant operator at Boasso Savannah Shipping Terminal, pleaded guilty to a RCRA transportation violation (42 U.S.C § 6928(d)(5)).

On February 12, 2015, approximately 90 drums and containers were dumped onto CSX property and at other locations in and around Savannah, Georgia. Labels on some of the drums and containers indicated the waste was generated from Boasso America Corporation, a depot and transportation services company, providing local and long-haul trucking, tank cleaning and terminal services. Some of the drums contained naphthalene, a known hazardous waste. Mitchell admitted that the location where the waste was taken was not a licensed and/or approved facility.

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

United States v. John Tokosh, No. 15-CR-00028 (E.D. La.), AUSA David Haller.

On December 2, 2015, John Tokosh pleaded guilty to conspiring to smuggle turtles out of the United States in violation of the Lacey Act, and to using a fictitious name and address in a mailing (18 U.S.C. §§ 371, 1342; 16 U.S.C. §§ 3372(d), 3373(d)(3)(A)).

Between 2011 and 2014, Tokosh and five other co-defendants conspired to smuggle turtles from the United States, using false labels and names. Tokosh admitted he was involved in a group that captured North American Wood turtles (a threatened species) from the wild in Pennsylvania, shipped them by mail through the United States, and exported them to Hong Kong. Tokosh participated in the capture of the animals and helped ship them to a middleman, using the alias “Jay Rockington.”

Tokosh has a prior conviction in Pennsylvania for the same violations. He was sentenced in 2006 to serve one year of incarceration and paid \$25,000 in restitution to the Pennsylvania State Game Agency. Sentencing in this case is scheduled for February 24,



Turtles wrapped in tape

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Guilty Pleas

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2016.

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

United States v. Donald Vidrine, No. 2:12-CR-00265 (E.D. La.), AUSA Scott Cullen.

On December 2, 2015, BP Supervisor Donald Vidrine, pleaded guilty to a misdemeanor Clean Water Act violation (33 U.S.C. § 1319(c)(1) (A)). Vidrine and Robert Kaluza had been charged with involuntary manslaughter charges stemming from the 2010 Gulf of Mexico oil spill, but those charges were dropped. The two were well site leaders on the rig when the explosion occurred and were responsible for the safety of drilling operations. The explosion on the BP-operated drilling rig killed 11 workers and is, to date, the nation's worst offshore oil disaster. Trial against Kaluza for violations of the Clean Water Act is scheduled to begin on February 16, 2016.



Photo of explosion taken by NOAA

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, the NOAA Office of Law Enforcement, the U.S. Coast Guard, the U.S. Fish and Wildlife Service, and the Louisiana Department of Environmental Quality.

United States v. Kai Xu, 5:14-CR-20804 (E.D. Mich.), AUSA Sarah Woodward.

On December 1, 2015, Canadian national Kai Xu pleaded guilty to six counts of smuggling turtles, some of which were endangered, from the United States in violation of CITES (18 U.S.C. § 554).

On numerous occasions in 2014, Xu entered the United States from Canada and traveled to Fed Ex and UPS facilities in the metro-Detroit area, where he retrieved packages that contained a variety of different species of live turtles. Xu then illegally smuggled the turtles out of the country using a number of methods. In some instances, he repackaged the turtles and shipped them directly to China, concealing the wildlife in snow boots. On one occasion, Xu taped the live



Turtles strapped to defendant's legs

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turtles to his legs and groin (a total of 51 live turtles) and returned to Canada, smuggling the turtles in his pants. On the day of Xu's arrest, he had packed more than 1,000 turtles into suitcases he sent with a runner he had hired to fly directly from Detroit to Shanghai. The turtles (that had been put into boots and cereal boxes inside the luggage) were recovered by U.S. Fish and Wildlife agents.

Sentencing is scheduled for April 12, 2016.

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

United States v. JACAM Manufacturing, LLC, No. 6:15-CR-10173 (D. Kans.), AUSA Alan Metzger.

On December 22, 2015, chemical company JACAM Manufacturing, LLC, pleaded guilty to unlawfully disposing of hazardous waste into a salt water disposal well, in violation of RCRA and the Safe Drinking Water Act (42 U.S.C. §§ 300(h), 6928(d)(2)(A)). The company was sentenced to pay a \$1 million fine.

