
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

August 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>.

AT A GLANCE:

- [United States v. Lewis, ___ F.3d ___, 2010 WL 2814314 \(9th Cir., July 20, 2010\).](#)
- [United States v. Howard William Ledford, 2010 WL 2994044 \(4th Cir. July 26, 2010\).](#)

DISTRICTS	ACTIVE CASES	CASE TYPE/STATUTES
D. Ariz.	<u>United States v. Daniel Arnot et al.</u> [REDACTED]	<i>HCFC-22 Release/ CAA</i> [REDACTED]
[REDACTED]	<u>United States v. Arthur Batala et al.</u> [REDACTED]	<i>Eagle Possession/ MBTA</i> [REDACTED]
S.D. Fla.	<u>United States v. Pescanova Inc.</u> <u>United States v. Kelvin Soto-Acevedo</u>	<i>Seafood Importer/ Lacey Act</i> <i>Turtle and Tarantula Smuggling/ Lacey Act</i>
D. Md.	<u>United States v. Irika Shipping S.A., et al.</u> <u>United States v. Pacific-Gulf Marine</u>	<i>Vessel/ APPS, Obstruction (Multi-District)</i> <i>Vessel/ Probation Violation</i>
N.D. Miss.	<u>United States v. Thomas Mitchell Pitts</u>	<i>Pesticide Misuse/ FIFRA</i>
D.N.J.	<u>United States v. Thomas George</u>	<i>Seafood Importer/ Entry of Goods by False Statement, Introduction of Misbranded Food</i>
E.D.N.Y.	<u>United States v. Chee Thye Chaw</u> <u>United States v. Ionia Management, S.A.</u>	<i>Asian Arowana Fish/ Smuggling</i> <i>Vessel/ Probation Violation</i>
N.D.N.Y.	<u>United States v. Ronald Mancuso</u>	<i>Asbestos Dumping/ CAA, Conspiracy</i>
W.D.N.Y.	<u>United States v. Tonawanda Coke Corporation</u>	<i>Coke Facility/ RCRA, CAA</i>
W.D.N.C.	<u>United States v. Chiu Hung Lo</u>	<i>Ginseng Purchase/ Lacey Act</i>
[REDACTED]	[REDACTED]	[REDACTED]
S.D. Texas	<u>United States v Texas Oil and Gathering et al.</u>	<i>Used Oil Handler/ RCRA, Conspiracy</i>
E.D. Wash.	<u>United States v. William Wahsise et al.</u>	<i>Eagle Deaths/ BGEPA, MBTA, Lacey Act</i>

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Significant Environmental Decisions

Fourth Circuit

United States v. Howard William Ledford, 2010 WL 2994044 (4th Cir. July 26, 2010), ECS Trial Attorney Shennie Patel [REDACTED] and ENRD Appellate Attorney Robert Lundman [REDACTED]

On July 26, 2010, the Fourth Circuit issued an unpublished decision affirming Ledford's conviction and one year sentence for selling and transporting wild ginseng in violation of the Lacey Act. The Court held that Ledford knowingly and voluntarily waived the right to appeal the sentence in his plea agreement, and his sentencing arguments fall within the scope of the waiver. The Court rejected his claim of ineffective assistance of counsel in this direct appeal because the record does not conclusively establish that Ledford's trial counsel was ineffective. The Court noted that Ledford may bring his ineffective assistance claim in a 28 U.S.C. §2255 motion.

Ledford was sentenced in January of this year to serve a one-year term of incarceration. He previously pleaded guilty to two Lacey Act violations for the illegal purchase of wild ginseng over a two-year period. From 2003 through 2005, the Fish and Wildlife Service conducted an undercover operation to identify the illegal interstate and foreign sales/purchases of ginseng. Ginseng has declined from historic levels and continues to be under threat from overexploitation because demand and price for its roots remain high. Wild ginseng generally does not reproduce until it is eight years old. Some varieties of ginseng root can sell for as much as \$1,000 a pound in the Asian market, where it is revered for its supposed medicinal properties. Individuals who transport or buy and sell ginseng in interstate commerce must obtain the required export certificates and permits. Ledford unlawfully purchased wild ginseng worth approximately \$109,000.

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Ninth Circuit

United States v. Lewis, ___ F.3d ___, 2010 WL 2814314 (9th Cir. July 20, 2010).

