# ENVIRONMENTAL CRIMES SECTION

# MONTHLY BULLETIN

*January 2015*

***DS Noble Discoverer* drilling for oil in Alaska. See *U.S. v. Noble Drilling (U.S.) LLC*, below, for more details on this case.**

## EDITOR'S NOTES:

If you have significant updates and/or interesting photographs from a case, please email them to [REDACTED]. If you have information concerning state or local cases, please send it directly to the Regional Environmental Enforcement Association's webpage.

REMINDER: We are now producing a *separate* public version of the Environmental Crimes Section Monthly Bulletin. When submitting details about your case developments please bear in mind that the information you provide could be disclosed to the public. As such, it would be very helpful if you would include a press release whenever possible to help ensure that the facts we are using are publicly available. If a press release was not issued, then please provide only facts that are appropriate to disclose to the public.

For those who have access to United States Department of Justice website, please visit the Environmental Crimes webpage. It has a fresh new look, and we are redoubling our efforts to provide you with current, relevant, and helpful content. You will notice that we have a streamlined home page, which now includes updated press releases and photos from the Bulletin. If you have any ideas or materials to submit, please send them to [REDACTED].We are especially looking for recent briefs and memoranda from your cases, to ensure we have a brief bank that is up-to-date and useful.

**Glossary for January 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
CAA = Clean Air Act
CWA = Clean Water Act
FIFRA = Federal Insecticide, Fungicide, and Rodenticide Act
MBTA = Migratory Bird Treaty Act
NANPCA = Nonindigenous Aquatic Nuisance Prevention and Control Act
PWSA = Ports and Waterways Safety Act
RCRA = Resource Conservation and Recovery Act
RHA = Rivers and Harbors Act
SDWA = Safe Drinking Water Act

Other abbreviations:
CITES = Convention on International Trade in Endangered Species
DEA = Drug Enforcement Administration
EPA = Environmental Protection Agency
FBI = Federal Bureau of Investigation
ICE = Immigration and Customs Enforcement
NOAA = National Oceanic and Atmospheric Administration
USC = United States Code

## AT A GLANCE:

| DISTRICT | CASES | *CASE TYPE*/ STATUTES |
|---|---|---|
| District of Alaska | United States v. Noble Drilling (U.S.) LLC | *Vessel*/ APPS, PWSA, NANPCA |
| Eastern District of California | United States v. Cruz Soria<br><br>United States v. Hernan Cortez Villasenor | *Marijuana Grower*/Drugs<br><br>*Marijuana Grower*/ Drugs, FIFRA |
| Central District of California | United States v. Kwong Wa Cheung | *Turtle Smuggling*/Lacey Act |
| Southern District of California | United States v. Lachelle Rene Thrower<br><br>United States v. Glamis Dunes Storage Inc., et al. | *Asbestos Removal Training Fraud*/False Statement<br><br>*Sewage Disposal*/SDWA |
| Middle District of Florida | United States v. Carbofin S.P.A. et al. | *Vessel*/ APPS |
| Southern District of Florida | United States v. Curtis W. Waters<br><br>United States v. Charles R. Jamison<br><br>United States v. New Nautical Coatings et al. | *Coral Sales*/ Lacey Act<br><br>*Bonnethead Shark Sales*/ Lacey Act<br><br>*Pesticide Sales*/FIFRA, Obstruction, Conspiracy |
| Eastern District of Louisiana | United States v. Matthaios Fafalios et al.<br><br>United States v. Sean Granger<br><br>United States v. XPLOR Energy SPV-1, Inc. | *Vessel*/APPS, Obstruction of Justice, Witness Tampering<br><br>*Oil Rig Maintenance*/ Outer Continental Shelf Lands Act<br><br>*Oil Rig Discharges*/CWA |

| DISTRICT | CASES | *CASE TYPE/* STATUTES |
|---|---|---|
| District of Maryland | United States v. George Estudante<br><br>United States v. Ireneo Tuale et al.<br><br>United States v. Michael Hayden et al. | *Scallop Harvesting/* Lacey Act<br><br>*Vessel/* APPS<br><br>*Striped Bass Harvesting/* Lacey Act |
| Western District of Michigan | United States v. Alan Chadderdon et al. | *Underground Storage Tanks*/Falsifying Federal Records |
| District of New Jersey | United States v. D.C. Air & Seafood Inc., et al. | *Scallop Harvesting/* Lacey Act, Conspiracy |
| Eastern District of New York | United States v. Gerald Cohen | *Demolition*/CAA |
| Southern District of New York | United States v. Xiao Ju Guan a/k/a Tony Guan | *Rhino Horn Sales/* Smuggling, Conspiracy |
| Eastern District of Pennsylvania | United States v. Robroy MacInnes et al. | *Reptile Sales*/Lacey Act, Conspiracy |

