



Monthly

Bulletin

Environmental Crimes Section

December 2016

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~~~ Seasons Greetings ~~~

| District/Circuit                   | Case Name                                                                                                                                         | Case Type/Statutes                                                                                                         |
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| Central District of California     | <a href="#">United States v. Cesar Ernesto Gutierrez</a>                                                                                          | Ivory Pool Cue Imports/Smuggling                                                                                           |
| Eastern District of California     | <a href="#">United States v. Rich Xiongpa</a><br><a href="#">United States v. Gary L. Ortiz</a>                                                   | Marijuana/Drug, Depredation to Public Land, Felon in Possession of Firearm                                                 |
| Northern District of California    | <a href="#">United States v. Shahram Roohparvar</a>                                                                                               | Elephant Ivory Sales/Lacey Act                                                                                             |
| Southern District of California    | <a href="#">United States v. Kyle Vestermark</a><br><a href="#">United States v. W. Bockstiegel Reederei GmbH &amp; Co. KG</a>                    | Sewage Disposal/Conspiracy, Safe Drinking Water Act<br>Vessel/APPS                                                         |
| ██████████                         | ██████████                                                                                                                                        | ██████████                                                                                                                 |
| Southern District of Florida       | <a href="#">United States v. Ammon Covino</a><br><a href="#">United States v. Tone Calle</a>                                                      | Marine Wildlife Sales/Conspiracy, Lacey Act, Recidivist<br>Spearfishing/Marine Protection and Sanctuaries Act              |
| Northern District of Indiana       | <a href="#">United States v. Dipen Patel</a>                                                                                                      | Pesticide Application/FIFRA                                                                                                |
| Southern District of Indiana       | <a href="#">United States v. Katirina Pattison</a>                                                                                                | RINs Fraud/Conspiracy, False Claims, False Statement, Money Laundering, Securities Fraud, Wire Fraud                       |
| ██████████                         | ██████████<br><a href="#">United States v. Gerhard Felts</a>                                                                                      | ██████████<br>Dog Breeder/False Statement                                                                                  |
| ██████████<br>██████████           | ██████████                                                                                                                                        | ██████████                                                                                                                 |
| Eastern District of Missouri       | <a href="#">United States v. Robert W. Newman</a>                                                                                                 | Rhino Horn Sale/ESA                                                                                                        |
| ██████████                         | ██████████                                                                                                                                        | ██████████                                                                                                                 |
| District of New Jersey             | <a href="#">United States v. Girolamo Curatolo</a>                                                                                                | Vessel/APPS                                                                                                                |
| Eastern District of New York       | <a href="#">United States v. Thomas Kokell</a><br><a href="#">United States v. James Kaminsky</a><br><a href="#">United States v. Fengyi Zhou</a> | Flounder Harvesting/Conspiracy, False Statement, Falsification of Federal Records, Mail Fraud<br>Rhino Horn Sale/Lacey Act |
| Northern District of New York      | <a href="#">United States v. Darren Kattan</a>                                                                                                    | Vehicle Emissions/CAA, Conspiracy, Mail Fraud                                                                              |
| Western District of New York       | <a href="#">United States v. Paul E. Van Voorhees</a>                                                                                             | Boat Sinking/RHA                                                                                                           |
| Eastern District of North Carolina | <a href="#">United States v. James R. Craddock</a>                                                                                                | Striped Bass Harvesting/Lacey Act                                                                                          |

| District/Circuit                                                                                                                                                                        | Case Name                                                                                                                                                                                 | Case Type/Statutes                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Western District of North Carolina                                                                                                                                                      | <a href="#">United States v. Crowell Farms, Inc.</a>                                                                                                                                      | CAFO/CWA                                                                                                                                                                                                                                                                                                |
| Southern District of Ohio                                                                                                                                                               | <a href="#">United States v. William Letona</a><br><br><a href="#">United States v. Charles Granberry</a><br><br><a href="#">United States v. Duke Energy Beckjord LLD</a>                | RINs Fraud/Conspiracy,<br>Falsification of Records<br><br>Animal Fighting/Conspiracy,<br>Felon in Possession of Firearm<br><br>Fuel Spill/CWA                                                                                                                                                           |
| Western District of Pennsylvania                                                                                                                                                        | <a href="#">United States v. Mark Ventresca</a>                                                                                                                                           | Wastewater Operator/CWA                                                                                                                                                                                                                                                                                 |
| District South Carolina                                                                                                                                                                 | <a href="#">United States v. Harry Wertan, Jr.</a>                                                                                                                                        | Eel Harvesting/Lacey Act                                                                                                                                                                                                                                                                                |
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| Eastern District of Texas                                                                                                                                                               | <a href="#">United States v. William L. Musgrove</a>                                                                                                                                      | Metal Recovery Facility/CAA, Recidivist                                                                                                                                                                                                                                                                 |
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| Eastern District of Virginia                                                                                                                                                            | <a href="#">United States v. Phillip Lloyd</a>                                                                                                                                            | Animal Blood Shipments/Conspiracy, Lacey Act                                                                                                                                                                                                                                                            |
| Eastern District of Washington                                                                                                                                                          | <a href="#">United States v. Thomas Davanzo</a>                                                                                                                                           | RINs Fraud/Conspiracy, Money Laundering, Wire Fraud                                                                                                                                                                                                                                                     |

# Trials

## ***United States v. Rich Xiongpaο, No. 2:15-CR-00285 (E.D. Calif.), AUSA Daniel Griffin.***

On November 9, 2016, after a two-day jury trial, Thai national Rich Xiongpaο was found guilty of the manufacture of more than 100 marijuana plants, and depredation of federal land (18 U.S.C. § 1361, 21 U.S.C. § 841). This particular grow site was located in the Ansel Adams Wilderness area, (originally protected as wilderness by the 1964 Wilderness Act) between Yosemite National Park and Mammoth Lakes.