JACAM is a manufacturing company that sells retail and wholesale specialty chemicals for the oil and gas production and industrial markets. It also provides a variety of laboratory services, including water and solids analysis, corrosion failure analysis, and oil analysis. JACAM admitted to disposing of hazardous wastes in an injection well that was only permitted for the disposal of salt water until May 2014.

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



Truck dumping hazardous waste into well

Sentencings

***United States v. Brian Carmichael*, 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 Layman.**

On December 18, 2015, Brian Carmichael was sentenced to five years' incarceration, to be followed by three years' supervised release. Carmichael also will pay \$56,135,811 in restitution.

Carmichael, along with brothers Chris, Chad, and Craig Ducey, operated E-biofuels LLC, from a facility in Middletown, Indiana. As part of the scheme, they sold over 35 million gallons of biodiesel to customers for more than \$145 million by falsely claiming that the fuel was eligible for federal renewable energy incentives, when they knew it was not. 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.

From 2007 through 2012, E-biofuels, produced biodiesel from "feedstocks" such as animal fat and vegetable oils. The Ducey brothers admitted that they knew E-biofuels was fraudulently reselling biodiesel that they obtained from co-conspirators in New Jersey, which already had been used to claim biodiesel incentives. By falsely claiming to have made it themselves, the Ducey brothers and their co-conspirators created a second set of invalid incentives, which they passed on to their customers. They realized huge per gallon profits through this scheme, sometimes in excess of \$12,000 per truckload. The co-conspirators and their companies realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

Carmichael pleaded guilty to conspiracy to defraud the United States. The Ducey brothers pleaded guilty to conspiracy, false claims against the Internal Revenue Service, wire fraud, obstruction, engaging in prohibited financial transactions, Clean Air Act false statements, 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. The New Jersey co-conspirators, Joseph Furando, and Katirina Pattison and the companies they operated (CIMA Green and Caravan Trading Company) previously pleaded guilty for their involvement in the scheme.

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. Lumsden Quan*, No. 2:14-CR-00127 (D. Nev.), ECS Trial Attorneys Jennifer Blackwell and Ryan Connors, AUSA Kate Newman, and ECS Paralegal Amanda Backer.**

On December 16, 2015, Lumsden Quan was sentenced to a year and two days' incarceration, followed by three years' supervised release for his role in the illegal sale of black rhinoceros horns. Quan also will pay a \$10,000 fine and is subject to a three-year ban from any work in the art and antique business. Quan previously pleaded guilty to conspiring to violate the Lacey Act and the Endangered Species Act, and to a substantive Lacey Act violation (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)). Co-defendant Edward Levine is scheduled for trial in March 2016 on similar charges.

According to the indictment, over the course of approximately two months, Quan and Levine negotiated the sale of two black rhinoceros horns by e-mail and telephone, ultimately communicating with an undercover agent. Levine is further alleged to have offered to sell two black rhinoceros horns for \$55,000 and agreed to meet the buyer in Las Vegas. In March 2014, after directing another person to drive from California to Las Vegas with the horns, Quan and Levine allegedly flew from California to Las Vegas to complete the sale. Quan met the undercover agent in a Las Vegas hotel room, where he completed the transaction for the agreed-upon amount.

"Operation Crash" is a continuing investigation being conducted by the U.S. Fish and Wildlife Service, in coordination with other federal and local law enforcement agencies. It is an ongoing effort to detect, deter and prosecute those engaged in the illegal killing of rhinoceros and the unlawful trafficking of rhinoceros horns.

Officers from the National Park Service, the U.S. Forest Service, and the Nevada Division of Wildlife assisted with the arrests in this matter.

Sentencings

***United States v. Ezequiel Armas-Ortiz*, No. 1:15-CR-00216 (E.D. Calif.), AUSA Karen Escobar.**

On December 14, 2015, Mexican national Ezequiel Armas-Ortiz was sentenced to 24 months' incarceration for conspiring to manufacture, distribute and possess marijuana in connection with a large-scale cultivation operation on public land. Armas also had been charged with depredation to government property (18 U.S.C. § 1361; 21 U.S.C. § 841).

