
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

April 2010

EDITOR'S NOTE:

If you have other significant updates and/or interesting photographs from a case, you may email these to Elizabeth Janes: [REDACTED]. If you have information to submit on state-level cases, please send this directly to the Regional Environmental Enforcement Associations' website: <http://www.regionalassociations.org>

ATA GLANCE



Districts	Active Cases	Case Type / Statutes
D. Conn.	<u>United States v. Phoenix Products Co.</u>	<i>Chemical Company/ CWA</i>
M.D. Fla.	<u>United States v. Kinder Morgan Manatee Terminal LLC</u>	<i>Baghouse Emissions/ CAA</i>
S.D. Fla.	<u>United States v. Kroy Corporation et al.</u> <u>United States v. Mar-Cone Appliance Parts Co.</u>	<i>Ozone Depleting Substances/ Smuggling</i>
M.D. La.	<u>United States v. Clint Martinez et al.</u>	<i>Alligator Hunting/ Lacey Act, ESA</i>
D. Md.	<u>United States v. Scott Dent et al.</u>	<i>Striped Bass/ Lacey Act</i>
D. Mass.	<u>United States v. Christopher Jacques</u> <u>United States v. The Rockmore Company</u>	<i>Whale Strike/MMPA</i> <i>Sewage Discharges/ RHA</i>
W.D. Mo.	<u>United States v. HPI Products, et al.</u>	<i>Pesticide Company/ RCRA, CWA, FIFRA</i>
E.D.N.C.	<u>United States v. Freedman Farms, Inc., et al.</u>	<i>CAFO/ CWA, False Statement, Obstruction</i>
D.N.M.I.	 <u>United States v. John Wylie Davis</u>	 <i>Vessel/ APPS, False Statement</i>
S.D. Ohio	<u>United States v. Larry R. Adkins, Jr.</u>	<i>Tree Theft/ Depredation of Government Property</i>
D. Ore.	<u>United States v. Reginald Akeen et al.</u>	<i>Eagle Products/ MBTA</i>
W.D. Pa.	<u>United States v. John Morgan et al.</u>	<i>Oil and Gas Company/ SDWA</i>
E.D. Tenn.	<u>United States v. Gary Fillers et al</u>	<i>Asbestos Abatement/ CAA, Conspiracy</i>
D.V.I.	<u>United States v. Ivan and Gloria Chu</u>	<i>Coral Shipments/ Conspiracy, Lacey Act, Endangered Species Act, False Statement</i>

Informations and Indictments

United States v. Clint Martinez et al., No. 3:10-CR-00038 (M.D. La.), ECS Senior Trial Attorney Claire Whitney [REDACTED]

On March 17, 2010, Clint Martinez and Michael Martinez were charged in a nine-count indictment with Lacey Act violations stemming from the illegal hunting of alligators, a threatened species. According to the indictment, Clint Martinez is a licensed alligator hunter and his brother Michael Martinez is a licensed alligator helper. The brothers were employed by an outfitter and guided clients of the outfitter on sport alligator hunts. In 2005, 2006 and 2009, the Martinez brothers are alleged to have taken clients to hunt in areas for which the Martinez brothers did not have authority to hunt.

In Louisiana, alligator hunting is a highly regulated activity since alligators were hunted almost to extinction years ago. Louisiana regulations set up a strict system which allocates alligator hide tags (also known as CITES tags) to licensed alligator hunters every year. The tags are property specific and hunters may only hunt in the areas designated by the tags. The indictment alleges that on nine occasions, the Martinez brothers took clients to hunt in areas for which they did not have the proper tags.

The fees charged by the outfitter for hunts are substantial, starting with a base rate of \$3,500 for three days of hunting. If a client kills a trophy-sized alligator, the outfitter charges trophy fees of up to \$2,000, depending on the size of the alligator. Most of the alligators taken on the charged dates were trophy-sized alligators. Guides receive a \$500 bonus if the client takes a trophy-sized alligator.

This case was investigated by the Louisiana Department of Wildlife and Fisheries and the United States Fish and Wildlife Service.