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# Trials

**United States v. Matthaios Fafalios et al., No. 2:14-CR-00128 (E.D. La.), ECS Trial Attorney Ken Nelson, AUSAs Gregory Kennedy and Emily Greenfield, ECS Paralegals Jessica Pannett and Christopher Kopf, and OLS Tech Elga Orzo.**

**Bypass hose**

On December 16, 2014, a jury convicted Chief Engineer Matthaios Fafalios on all three counts charged: APPS, obstruction of justice, and witness tampering (18 U.S.C § 1505, 1512(b)(3); 33 U.S.C. § 1908(a).

During the last week of December 2013, Fafalios ordered a *Trident Navigator* crew member to construct an illegal bypass to allow for the illegal overboard discharge of oily bilge waste. Several metric tons of waste were discharged, circumventing the ship's oil water separator and oil content monitor. The discharges were not recorded in the oil record book. Fafalios also confiscated a crew member's cell phone that contained a photograph of the bypass and subsequently deleted the picture.

On January 18, 2014, U.S. Coast Guard personnel boarded the ship while it was anchored in the Mississippi River near New Orleans. A tip from a crewmember resulted in their discovery of the bypass. Fafalios was uncooperative and further obstructed the Coast Guard investigation by instructing crewmembers to falsely deny knowledge of the bypass.

Marine Managers Ltd., the ship's operator, previously pleaded guilty to APPS and obstruction violations and was sentenced to pay an $800,000 fine, make a $100,000 community service payment, complete a three-year term of probation, and implement an environmental compliance plan.

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

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# Informations / Indictments

**<u>United States v. Gerald Cohen</u>, No. 2:14-CR-00637 (E.D. N.Y.), AUSA Jim Miskiewicz.**

**Lawrence Aviation Industries**

On December 10, 2014, a one-count indictment was returned charging the owner of a former defense contractor with knowingly violating the Clean Air Act and emitting asbestos during the demolition of an old manufacturing building (42 U.S.C § 7413(c)(1)).

Gerald Cohen is the owner and operator of Lawrence Aviation Industries, Inc., (LAI) located at a 124-acre facility in Port Jefferson Station, New York. Beginning in the 1950's, Lawrence manufactured titanium components for jet planes, including the F-14 Tomcat jet fighter. In 2000, after the discovery of well water contamination in the adjacent community, the EPA declared the LAI facility to be a Superfund site. In 2009, Cohen pleaded guilty to a RCRA storage violation and was sentenced to serve one year and a day of incarceration.

After his release from prison, Cohen allegedly hired contractors to scrap metal components from various LAI buildings, generating some $250,000 in proceeds, which he then attempted to hide to avoid payment of $105,000 in restitution he owed to EPA as a result of his RCRA conviction. Last December, after being notified by the EPA Superfund on-scene coordinator of the presence of asbestos in a particular building, Cohen allegedly instructed the contractors to demolish an asbestos-encased boiler and pipes in that building for scrap. The workers were not provided with the proper equipment. The indictment further states that Cohen denied that there was asbestos in the material being removed when questioned by a worker. The contractors continued to work until the following day when the EPA on-scene coordinator was notified and halted the work.

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

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# Plea Agreements

**<u>United States v. Carbofin S.P.A. et al.</u>, Nos. 8:14-CR-00500, 00501 (M.D. Fla.), ECS Trial Attorney Ken Nelson, AUSA Matthew Mueller, and ECS Paralegal Jessica Pannett.**

**Oil residue found in *MT Marigola* boiler discharge valve**

On December 16, 2014, Carbofin S.P.A., the owner of the Italian tanker ship *MT Marigola*, pleaded guilty to three APPS violations (33 U.S.C. § 1980(a)) for maintaining a false oil record book that failed to record illegal overboard discharges of oily wastes in 2013 and 2014. Chief Engineer Carmelo Giano and Second Engineer Alessandro Enrico Messore also pleaded guilty to APPS violations for their role in the offense.

While conducting a routine inspection of the ship in April 2014, crew members tipped off U.S. Coast Guard inspectors. The crew members provided 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 was used to bypass pollution-prevention equipment and to discharge wastes overboard. None of these discharges were recorded in the ship's oil record book. Sentencing is scheduled for March 4, 2015.

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

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**<u>United States v. George Estudante</u>, No. 14-CR-000572 (D. Md.), ECS Trial Attorney Joel LaBissonniere.**

On December 16, 2014, George Estudante pleaded guilty to a one-count information charging him with submitting false records with respect to Atlantic sea scallops, in violation of the Lacey Act (16 U.S.C. §§ 3372(d), 3373(d)).

