ENVIRONMENTAL CRIMES SECTION

MONTHLY BULLETIN

February 2015

Aerial view of the Liberty Fibers plant. See U.S. v. Sawyer et al., *below*, for more details on this case.

EDITOR'S NOTES:

Environmental Justice

On February 11, 1994, President William J. Clinton issued Executive Order 12898, which requires the Department of Justice and certain other federal agencies to address environmental justice in minority and low-income populations. Attorney General Eric H. Holder, Jr., issued a memorandum on January 6, 2015, which includes two documents: *Department of Justice Guidance Concerning Environmental Justice* (*DOJ EJ Guidance*) and *Department of Justice Environmental Justice Strategy* (*DOJ EJ Strategy).* These documents replace earlier versions, give DOJ attorneys direction on implementing environmental justice principles, and can be found on the new Environmental Justice tab at the Environmental Crimes Webpage.

The December 2014 *DOJ EJ Guidance* requires federal prosecutors to focus on the effects of environmental burdens on minority and low-income populations and on American Indians, Alaska Natives, and Native Hawaiians, and commits the Department to work toward reducing environmental contamination in all communities. The *EJ Guidance* sets forth goals that include environmental quality and human health, fair environmental protection, meaningful participation in environmental decision-making, analysis of data, and full and fair enforcement of the laws. DOJ prosecutors are directed to be alert to EJ factors when working on their cases, including disproportionate health or environmental effects, disproportionate risks or exposure, past under enforcement, and equal opportunity for meaningful involvement. They are to consult with the investigative agencies and consider demographic information in databases.

The December 2014 *DOJ EJ Strategy* counsels attorneys to advise agencies of their EJ obligations and to work with communities to further EJ goals. In assessing cases and making litigation decisions, DOJ attorneys are to consider EJ concerns. The *EJ Strategy* also establishes a DOJ Director of Environmental Justice, an EJ Senior Advisory Council, and an EJ Working Group.

ECS has its own EJ Plan which was updated in 2014 and also is available on the Environmental Crimes Webpage. Please feel free to consult our plan and ECS's Environmental Justice Coordinator, [REDACTED]regarding any questions you may have.

Glossary for February 2015 Edition of the Bulletin:

The following Table of Cases is organized by District, the name of the case, the type of case, and the statutes. The Districts are spelled out within the chart, but they will be abbreviated within the summary of the case.

For example: District of Alaska will be noted as D. of Ak. The case name will be noted as United States v. John Doe.

The statutes are cited within the body of each case summary. The statutes will be abbreviated as follows:

APPS = Act to Prevent Pollution from Ships
BGEPA = Bald and Golden Eagle Protection Act
CAA = Clean Air Act
CWA = Clean Water Act
MBTA = Migratory Bird Treaty Act
RCRA = Resource Conservation and Recovery Act
RHA = Rivers and Harbors Act
SDWA = Safe Drinking Water Act

Other abbreviations:
DOI OIG = Department of Interior Office of Inspector General
EPA = Environmental Protection Agency
FBI = Federal Bureau of Investigation
NOAA = National Oceanic and Atmospheric Administration
USC = United States Code

AT A GLANCE:

United States v. Tennie White, __ Fed. Appx. __, 2015 WL 305292 (5th Cir. Jan. 26, 2015).

DISTRICT	CASES	*CASE TYPE*/ STATUTES
Eastern District of California	United States v. Edgardo Fournier	*Marijuana Grower*/Drugs, Timber Fire
Southern District of California	United States v. Kam Wing Chan et al.	*Marine Wildlife Sales*/Lacey Act, Smuggling, Conspiracy
Middle District of Florida	United States v. Carbofin S.P.A. et al.	*Vessel*/ APPS
Southern District of Florida	United States v. Charles Veach et al. United States v. Robert Kelton et al. United States v. Elite Estate Buyers Inc., d/b/a Elite Decorative Arts et al.	*Bonnethead Shark Sales*/ Lacey Act *Coral Sales*/Lacey Act, Conspiracy *Rhino and Ivory Sales*/Conspiracy
District of Hawaii	United States v. Matson Terminals Inc.	*Molasses Spill*/ RHA
District of Iowa	United States v. Larry Wolf	*Demolition*/ CAA
District of Kansas	United States v. Brian Riley et al.	*Electronics and Plastics Recycler*/ CAA, RCRA
Eastern District of Louisiana	United States v. Race Addington	*Oil Rig Maintenance*/ False Statements
District of Maine	United States v. Andrew Zarauskas	*Narwhal Tusk Sales*/Conspiracy, Smuggling, Money Laundering

DISTRICT	CASES	*CASE TYPE*/ STATUTES
District of Maryland	United States v. Hachiuma Steamship Co. LTD et al. United States v. Lawrence Murphy et al.	*Vessel*/ APPS *Striped Bass Poaching*/ Conspiracy, Lacey Act
District of Massachusetts	United States v. Paul Ricco	*Pesticide Inspection*/False Statement
Western District of Missouri	United States v. Earl P. Kearney	*WWTP Operator*/ CWA False Statements
District of New Jersey	United States v. Robert Losasso	*Hawk Killing*/MBTA
Eastern District of North Carolina	United States v. James K. Lewis, et al. United States v. David W. Luther	*Striped Bass Harvesting*/Lacey Act, False Statement, Obstruction *Prop Washing*/ RHA, Lacey Act
Northern District of Ohio	United States v. Kelly Plating Company et al.	*Metal Plater*/CWA, Conspiracy
Southern District of Ohio	United States v. Oxford Mining Company LLC et al.	*Coal Mining*/ CWA
Western District of Pennsylvania	United States v. Ronald A. Wright	*Well Services*/False Statement, SDWA
Eastern District of Tennessee	United States v. Mark C. Sawyer et al.	*Demolition*/Conspiracy, CAA
Southern District of West Virginia	United States v. Freedom Industries Inc. et al. United States v. Thomas Pepin	*Drinking Water Contamination*/ CWA, RHA, Wire Fraud, Bankruptcy *Turtle Sales*/Lacey Act
Eastern District of Wisconsin	United States v. Randy Jones	*Jet Fuel Spill*/False Statements, Pipeline Safety Act
District of Wyoming	United States v. PacifiCorp Energy	*Wind Power*/MBTA

Additional Quick Links:

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Significant Decisions

Fifth Circuit

United States v. Tennie White, __ Fed.Appx. __, 2015 WL 305292 (5th Cir. Jan. 26, 2015).