[Back to Top](#)



[Back to Top](#)

United States v. Freedman Farms, Inc., et al., No. 7:10-CR-00015 (E.D.N.C.), AUSAs J. Gaston Williams [REDACTED] and Banumathi Rangarajan [REDACTED]

On February 4, 2010, a four-count indictment was returned charging Freedman Farms, Inc., and William Barry Freedman with violations relating to the illegal discharge of hog waste. The defendants are charged with Clean Water Act, false statement, and obstruction of justice violations.

According to the indictment, Freedman, the principal operator of the family-owned Freedman Farms, Inc., raised hogs for market. Freedman Farms' hog operation consisted of six hog houses that held more than 4,800 hogs. The waste from the hogs was directed to two nearby lagoons for treatment and disposal. On December 19, 2007, witnesses observed hog waste in the stream known as Browder's Branch that leads from the Freedman Farm. State officials were notified and pumps and tanker trucks were brought in to remove approximately 169,000 gallons of hog waste from the stream. Investigators determined that over 332,000 gallons of hog waste had been discharged into Browder's Branch between December 15, 2007, and December 20, 2007. Officials did not find evidence of pumping system failure, vandalism, or accidental discharge. Documents provided by Freedman falsely stated that he had properly disposed of the waste during some of this period using the approved methods of applying treated hog waste to crops located on other parts of Freedman Farms' land.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the North Carolina State Bureau of Investigation, with assistance from the Army Corps of Engineers Wilmington District Office

[Back to Top](#)

Plea Agreements

United States v. Kinder Morgan Port Manatee Terminal LLC, No. 8:10-CR-00076 (M.D. Fla.), AUSA Cherie Krigsman [REDACTED].

On March 11, 2010, Kinder Morgan Port Manatee Terminal LLC (KMPMT), a Delaware company doing business in Manatee County, Florida, pleaded guilty to four violations of the Clean Air Act stemming from its baghouse dust emissions.

KMPMT operates a dry bulk material handling and storage facility, which covers six acres and includes four warehouses. It receives and ships materials such as granular fertilizer products and cement clinker by railcar, truck, and ship. When these granular materials are loaded and unloaded incorrectly, they generate particulate matter, an air pollutant regulated by the Clean Air Act. Facilities are required to operate baghouse air pollutant control systems, in order to control particulate emissions. These systems further require permits to ensure their proper operation

Investigation revealed that, from in or about 2001 through March 2008, KMPMT's baghouse systems were in poor condition, and several were not fully operational during the times specified in various permits. In August 2006 and August 2007, the company's local managers and supervisors falsely stated in Florida



Transfer Tower

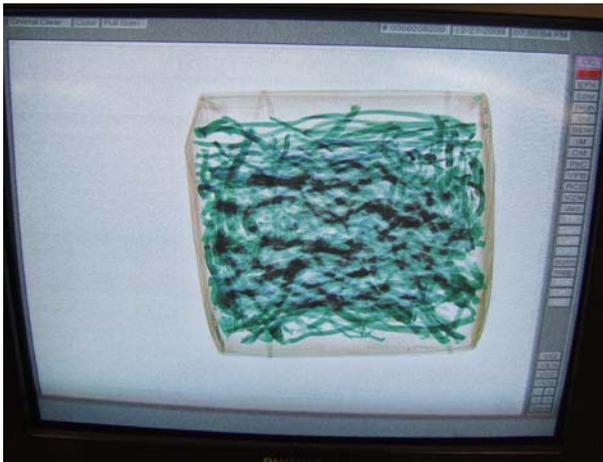
DEP permit applications that KMPMT would operate and maintain its air pollution emissions and control equipment in accordance with regulations, knowing that the baghouses were not being operated and maintained properly. From October 2006 through March 2008, company management failed to notify the FDEP that its baghouse air pollution control systems were out of compliance.

A parallel enforcement action brought against the company by state officials resulted in FDEP ordering a \$331,000 civil penalty. Corrective actions under the order include conducting compliance stack testing on the repaired baghouses, repairing the transfer towers and conveyor systems, developing an employee training program, and implementing a management tracking system to ensure future compliance through testing, record keeping and maintenance.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Florida Department of Environmental Protection.