Estudante was a seafood dealer from New Bedford, Massachusetts. In March 2009, agents with the National Marine Fisheries Service (NMFS) determined that on 15 separate occasions Estudante illegally

**Illegally harvested scallops**

purchased scallops in excess of what commercial fishing vessels were authorized to land. To conceal these illegal purchases, he filed false dealer reports with NMFS, reporting only the purchase of legally harvested quantities of scallops. Sentencing is scheduled for March 27, 2015.

This case was investigated by NOAA's National Marine Fisheries Service.

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**United States v. Curtis W. Waters, No. 4:14-CR-10024 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

**Vessel forfeited by defendant**

On December 8, 2014, Curtis W. Waters pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)) for offering more than 100 specimens of *Ricordea florida* for sale, a species of coral that is very popular in saltwater aquariums.

Waters holds a Saltwater Products License (SPL) issued by the Florida Fish & Wildlife Conservation Commission. The SPL authorized him, among other things, to harvest live *Ricordea florida*, which is native to the salt water reefs of South Florida. In August 2013, Waters contacted an individual in Colorado (who was cooperating with agents) advising that he would be in the Keys collecting marine specimens and would have "more" *Ricordea florida* for sale. At the direction of U.S. Fish and Wildlife Service agents, the cooperator ordered 150 Ricordea. On September 2, 2013, Waters called the buyer, confirming the order would be sent via Federal Express. The package was received by the buyer in Colorado a few days later with an invoice for $600 ($4 each). The cash was subsequently deposited into Waters' account.

Sentencing is scheduled for March 10, 2015. This case was investigated by the U.S. Fish and Wildlife Service and NOAA, both of which are participants in "Operation Rock Bottom," a long-term investigation into the illegal harvesting and sale of marine life resources from the Florida Keys.

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

On December 3, 2014, Lachelle Rene Thrower pleaded guilty to a false statement violation (18 U.S.C. § 1001) for falsifying asbestos training certificates.

Thrower was employed by an approved provider of asbestos removal training. Students seeking to be accredited to remove asbestos were required to complete four, eight-hour days of training, and to pass a written examination. Between May 2010 and August 2014, the defendant falsely certified between 100 and 150 training certificates for people who did not actually attend the training or take the test. Thrower kept the money paid by the non-attending trainees, and falsified the certificates by using an electronic signature of the authorized trainer. Her false certificates were then submitted to the EPA-delegated agency, Cal/OSHA. Thrower also admitted that when trainees did actually attend classes and pay in cash, she kept this cash as well. The defendant caused a financial loss to her employer of between $10,000 and $30,000.

Sentencing is scheduled for February 17, 2015. This case was investigated by the U.S. EPA

Criminal Investigation Division and the FBI.
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**United States v. Cruz Soria, No. 1:12-CR-00283 (E.D. Calif.), AUSA Karen Escobar.**

On December 1, 2014, Cruz Soria pleaded guilty to conspiring to manufacture, distribute, and possess marijuana in the Fay Canyon area of the Canebrake Ecological Reserve (21 U.S.C. §§ 841(a)(1), (b)(1), 846). The Reserve is home to numerous rare and protected plants and animals, including golden and bald eagles and peregrine falcons, the federally-threatened California red-legged frog, the Valley elderberry longhorn beetle, and the endangered Southwestern willow flycatcher.

Soria admitted that he was responsible for cultivating 454 marijuana plants in the Reserve. Among the plants, the officers found several highly toxic chemicals, including Fosfuro de Zinc or zinc phosphide, a rat poison illegal to use in the United States without a license, and Furadan, an insecticide banned by the EPA for use on crops consumed by humans.

Soria is scheduled for sentencing on February 9, 2015. Co-defendant Mairo Correa-Garcia was previously sentenced to serve 18 months' incarceration.

This case was investigated by the U.S. Forest Service, ICE Homeland Security Investigations, the California Department of Fish and Wildlife, and the Kern County Sheriff's Office.
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**United States v. Ireneo Tuale et al., Nos. 1:14-CR-00505, 00513 (D. Md.), ECS Senior Trial Attorney David Kehoe, former ECS Trial Attorney Steve DaPonte, AUSA Michael Cunningham, and Paralegal Jessica Pannett**.

On December 1, 2014, Ireneo Tuale, First Engineer of the *M/V Selene Leader*, pleaded guilty to aiding and abetting the making and presentation of a false oil record book to the Coast Guard in violation of APPS (33 U.S.C. § 1908(a), 18 U.S.C. § 2).