Armas and co-defendant Macedonio Madrigal-Herrera were responsible for watering close to 3,000 marijuana plants in the Brush Creek drainage of in the Sequoia National Forest. The cultivation activities caused extensive damage to the public land and natural resources. Zinc phosphide, a toxic pesticide from Mexico, was found at the site, along with fertilizer and trash. Trees and plants, newly generated following a 2002 fire, were cut down to make room for the marijuana. Water was diverted from a nearby stream that supports trout. Armas also was ordered to pay \$4,200 in restitution to the U.S. Forest Service.

This case was investigated by the U.S. Forest Service, ICE Homeland Security Investigations, the California National Guard, the California Department of Fish and Wildlife, and the Tulare County Sheriff's Office.

***United States v. Marietta Industrial Enterprises, Inc.*, No. 2:15-CR-00166 (S.D. Ohio), ECS Senior Trial Attorney Chris Costantini, AUSA Mike Marous, and RCEC Brad Beeson.**

On December 10, 2015, Marietta Industrial Enterprises, Inc. (MIE) was sentenced after previously pleading guilty to violating the Refuse Act and to a misdemeanor Clean Water Act violation (33 U.S.C. §§ 403, 407, 1319(c)(1)(A), 1321(b)(3)). MIE was ordered to pay a \$35,000 fine, complete a one-year term of probation, develop a compliance and ethics program, reimburse the State of Ohio for \$650 in response costs, and make a \$1,000 community service payment to a local charity or nonprofit that will benefit the Ohio River.

MIE was the owner and operator of a barge moored on the Ohio River. In October 2013, employees moved a large crane onto the barge, which leaked a significant amount of oil onto the deck. The oil subsequently leaked into the barge's ballast tanks. On October 2, 2013, a MIE employee unwittingly pumped the oil and water mixture out of the ballast tanks into the Ohio River. The pumping stopped after the employee saw a sheen on the river; however, the spill was not immediately



Oil sheen on Ohio River

(Continued on page 20)

Sentencings

(Continued from page 19)

reported to the National Response Center. Instead of contacting authorities, MIE personnel attempted to remediate the spill by pouring bottles of Dawn detergent on it.

The Coast Guard subsequently responded to the spill after it was reported by a concerned citizen. Under the plea agreement and the Refuse Act, the person who reported the spill will receive half the fine for the Refuse Act count (\$7,500).

MIE is a repeat offender. In 2014, the company was convicted of failure to report a violation under the Clean Air Act Title V program and its president was convicted of being an accessory after the fact for the failure to notify.

This case was investigated by the U.S. Coast Guard and the Central Ohio Environmental Crimes Task Force, which includes the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, and the U.S. EPA Criminal Investigation Division.

United States v. Daniel T. Wright, No. 4:15-CR-00145 (E.D. Mo.), AUSA Dianna Collins.

On December 10, 2015, Daniel T. Wright was sentenced to complete a three-year term of probation with a special condition of three months' home confinement. Wright also will pay a \$2,000 fine. The defendant previously pleaded guilty to violating the Clean Air Act (42 U.S.C. § 7413(c)(1)) for illegally removing asbestos from a former school building.

In August 2013, Wright was contracted to remove and dispose of asbestos from the former school building for \$104,000. Wright solicited and received a verbal bid for asbestos abatement and disposal from GEHM Environmental for \$86,000. However, Wright ultimately decided to employ workers who were not licensed or trained to work with asbestos to complete the abatement. The crew was mostly comprised of local people, including high school students.

After being advised by the City of Owensville that he needed to obtain a permit, Wright obtained a demolition package, which included a notice that demolitions needed to comply with all state and federal guidelines and required notifications. A demolition permit was granted by the city of Owensville. The day after receiving the permit, the project was shut down by the Owensville police after they received complaints from local citizens. Wright continued unpermitted demolition activities and asbestos removal at the building even after being informed by the city that the building contained asbestos and that demolition activities were banned. He also had the untrained workers dispose of the material in large boxes that remained on the property and in rented dumpsters that sat behind the school.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Missouri Department of Natural Resources, and the Owensville Police Department.

Sentencings

***United States v. Lachelle Rene Thrower*, No. 14-CR-03485 (S.D. Calif.), AUSA Melanie Pierson.**

On December 7, 2015, Lachelle Rene Thrower was ordered to pay \$25,017 in restitution after being sentenced in October 2015 to complete a three-year term of probation. Thrower previously pleaded guilty to a false statement violation for falsifying asbestos training certificates (18 U.S.C. § 1001).