*Aerial view of marijuana grow site*

Xiongpaο was arrested in September 2015 after he was observed by U.S. Forest Service agents tending the site where they found approximately 428 marijuana plants. Multiple species of natural vegetation had been cut to accommodate the cultivation operation and spring water had been diverted from a nearby riparian area. A large amount of trash and numerous containers of chemicals and fertilizers also were found throughout the area. Sentencing is scheduled for February 6, 2017.

This case was investigated by the U.S. Forest Service.

# Indictments

**United States v. Thomas Kokell, No. 16-CR-00595 (E.D.N.Y.), ECS Trial Attorneys Christopher Hale and Brendan Selby, and ECS Paralegal Ashley Patterson.**

On November 22, 2016, commercial fisherman Thomas Kokell was indicted on charges relating to a scheme to overharvest summer flounder (fluke) and to cover it up by submitting false records to federal authorities. Kokell was charged with falsification of federal records, mail fraud, and conspiracy (18 U.S.C. §§ 371, 1341, 1519). Co-conspirator Mark Parente, a federal fish dealer, has already pleaded guilty to conspiring with Kokell in a related case.

Between May and August 2011, Kokell used the federal Research Set-Aside Program to mask unlawful quota overages. Kokell allegedly defrauded NOAA and the State of New York of over 196,000 pounds of fluke (valued at over \$400,000) which were subject to seizure by state and federal authorities. He mailed false fishing vessel trip reports to NOAA and conspired with Parente to transmit false dealer reports over the Internet.

This case was investigated by the NOAA National Marine Fisheries Service.

[REDACTED]

# Indictments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Guilty Pleas

***United States v. William Letona*, No. 2:16-CR-00207 (S.D. Ohio), ECS Trial Attorney Adam Cullman, ECS Senior Trial Attorney Jeremy Korzenik, AUSA Mike Marous, and ECS Paralegal Casey Rybak.**

On November 30, 2016, William Letona pleaded guilty to conspiracy (18 U.S.C. § 371) for his role in a scheme to alter and destroy documents following his employer's receipt of a federal grand jury subpoena.

Letona, an employee of a New Jersey feedstock collector and processor, admitted to conspiring to obstruct a grand jury investigating the fraudulent generation of renewable fuels credits (RIN credits) and IRS tax credits connected to the purported production of renewable fuel. Documents were falsified and destroyed to hide the fact that fuel purchased from a broker by Unity Fuels was sold back to the broker as "Recycled Vegetable Oil Blend." This maneuver enabled RIN and IRS credits to be claimed multiple times on the same material.

This case was jointly investigated by the Internal Revenue Service and the Federal Bureau of Investigation.

***United States v. Fengyi Zhou*, No. 1:16-CR-00363 (E.D.N.Y.), ECS Trial Attorneys Gary Donner and Lauren Steele, and ECS Supervisory Paralegal Lisa Brooks.**

On November 29, 2016, Fengyi Zhou, the owner of a business that specialized in Asian art, pleaded guilty to violating the Lacey Act (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)) for illegally trafficking endangered black rhinoceros horns.

Between November 2010 and January 2011, Zhou purchased as many as five uncarved rhinoceros horns from another Asian arts dealer in New York. Along with the horns, Zhou was given an "Endangered Species Bill of Sale," from which he was made aware that four of the horns were purchased in Texas and unlawfully transported to New York. Immediately after the purchase, Zhou offered to sell and later sold the horns to a Chinese associate in China for more than \$130,000.

Zhou was identified as part of Operation Crash, and this case was investigated by the U.S. Fish and Wildlife Service.

***United States v. Harry Wertan, Jr.*, Nos. 16-CR-00554,555,556 (D.S.C.), ECS Trial Attorneys Cassie Barnum and Shane Waller, AUSA Rhett Dehart and ECS Paralegal Casey Rybak.**

On November 28, 2016, three individuals pleaded guilty to trafficking more than \$740,000 worth of juvenile American eels aka "elvers" or "glass eels," in violation of the Lacey Act (16 U.S.C. §§ 3372, 3373).

Harry Wertan, Jr., Mark Weihe, and Jay James each pleaded guilty to selling or transporting elvers in interstate commerce, which they had harvested illegally, or knew had been harvested illegally, in South Carolina.

The pleas were the result of "Operation Broken Glass," a multi-jurisdiction U.S. Fish

*(Continued on page 8)*

# Guilty Pleas

(Continued from page 7)

and Wildlife Service investigation into the illegal trafficking of American eels. To date, the investigation has resulted in guilty pleas from ten individuals whose combined conduct resulted in the illegal trafficking of more than \$2.6 million worth of elvers. Because of the threat of overfishing, elver harvesting is prohibited in the United States in all but three states: Maine, South Carolina, and Florida. Maine and South Carolina heavily regulate elver fisheries, requiring that individuals be licensed and report all quantities of harvested eels to state authorities. Although Florida does not have specific elver-related regulations, the limited population of elvers in Florida waters makes commercial eel fishing impossible.