Japanese company Hachiuma Steamship Co, LTD, operated the ship between August 2013, and the end of January 2014. In January 2014, under the defendant's supervision, engine room crew members transferred oily wastes between oil tanks on board the ship using rubber hoses, bypassing pollution control equipment, before discharging the wastes directly overboard. These discharges were not recorded in the vessel's oil record book.

Chief Engineer Noly Torato Vidad pleaded guilty to an APPS charge and obstruction of justice. Vidad is scheduled to be sentenced on February 20, 2015, and Tuale is set for March 3, 2015.

This case was investigated by the U.S. Coast Guard Investigative Service.
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**United States v. Sean Granger, No. 14-CR-00252 (E.D. La.), AUSA Emily Greenfield.**

On November 26, 2014, Sean Granger pleaded guilty to knowingly and willfully tampering with a method of record required to be maintained under the Outer Continental Shelf Lands Act (43 U.S.C. § 1350(c)(3)).

Granger was a supervisor for a coil tubing services crew that performed coil tubing services on a drilling rig well located in the Gulf of Mexico. Prior to starting the coil tubing services, Granger tested his coil tubing unit's blowout preventer (BOP). A coil tubing unit should not be placed into service until all the BOP components have passed pressure testing.

The results of BOP tests are recorded on a circular graphic chart known as the BOP pressure test chart. To record pressures, a test chart is placed into a chart recorder that has a needle with a pen attached

to it. As the recorder spins, the needle makes a record on the test chart of how much pressure the BOP components are holding. The BOP test chart is the record that inspectors review to determine if the BOP units are functioning properly.

On June 4, 2012, there were irregularities in the BOP testing process. Rather than properly document the pressures of the BOP components or remedy the irregularities in the testing, the defendant tampered with the pressure test chart by spinning it on the recorder. When inspectors reviewed the pressure test chart a few days later, they were unable to determine whether the BOP on the coil tubing unit was functioning properly.

Granger is scheduled to be sentenced on March 18, 2015. This case was investigated by the Department of Interior Office of Inspector General and the Bureau of Safety and Environmental Enforcement.

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**United States v. Xiao Ju Guan a/k/a Tony Guan, No. 1:14-CR-00506 (S.D.N.Y), ECS Senior Counsel Richard Udell, AUSA Janis Echenberg, and ECS Supervisory Paralegal Specialist Lisa Brooks.**

On November 25, 2014, Xiao Ju Guan (Tony Guan) pleaded guilty to conspiracy and a smuggling violation for smuggling endangered black rhinoceros horns from the United States to Canada (18 U.S.C. §§ 371, 554). Guan was arrested in New York City earlier this year after attempting to purchase two endangered black rhinoceros horns from undercover U.S. Fish and Wildlife Service agents for $45,000. The defendant is a Canadian citizen and the owner of Bao Antiques, a company based in Canada and Hong Kong.

Guan and co-conspirators smuggled more than $500,000 worth of rhino horns and sculptures made from elephant ivory and coral from various U.S. auction houses to Canada by driving them across the border or by having packages mailed directly to Canada with false paperwork and without the required declaration or permits. One part of the criminal scheme was to falsely describe the wildlife in order to conceal Guan's wildlife smuggling. In the case of a rhino horn purchased in Florida, the Customs paperwork claimed it as a "Wooden Horn" worth $200. Sentencing is scheduled for March 13, 2015.

The investigation of Guan and his company is part of Operation Libation, a segment of Operation Crash targeting the trafficking and smuggling of rhinoceros horns. This case was investigated by the U.S. Fish and Wildlife Service with assistance from Environment Canada's Wildlife Enforcement Directorate.

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**United States v. XPLOR Energy SPV-1, Inc., No. 2:14-CR-00202 (E.D. La.), AUSA Matthew Coman.**

On November 19, 2014, XPLOR Energy SPV-1, Inc. (XPLOR) pleaded guilty to knowingly violating the Clean Water Act (33 U.S.C. §§ 1311(a), 1319(c)(2)(A)) in connection with its oil and gas production activities in the Breton Sound Area of the Gulf of Mexico.

Between November 1997 and November 2011, XPLOR operated the MP 35 offshore platform for the purpose of extracting oil and natural gas. During the production process, "produced water" or "brine" was supposed to be disposed of by pumping it into disposal/injection wells located near the platform.

In November 2011, XPLOR transferred ownership and operation of the facility to another corporation. The platform's new owner discovered that the platform was continuously discharging produced water containing oil and other chemicals directly into the Gulf. The new owner immediately

contacted regulatory authorities to report the discharge. The ensuing investigation revealed that the defendant had knowingly discharged this wastewater between October 2009 and November 18, 2011.