On January 26, 2015, the Fifth Circuit Court of Appeals affirmed the sentence and conviction of Tennie White, who was sentenced in August 2013 to serve 40 months' incarceration. A jury convicted her of two false statement violations and one obstruction of justice count. The advisory guidelines range calculated by the sentencing court was 15 to 21 months of imprisonment. In an unpublished opinion, the Appellate Court found that the district court was not required to apply U.S.S.G. § 4A1.3 (Departures Based on Inadequacy of Criminal History Category) before imposing a non-Guideline sentence.

White, the owner, operator, and manager of Mississippi Environmental Analytical Laboratories, Inc., was convicted of creating three false discharge monitoring reports (DMRs) and one fictitious laboratory report, which caused the falsification of another DMR. She also lied to an agent during the criminal investigation. During the sentencing hearing, the government introduced evidence of numerous other acts of uncharged misconduct, including falsification of lab reports for other clients and the falsification of her qualifications as an expert witness in a previous civil proceeding in federal court.

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Informations/Indictments

United States v. Race Addington, No. 2:15-CR-00013 (E.D. La.), AUSA Emily Greenfield.

On January 26, 2015, Race Addington was charged in a two-count information with making false statements (18 U.S.C. § 1001) in relation to blowout preventer testing on an offshore oil and gas platform located in the Gulf of Mexico.

In November 2012, production and well workover operations were being conducted on the platform and the blowout preventer system (BPS) had to be tested. A BPS is designed to ensure well control and prevent the potential release of oil and gas. Data from this BPS test was incomplete. After

seeing the incomplete test results the following day, Addington allegedly directed employees to create a new falsified BPS test. Addington subsequently presented the falsified test results to Bureau of Safety and Environmental Enforcement inspectors during a routine inspection of the platform. The following month, DOI investigators probed further into this BPS test. Addington told investigators the false chart he provided BSEE inspectors was a test of the chart recorder and that the inspectors mistakenly retrieved the wrong pressure chart from the files.

This case was investigated by the DOI OIG Energy Investigations Unit, with assistance from the DOI Investigations and Review Unit, BSEE, and the U.S. EPA Criminal Investigation Division.

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United States v. James K. Lewis et al., Nos. 4:14-CR-00008-00011; 2:15-CR-00002-00008, 00010; 4:15-CR-00002-00003 (E.D.N.C.), ECS Trial Attorneys Shennie Patel, Shane Waller, Joel LaBissonniere, Lauren Steele, AUSA Banu Rangarajan and ECS Paralegal Puja Moozhikkattu.

During January 13 - 15, 2015, thirteen commercial fishermen in North Carolina and Georgia were charged with violations stemming from the illegal harvest, sale, and false reporting of approximately 90,000 pounds of Atlantic striped bass from federal waters off the coast of North Carolina during 2009 and 2010. The defendants illegally harvested approximately $1.1 million worth of fish during these two fishing seasons.

This investigation began as a result of the U.S. Coast Guard boarding of the fishing vessel *Lady Samaira* in February 2010, following a complaint that multiple vessels were fishing striped bass illegally. The commercial fishermen are alleged to have transported and sold Atlantic striped bass, knowing that they were unlawfully harvested from federal waters. In an effort to hide their illegal fishing activities, the fishermen are alleged to have falsely reported harvesting the fish from state waters, where it would have been legal.

All of the defendants are licensed by the state of North Carolina and NOAA to fish only in state waters for striped bass. The individuals charged are:

- Ronald W. Berry
- James R. Craddock
- Bryan Daniels
- Steven Daniels
- Ellis Leon Gibbs, Jr.
- Dwayne J. Hopkins
- James K. Lewis
- Michael Potter
- John F. Roberts
- David Saunders
- Gaston L. Saunders, Jr.
- Joseph H. Williams
- Dewey W. Willis, Jr.

All thirteen defendants are charged with Lacey Act violations (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)). Eleven also are charged with false statement violations (18 U.S.C. § 1001), and Gibbs is further charged with obstruction of justice (18 U.S.C. § 1505). Under federal law, Atlantic striped bass may not be harvested from or possessed in federal waters. This ban has been in place since 1990 due to drastic declines of the stock that occurred in the 1970's. North Carolina allows fishermen to harvest fish

from state waters, but often limits fishermen to no more than 100 fish per fishing trip. Commercial fishermen are required to prepare fishing vessel trip reports showing the fish harvested from state waters. That report is then submitted to NOAA's National Marine Fisheries Service. NOAA uses the information on this report to assess the fishery and its sustainability throughout the eastern seaboard.

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

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United States v. Kam Wing Chan et al., No. 3:14-CR-003662 (S.D. Calif.), AUSA Melanie Pierson.

On December 19, 2014, an eight-count indictment was filed against the owner of a Los Angeles furniture business for violations stemming from smuggling a variety of endangered marine wildlife from Mexico and shipping them to China, where they are considered a delicacy. Kam Wing Chan and Kaven Company, Inc., are charged with conspiracy, smuggling, and Lacey Act violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(A); 18 U.S.C. § 371, 545) for smuggling abalone, sea cucumber, and totoaba from Mexico to San Diego.