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

**United States v. James R. Craddock, No. 2:15-CR-00007 (E.D.N.C.), ECS Trial Attorneys Joel LaBissonniere and Shennie Patel, AUSA Banu Rangarajan, and ECS Paralegal John Jones.**

On November 28, 2016, James R. Craddock pleaded guilty to one count of selling Atlantic Striped Bass that was harvested in violation of the Lacey Act (16 U.S.C. §§ 3372(a)(1), 3373(d)(a)). Craddock is one of thirteen commercial fishermen who were indicted in 2014 and 2015, for selling Atlantic Striped Bass harvested from the Exclusive Economic Zone, in violation of a longstanding moratorium on fishing for that species within federal waters. These cases had been continued until a recent Fourth Circuit decision that reversed an adverse District Court decision, and held that a violation of the Atlantic Striped Bass Conservation Act (the legal authority for the federal closure) can serve as an underlying offense for a Lacey Act trafficking offense. Craddock becomes the second defendant to plead guilty, with ten remaining cases set for trial between December 2016 and April 2017.

This case was investigated by the NOAA Office of Law Enforcement, with assistance from the U.S. Coast Guard, the North Carolina Marine Patrol, and the Virginia Marine Police.

[REDACTED]



# Guilty Pleas

[REDACTED]

**United States v. Dipen Patel, No. 2:16-CR-00155 (N.D. Ind.), ECS Trial Attorney Richard Powers, RCEC Dave Mucha, and AUSA Toi Houston.**

On November 21, 2016, Dipen Patel pleaded guilty to a FIFRA violation (7 U.S.C. §§ 136j(a)(1)(A), 136j(b)(1)(B)).

Between February 2014 and January 2015, Patel distributed a pesticide known as “DOOM” that was not registered with the EPA. The pesticide was applied to rooms at a motel located in Michigan City, Indiana, and a motel located in Howe, Indiana. Sentencing is scheduled for March 23, 2017.

This case was investigated by the Northern District of Indiana Environmental Crimes Task Force, and led by the U.S. EPA Criminal Investigation Division.

[REDACTED]

[REDACTED]

[REDACTED]

## Guilty Pleas

### ***United States v. Darren Kattan, No. 5:16-CR-00327 (N.D.N.Y.), ECS Senior Trial Attorney Todd Gleason and AUSA Michael Perry.***

On November 16, 2016, Darren Kattan pleaded guilty to conspiracy to commit mail fraud (18 U.S.C. § 371) in connection with a violation of the Clean Air Act. Sentencing is scheduled for March 16, 2017.

Between 2010 and 2013, Kattan designed, built, and sold “simulator devices” that were programmed to fraudulently by-pass motor vehicle emissions inspection tests. In total, the defendant and others distributed 170 simulator devices throughout the United States. Kattan was arrested by EPA special agents during a sting operation in Louisiana after he provided the source codes for his devices in exchange for a \$10,000 payment.

This case was investigated by the U.S. EPA Criminal Investigation Division and the New York State Department of Environmental Conservation.

### ***United States v. Gary L. Ortiz, No. 16-CR-00141 (E.D. Calif.), AUSA Karen Escobar.***

On November 14, 2016, Gary L. Ortiz pleaded guilty to being a felon in possession of a handgun (18 U.S.C. §§ 922, 924), stemming from his involvement with a large-scale marijuana cultivation operation located in the Sierra National Forest.

Between February and June, 2015, Ortiz oversaw a large marijuana cultivation operation with almost 13,000 plants, near Shaver Lake and other recreational areas. Law enforcement officers eradicated the plants and seized four firearms from the property where Ortiz resided. At the time, Ortiz was prohibited from possessing a firearm.



*Marijuana plants found in the Sierra National Forest*

The marijuana cultivation operation caused extensive damage to the land and natural resources. The plants were irrigated by water that had been diverted from Mill Creek. Mill Creek flows into the San Joaquin River above Millerton Lake’s Friant Dam, which is a major water supply for the San Joaquin Valley. In addition to the plants, more than 2,000 pounds of irrigation hose, fertilizers, and trash were removed from the cultivation area. Ortiz is scheduled to be sentenced on March 6, 2017.

This case was investigated by the U.S. Forest Service; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the California Department of Fish and Wildlife; the Fresno County Sheriff’s Office; and the Fresno County Probation Department.

## Guilty Pleas

### ***United States v. Kyle Vestermark*, No. 3:16-CR-01441 (S.D. Calif.), AUSA Melanie Pierson.**

On November 10, 2016, Kyle Vestermark and his company, Dunes Edge Storage, pleaded guilty to conspiracy to violate the Safe Drinking Water Act (18 U.S.C. § 371). Vestermark, a Long Beach fireman, discharged sewage without a permit between October 2011 and April 2015 from recreational vehicles (RVs) stored at the Dunes Edge Storage location in Brawley, California, as well as another location known as Dunes Toy Storage in Holtville, California.

Vestermark obtained a permit in 2004 for a 10,000 gallon holding tank for RV sewage at the Dunes Edge location that prohibited the installation of underground leach lines (an issue which Vestermark had raised during the permitting process). He obtained a conditional use permit for both locations that contained the same prohibition. The permits required that he hire a septage firm to pump out the sewage from the holding tanks and dispose of it at a wastewater treatment plant. Despite this knowledge, in 2005 and 2006, Vestermark used heavy equipment to install underground leach lines at both locations. The leach lines were removed in 2015 after Vestermark's actions were discovered by local authorities. Sentencing is scheduled for February 17, 2017.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Bureau of Land Management Office of Law Enforcement.

### ***United States v. Crowell Farms, Inc.*, No. 1:16-CR-00113 (W.D.N.C.), AUSA Steven Kaufman.**

On November 9, 2016, Crowell Farms, Inc., and company president and operator Michael A. Crowell pleaded guilty to felony Clean Water Act violations (33 U.S.C. §§ 1311(a), 1319(c)(2)(A)) stemming from illegal wastewater discharges from this beef cattle operation during November and December 2015.