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

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**United States v. Glamis Dunes Storage Inc., et al., No. 3:14-CR-01766 (S.D. Calif.), AUSA Melanie Pierson.**

On November 19, 2014, Glamis Dunes Storage Inc. (GDS) and its owner, Michael Mamelli, Sr., pleaded guilty to a violation of the Safe Drinking Water Act (42 U.S.C. § 300(h)-2(b)(2)) for injecting and disposing of millions of gallons of sewage underground at the Glamis Dunes Storage site.

**Aerial view of Glamis Dunes Storage**

GDS obtained a conditional use permit in August 2007 from Imperial County to install and operate a 20,000 gallon holding tank for RV waste (including sewage and grey water) at the facility. At that time, the company claimed the wastewater would be pumped out by a licensed septage hauler and disposed of at a nearby POTW. The company further estimated that at full occupancy, it could dispose of approximately 1.25 million gallons of RV sewage and grey water annually.

In December 2009, a cease and desist order was issued to Mamelli by local authorities after it was discovered that the defendants were illegally disposing of sewage from the holding tank by discharging it into an onsite underground septic tank. The order required them to immediately stop discharging sewage to the underground septic tank, remove the tank, have a registered hauler pump out the RV holding tank, and provide proof of disposal at a wastewater treatment plant.

In response, between February and March 2010, the defendants hired a contractor to build a leach field in the rear of the property, place a pump in the RV holding tank, and connect a pipe directly from the tank to the leach field, concealing the power connection for the pump underneath gravel. Between August and October 2012, the defendants installed additional pumps and tanks to continue to illegally dispose of the sewage.

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

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# Sentencings

**<u>United States v. Noble Drilling (U.S.) LLC</u>, No. 3:14-CR-00114 (D. Ak.), ECS Trial Attorney Ken Nelson, AUSA Kevin Feldis, and ECS Paralegal Jessica Pannett.**

***MODU Kulluk***

On December 19, 2014, Noble Drilling (U.S.) LLC (Noble) pleaded guilty and was sentenced for violations stemming from the illegal operation of the drill ship *Noble Discoverer (Discoverer)* and the drilling unit *Kulluk* in Alaska in 2012.

Noble pleaded guilty to five APPS charges (33 U.S.C § 1908(a)), one violation of the Nonindigenous Aquatic Nuisance Prevention and Control Act (NANPCA) (16 U.S.C. § 7411(g)(2)), and two violations of the Ports and Waterways Safety Act (PWSA)(33 U.S.C. § 1232(b)(1)). Seven of these counts are for Noble's operation of the *Discoverer*, and one count for the operation of the Mobile Offshore Drilling Unit (*MODU) Kulluk*. Noble was sentenced to pay $12.2 million in fines and community service payments and to serve a four-year period of probation during which time it must implement an environmental compliance plan. In addition, Noble's parent corporation, Noble Corporation plc, headquartered in London, England, has agreed to implement an environmental management system for all MODUs owned or operated by Noble Corporation plc and its direct and indirect subsidiaries worldwide.

During the 2012 drilling season, Noble was operating under contract with Shell Offshore, Inc. and Shell Development, Ltd. for the purpose of drilling in the arctic in Alaska. Noble was the operator and charterer of the *Discoverer*, and the drilling operator of the drilling unit *Kulluk*. The *Kulluk* was a conical-shaped vessel, and was not self-propelled, but rather had to be towed. In 2012, the vessels made several U.S. port calls in Washington and Alaska on their way to the Shell drilling site off the coast of Alaska. After leaving the drill site, the *Kulluk* ultimately ran aground off the coast of Unalaska when it broke free from its tow in bad weather, and the *Discoverer* was dead-ship towed from Dutch Harbor to Seward due to failures of its main engine and other equipment.

The company knowingly made false entries and failed to record its collection, transfer, storage, and disposal of oil in both vessels' oil record books in 2012, in violation of APPS. Noble also failed to log numerous transfers and storage of machinery space bilge water and waste oil. The company made modifications to the vessel's new oily waste separator system after the system passed inspection by the Classification Society and the Coast Guard. Noble did not inform authorities of the modifications and did not receive an International Oil Pollution Prevention certificate that documented the unapproved decanting system, the increased storage, or the new OWS piping arrangement.

The defendant had problems managing the bilge and wastewater that were accumulating in the engine room spaces of the *Discoverer*. As a result, Noble devised a makeshift barrel and pump system to discharge accumulated wastewater directly overboard, taking steps to conceal this from the Coast Guard.

The NANPCA requires vessels to maintain accurate ballast records reflecting the source of ballast water in the ballast water tanks, discharges from the tanks, and the total volume of ballast water

onboard. By design, water ballast tanks should only contain uncontaminated seawater. Noble pumped oily skimmer tank fluids and deck water with a sheen into several ballast tanks on the *Discoverer*. The company then discharged those ballast tanks directly overboard. Noble failed to record the transfers to the ballast tanks and the subsequent discharges in the ballast log.