[Back to Top](#)

United States v. Ivan and Gloria Chu, No. 10-CR-0003 (D.V.I.), ECS Trial Attorney Christopher Hale [REDACTED] and AUSA Nelson Jones [REDACTED]



Black coral x-rayed by U.S. Customs

On March 11, 2010, Taiwanese nationals Ivan and Gloria Chu pleaded guilty to charges stemming from their involvement in illegal shipments of internationally-protected black coral into the United States.

The defendants pleaded guilty to nine counts, including conspiracy, false statements, and violations of both the Endangered Species Act and the Lacey Act. The Lacey Act makes it a felony to falsely label wildlife that is intended for international commerce. The Endangered Species Act is the U.S. domestic law that implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Each of the species of black coral is listed in Appendix II of CITES and is subject to strict trade regulations and

requires permits in order to export.

The Chus own a business named Peng Chia Enterprise Co. Ltd. that supplied materials for jewelry manufacture, jewelry items, and raw black coral to customers outside of Taiwan. Prior to 2007, the Chus were issued CITES export permits by the Taiwanese government in order to ship black coral overseas, but as of 2007 they were unable to obtain permits because they were unable to produce a legitimate certificate of origin.

Black coral is one of several types of precious corals that can be polished to a high sheen and worked into artistic sculptures and used in inlaid jewelry. Black corals are long lived and slow growing; scientists have reported that one specimen was over 4,200 years old with a growth rate of only 5 micrometers (one millionth of meter) per year. They are typically found in deep waters, but have been threatened by invasive species and overharvesting due in part to the wider availability of scuba gear.

In order to supply a company based in the Virgin Islands with black coral, the Chus devised a plan whereby an agent of the company would travel to a warehouse in mainland China, instruct the Chinese supplier on quantity and quality of coral and then arrange for an intermediary to ship the black coral from Hong Kong through a commercial shipping company to Company X in St. Thomas or

affiliated locations in the mainland United States. The Chus agreed that the coral shipments would be falsely labeled in order to conceal the coral from U.S. Customs officials. The defendants obtained their coral using this scheme over a two-year period until Customs seized a shipment in August 2009.

Additionally, according to court documents, on December 23, 2008, Company X agreed to pay nearly \$39,000 for multiple shipments of coral that the Chus arranged to be routed through Hong Kong. After the payment was received in February 2009, Peng Chia used its Chinese supplier and Chinese intermediary to send six shipments of black coral to Company X in St. Thomas. Coral from these shipments was analyzed by the U.S. Fish and Wildlife Service's National Forensics Laboratory in Ashland, Oregon, and was determined to be black coral. On August 19, 2009, Peng Chia sent a shipment comprised of ten boxes of black coral that were mislabeled as a type of plastics product. The Chus admit that from 2007 to 2009, they sent more than \$194,000 worth of black coral to Company X.

According to the plea agreements, Ivan Chu has agreed to serve 30 months in prison and pay a \$12,500 fine. Gloria Chu has agreed to serve 20 months in prison and pay a \$12,500 fine. Both defendants also would be prohibited from shipping coral and other wildlife products to the United States for a three-year period after their release from prison. Sentencing is scheduled for June 23, 2010.

This case was investigated by the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, with support from Immigration and Customs Enforcement and United States Customs and Border Protection.

[Back to Top](#)

United States v. Larry R. Adkins, Jr., No. 2:10-CR-00022 (S.D. Ohio), AUSA Mike Marous [REDACTED]

On March 4, 2010, Larry R. Adkins, Jr., pleaded guilty to depredation of government property and theft of government property for cutting down 822 trees in the Wayne National Forest.

In 2006, the owner of land adjacent to Wayne National Forest contracted with the defendant's logging company to have several logs removed from his property. The boundary between the private property and the Forest was clearly marked by a fence line. Additionally, approximately two years prior the land owner had arranged for a bulldozer to be driven around the edge of his property with the boundary line marked with red flagging ribbon, all of which were clearly visible. The investigation revealed that, despite being explicitly informed on a number of occasions as to the location of the U.S. Forest Service boundary line, Adkins denied that this was the actual boundary and allowed others under his supervision to illegally remove hundreds of trees from the Forest. The total fair market timber value for those trees that were removed was \$43,843. These trees were of mixed species including hardwood and softwood trees which were sold to three different mills for use as saw timber or pulpwood. This case was investigated by the United States Forest Service.