The farm maintains more than 150 cows and manages many acres of agricultural fields. It was permitted to store liquid waste in lagoons that was later applied to designated agricultural fields through irrigation equipment for permitted disposal. Investigation revealed that Crowell had installed several bypasses at the waste lagoons that were discharging liquid waste into an unnamed tributary of Hominy Creek. Crowell admitted that he had trouble managing the ponds levels due to rain events, and installed the bypasses himself. Inspectors also noted that the hatches that had been used to cover the bypasses were covered with vegetation and wood stumps in a manner that appeared



*Waste discharge from bypass pipe*

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## Guilty Pleas

(Continued from page 11)

designed to conceal them. Crowell Farms did not have a NPDES permit to discharge to a water of the U.S., and is only permitted for land application disposal. It was further noted that the operation did not own the proper land application equipment.

This case was investigated by the U.S. EPA Criminal Investigation Division and the State Bureau of Investigations Diversion and Environmental Crimes Unit.

### **United States v. Phillip Lloyd, No. 1:16-CR-00226 (E.D. Va.), AUSA Gordon Kromberg.**

On November 8, 2016, Phillip Lloyd pleaded guilty to conspiring to violate the Lacey Act (18 U.S.C. § 371) for making and submitting false labels for animal blood that was transported internationally.

Lloyd was the owner and manager of Biochemed Services, Inc., a broker of human blood and animal blood products. Biochemed would receive orders from biomedical research companies for specific quantities of human blood, animal blood and products, and would package and export products from the United States. To evade enforcement by the U.S. Fish and Wildlife Service, employees of Biochemed shipped animal blood products with documents that falsely described the



*Vials of mislabeled blood*

packages as “human” blood products. The actual labels accurately describing the blood shipments as “animal” blood products would be sent in separate FedEx envelopes that would not be inspected by law enforcement officials. Between 2009 and 2016, Biochemed made over 1, 100 international shipments of its products.

Between January 2014 and May 2016, Biochemed packaged and shipped products including blood from squirrel monkeys and other CITES-protected primates. In January 2014, in response to a request for squirrel monkey blood for shipment to a Canadian company known as Tropicus Research, Lloyd emailed the customer to confirm the shipment would be labelled “human,” however, the squirrel monkey labels would arrive at the same time in a FedEx letter package. He also spoke to a person at the company about the shipment (who was actually an undercover agent). Lloyd made several of these shipments to Tropicus in February 2014.

Sentencing is scheduled for January 27, 2017. This case was investigated by the U.S. Fish and Wildlife Service.

## Guilty Pleas

***United States v. Charles Granberry*, No. 2:16-CR-00208 (S.D. Ohio), AUSA Jessica Knight, SAUSA Heather Robinson, and AUSA Mike Marous.**

On November 2, 2016, Charles Granberry pleaded guilty to conspiracy to buy, sell, possess, train, or transport animals for participation in an animal fighting venture, as well as being a felon in possession of a firearm (18 U.S.C. §§ 371, 922(g) (1)).

Between December 2014 and April 2016, Granberry and others bred, trained, and conditioned pit bull-type dogs to fight. In March 2016, the defendant and a co-conspirator sold two dogs to an undercover officer with the understanding that the animals would be used to fight for money and would be



*Pit bull-type dogs*

taken out of state to do so. Upon the execution of a search warrant in April 2016, Granberry was found to be in possession of 20 pit bull-type dogs, as well as equipment associated with dog-fighting ventures. Granberry is a convicted felon from a previous cocaine charge. He was found to be in possession of a semi-automatic pistol at the time of the search.

This case was investigated by the U.S. Department of Agriculture Office of Inspector General, the Columbus Police, and the Humane Society,

## Sentencings

### ***United States v. Ammon Covino, No. 4:12-CR-10020 (S.D. Fla.), AUSA Tom Watts-FitzGerald.***

On November 30, 2016, Ammon Covino was ordered to return to prison for eight months and to serve an additional year of supervised release, following a re-sentencing hearing. Covino violated court-imposed employment restrictions as a result of his 2013 conviction for conspiring to violate the Lacey Act for illegally harvesting, transporting, and selling spotted eagle rays and lemon sharks (18 U.S.C. § 371).

Between March 2012 and November 2012, Covino and others purchased and transported wildlife from the Florida Keys to Idaho for exhibit at the Idaho Aquarium in Boise. None of the participants in these deals had obtained the required Florida licenses and permits. Covino, as an officer of the aquarium, knew what was required to legally ship the wildlife, but chose to direct his Florida-based suppliers to ignore the law and make the shipments. Unknown to Covino, one of these suppliers was cooperating with federal authorities and the phone conversations and text messages were recorded. Idaho Aquarium, Inc. pleaded guilty and was sentenced to pay a \$50,000 penalty.

Covino was originally sentenced in December 2013 to a year and a day of incarceration, followed by a two-year term of supervised release. He was barred from any employment during that period that involved the possession, display, transportation, exhibition, purchase, or sale of marine life.

In February 2016, Covino was sentenced to an additional three months in prison, and paid \$50,000 to the National Fish and Wildlife Foundation, for violating the special employment restrictions after agents discovered that he had secretly become involved in the development and construction of two aquarium facilities in Texas, using false names and false claims of employment.

Within five days of Covino's release from his most recent prison sentence, he again became involved in consulting and directing the development, construction, and exhibition details for two new aquarium facilities, located in Utah and Nevada. Covino visited the facilities several times and lied to his probation officer regarding his travels.