The indictment alleges that the company was used to import the wildlife, worth more than $3 million, into the U.S. and then shipping it to China to companies owned by Chan's relatives. A single dried swim bladder from the totoaba, used for soup, can sell for between $1,400 and $4,000 in Mexico, and up to $40,000 in Asia.

This case was investigated by the NOAA Office of Law Enforcement

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

Site where chemical was spilled into river

On December 17, 2014, a 13-count indictment was filed charging executives of Freedom Industries Inc. with violations stemming from a January 2014 chemical release into the Elk River that contaminated drinking water supplies for 300,000 West Virginians. An information also was filed charging the company with Clean Water Act and Refuse Act violations (33 U.S.C. §§ 407, 411, 1311, 1318, 1319 (c)(1)(A), (c)(2)(A)).

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

The indictment charges Dennis P. Farrell, William E. Tis, Charles E. Herzing, and Gary L. Southern with negligently discharging pollutants, negligently discharging refuse matter, and negligent violation of the facility's NPDES permit (33 U.S.C. §§ 407, 411, 1311, 1318, 1319 (c)(1)(A)). The executives allegedly failed to fund repairs that would have kept the facility's equipment environmentally compliant, failed to conduct proper inspections of the tank containing MCHM, and failed to develop and implement a stormwater pollution prevention plan and groundwater protection plan. In addition to the CWA and RHA charges, Southern faces additional bankruptcy and wire fraud charges (18 U.S.C §§ 157, 1343).

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

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Plea Agreements

United States v. Charles Veach et al., No. 14-CR-10021 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On January 26, 2015, fishermen and brothers Charles Veach, Tyson Veach, and Ryan Veach pleaded guilty to Lacey Act charges stemming from the illegal harvest of spiny lobsters in the Florida Keys (16 U.S.C §§ 3372(a)(1), (2)(a), 3373(d)(1), (2)). Super Grouper, Inc., also pleaded guilty to a Lacey Act violation for its involvement in the illegal activity.

During several fishing trips in August 2009, the defendants were tracked and videotaped via surveillance aircraft, which documented their placement of illegal artificial habitats (known as casitas) within the waters of the Florida Keys National Marine Sanctuary. They also were photographed taking spiny lobster into their vessel that was sold to a wholesale dealer in Key West.

Surveillance photo showing illegal lobster catch

Commercial fish wholesale buyer and fish dealer Dennis Dallmeyer previously pleaded guilty to a conspiracy violation (18 U.S.C. § 371) for his role in buying the illegally-harvested lobster and helping the brothers to cover up their activities. All are scheduled to be sentenced on May 5, 2015.

This case was investigated by the NOAA Office of Law Enforcement, and the U.S. Fish and Wildlife Service Office, with assistance from Customs and Border Protection and the Florida Fish and Wildlife Conservation Commission.

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

Live Rock Colony

On January 23, 2015, Robert V. Kelton and Bruce Brande pleaded guilty to Lacey Act and conspiracy violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1); 18 U.S.C. § 371) stemming from the illegal sale and purchase of live rock and *Ricordea florida*, a species of coral.

Beginning in February 2008 through July 2011, the defendants conspired with other marine life collectors located in the Florida Keys to purchase quantities of live rock with marine life attached to it, such as *Ricordea florida*, which was illegally harvested and transported from the Florida Keys National Marine Sanctuary. Records seized in the case reflect more than $37,000 in wholesale sales of live rock with *Ricordea florida* and other marine life by the defendants through the business known as D. R. Imports, Inc. (DRI). To conceal the transactions, the defendants produced numerous false invoices, reflecting sales of live rock with marine life attached, purportedly imported from Haiti, to the marine life collectors in the Keys.

Between January 2009 and December 2012, Kelton and Brande submitted false documents to federal officials for shipments of marine wildlife imported from the Dominican Republic and Haiti for commercial re-sale. Comparison of the entry documents with records seized from DRI proved that the value of the declared wildlife had been intentionally understated by $352,594.

Sentencing is scheduled for March 23, 2015. This case was investigated by the NOAA Office of Law Enforcement, analysts with the NOAA Office of Law Enforcement Crime Trade Analyst Team, and the U.S. Fish and Wildlife Service Office of Law Enforcement.

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United States v. Elite Estate Buyers Inc., d/b/a Elite Decorative Arts et al., No. 9:14-CR-90824 (S.D. Fla.), ECS Trial Attorney Gary Donner, AUSA Tom Watts-FitzGerald, ECS Supervisory Paralegal Lisa Brooks, with assistance from ECS Senior Litigation Counsel Richard Udell.

On January 14, 2015, Elite Estate Buyers Inc., d/b/a Elite Decorative Arts (Elite), and the company's president and owner, Christopher Hayes, pleaded guilty to an illegal wildlife trafficking and smuggling conspiracy (18 U.S.C. § 371) in which the auction house sold rhinoceros horns and objects made from rhino horn, elephant ivory, and coral that were smuggled from the United States to China.

Rhino horn

Between January 2011 and March 2013, Hayes and Elite participated in a far-reaching conspiracy in which the company helped smugglers traffic in endangered and protected species in interstate and foreign commerce, and falsified records and shipping documents related to the wildlife purchases in order to avoid the scrutiny of federal officials. Elite aided foreign buyers by directing them to third-party shipping stores that were willing to send the wildlife out of the country with false paperwork. The defendants sold six endangered black rhino horns. Two of the

horns were sold for $80,500 to a Texas resident involved in smuggling the horns to China. Two more rhino horns were purchased by an undercover Fish and Wildlife Service agent, with an additional two horns consigned for auction by another undercover agent.

Elite and Hayes also admitted to selling items made from rhinoceros horn, elephant ivory, and coral to an antiques dealer in Canada, who they then directed to a local shipper that agreed to mail the items in Canada without required permits. The defendants also admitted to selling raw rhinoceros horns, which they believed were from a black rhinoceros, to a person in Texas.