[Back to Top](#)

United States v. Scott Dent et al., No. 8:09-CR-00663 (D. Md.), ECS Senior Trial Attorneys Kevin Cassidy [REDACTED] **and Wayne Hettenbach** [REDACTED] **and AUSA Stacey Belf** [REDACTED]

On March 1, 2010, Scott Dent, a Virginia commercial fisherman, pleaded guilty to a one-count felony information charging him with the illegal harvest and sale of striped bass from the Potomac River. Dent admitted to selling approximately 22,757 pounds of untagged, falsely tagged, and oversized striped bass to Profish, a seafood wholesaler in Washington, D.C., from 2003 through 2007. The estimated fair market retail value of the fish was \$113,757. Dent is one of approximately sixteen

commercial fishermen who previously have pleaded guilty to Lacey Act violations involving striped bass sales and harvesting.

Profish and two of its employees remain under indictment for Lacey Act violations and conspiracy to violate the Lacey Act. Trial is scheduled to begin on June 1, 2010.

This case was investigated by the Interstate Watershed Task Force, formed by the United States Fish and Wildlife Service, and comprised of agents from the Maryland Natural Resources Police and the Virginia Marine Police, Special Investigative Unit.

[Back to Top](#)

United States v. John Morgan et al., No. 1:10-CR-00017 (W.D. Pa.), AUSA Marshall J. Piccinini

On February 16, 2010, John Morgan and Michael Evans pleaded guilty to an information charging them with violating the Safe Drinking Water Act. Evans was part owner and Morgan was a site supervisor for Swamp Angel Energy, LLC, a Kansas-based company engaged in oil and gas development in the Allegheny National Forest. As part of the oil drilling process, brine is produced and required to be properly disposed, generally through transportation to a waste water treatment plant or through injection into non-producing wells. Disposal via an injection well requires a permit to ensure the safety of underground drinking water sources.



Injection Well

From approximately April 2007 through January 2008, Evans and Morgan admitted to willfully causing more than 200,000 gallons of brine to be dumped into an oil production well, located near the Allegheny National Forest, which was not permitted for underground injection. The two are scheduled to be sentenced on June 24, 2010.

[Back to Top](#)

Sentencings

United States v. HPI Products, et al., Nos. 4:09-CR-00024, 189 (W.D. Mo.), ECS Senior Counsel Rocky Piaggione with assistance from AUSA William Meiners

On March 23, 2010, HPI Products (“HPI”) was sentenced to pay a \$300,000 fine after previously pleading guilty to a RCRA storage and felony CWA violation.

HPI began producing pesticides and herbicides in 1980. It relocated several times as it expanded its operations in the City of St. Joseph. During the entire time it was in operation until 2007, HPI employees washed chemical wastes, spills and equipment rinses into floor drains, which connected to the city’s POTW, without a permit. Two former HPI facilities and three other locations in St. Joseph were used as warehouses to store pesticides and process waste it did not dump into sewers. The pesticides and wastes were left for years in unmaintained buildings without the proper notification to state and federal authorities. Many of the containers were found to contain, among other things,

chlordan, selenium and heptachlor, with characteristics of ignitability, toxicity, and/or corrosivity. Several drums had leaked or spilled onto the warehouse floors and the ground underneath the warehouses.

Company vice president Hans Nielsen was previously sentenced to pay a \$4,000 fine and will complete a three-year term of probation. Nielsen pleaded guilty to two FIFRA violations for the disposal of pesticide wastes into floor drains at the HPI facility. William Garvey, HPI president and majority owner, previously pleaded guilty to a felony CWA violation and was sentenced to serve six months' incarceration, followed by six months' home confinement, and was ordered to pay a \$100,000 fine.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

[Back to Top](#)

United States v. Mar-Cone Appliance Parts Co., No. 1:10-CR-20081 (S.D. Fla.), SAUSA Jodi Mazer [REDACTED]

On March 18, 2010, Mar-Cone Appliance Parts Co. ("Mar-Cone"), a company headquartered in St. Louis, Missouri, pleaded guilty to and was sentenced in connection with the illegal receipt, purchase, and sale of ozone-depleting refrigerant gas that had been smuggled into the United States. Mar-Cone pleaded guilty to the selling and handling of approximately 100,898 kilograms of the ozone-depleting substance ("ODS") hydrochlorofluorocarbon-22 ("HCFC-22") that was illegally imported by other companies. HCFC-22 is a refrigerant widely used for residential heat pump and air-conditioning systems, and the fair market value for this amount was \$843,292.