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



*Lemon Shark*

# Sentencings

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Sentencings

### ***United States v. W. Bockstiegel Reederei GmbH & CO. KG, No. 16-CR-002440 (S.D. Calif.), ECS Senior Trial Attorney Ken Nelson and AUSA Melanie Pierson.***

On November 23, 2016, two German companies were sentenced, after pleading guilty to APPS violations (33 U.S.C. § 1908(a)) for failing to maintain the oil record book for the *M/V Nils B*.

Operator W. Bockstiegel Reederei GmbH & CO. KG and owner W. Bockstiegel GmbH & Co. Reederei KG MS NILS B will jointly pay a \$500,000 fine and make a community service payment of \$250,000 for the benefit of the Tijuana River National Estuarine Research Reserve to research the effects of pollution on the marine estuarine environment.

On August 5, 2014, in the Port of San Diego, the defendants (through the actions of their employees) failed to maintain an accurate ORB for the *Nils B* by omitting disposals of oil residue, overboard discharges of oil and oily mixtures, and disposals of machinery space wastes from the vessel.

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

### ***United States v. Girolamo Curatolo, Nos. 2:16-CR-00363, 00364 (D.N.J.), AUSA Kathleen O'Leary, with assistance from former ECS Trial Attorney Brandy Parker.***

On November 21, 2016, chief engineer Girolamo Curatolo was sentenced to eight months' incarceration, followed by one year of supervised release. Curatolo also will pay a \$5,000 fine. The defendant previously pleaded guilty to violating APPS (33 U.S.C. § 1908(a)) for his role in the illegal dumping of oily bilge wastes from the *M/T Cielo di Milano*.

The vessel, owned by D'Amico Shipping Italia S.p.A. and managed by D'Amico Societa di Navigazione S.p.A., visited ports in New Jersey multiple times, as well as ports in Maryland and Florida. Curatolo admitted that the crew intentionally bypassed pollution prevention equipment by discharging oily waste from the engine room through its sewage system into the sea. He also admitted that he falsified the vessel's oil record book. Curatolo made false statements to the Coast Guard during an inspection of the ship in January 2015, instructing lower-level crew members to make false statements and destroying the vessel's sounding log (which records the contents of storage tanks aboard the vessel, including those containing oily waste) by ripping out pages and burning them after the Coast Guard had boarded the vessel.

First Assistant Engineer Danilo Maimone admitted to concealing the discharge of oily waste, as well as causing a false ORB to be presented to the Coast Guard during the inspection. He admitted to making false statements and instructing lower-level crew members to do the same during the January 2015 inspection. Maimone pleaded guilty to conspiring to obstruct justice (18 U.S.C. § 371) and is scheduled to be sentenced on January 18, 2017.

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



# Sentencings

## ***United States v. Duke Energy Beckjord LLC, No. 16-CR-00107 (S.D. Ohio), AUSA Kyle Healey.***

On November 22, 2016, Duke Energy Beckjord LLC was sentenced to pay a \$1 million fine after pleading guilty to a Clean Water Act violation for the negligent discharge of oil (33 U.S.C. §§ 1321 (b)(3), 1319(c)(1)(A)).

On August 18, 2014, Duke Energy caused a spill of approximately 9,000 gallons of diesel fuel from its Walter C. Beckjord generating station facility in New Richmond, Ohio, to the Ohio River. The oil sheen extended approximately 15 miles downstream. A Duke Energy operator transferring fuel from three 705,000-gallon capacity



*Oil sheen on Ohio River after diesel fuel spill*

ran the forwarding pump too long and over-filled the two 30,000-gallon capacity above-ground fuel tanks. Fuel spilled from the tank overfill vents into a concrete secondary containment area. A valve on the secondary containment area had been improperly left open by other Duke employees, causing the spilled fuel to escape the containment area and flow into the river.

The Ohio River is a source of drinking water for residents of both Kentucky and Ohio. As a result of the spill, the Northern Kentucky, Greater Cincinnati, and Louisville water supply intakes were closed on August 19, 2014. Water intakes were reopened the next day, after water samples did not detect diesel fuel in the drinking water.

Significant resources were expended by at least 35 government and private sector agencies in the emergency response and clean-up related to the discharge. Duke Energy's prompt clean-up efforts resulted in the recovery of only a small portion of the discharged oil. To date, the company has reimbursed more than \$1.2 million to those entities for costs incurred in connection with the spill. Further, Duke Energy has deconstructed the bulk fuel oil storage tanks involved in the spill and no longer stores bulk fuel oil at the Beckjord facility.

As part of the plea agreement, Duke Energy paid \$100,000 to the Foundation for Ohio River Education, a non-profit organization dedicated to preserving the cultural, ecological and economic value of the Ohio River through community education. The company also will issue a written public apology in an advertisement to be published in the *Cincinnati Enquirer*.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio EPA, the Ohio Attorney General's Bureau of Criminal Investigation Environmental Enforcement Unit, and the U.S. Coast Guard.

## Sentencings

### ***United States v. Mark Ventresca*, No. 1:16-CR-00017 (W.D. Pa.), AUSA Marshall Piccinini.**

On November 21, 2016, Mark Ventresca was sentenced to six months' incarceration, followed by one year's supervised release to be spent on home detention. A fine was not assessed. Ventresca previously pleaded guilty to violating the Clean Water Act for tampering with monitoring methods and submitting false statements (33 U.S.C. § 1319 (c)(4)).