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

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United States v. Brian Riley, et al., No. 6:13-CR-10185 (D. Kan.), AUSA Alan Metzger.

On January 12, 2015, Brian Riley pleaded guilty to a negligent Clean Air Act violation (42 U.S.C. § 7413(c)(4)) for negligent exposure to a hazardous air pollutant.

Riley is the general manager of Integrated Plastic Solutions, LLC (IPS), a facility that recycled plastics and electronics. Riley admitted that the company stored hazardous wastes at its facility including, paints, solvents, and other chemicals. The paints and solvents contained ethyl benzene, a hazardous air pollutant. After becoming aware that the Kansas Department of Health and Environment was investigating the company's waste handling practices, Riley allowed paints and solvents to be dumped on IPS grounds, releasing ethyl benzene and exposing employees to the risk of flash fire and explosion. IPS and owner Sean Riley are charged with RCRA violations and are scheduled for trial to begin on March 24, 2015. Brian Riley is scheduled to be sentenced on March 30, 2015.

This case was investigated by the U.S. EPA Office of Inspector General.

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United States v. Randy Jones, No. 2:14-CR-00220 (E.D. Wis.), ECS Senior Trial Attorney Jennifer Whitfield and AUSA Tracy Johnson.

Fuel spill cleanup

On January 7, 2015, Randy Jones pleaded guilty to false statement and Pipeline Safety Act violations (49 U.S.C. § 60123(a), 18 U.S.C. § 1001).

The defendant was a corrosion coordinator for a pipeline owned and operated by the Shell Pipeline Co. that delivered aviation jet fuel to Mitchell Airport in Milwaukee. From January through December 2011, Jones failed to conduct required bi-monthly and annual safety testing to ensure that the pipeline had adequate protection against corrosion and, when advised of an upcoming audit by the Pipeline and Hazardous Material Safety Administration (PHMSA), entered false data into a database used to submit compliance reports to PHMSA.

In January 2012, the pipeline developed a leak. Jet fuel migrated to a nearby creek and eventually reached the surface of airport property, melting asphalt and filling underground drainage pipes and culverts. The resulting cost for emergency response and remediation of the site was in excess of $19 million. Sentencing is scheduled for April 20, 2015.

This case was investigated by the DOT Office of Inspector General, the U.S. EPA Criminal Investigation Division, the U.S. Coast Guard, and the FBI.

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United States v. Edgardo Fournier, aka Edgardo Fournier-Nigaglioni, No. 1:14-CR-00153 (E.D. Calif.), AUSA Karen Escobar.

On January 5, 2015, Edgardo Fournier, aka Edgardo Fournier-Nigaglioni (Fournier), pleaded guilty to conspiring to manufacture, distribute, and possess with intent to distribute marijuana, and setting timber afire in the Sequoia National Forest (21 U.S.C. §§ 84l(a)(l), 84l(b)(l)(B),846; 18 U.S.C. § 1855).

Marijuana growing among the trees

From April 2014 through July 2014, Fournier helped to cultivate more than 2,000 marijuana plants at an illegal grow site in the Smith Canyon-area of the Sequoia National Forest. On July 11 and 12, the defendant lit fires near the grow site within the boundaries of the Kiavah Wilderness Area. The fires converged and became known as the Nicolls Fire. The Nicolls Fire destroyed about 1,680 acres of public land causing over $6.5 million of damage. The marijuana grow site, which itself caused significant damage to the forest, was not damaged in the fire. Fournier is scheduled for sentencing on March 30, 2015.

This case was investigated by the U.S. Forest Service, the U.S. Bureau of Land Management, and the Kern County Sheriff's Office.

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

On November 20, 2014, Paul Ricco, a former inspector for the Massachusetts Department of Agriculture (MDAG), pleaded guilty to making false statements on inspection reports he submitted to federal regulators (18 U.S.C. § 1001(a)(2)).

From March 2010 through May 2012, Ricco was in charge of the Producer Establishment Inspection program at the MDAG, where he inspected establishments that produce, sell and/or distribute pesticides. During that period, the defendant submitted 15 reports for inspections he did not perform. These reports were subsequently provided to the U.S. EPA in an effort to conceal the fact that he was not doing the inspections. Sentencing is scheduled for March 4, 2015.

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

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United States v. PacifiCorp Energy, No. 2:14-CR-00301 (D. Wyo.), ECS Senior Counsel Bob Anderson and AUSA Jason Conder.

On December 19, 2014, PacifiCorp Energy, a subsidiary of PacifiCorp, pleaded guilty to violating the Migratory Bird Treaty Act (16 U.S.C. §§ 703, 707(a)) in connection with the deaths of protected birds, including golden eagles, at two of the company's wind projects in Wyoming.

The company was sentenced to pay fines, restitution, and community service totaling $2.5 million and was placed on probation for five years, during which it must implement an environmental compliance plan aimed at preventing bird deaths at the company's four commercial wind projects in Wyoming. PacifiCorp Energy is expected to spend approximately $600,000 per year implementing the compliance plan. The company also is required to apply for Eagle Take Permits which, if granted, will provide a framework to minimize the deaths of golden eagles at the wind projects.

The charges stem from the discovery of the carcasses of 38 golden eagles and 336 other protected birds, including hawks, blackbirds, larks, wrens and sparrows by the company at its "Seven Mile Hill" and "Glenrock/Rolling Hills" wind projects in Carbon and Converse Counties between 2009 and December 2014. The two wind projects are comprised of 237 large wind turbines sited on private and company-owned land.

PacifiCorp Energy failed to make all reasonable efforts to build the projects in a way that would avoid the risk of avian deaths by collision with turbine blades, despite prior guidance from the U.S. Fish and Wildlife Service (FWS). However, the company cooperated with the FWS investigation and has already implemented measures aimed at minimizing avian deaths at the sites.