On July 20, 2010, the Ninth Circuit affirmed the district court's dismissal of the original indictment without prejudice for an alleged Speedy Trial Act violation. There were two earlier versions of this appeal, with the result that the circuit had found a Speedy Trial Act violation and the district court was to consider whether to dismiss the indictment with prejudice or without prejudice. This time, the district court first ruled that the time period that the circuit thought caused the violation was actually excludable, and the government argued as much to the panel, which held that its earlier determination was law of the case. However, the panel deferred to the district court's alternative determination that the dismissal for the violation should be without prejudice, balancing the three factors found in 18 U.S.C. §3162(a)(2): the seriousness of the offense, the facts leading to dismissal, and the impact of dismissal on the administration of justice. The court concluded that the defendant's felonies involving the importation of large numbers of protected reptiles were in fact "serious" offenses.

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Informations and Indictments

United States v. Tonawanda Coke Corporation, No. 1:10-CR-00219 (W.D.N.Y.), ECS Senior Trial Attorney Kevin Cassidy [REDACTED], AUSA Aaron Mango [REDACTED] and ECS Trial Attorney Jeremy Peterson [REDACTED].

On July 29, 2010, a grand jury returned a 20-count indictment against Tonawanda Coke Corporation ("TCC") and its environmental manager, Mark Kamholz. The indictment charges both defendants with 15 Clean Air Act counts for violating the plant's Title V permit, four counts of violating RCRA, and one count of obstructing justice.

TCC is a merchant by-product coke facility located in Tonawanda, New York. Coke is used in the steel mill and foundry industries as an additive in the steel-making process. The Title V violations relate to TCC's operation of an unpermitted coke oven gas emission source for at least a 20-year period. Coke oven gas contains a number of chemical compounds, including benzene. Prior to an EPA inspection in April 2009, defendant Kamholz instructed another TCC employee to conceal the operation of the unpermitted coke oven gas emission source from EPA inspectors, which forms the basis of the obstruction charge. TCC also operated its quench towers without baffles in violation of its Title V permit. Baffles are required to reduce the amount of particulate matter that escapes into the atmosphere during quenching of coke. The RCRA charges involve the long-term practice of unpermitted disposal of coal tar sludge (K087 listed waste) and the disposal of a hazardous waste located in abandoned rail cars on the facility's site.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division and the New York State Department of Conservation.

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United States v. Pescanova Inc., No. 1:10-CR-20526 (S.D. Fla.), AUSA Tom Watts FitzGerald

On July 9, 2010, a one-count indictment was returned charging Pescanova, Inc., a seafood importer, with a Lacey Act violation stemming from the attempted sale of illegally caught Patagonian toothfish, also known as Chilean seabass, a slow growing deep sea species of fish. The Antarctic Marine Living Resources Convention Act protects the toothfish by requiring specific documentation when harvesting the fish. The company was charged with illegally importing the fish and then attempting to sell it in December 2009.

This case was investigated by the National Oceanic and Atmospheric Administration, Immigration and Customs Enforcement, and Customs and Border Protection.

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United States v. Offshore Service Vessels, LLC, No. 2:10-CR-00183 (E.D. La.), ECS Senior Trial Attorney Dan Doohar [REDACTED] and AUSA Dee Taylor [REDACTED]



On July 2, 2010, Offshore Service Vessels, LLC (“OSV”) was charged in an information with violations stemming from the illegal overboard discharge of oily bilge water from the *R/V Gould* while on the high seas.

According to charging documents, the *R/V Gould* was an American-flagged ice-breaking research vessel owned and operated by OSV. The vessel was under contract with the National Science Foundation. From July, 2005 through September, 2005, oily waste water was stored in the vessel’s bilge water holding tank, which could hold approximately 12,000 gallons.

When the tank reached its capacity, crew members intermittently discharged the oily wastewater from the bilge tank directly overboard.

This case was investigated by the Coast Guard Investigative Service.

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United States v. Clinton Dean Pavelich, No. 2:10-CR-00841 (D. Ariz.), AUSA Jennifer Levinson
[REDACTED]

On June 22, 2010, Clinton Dean Pavelich was charged in a four-count indictment with two Lacey Act violations and two counts of theft of government property. The indictment alleges that Pavelich stole six Saguaro Cacti from public lands managed by the Department of the Interior with the intent to sell the Saguaros. Trial is scheduled for September 7, 2010.

This case was investigated by the Bureau of Land Management.

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Saguaro Cacti

United States v. Daniel Arnot et al., No. 2:10-CR-00024 (N.D. Ga.), AUSA Paul Rhineheart Jones
[REDACTED]

On June 15, 2010, a 13-count indictment was returned charging Daniel Arnot, Sabrina Westbrooks, Corey Beard, and Justin Joyner with conspiracy to release ozone-depleting substances into the environment, along with 12 substantive Clean Air Act violations.