Ventresca was a certified wastewater operator employed by the Lake City Borough Wastewater Treatment Plant. Between December 2008 and December 2012, Ventresca provided false information on discharge monitoring reports submitted to the Pennsylvania Department of Environmental Protection. He operated the plant until his resignation in March 2014.

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

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

On November 16, 2016, Katirina Pattison was sentenced to complete a three-year term of probation, to include 288 hours of community service (8 hours a month). She also was held jointly and severally responsible for \$56,136 in restitution.

Brothers Chris, Chad, and Craig Ducey previously pleaded guilty to charges stemming from their involvement in a scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel incentives. Jeffrey Wilson was recently convicted by a jury of multiple securities-related charges.

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

Furando, his companies, and his Indiana co-defendants achieved substantial per-gallon profits through this scheme, sometimes in excess of \$12,000 per truckload. Over the course of approximately two years, the defendants fraudulently sold more than 35 million gallons of fuel for a total cost of over \$145.5 million. They realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

Furando, Caravan Trading and CIMA Green pleaded guilty to all charges: conspiracy, wire fraud, false statements, obstruction, engaging in prohibited financial transactions, and money laundering. The Duceys pleaded guilty to conspiracy, false claims against the Internal Revenue Service, wire fraud, and lying to the EPA and the IRS (18 U.S.C. §§ 287,

*(Continued on page 19)*

# Sentencings

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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 trans-esterification to produce biodiesel, when in fact, the company simply re-sold biodiesel that had been made by others and already had been used to claim biodiesel incentives.

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

Wilson (who bought E-Biofuels in 2010) was convicted by jury on securities fraud and false statement violations for his role in the scheme (15 U.S.C. §§ 78j(b), 78ff, 78m(b)(5), 77q(a), 77x; 18 U.S.C. §§ 1001, 1350(c)(1)). Chris Ducey was previously sentenced to 72 months' incarceration. Furando was sentenced to 20 years' incarceration, and was ordered to pay (jointly and severally) more than \$56 million in restitution. Carmichael was sentenced to five years' incarceration and is jointly responsible for payment of the restitution.

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

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## Sentencings

### **United States v. William L. Musgrove, No. 4:13-CR-00164 (E.D. Tex.), AUSA Jim Noble.**

On November 15, 2016, William L. Musgrove was sentenced to three months' incarceration, followed by three months' home confinement, after violating a previous probation sentence.

Musgrove was sentenced in September 2013 to complete a three-year term of probation and to pay a \$10,000 fine, after pleading guilty to a Clean Air Act negligent endangerment charge (42 U.S.C. § 7413(c)(4)). The court found that he violated his probation by returning to the metal recovery business without a permit or the proper equipment.

In June 2011, as the vice president and operations manager of Industrial Precious Metals Recovery Incorporated, Musgrove allowed the release of nitrogen oxides into the ambient air through an open doorway, instead of utilizing the company's air scrubber, which was broken at the time. The facility was adjacent to other commercial properties with employees onsite. The facility has since been closed.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Texas Commission on Environmental Quality Environmental Crimes Unit.



*Industrial Precious Metals Recovery, Inc.*

### **United States v. Paul E. Van Voorhees, No. 1:16-mj-05088 (W.D.N.Y.), AUSA Aaron Mango.**

On November 10, 2016, Paul E. Van Voorhees was sentenced to complete a one-year term of probation after previously pleading guilty to violating the Rivers and Harbors Act (33 U.S.C. §§ 403, 406). He also will pay \$6,416 in restitution to the Coast Guard.

Van Voorhees was the Dock Master at the Buffalo Yacht Club and was responsible for maintenance of



*Row boat removed from canal*

the buildings, grounds, and marina. On November 5, 2015, Van Voorhees and another employee towed a damaged 13-foot aluminum row boat (that had been floating in front of the yacht club) into the Black Rock Canal. Upon reaching a certain location in the canal, the

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## Sentencings

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defendant released the boat with the intention of sinking it. After a witness alerted the Coast Guard, they contacted Van Voorhees, who initially denied any involvement. When the Coast Guard recovered the boat, Van Voorhees was re-interviewed and admitted he had attempted to sink it.

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

### **United States v. Robert W. Newman, No. 4:16-CR-00138 (E.D. Mo.), AUSA Dianna R. Collins.**

On November 8, 2016, Robert W. Newman was sentenced to complete a two-year term of probation, perform 40 hours of community service, and make a \$170,000 community service payment to National Fish and Wildlife Foundation. Newman previously pleaded guilty to violating the Endangered Species Act ( 16 U.S.C. §§ 1538(a) (l), 1540(b)) for his involvement in the interstate sale and purchase of four black rhinoceros horns.

In February 2012, Newman sold four black rhino horns and two horns from a southern white rhino to a buyer from Missouri. The two pairs of black rhino horns, weighing 16.3 pounds, had a market value of over \$400,000. At the direction of the Missouri buyer, Newman met along an interstate in Illinois where the subject was handed a brown paper sack that contained \$180,000 in cash in exchange for the six horns. The horns were then transported back to Missouri where they were seized by agents the next day during a nationwide “take-down.”

This case is part of the ongoing Operation Crash investigation, and was investigated by the U.S. Fish and Wildlife Service.



*Black Rhino horns, photo courtesy of the USFWS*

### **United States v. Thomas Davanzo, 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 Jones; RCECs Karla Perrin and Jennifer Lewis, and ECS Paralegal Casey Rybak.**

On November 7, 2016, Thomas Davanzo and Robert Fedyna were sentenced to 121 months and 135 months in prison, respectively, for their participation in a multi-state scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel credits and fraudulently claiming tax credits. Both defendants were ordered to pay jointly and severally approximately \$4.4 million to the IRS. They also will forfeit ill-gotten gains from the conspiracy of over \$46 million and other items, including gold coins, jewelry and Rolex watches, thoroughbred horses, vehicles, and properties.