Commercial wind power projects can kill birds in four primary ways: collision with wind turbines; collision with associated meteorological towers; collision with, or electrocution by, associated electrical power facilities; and nest abandonment or behavior avoidance from habitat modification. Collision and electrocution risks from power lines (collisions and electrocutions) and guyed structures (collision) have been known to the utility and communication industries for decades, and specific methods of minimizing and avoiding the risks have been developed, in conjunction with the FWS. The FWS issued its first interim guidance about how wind project developers could avoid impacts to wildlife from wind turbines in 2003 with a final version issued in March 2012. The Service also released Eagle Conservation Plan Guidance in April 2013 and strongly recommends that companies planning or operating wind power facilities in areas where eagles frequent work with the Agency to implement that guidance completely.

The $400,000 fine will be directed to the North American Wetlands Conservation Fund. The company also will pay $200,000 in restitution to the State of Wyoming, and make a $1.9 million community service payment to the National Fish and Wildlife Foundation, for projects aimed at preserving golden eagles and to develop ways to minimize and monitor interactions between eagles and commercial wind power facilities, as well as enhance eagle rehabilitation and conservation efforts in Wyoming.

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

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United States v. Larry Wolf, No. 5:14-CR-004055 (N.D. Iowa), AUSA Forde Fairchild.

Asbestos

On December 14, 2014, Larry Wolf pleaded guilty to a Clean Air Act violation (42 U.S.C. §§ 7412(*l*)(1),(7), 7413(a)(1), (c)(2)(b)) for mishandling asbestos during the demolition of an old YMCA building.

Wolf was informed of the presence of asbestos in the building within months after he purchased it in July 2009. In September 2010, Wolf met with representatives of an environmental remediation and demolition firm, who estimated that it would cost approximately $172,000 to properly remove the asbestos. The defendant and others proceeded with the demolition activities without removing the asbestos. Wolf sold copper, brass, aluminum, and other metals, boasting that he made $80,000 doing the demolition. Wolf admitted that, in the summer of 2010, when asked by one of his employees if the building was safe to work in, he falsely stated that asbestos already had been removed.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Iowa Department of Natural Resources.

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United States v. Earl P. Kearney, No. 6:14-CR-03022 (W.D. Mo.), AUSA Steve Mohlhenrich.

On December 12, 2014, Earl Patrick Kearney pleaded guilty to two negligent Clean Water Act violations (33 U.S.C. § 1319(c)(1)(A)).

Kearney was employed as a wastewater treatment operator for two housing developments between May 2010 and August 2011. He was responsible for conducting wastewater sampling at the facilities and submitting those results to the Missouri Department of Natural Resources. Kearney admitted to altering sample data on quarterly discharge monitoring reports that he submitted to the state so that it appeared they were in compliance with their discharge permits. The actual test results for total phosphorous, however, showed that they had violated their permits.

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

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Sentencings

United States v. Hachiuma Steamship Co., LTD et al., Nos. 1:14-CR-00505, 1:15-CR-00005 (D. Md.), ECS Senior Trial Attorney David Kehoe, ECS Paralegal Jessica Pannett, former ECS Attorney Stephen DaPonte, and AUSA Michael Cunningham.

On January 30, 2015, The Hachiuma Steamship Co., LTD (Hachiuma), the operator of the *M/V Selene Leader*, was sentenced after pleading guilty to an Act to Prevent Pollution from Ships oil record book violation (ORB) (33 U.S.C. § 1908(a)). Hachiuma will pay $1.8 million in fines and community service, complete a three-year term of probation, and implement an environmental compliance program.

Oily sponge

Between August 2013 and the end of January 2014, Noly Torato Vidad was the vessel's chief engineer, and Ireneo Tomo Tuale was its first engineer. In January 2014, under the supervision of Vidad and Tuale, engine room crew members transferred oily wastes between oil tanks using rubber hoses and then illegally discharged the oily wastes overboard. These discharges were not entered in the ship's oil record book that was presented to Coast Guard inspectors in Baltimore. During the inspection, Vidad tried to hide the illegal discharges by falsifying the ORB, destroying documents, lying to Coast Guard inspectors, and instructing subordinate crew members to lie.

A $450,000 community service payment will be made to the National Fish and Wildlife Foundation to fund projects benefitting the Chesapeake Bay, and the court awarded $250,000 to a crew member whistleblower. Vidad and Tuale are scheduled to be sentenced on February 20 and March 3, 2015, respectively.

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

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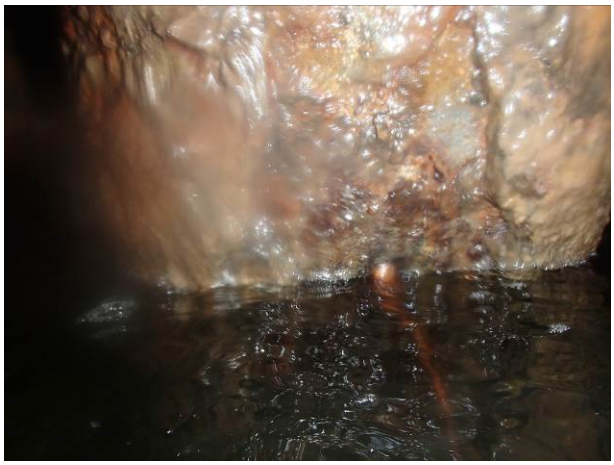
<u>United States v. Matson Terminals, Inc.</u>, No. 1:14-CR-00911 (D. Hawaii), AUSAs Leslie E. Osborne, Jr. and Marshall H. Silverberg.



Molasses spill

On January 29, 2015, Matson Terminals, Inc., was sentenced to pay a $400,000 fine plus $600,000 in restitution. The company previously pleaded guilty to a violation of the Rivers and Harbors Act (33 U.S.C. § 407) stemming from the discharge of molasses into Honolulu Harbor.