The company further violated the PWSA by failing to notify the Coast Guard of several hazardous conditions aboard the *Discoverer*. During 2012, the ship experienced numerous problems with its main propulsion system, including its main engine and its propeller shaft, resulting in engine shut-downs, equipment failures, and unsafe conditions. At times, problems with the ship's main engine created high levels of exhaust in the engine room, multiple sources of fuel and oil leaks, and backfires, none of which were reported to authorities.

A total of $4 million in community service payments will be paid as follows: $2.5 million will go to the International Arctic Research Center, $1 million will go to the National Fish and Wildlife Fund Alaskan Arctic Fund, and $500,000 will go to the Arctic Research Consortium of the United States. All will be used for research and projects designed to benefit the Arctic and natural resources near Alaska. The court further ordered that $512,500 of the $8.2 million fine be awarded to a crewmember whistleblower.

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

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**United States v. Michael Hayden 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 December 17, 2014, William Lednum was sentenced to serve 12 months and one day of incarceration, plus an additional six months' home confinement. He was ordered to pay a $40,000 fine and approximately $498,000 in restitution. Co-defendant Michael Hayden's sentencing was continued until February 27, 2015. The two previously pleaded guilty to Lacey Act trafficking violations (16 U.S.C. §§ 3372(a)(4) and 3373(d)(l)(B)) for their involvement in the illegal harvest of Striped Bass between 2007 and 2011.

Fishermen Hayden, Lednum, Kent Sadler, and Lawrence "Daniel" Murphy 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 relating to harvest method, amounts, tagging, and reporting. In an effort to conceal their crimes, they falsified paperwork related to their harvests and submitted those falsified 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.

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

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**<u>United States v. Charles R. Jamison</u>, No. 4:14-CR-10013 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On December 15, 2014, Charles R. Jamison was sentenced after previously pleading guilty to a Lacey Act conspiracy violation for the sale and purchase of juvenile bonnethead sharks (16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1); 18 U.S.C. § 371). Jamison will complete an 18-month term of probation and will pay a $2,000 fine. He is barred from engaging in the marine wildlife industry during the period of probation and will forfeit the vessel, trailer, tackle, and gear he used in the illegal activity. The defendant received a reduced sentence for providing substantial assistance to the government in other ongoing investigations.

**Bonnethead shark with tracking device**

Between approximately June 2012 and October 2012, Jamison engaged in the illegal harvest and sale of bonnethead sharks taken from the waters off the Florida Keys. The animals then were shipped by a variety of means, including rental truck and as commercial air cargo.

This case was investigated by the NOAA Office of Law Enforcement and the U.S. Fish and Wildlife Service Office of Law Enforcement, with assistance from the Florida Keys National Wildlife Refuges, and the U.S. Customs and Border Protection Air Marine Branch.

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**<u>United States v. D.C. Air & Seafood Inc., et al.</u>, Nos. 2:12-CR-00272, 00338 - 00340, 00683, 00731, 00786; 2:13-CR-00783 (D.N.J.), AUSA Kathleen O'Leary.**

On December 10, 2014, Michael Johnson was sentenced to serve a four-year term of probation, including a special condition of five months' home confinement. This case involved the underreporting of close to 80,000 pounds of Atlantic Sea Scallops, many of which were harvested over the legal limit off the coast of New Jersey and Cape Cod between March 2007 and March 2008.

Seafood wholesaler D.C. Air & Seafood, Inc., and its owner, Christopher Byers, admitted to conspiring with six fishing boat operators (George Bamford, Robert E. Hersey, Jr., Daniel Mahoney, Michael McKenna, James Leighton, and Johnson) to prepare false reports that concealed the overharvesting.

Byers and the company purchased the scallops harvested by federally-permitted vessels in a large sea scallop fishing area managed by NOAA, that was open to limited scallop fishing by permitted vessels for two-week periods. During those times, individual vessels are restricted to harvesting no more than 400 pounds of scallops per vessel per trip.

During two-week periods in 2007 and 2008, vessels operated by the fishermen harvested thousands of pounds of scallops over the legal limit, which D.C. Air & Seafood subsequently purchased. The defendants concealed the overharvesting by preparing reports that falsely represented the amount of scallops harvested.