The company was sentenced to pay a \$500,000 fine and will make a community service payment of \$400,000 to the Southern Environmental Enforcement Training Fund. It also will complete a five-year term of probation and implement an environmental compliance plan. Finally, Mar-Cone was ordered to forfeit to the United States \$190,534.70, which represents proceeds received as a result of the crime.

Mar-Cone is a product support company serving customers throughout the United States and 117 countries worldwide. Between July 2007 and April 2009, Mar-Cone, through its Senior Vice-President for the Heating and Cooling Division, routinely negotiated with importers, who did not hold the necessary authorization to import the HCFC-22, for the purchase and sale of the ODS for distribution throughout the United States.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, Immigration and Customs Enforcement Office of Investigations, the Florida Department of Environmental Protection Criminal Investigation Bureau, and the Miami-Dade Police Department Environmental Investigation Unit.

[Back to Top](#)

United States v. Gary Fillers et al., Nos. 1:09-CR-00144 and 147 (E.D. Tenn.), ECS Trial Attorney Todd Gleason [REDACTED] and AUSA Matthew Morris [REDACTED]



Powdered asbestos

On March 18, 2010, Gary Fillers was sentenced to serve six months' home detention and will complete a three-year term of probation. The defendant previously pleaded guilty to a Clean Air Act conspiracy violation for his involvement with an illegal asbestos abatement project. Fillers is the owner of Watkins Street Project, LLC, ("WSP") one of two demolition and salvage companies that were charged, along with two other individuals, with violating work practice standards related to the improper handling and disposal of asbestos.

The indictment alleges a year-long scheme in which the former Standard Coosa Thatcher plant in Chattanooga was illegally demolished while still containing large amounts

of asbestos. It further states that the asbestos that was removed from the plant prior to demolition was scattered in piles and left exposed to the open air. The indictment also describes the efforts made by owners and supervisors to cover up their illegal activities by falsifying documents and by lying to federal authorities.

The 11-count indictment charges Mathis Construction Inc.; James Mathis, a Mathis Construction owner; WSP; and WSP supervisor David Wood, with conspiracy to defraud the United States and to violate the Clean Air Act and substantive CAA violations, making false statements, and obstructing justice.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, and the Chattanooga-Hamilton County Air Pollution Control Bureau.

[Back to Top](#)

United States v. Christopher Jacques, No.1:09-CR-10066 (D. Mass.), AUSA Nadine Pellegrini [REDACTED]

On March 8, 2010, Christopher Jacques pleaded guilty to two misdemeanor violations of the Marine Mammal Protection Act ("MMPA") for striking two humpback whales with his boat.

On July 23, 2008, Jacques was operating a recreational fishing boat in Stellwagen Bank National Marine Sanctuary off the coast of Massachusetts. Witnesses on nearby whale watch boats observed the defendant take his vessel into an area where humpback whales were feeding. They saw him take his boat through a "bubble cloud"



Humpback whales struck by boat

created by the feeding whales and strike two humpback whales with his boat. Under the MMPA, a person "takes" a whale when s/he knowingly commits an act which has the potential to injure the animal.

Jacques was ordered to pay a \$200 fine and submitted a statement that will be distributed to a variety of media outlets where he admits his guilt and urges others to be mindful of marine animals when operating a fishing vessel.

This case was investigated by the National Oceanic and Atmospheric Administration.

[Back to Top](#)

United States v. Reginald Akeen, et al., No. 3:09-CR-00103 (D. Ore.), AUSA Stacie Beckerman
[REDACTED] **with assistance from ECS Trial Attorney Todd Mikolop** [REDACTED].