In September 2013, Matson was loading molasses through a pipeline from storage tanks into ships in the Harbor. The company discharged approximately 233,000 gallons of molasses into the Harbor over a two-day period. The discharge caused or contributed to the death of approximately 25,000 fish in the harbor.

Matson was on notice from a report issued by the Hawaii Department of Transportation in July 2012 that this particular pipeline had a leak. The restitution will be divided between the Waikiki Aquarium to support Coral Programs and Invasive Algae Clean-ups, and Sustainable Coastlines Hawaii for beach clean-ups.

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

<u>United States v. Kelly Plating Company et al.</u>, No. 1:14-CR-00225 (N.D. Ohio), SAUSA Brad Beeson.

On January 27, 2015, Kelly Plating Company was sentenced after previously pleading guilty to conspiracy and a Clean Water Act violation (33 U.S.C. § 1319(c)(2)(A); 18 U.S.C. § 371) stemming from illegal discharges into the sewer system operated by the Northeast Ohio Regional Sewer District (NEORSD). The company will pay a $50,000 fine and make a $25,000 community service payment to The Cleveland Foundation. It also will complete a two-year term of probation.

Pump used to bypass pretreatment system

Kelly Plating is a metal plating operation located in Cleveland, Ohio. Employee Thomas White was responsible for operating equipment that reduced the amount of pollutants discharged to the sewer system to permitted levels. Beginning in late January 2012 and continuing through May 2012, White altered the wastewater processing at the facility, bypassing pollution control equipment and discharging partially-treated wastewater and sludge directly into the sewer system over the weekends. These discharges contained high concentrations of chrome and zinc. White recently pleaded guilty to similar charges and is scheduled for sentencing on April 16, 2015.

This case was investigated by the U.S. EPA Criminal Investigation Division, the NEORSD, the Ohio Bureau of Criminal Identification and Investigation, and the Ohio Environmental Protection Agency, all members of the Northeast Ohio Environmental Crimes Task Force.
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United States v. Mark C. Sawyer et al., No. 2:11-CR-00082 (E.D. Tenn.), ECS Senior Trial Attorney Todd Gleason and AUSA Matt Morris.

Buried asbestos discovered during search

On January 21, 2015, five people were sentenced to prison terms for conspiring to commit Clean Air Act offenses (18 U.S.C. § 371) in connection with the illegal removal and disposal of asbestos-containing materials at the former Liberty Fibers Plant in Hamblen County, Tennessee. A&E Salvage purchased the plant out of bankruptcy in order to salvage metals which remained in the plant after it closed.

Mark Sawyer, a former A&E manager, will serve five years' incarceration, followed by two years' supervised release. Manager Newell Lynn Smith will serve 37 months' incarceration, followed by two years' supervised release. Manager Eric Gruenberg will serve a 28-month sentence, followed by two years' supervised release. Armida and Milto DiSanti each were sentenced to six months' incarceration, followed by six months' home confinement, and two years' supervised release. They also will perform 150 hours of community service. All defendants were held jointly and severally responsible for more than $10.3 million in restitution to reimburse the EPA for clean-up costs.

The sentencing took place over three days and included expert testimony that the exposures of the A&E workers to asbestos resulted in a substantial likelihood they would suffer death or serious bodily injury. The restitution order provided that EPA cleanup costs of more than $10 million qualified as "damage to property" and therefore fell within the ambit of 18 U.S.C. § 3663A's "mandatory" provisions.

All defendants pleaded guilty to conspiring to violate the CAA "work practice standards" related to the removal, bagging, and disposal of asbestos. The Liberty Fibers buildings contained extensive amounts of asbestos-containing materials in the form of pipe wrap, insulation, and floor tile. Between October 2006 and July 2008, the conspirators failed to properly remediate the asbestos before demolishing the buildings, illegally removing it instead without providing workers the necessary protective equipment

This case was investigated by the U.S. EPA Criminal Investigation Division and the Tennessee Department of Environmental Conservation.
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United States v. Carbofin S.P.A. et al., Nos. 8:14-CR-00500, 00501 (M.D. Fla.), ECS Trial Attorney Ken Nelson, AUSA Matthew Mueller, and ECS Paralegal Jessica Pannett.

On January 21, 2015, Second Engineer Alessandro Enrico Messore was sentenced to pay a $1,500 fine, complete a five-year term of probation, and is required to obtain permission from the government before returning to the U.S. during probation. Messore previously pleaded guilty to an Act to Prevent Pollution from Ships violation (33 U.S.C. § 1980(a)).

Carbofin S.P.A., the owner of the Italian tanker ship *MT Marigola*, pleaded guilty to three APPS violations for maintaining a false oil record book that failed to include illegal overboard discharges of oily wastes in 2013 and 2014.

Bypass discharging through seawater supply line

While conducting a routine inspection of the ship in April 2014, crew members provided Coast Guard inspectors with cellphone video of a black hose being used to discharge oily bilge waste directly overboard. After examining valves and finding oily residue on the hose, the inspectors confirmed that the hose had been used to bypass pollution-prevention equipment and to discharge wastes overboard. None of these discharges were recorded in the ship's oil record book. Chief Engineer Carmelo Giano previously pleaded guilty to an APPS violation and was recently sentenced to pay a $5,000 fine and a one-year term of probation. Carbofin is scheduled to be sentenced on March 4, 2015.