Bamford was sentenced to serve a four-year term of probation with a special condition of five months' home confinement. Mahoney and McKenna will complete five-year terms of probation to include five months' home confinement. Mahoney also will pay a $1,000 fine. Hersey will complete a four-year term of probation to include four months' home confinement. Leighton will complete a one-year term of probation to include five month's home confinement. Byers was sentenced to serve 30 months' incarceration, followed by three years' supervised release. The company must complete a five-year term of probation, implement an environmental compliance plan, and is jointly and severally responsible with Byers for $520,371 in restitution to be paid to NOAA. The defendants pleaded guilty to conspiracy, obstruction and Lacey Act violations (18 U.S.C. §§ 371, 1519; 16 U.S.C. §§ 3372(d), 3373(d)(3)(a)).

This case was investigated by NOAA.

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**United States v. New Nautical Coatings et al., No. 1:14-CR-20081 (S.D. Fla.), AUSAs Alejandro Soto and Maria Medetis.**

**New Nautical and Sea Hawk Refinishing sign**

On December 5, 2014, two companies and four individuals were sentenced after pleading guilty to charges stemming from their involvement in a scheme to illegally sell an unregistered pesticide and to obstruct justice. New Nautical Coatings, Inc. d/b/a Sea Hawk Paints (New Nautical) will pay a $1,235,315 fine, complete a three-year term of probation, and implement an environmental compliance plan. David Norrie, New Nautical's President, will serve five months' incarceration, followed by three years' supervised release with a special condition of six months' home confinement. New Nautical CEO Erik Norrie will serve three months' incarceration, followed by one year of supervised release. Sea Hawk Refinish Line, Inc. and New Nautical Vice President, Jason Revie, and National Sales Manager, Tommy Craft, each will complete a one-year term of probation.

New Nautical manufactured and sold an anti-fouling coating in the United States called Sea Hawk Biocop Antifouling Coating (Biocop). Biocop contained tributyltin methacrylate (TBT), a pesticide registered under FIFRA that had been found to have a significant harmful effect on marine life. In March 2005, the EPA cancelled New Nautical's registration for Biocop, making it unlawful for the company to manufacture the product in the United States after December 1, 2005, or to sell it in the U.S. after December 31, 2005. The cancellation order allowed New Nautical's distributors to sell existing stock of Biocop, that is, Biocop produced and released for shipment before December 1, 2005. At the time, New Nautical was the last manufacturer of TBT-based anti-fouling coatings in this country.

In order to continue selling the unregistered pesticide, New Nautical and its executives conceived a scheme to make it appear that Refinish Line had purchased 9,500 gallons of existing stock of Biocop and was acting as a distributor of the product for New Nautical. In fact, Refinish Line, which is also owned by Defendants David and Erik Norrie, is an automotive distributor that never purchased or took possession of any Biocop, and did not employ a single salesperson who sold the product. In addition to falsifying the invoice between New Nautical and Refinish Line (and providing it to an EPA inspector), New Nautical also misled its primary distributor into believing that it was buying existing stock of the banned pesticide. In order to perpetuate these lies, New Nautical changed the batch numbers on cans of

Biocop from the date of production to a series of numbers ending in "9999." New Nautical also falsified invoices for the sale of Biocop to falsely reflect the sale of other antifouling coatings.

Between 2006 and 2009, the defendants illegally sold the banned pesticide to distributors and end users, earning approximately $1,235,315, the amount New Nautical was fined, in the process.

New Nautical and David Norrie pleaded guilty to conspiracy to obstruct justice (18 U.S.C. §§ 371, 1505); Sea Hawk and Erik Norrie pleaded guilty to conspiracy to violate FIFRA (18 U.S.C. §371, 7 U.S.C. § 136j(a)(1)(A)); and Revie and Craft pleaded guilty to FIFRA violations (7 U.S.C. § 136j(a)(1)(A)).

This case was investigated by the U.S. EPA Criminal Investigation Division, the U.S. EPA Office of Inspector General, and the Florida Fish and Wildlife Conservation Commission.

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**United States v. Robroy MacInnes et al., No. 2:12-CR-00623 (E.D. Penn.), ECS Trial Attorney Patrick Duggan, AUSA Mary Kay Costello, ECS Paralegal Ashleigh Nye, with assistance from ECS Supervisory Paralegal Lisa Brooks.**

On December 5, 2014, Robroy MacInnes and Robert Keszey were sentenced after being convicted by a jury in 2013 of a Lacey Act conspiracy for trafficking in protected reptiles (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1(B)). MacInnes will serve 18 months' incarceration and Keszey will serve 12 months' incarceration. MacInnes will pay a $4,000 fine and Keszey will pay a $2,000 fine. They also will serve three years' supervised release. MacInnes also was convicted of trafficking in protected timber rattlesnakes in violation of the Lacey Act.