On February 25, 2010, Reginald Akeen was sentenced to serve 30 days' home confinement as a condition of five years' probation. Akeen also will complete 250 hours of community service at a wildlife organization and will pay \$4,800 in restitution to the United States Fish and Wildlife Service North American Wetlands Conservation Fund. The defendant previously pleaded guilty to a violation of the Migratory Bird Treaty Act for selling illegally-made migratory bird products, including a fan made of juvenile golden eagle feathers.

Akeen admitted that he offered to sell a fan made of juvenile golden eagle feathers, also known as "black and whites," to a Fish and Wildlife Service undercover agent and that he contacted an accomplice who agreed to sell a nine-feather black and white fan. Akeen then accepted \$1,750 in cash and bartered items from the undercover agent for the fan and arranged a meeting for his accomplice to make the delivery. The defendant further admitted that, from July through September 2007, he received \$4,800 from selling illegal migratory bird products. He was one of four men arrested a year ago as the result of an undercover investigation into the illegal killing of and trade in bald and golden eagles and other protected birds in the District of Oregon and the Eastern District of Washington.

Eagles and other protected migratory birds are viewed as sacred in many Native American cultures, and the feathers of the birds are central to religious and spiritual Native American customs. By law, enrolled members of federally-recognized Native American tribes are entitled to obtain permits to possess eagle parts for religious purposes, but federal law strictly prohibits selling eagle parts under any circumstances. The Fish and Wildlife Service operates the National Eagle Repository, which collects eagles that die naturally or by accident, to supply tribal members with eagle parts for religious use.

This case was investigated by the United States Fish and Wildlife Service with the help and cooperation of state, federal, and tribal law enforcement agencies.

[Back to Top](#)

United States v. John Wylie Davis, No. 1:09-CR-00025 (D.N.M.I.), AUSA Beverly McCallum
[REDACTED]

On February 23, 2010, John Wylie Davis, a former chief engineer, was sentenced to complete a one-year term of probation and 200 hours of community service. His license also will be suspended for a year. Davis previously pleaded guilty to making a false statement and to failing to maintain an oil record book, all stemming from the overboard discharge of approximately 370 tons of untreated oily bilge waste from the *SS Pless*.

The U.S.-flagged *Pless*, a 400-ton non-tanker vessel owned by the Delaware-based Waterman Steamship Corp., was underway between Korea and Saipan in January 2008. At that time, the vessel's onboard pollution-control equipment, including the oil water separator, was malfunctioning,

and the bilge storage tanks were filled to near capacity. On January 7th the defendant discharged almost 400 tons of untreated oily bilge waste that had been stored in the vessel's bilge and storage tanks. Davis also made a false notation in the oil record book that the waste system had been put on automatic to allow the overboard discharge of waste at 15ppm for this day.

This case was investigated by the United States Coast Guard.

[Back to Top](#)

United States v. The Rockmore Company, No. 1:10-CR-10003 (D. Mass.), AUSA Jonathan Mitchell [REDACTED] SAUSAs Russell Bowman [REDACTED] and Cassie Kitchen [REDACTED]

On February 17, 2010, the Rockmore Company, Inc., was sentenced to pay a \$225,000 fine, which was paid immediately, and will complete a three-year term of probation. An additional \$75,000 community service payment will be paid to the Massachusetts Environmental Trust Fund, and a public apology was published in *The Boston Herald*; *The Salem News*; *The New Bedford Standard Times*, and *The Cape Cod Times* within 10 days after sentencing. The company previously pleaded guilty to a two-count information charging it with violations of the Rivers and Harbors Act for dumping sewage into North Shore waters from a popular ferry it operates out of Salem, Massachusetts.

From 1990 to 2006, the Rockmore Company has operated a 59-foot long passenger vessel named the *P/V Hannah Glover*. The *Hannah Glover* provided dinner cruises and sightseeing tours in the waters along the shores of the Massachusetts towns of Marblehead, Beverly and Manchester-by-the-Sea. On several occasions, the vessel ferried passengers to the Charles River in Boston to view the annual Fourth of July celebration on the Charles River Esplanade. The company also regularly shuttled children from Marblehead to a summer camp on Children's Island just off the coast. The company additionally operated a 116-foot barge called the *P/V Rockmore*, on which the company maintained a restaurant.