Thrower was employed by an approved provider of asbestos abatement training. Students seeking to be accredited to remove asbestos were required to complete four eight-hour days of training, and to pass a written examination. Between May 2010 and August 2014, Thrower falsely certified between 100 and 150 training certificates for people who did not actually attend the training or take the test. She kept the money paid by the non-attending trainees, and falsified the certificates by using an electronic signature of the authorized trainer. Her false certificates were then submitted to the EPA-delegated agency, Cal/OSHA. Thrower also admitted that when trainees did actually attend classes and pay in cash, she kept this cash as well. The restitution will be paid to the Design for Health Training Center and owners Virginia and Kabir Shefa.

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

***United States v. Kisean Anthony Penn a/k/a Sean Penn*, No. 3:15-CR-00021 (D.V.I.), AUSA Nelson Jones.**

On December 3, 2015, Kisean Anthony Penn a/k/a Sean Penn was sentenced to complete a five-year term of probation to include 45 days of intermittent confinement (i.e., 15 weekends lasting 72 hours). He also will perform 200 hours of community service. Penn previously pleaded guilty to violating the Endangered Species Act (16 U.S.C. §§ 1538(a)(1)(D), 1540(b)(1)), for capturing and killing a green sea turtle.

On September 16, 2013, during a routine surveillance operation, U.S. Customs and Border Protection agents observed Penn in a dinghy returning from sea. When Penn saw the agents, he attempted to evade their vessel. Penn was kept under observation and then ordered to come alongside the customs vessel. He raised a portable fuel tank claiming to be out of fuel, but his vessel appeared to be running normally. Eventually, Penn brought his dinghy alongside the customs vessel. Agents proceeded to conduct a document check when they observed several conchs, a red cooler, and what appeared to be speared fish and fishing gear inside the dinghy. When asked about the contents of the cooler, Penn responded by dumping it into the water. Agents later confirmed that Penn had dumped a small green sea turtle overboard whose shell was cut in half with the head and carapace removed.

This case was investigated by the NOAA National Marine Fisheries Service, the U.S. Customs and Border Protection, the Virgin Islands Department of Planning and Natural Resources, and the Virgin Islands Police Department.

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Announcements

Henry Barnet, Director of U.S. EPA's Office of Criminal Enforcement, Forensics and Training (OCEFT), recently sent the following to all OCEFT employees, including Criminal Investigation Division Special Agents:

Environmental Justice and Criminal Enforcement: "We are not done yet..."

In the wake of our recent in-service training, [OCEFT] Deputy Director Pam Mazakas has asked me to remind folks that Environmental Justice (EJ) is not merely a one-time headquarters initiative. It is an ongoing element of each and every investigation and should be a part of the fabric of your daily case work. There was some good discussion at the training regarding restitution and other relief for overburdened communities. We recognize that additional relief is not appropriate in all cases. If there is an impacted EJ community, the case team should consider restitution, community service, etc., for the harmed community. As you well know, there are great case settlements being made all the time. As we move forward with our EJ work, we hope to see more overlay of the affected community receiving restitution or other direct relief.

On December 17, 2015, Assistant Attorney General John Cruden announced that the Justice Department's Environment and Natural Resources Division (ENRD) and the U.S. Attorneys' Offices will work with the Department of Labor's Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), and Wage and Hour Division (WHD) to investigate and prosecute worker endangerment violations. The worker safety statutes generally provide for only misdemeanor penalties. However, prosecutors have now been encouraged to consider utilizing Title 18 and environmental offenses, which often occur in conjunction with worker safety crimes, to enhance penalties and increase deterrence.

In addition to prosecuting environmental crimes, the ENRD has also been strengthening its efforts to pursue civil cases that involve worker safety violations under statutes such as the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and the Toxic Substances Control Act. Violations of a number of provisions under these statutes can have a direct impact on workers tasked with handling dangerous chemicals and other materials, cleaning up spills and responding to hazardous releases.

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

If you are in need of sentencing data for your wildlife or pollution cases, please contact [Elizabeth Janes](#) with your search requests.