**Eastern indigo snake**

MacInnes and Keszey co-owned a well-known reptile dealership, Glades Herp Farm Inc., based in Florida, and Keszey formerly hosted the Discovery Channel show "Swamp Brothers." From 2006 through 2008, they collected protected snakes from the wild in Pennsylvania and New Jersey, purchased protected eastern timber rattlesnakes (which had been illegally collected from the wild in violation of New York law), and transported threatened eastern indigo snakes from Florida to Pennsylvania. MacInnes also violated the Lacey Act by purchasing illegal eastern timber rattlesnakes in Pennsylvania and then transporting them to Florida.

Evidence at trial showed that the snakes were destined for sale at reptile shows in Europe, where a single timber rattlesnake can sell for up to $800. Snakes that were not sold in Europe were sold through the defendants' business in the United States. The eastern indigos were intended for domestic sale where a single snake is worth up to $1,000. In addition to trafficking in illegal animals, the defendants attempted to persuade a witness not to provide the government with information regarding their illegal dealings.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement, with assistance from the New York Department of Environmental Conservation.

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**United States v. Alan Chadderdon et al., Nos. 1:14-CR-00201, 00551 (W.D. Mich.), AUSA Chris O'Connor.**

On December 3, 2014, insurance agent Alan Chadderdon was sentenced after previously pleading guilty to falsifying federal records (18 U.S.C. § 1519). Chadderdon was ordered to pay a $20,000 fine and to serve one day of incarceration (time served), followed by one year of supervised release. He also will perform 200 hours of community service. On December 1, co-defendant Dean Tucker entered a similar plea and is scheduled for sentencing on March 5, 2015.

Between 2001 and 2013, the defendants issued false insurance certificates to owners and operators of underground storage tanks (USTs) throughout Michigan. The fake documents made it appear that certain USTs were in compliance with laws requiring owners and operators to demonstrate the ability to clean up any environmental contamination caused by a leaking tank.

The fraudulent documents were primarily sold to gas station owners and operators with USTs that were either expensive to insure or uninsurable due to age or condition. After the scheme was disrupted by undercover agents, the agents immediately worked to identify the potentially faulty tanks.

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

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**United States v. Kwong Wa Cheung, No.14-CR-00339 (C.D. Calif.), AUSA Dennis Mitchell.**

**Turtles found in mail**

On December 2, 2014, Kwong Wa Cheung was sentenced after previously pleading guilty to a Lacey Act false labeling violation (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)) for attempting to smuggled 46 turtles and tortoises from the U.S. to Hong Kong. Cheung will serve two months' incarceration, followed by two years' supervised release, with a special condition of two month's community confinement. He also will pay a $12,000 fine.

In August 2013, the defendant tried to mail three boxes of CITES-protected turtles and tortoises by labelling the boxes "Toys" and by using a fake sender name and address. The fake name Cheung used, however, turned out to be a name that was on a list of persons not permitted to export items from the U.S. Consequently, the Postal Service would not send the packages and tried to track down the sender to see if the sender was actually the person on the no-export list.

The USPS could not locate the defendant (since he had used a false name), and the packages were subsequently abandoned as undeliverable. The boxes eventually were shipped to a "dead mail" facility in Georgia, where they were finally opened after a strong odor was detected.

The investigation further revealed email correspondence from 2011 whereby the defendant smuggled wildlife to Hong Kong that was sold by Nathaniel Swanson and purchased by an individual known as Angus Tang in Hong Kong. Swanson and two others were prosecuted, convicted, and

sentenced to imprisonment earlier this year in the Western District of Washington. To date, three additional defendants remain under indictment in that district.

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

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**United States v. Hernan Cortez Villaseñor, No. 1:12-CR-00184 (E.D. Calif.), AUSA Karen Escobar.**

On December 1, 2014, Hernan Cortez Villaseñor, a marijuana cultivator, was sentenced to serve ten years' incarceration, followed by five years' supervised release, after previously pleading guilty to FIFRA and drug violations (21 U.S.C. §§ 841,846; 7 U.S.C. §§136j(a)(1)(A), 136l(b)(2)). Cortez also was ordered to pay $3,328 restitution (joint and several) to the U.S. Forest Service for the damage caused by his marijuana operation located in the Greenhorn Creek area of the Sequoia National Forest.

The Greenhorn Creek site sustained extensive damage due to the destruction of native oak trees and other vegetation to make room for nearly 9,000 marijuana plants. Fertilizers and pesticides were spread throughout the site including Fosfuro de Zinc, a common Mexican rat poison. Approximately 30 containers of this poison were found at Cortez's residence. To date, four of five defendants have pleaded guilty in this matter.

This case was investigated by the U.S. Forest Service, the U.S. DEA, ICE Homeland Security Investigations, U.S. EPA Criminal Investigation Division, and the Kern County Sheriff's Office.

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