For several years crew members routinely utilized the ship's sewage pump to discharge raw sewage directly overboard. As a matter of course, deck hands activated the pump and opened the overboard discharge valve either upon order of the vessel master or upon observing the overflow from the vessel's public toilets. The discharge of up to hundreds of gallons at a time took place at various locations along the coast, including Salem Harbor and off beaches in Marblehead and Beverly, as well as in the Charles River near the Esplanade during the Independence Day celebration in 2002. The sewage discharged from the *Hannah Glover* included wastes generated by its passengers, as well as the sewage from the *Rockmore*, due to employees routinely pumping the contents of the *Rockmore's* sewage holding tank into the *Hannah Glover* for disposal. There also were occasions when the company allowed the sewage holding tank aboard the *Rockmore* to overflow, spilling untreated sewage into Salem Harbor.

This case was investigated by the United States Coast Guard Investigative Service.

[Back to Top](#)

United States v. Kroy Corporation et al., No.1:09-CR-20065, 20913 (S.D. Fla.), SAUSA Jodi Mazer [REDACTED]

On February 11, 2010, James Garrido was sentenced to serve a 30-month term of incarceration, followed by three years of supervised release. The Kroy Corporation will complete a five-year term of probation and both defendants were held jointly and severally liable for a \$40,000 fine. They also will collectively forfeit \$1,356,160. Kroy and company president Garrido previously pleaded guilty to a three-count information charging them with Clean Air Act violations for illegally smuggling into the

U.S. approximately 418,650 kilograms of hydrochlorofluorocarbon-22 ("HCFC-22"), a restricted ozone-depleting substance. Co-defendant Amador Hernandez pleaded guilty to making a false statement on a customs declaration form. Hernandez is scheduled to be sentenced on April 21, 2010.

Kroy was in the business of importing merchandise that included refrigerant. Between March 2007 and April 2009, Kroy and Garrido engaged in the illegal smuggling of large quantities of HCFC-22 into the United States for subsequent resale. The defendants routinely declared imported merchandise as either legal R-134-A refrigerant or as "United States Goods Returned." In truth, except for a small quantity of legal refrigerant strategically placed in front of the containers, the 11 shipments held almost 419,000 kilograms (or more than 29,000 cylinders) of restricted HCFC-22 with a total fair market value of more than \$ 3.9 million.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, Immigration and Customs Enforcement Office of Investigations, the Florida Department of Environmental Protection Criminal Investigation Bureau, and the Miami-Dade Police Department Environmental Investigation Unit.

[Back to Top](#)

United States v. Phoenix Products Co., No. 3:10-CR-0001 (D. Conn.), AUSA Nora Dannehy [REDACTED]

On February 1, 2010, Phoenix Products, Co., a specialty chemical and packaging company, was sentenced to pay up to \$250,000 and will complete a three-year term of probation. The company previously pleaded guilty to a felony Clean Water Act violation for illegally discharging a pollutant into the Town of Plymouth's POTW. Phoenix will pay a \$50,000 federal criminal fine, a \$25,000 civil penalty to the state of Connecticut, and make a \$75,000 payment to the Department of Environmental Protection's Supplement Environmental Project ("SEP") account. The company is further required to make an additional SEP payment of up to \$100,000 if the business is sold, and must provide employees with annual hazardous materials training.

Phoenix, which provides formulation, blending, and packaging services for a variety of personal care and swimming pool products, generated six 250-gallon totes filled with a highly acidic, off-specification product while fulfilling a customer contract. Over several weeks in 2008, Phoenix employees were instructed to dump several gallons of the off-specification product down the drain. The company had never applied for or received a discharge permit. In addition to the fines and SEP payments, the company has already reimbursed the town of Plymouth for the costs incurred to neutralize the acidic conditions.

[Back to Top](#)

Are you working on Pollution or Wildlife Crimes Cases?

*Please submit case developments with photographs to be included
in the *Environmental Crimes Monthly Bulletin* by email to:*

████████████████████
Elizabeth R. Janes
Program Specialist
Environmental Crimes Section
U.S. Department of Justice

THANK YOU!