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

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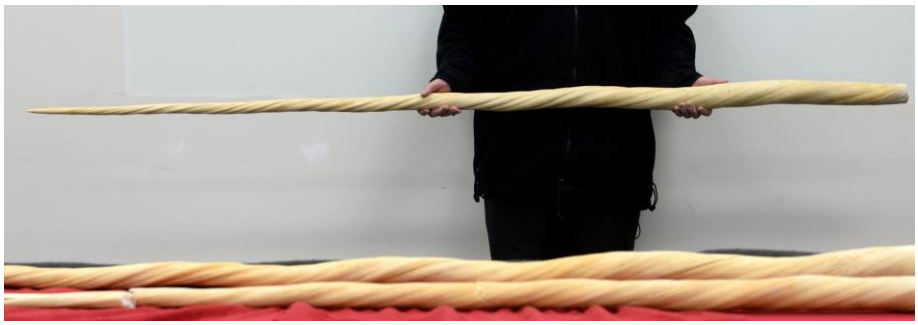
United States v. Andrew Zarauskas et al., Nos. 1:12-CR-00188, 3:11-CR-00091 (D. Maine, D. Alaska), ECS Trial Attorneys Todd Mikolop and Jim Nelson, and ECS Paralegal Casey Layman.



Narwhal tusks

On January 12, 2015, Andrew J. Zarauskas was sentenced to serve 33 months' incarceration, followed by three years' supervised release. A jury found Zarauskas guilty last year of conspiring to violate the Marine Mammal Protection Act and the Endangered Species Act, a money laundering conspiracy, and substantive smuggling and money laundering violations (18 U.S.C. §§ 371, 545, 1956(a)(2)(A)) for buying narwhal tusks that had been illegally imported into the United States, as well as selling or attempting to sell the tusks. As part of the sentence, Zarauskas forfeited six narwhal tusks and one narwhal skull, in addition to $85,089. He also will pay a $7,500 fine. Co-defendants Jay Conrad and Eddie Dunn have pleaded guilty to similar charges.

From 2002 to 2008, Zarauskas purchased approximately 33 narwhal tusks that he knew were illegally imported into the United States. Narwhal tusks are commonly collected for display purposes and can be sold for large sums of money. He conspired with others in Canada to illegally import the protected tusks for re-sale in the United States, laundering the funds he obtained from those purchases.

Throughout the conspiracy, Zarauskas and his co-conspirators made payments to the Canadian supplier for the narwhal tusks, totaling $85,000, by sending the money to an address in Bangor, Maine, or directly to the supplier in Canada. The payments allowed the Canadian supplier to purchase and re-supply Zarauskas and Conrad with more narwhal tusks that they also resold. Conrad sold between $400,000 and $1 million worth of narwhal tusks and Dunn sold approximately $1.1 million worth. Co-defendant Gregory R. Logan is pending extradition from Canada to the U.S.

Conrad is scheduled to be sentenced on March 15, 2015, and Dunn is set for April 9, 2015.

These cases were investigated by the NOAA Office of Law Enforcement and the U.S. Fish and Wildlife Service Office of Law Enforcement, with assistance from Environment Canada Wildlife Enforcement.

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United States v. Lawrence "Daniel" Murphy et al., No. 1:13-CR-00649 (D. Md.), ECS Senior Trial Attorney Todd Gleason, ECS Trial Attorney Shennie Patel, AUSA Michael Cunningham, and ECS Paralegal Casey Layman.

On January 7, 2015, Kent Sadler was sentenced to serve 30 days' incarceration, followed by three years' supervised release. He also will pay a $10,000 fine and $20,000 in restitution. Co-defendant Lawrence "Daniel" Murphy was sentenced in December 2014, to pay a $10,000 fine, $30,000 in restitution, and to complete a three-year term of probation. A total of four fishermen have pleaded guilty to a Lacey Act conspiracy violation (18 U.S.C. § 371) for illegally harvesting Striped Bass between 2007 and 2011.

Sadler, Murphy, William Lednum, and Michael Hayden engaged in a multi-year scheme to illegally poach hundreds of thousands of pounds of Striped Bass from the Chesapeake Bay in violation of Maryland regulations on harvest method, amounts, tagging, and reporting. In an effort to conceal their crimes, they falsified paperwork related to their harvests and submitted those documents to the State of Maryland. The State, in turn, unwittingly provided false information to numerous federal and interstate agencies responsible for setting harvest levels along the eastern seaboard.

Lednum will serve 12 months and one day of incarceration, plus an additional six months' home confinement. He also was ordered to pay a $40,000 fine and approximately $498,000 in restitution. Hayden is scheduled to be sentenced on February 27, 2015.

This case was investigated by the Maryland Department of Natural Resources and the U.S. Fish and Wildlife Service.

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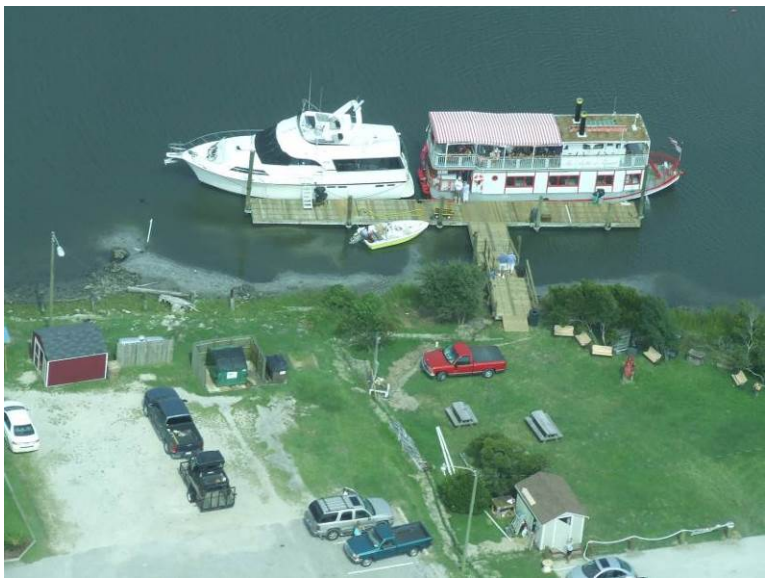
United States v. David W. Luther, No. 7:14-CR-00004 (E.D.N.C.), AUSA Banu Rangarajan.