Davanzo and Fedyna previously pleaded guilty to conspiracy to commit wire fraud and to a money laundering conspiracy charge (18 U.S.C §§ 1349, 1956(h)). Co-defendants

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# Sentencings

*(Continued from page 21)*

Nancy Bush-Estes and Richard Estes pleaded guilty to a money laundering conspiracy charge.

Davanzo, Fedyna, Estes, and Bush-Estes worked with Gen-X Energy Groups (and its subsidiary, Southern Resources and Commodities (SRC)), a Washington state biofuels company, to orchestrate the crimes in 2013 and early 2014. Davanzo and Fedyna set up several shell companies throughout the country, including two in Florida. The three worked with Gen-X to cycle the same batch of renewable biofuels through the shell companies. With each cycle of the old product, Gen-X falsely claimed it had generated new biofuels, thereby generating fraudulent RINs and receiving new alternative fuel tax credits from the IRS. Afterwards, the shell companies would transform the “fuel” back into “feedstock.”

From March 2013 to March 2014, the co-conspirators generated at least 60 million RINs that were based on fuel that was either never produced or was merely re-processed at the Gen-X or SRC facilities. The co-conspirators received at least \$42 million from the sale of these fraudulent RINs to third parties. In addition, Gen-X received approximately \$4,360,724 in false tax credits for this fuel.

Gen-X CEO and founder Scott Johnson and Gen-X Vice President and COO Donald Holmes each pleaded guilty to conspiracy to commit wire fraud, and to conspiracy to defraud the government by obtaining fraudulent claims for income tax refunds (18 U.S.C. §§ 286, 1349).

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

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# Sentencings

## ***United States v. Cesar Ernesto Gutierrez, Nos. 2:16-CR-00335, 00554 (C.D. Calif.), AUSA Amanda M. Bettinelli.***

On November 7, 2016, Cesar Ernesto Gutierrez, known as the “greatest living cue maker in the United States,” was sentenced after previously pleading guilty to a smuggling violation (18 U.S.C. § 554). Gutierrez will pay a \$10,000 fine and complete a two-year term of probation, to include four months’ home confinement. Home confinement was ordered in lieu of incarceration due to the defendant’s age (75) and health issues, as well as his cooperation.



*Seized pool cues, manufactured by Gutierrez*

Gutierrez owns a custom pool cue business in North Hollywood that caters to the high-end pool cue industry and collectors. He sold high end ivory pool cues to Huang Ching Liu and Wen Shou Wei Chen who pleaded guilty to attempting to smuggle them to Taiwan. The pool cues (inlaid with endangered African elephant ivory) were valued at between \$75,000 and \$80,000. Liu and Chen were apprehended in April 2016, at the Los Angeles International Airport with the cues they had purchased from Gutierrez’s business, Ginacue. The two were sentenced in October 2016, to time-served, followed by two year’s supervised release.

The custom pool cue market consists of a fairly tight-knit community of collectors, players, and cue makers. There is an active international trade in pool cues and strong demand for collector pieces and competition cues.

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

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**United States v. Gerhard Felts, No. 16-CR-00049 (N.D. Iowa), AUSA Matthew Cole.**

On November 3, 2016, Gerhard Felts was sentenced to complete a three-year term of probation after previously pleading guilty to a false statement violation (18 U.S.C. § 1001).

Felts has operated the Black Diamond Kennel since 1998. In 2010, he obtained his Class A license under the Animal Welfare Act from the United States Department of Agriculture. The USDA conducted 17 inspections finding Felts had 51 noncompliant items, including inadequate veterinary care, as well as inadequate housing, cleaning, sanitation and housekeeping. As a result of these violations, USDA obtained an \$18,938 administrative penalty against Felts.

As a result of his failure to pay this administrative penalty, the United States obtained a civil judgment against him in order to collect the penalty. During the collection process, Felts lied about his bank accounts and his income from a workers' compensation settlement. Specifically, he failed to disclose a checking account he opened in April 2011, a savings account opened in April 2013, and his receipt of \$25,000 worth of workers' compensation payments in April 2013. Once Felts received his settlement, he used the money to expand his kennel rather than paying on the \$13,382 administrative penalty he currently owes.

As a condition of the three-year term of probation, Felts was ordered to remain current with his monthly payments to USDA and must comply with all applicable federal, state, and local regulations regarding his license and care of animals, including the Animal Welfare Act. The U.S. Attorney's Office is strongly recommending that the Animal and Plant Health Inspection Service debar the defendant from operating as a federally-licensed dog breeder and dealer.

This case was investigated by the U.S. Department of Agriculture.



## Sentencings

### ***United States v. James Kaminsky, Nos. 2:15-CR-00278, 2:16-CR-00273 (E.D.N.Y.), ECS Trial Attorney Christopher Hale and ECS Paralegal Casey Rybak.***

On November 2, 2016, fisherman James Kaminsky was sentenced to pay a \$125,000 fine and complete a five-year term of probation. He will make a \$25,000 community service payment to National Fish and Wildlife Foundation to fund seagrass restoration around Long Island. Kaminsky also was ordered to relinquish Coast Guard, NOAA, and New York State fishing and vessel permits, which in combination with other conditions effectively bans him from the commercial fishing industry.