On January 5, 2015, David W. Luther was sentenced to complete a five-year term of probation after previously pleading guilty to Clean Water Act and Rivers and Harbors Act violations (33 U.S.C. §§ 403, 406, 1311, 1319(c)(1), 1344).

In July 2012, officers with the North Carolina Marine Patrol responded to a complaint of dredging in waters near Surf City, North Carolina. They determined that Luther was "prop washing" using his vessel, *The Raven*. Despite being ordered to stop this activity, the defendant continued to dredge just three hours later.



Oyster nursery area near shoreline

On August 10, 2012, a Notice of Violation and Request to Cease Unauthorized Development was sent to Luther and hand-delivered four days later. Luther again, however, continued his dredging activities in an area determined to be a primary nursery area for oysters.

Prior to sentencing, Luther agreed to purchase .21 acres of coastal wetland restoration to compensate for the impacts he made to wetlands and other jurisdictional waters.

This case was investigated by the U.S EPA Criminal Investigation Division, the North Carolina State Bureau of Investigation, the U.S. Army Corps of Engineers, and the North Carolina Marine Patrol.

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United States v. Robert Losasso, No. 2:13-mj-08280 (D.N. J.), AUSA Kathleen O'Leary.

On December 22, 2014, Robert Losasso was sentenced for killing, or attempting to kill, four different species of hawks in violation of the Migratory Bird Treaty Act (16 U.S.C. § 703). Losasso will serve six hours' incarceration followed by 18 months' supervised release. He also will pay $4,350 in restitution to four wildlife rehabilitation facilities and will perform 60 hours of community service at a raptor rehabilitation facility.

The defendant admitted that he fatally shot or attempted to shoot red-tailed, sharp-shinned, red-shouldered and Cooper's hawks on several occasions from his home. These species are among the tens of thousands of birds of prey that migrate every year from Canada along the Atlantic Flyway through New Jersey.

The restitution will be used to reimburse the wildlife centers that treated or euthanized hawks injured as a result of his conduct.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement, with assistance from the New Jersey Division of Fish and Wildlife Bureau of Law Enforcement, and the Somers Point Police Department.

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United States v. Ronald A. Wright, No. 1:14-CR-00007 (W.D. Pa.), AUSA Marshall Piccinini.

On December 22, 2014, Ronald A. Wright was sentenced to serve six months' incarceration, followed by three year's supervised release, after pleading guilty to a false statement violation (18 U.S.C. § 1001(a)(3)) in connection with permits issued under the Safe Drinking Water Act's underground injection control program. Wright also will serve 12 months' home detention as a special condition of supervised release.

Wright worked as a contractor for S&T Services and Supply, a company that performed well-plugging services. Between September 2009 and April 2011, Wright prepared certificates that falsely stated that abandoned wells had been properly plugged. EPA relies upon this information when issuing permits for Class II injection wells. The agency requires that all abandoned wells within a quarter mile of the proposed injection well be properly plugged. Wright was ordered to pay $236,524 in restitution to S&T, as reimbursement for its cost to re-plug the wells.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Pennsylvania Office of Attorney General's Environmental Crimes Section, and the U.S.D.A Forest Service Law Enforcement and Investigations.

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United States v. Oxford Mining Company LLC et al., Nos. 2:13-CR-00208, 2:14-CR-00260 (S.D. Ohio), AUSA Mike Marous and RCEC Brad Beeson.

On December 16, 2014, Oxford Mining Company LLC was sentenced to pay a $500,000 fine and make a $150,000 community service payment for its negligent failure to report violations of its Clean Water Act discharge permit in connection with its coal mining operations. The community service payment will be split equally between the Ohio EPA and the National Park Foundation. Oxford previously pleaded guilty to a misdemeanor CWA violation (33 U.S.C. § 1319(c)(1)(A)).

Roy Wayne Light was Oxford's director of environmental compliance matters. Oxford's CWA permit limits a number of pollutants, including total suspended solids (TSS) that may be discharged during coal mining operations. Between November 2007 and November 2011, discharge sampling analyses reports showed violations of permit limits including TSS, iron, and manganese levels. Light did not report those violations on the monthly operating reports that were submitted to the Ohio EPA and, instead, falsified the data.

Light previously pleaded guilty to a felony Clean Water Act false statement violation (33 U.S.C. § 1319(c)(4)). He has sentenced to serve four days' incarceration, followed by eight months' home confinement and one year of supervised release. Light was further ordered to pay a $5,000 fine and to perform 104 hours of community service.

This case was investigated by the Ohio Bureau of Criminal Investigation, the Ohio EPA, and the U.S. EPA Criminal Investigation Division, all members of the Central Ohio Environmental Crimes Task Force.

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United States v. Thomas Pepin, No. 2:14-CR-00158 (S.D.W.V.), AUSA Philip Wright.

Wheelbarrow full of turtles

On December 15, 2014, Thomas Pepin was sentenced to serve 30 day's incarceration followed by one year of supervised release. Pepin previously pleaded guilty to two Lacey Act misdemeanor violations (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)) stemming from his capture of turtles to sell out of state.

Between July 2012 and October 2013, Pepin caught wild Eastern Box Turtles from near his home in West Virginia and posted a variety of internet notices that he would sell the turtles to anyone in the United States. An undercover wildlife agent in Pennsylvania arranged for two shipments to be sent to him in May and June 2013. In preparation for the June shipment, Pepin stuffed all of the turtles into tube socks and put them in a plastic bin with straw, cold packs, and limited air holes. The plastic bin was placed inside a cardboard shipping box that had no markings to indicate what the shipment contained. Pepin sold and shipped approximately.

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

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