Kaminsky previously pleaded guilty to violations stemming from his role in systematically covering up the landing and sale of illegal fluke (summer flounder), scup, and black sea bass that were overharvested in violation of New York state quotas and the federal Research Set-Aside (RSA) Program. Kaminsky pleaded guilty to one count of aiding and abetting false writings and making false statements (18 U.S.C. §§ 1001(a)(3)).

Between May and August 2011, Kaminsky utilized the RSA Program as a tool to mask unlawful quota overages. He then sold his illegal catch to Mark Parente, a federal fish dealer and a defendant in a related case. Federal fish dealers are required to accurately report their purchases to the National Oceanic and Atmospheric Administration regardless of whether the fish originated from a state or federal fishery. NOAA utilizes these reports to assess fish stocks and to set annual quotas in conjunction with regional fisheries councils. False information inputted into fisheries statistical models could result in inaccurate quota reductions.

In order to conceal the illegal harvest and transactions, Kaminsky and Parente agreed to falsify documents filed with the government. Kaminsky falsified approximately 30 fishing vessel trip reports, and Parente falsified a corresponding number of dealer reports. The scheme omitted or misidentified close to 7,000 pounds of fluke, 50,000 pounds of scup, and 12,000 pounds of black sea bass. The wholesale value of the fish was stipulated as \$78,000. To further obscure the illicit conduct, almost all of the payments were made in cash. Kaminsky also admitted to making false statements to NOAA criminal investigators during a November 2014 proffer session.

Parente previously pleaded guilty to two counts of wire fraud, one count of aiding and abetting mail fraud, and one count of falsification of federal records. He has not yet been scheduled for sentencing. Co-defendant Thomas Kokell was recently indicted for his involvement in the scheme.

This case was investigated by NOAA National Marine Fisheries Service.

## Sentencings

### ***United States v. Shahram Roohparvar*, No. 3:16-CR-00096 (N.D. Calif.), AUSA Laura Vartain Horn.**

On November 2, 2016, Shahram Roohparvar was sentenced to three months' incarceration, followed by three months' home confinement, and two years' supervised release, for illegally trafficking in elephant ivory.

Roohparvar was the owner and operator of Coins and Antiques Gallery. He sold elephant ivory, as well as other wildlife items, via eBay and his website. Between January 2012 and July 2015, Roohparvar exported and attempted to export carvings of elephant ivory (using falsified documents) in three different transactions to buyers in New Zealand and Australia. He also illegally sold other protected wildlife including leopards, helmeted hornbills, and red coral, in violation of the Lacey Act (16 U.S.C. §§ 3372(d), 3373(d)(3)(A)).

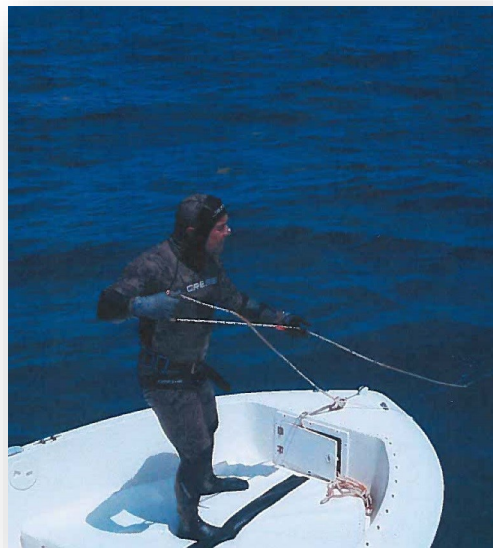
As part of his sentence, Roohparvar will pay a \$20,000 fine and \$20,000 in restitution to the Lacey Act Reward Fund.

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

### ***United States v. Tone Calle*, No. 4:16-CR-10033 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On November 1, 2016, Tone Calle was sentenced for illegal spearfishing activity in Key Largo, Florida. Calle was sentenced to pay a \$2,500 fine and will complete a two-year term of probation, after pleading guilty to violating the Marine Protection and Sanctuaries Act (16 U.S.C. 1436(3)(b)). He also will forfeit his spearfishing gear.

In May 2014, Calle was aboard his vessel within the Special Management Zone in Key Largo, which is part of the Florida Keys National Marine Sanctuary. A local conservation officer observed the defendant's anchored vessel and noted it was displaying a "diver down flag." Calle was seen in the water wearing a camouflage diving suit while tethered to a spearfishing float. As the officer neared the vessel, Calle dove and subsequently resurfaced, boarding his vessel empty-handed. He denied engaging in any spearfishing activity at the site, although inspection revealed several spear guns aboard the vessel and speared fish in a cooler. The defendant was initially only given a written warning. Further investigation revealed that since Calle had, upon boarding his



*Tony Calle on his vessel*

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# Sentencings

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vessel, immediately weighed anchor, the vessel had drifted from the original point of contact. The officer noted this point on a GPS receiver and returned to the site shortly thereafter and found a customized spear gun on the ocean floor.

Additional photographic evidence was obtained depicting Calle displaying a customized spear gun exhibiting the unique camouflage pattern of the weapon seized in this case.

This case was investigated by the NOAA Fisheries Office of Law Enforcement and the Florida Fish & Wildlife Conservation Commission.

## **Announcements**

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.

The public version of the [ECS Bulletin](#) is available for non-law enforcement readers.

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

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| Trial Attorney              | Joel LaBissonniere     | ████████     |
| Trial Attorney              | Charlie Lord           | ████████     |
| Trial Attorney              | Erica Pencak           | ████████     |
| Trial Attorney              | Shennie Patel          | ████████     |
| Trial Attorney              | Erica Pencak           | ████████     |
| Trial Attorney              | Richard Powers         | ████████     |
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| Trial Attorney              | Shane Waller           | ████████     |