According to the indictment, beginning in early August 2008, the defendants targeted businesses with commercial-sized air conditioners in several counties. Arnot, working with his wife Sabrina or with his other accomplices, dismantled the air conditioning units so that they could steal the copper and aluminum parts. In order to take the copper parts they had to cut through a copper coil, which released hydrochlorofluorocarbon 22 (also known as HCFC-22) into the atmosphere. After dismantling the air conditioners, the defendants sold the copper and aluminum parts to scrap metal recycling businesses. The indictment alleges that the defendants' crimes involved the dismantling of approximately 35 air conditioning units from 14 locations.

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

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Plea Agreements

United States v. William Wahsise, et al., 2:09-CR-02034 (E.D. Wash.), ECS Senior Trial Attorney Elinor Colbourn [REDACTED] AUSAs Stacie Beckerman [REDACTED] and Timothy Ohms [REDACTED].

On July 12, 2010, Alfred Hawk and William Wahsise pleaded guilty to charges stemming from their involvement in the illegal killing of and trade in bald and golden eagles and other protected birds. Specifically, they each pleaded guilty to a conspiracy and a Bald and Golden Eagle Protection Act violation. Hawk additionally pleaded guilty to a Migratory Bird Treaty Act and a Lacey Act violation. Sentencing is scheduled for October 13, 2010.

According to court documents, an undercover operation was initiated whereby agents interacted with individuals who were in the business of selling protected migratory bird parts. One single covert purchase from Hawk yielded a bald eagle tail, two golden eagle tails, one set of golden eagle wings, four red-shafted northern flicker tails, four rough-legged hawk tails, and two northern harrier tails for a total of \$3,000. According to the documents, Hawk and Wahsise hunted and killed three bald eagles the morning of the sale by sitting near some wild horses which had been killed to bait and attract eagles.

Co-defendant Reginald Akeen was previously sentenced in the District of Oregon 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 MBTA violation for selling illegally-made migratory bird products, including a fan made of juvenile golden eagle feathers. Two additional defendants remain scheduled for trial to begin on September 13, 2010.

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

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United States v. Irika Shipping S.A., et al., No. 1:10-CR-00248 (D. Md.), ECS Senior Trial Attorney Richard Udell [REDACTED] and AUSA Michael Cunningham [REDACTED]

On July 8, 2010, Irika Shipping S.A., a ship management corporation registered in Panama and doing business in Greece, pleaded guilty in the District of Maryland to obstruction of justice and APPS violations stemming from the concealment of deliberate vessel pollution from the *M/V Iorana*, a Greek flagged cargo ship that made port calls in Baltimore, Tacoma, and New Orleans.

According to plea agreement arising out of charges brought in the District of Maryland, Western District of Washington, and Eastern District of Louisiana, Irika Shipping has agreed to pay \$4 million in penalties, to be placed on probation for a maximum five-year period, and be subject to the terms of an Enhanced Environmental Compliance Program. The proposed \$4 million penalty includes a \$3 million criminal fine and \$1 million in organizational community service payments that will fund various marine environmental projects.

According to court documents, the investigation into the *M/V Iorana* was launched in January 2010 after a crew member passed a note to inspectors upon the ship's arrival in Baltimore alleging that the ship's chief engineer had directed the dumping of waste oil overboard through a bypass hose that circumvented pollution prevention equipment. The evidence provided included numerous photographs taken by a crew member using his cell phone.

Significantly, Irika Shipping also was the operator of the *M/V Irika*, a vessel that was the subject of a prior prosecution in the Western District of Washington in 2007. Irika Maritime, S.A., (the shell owner) and Irika Shipping failed to implement an environmental compliance program as they were ordered to do in the earlier case. Additionally, Irika Shipping retained the same chief engineer, who was convicted in the prior case and who continued to commit similar violations in the current case.

The guilty plea encompasses violations in three districts. The company pleaded guilty to six counts in Baltimore for an APPS oil record book violation, an APPS garbage book violation, and obstruction of justice. The company also pleaded guilty to one count of obstruction for the violations in both the Western District of Washington and the Eastern District of Louisiana. Chief engineer Triantafyllos Marmaras previously pleaded guilty to obstruction and a false statement violation.

Among the facts that Irika Shipping has admitted to is that 23 tons of sludge were deliberately discharged while en route between Gibraltar and Baltimore; that plastic bags filled with the oil-soaked rags used to clean out the tank holding the sludge were dumped just prior to arrival in Baltimore; that, in anticipation of the Baltimore inspection, the crew re-painted the pipes and flanges to conceal the wrench marks cause by the bypassing; and that, while in port in Baltimore, during and after the Coast Guard inspection, the master and chief engineer instructed crew members to lie to the Coast Guard.

This was investigated by the Coast Guard and the Environmental Protection Agency Criminal Investigation Division.

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United States v. Chee Thye Chaw, No. 10-CR-00039 (E.D.N.Y.), AUSA Vamshi Reddy [REDACTED]

On June 23, 2010, Chee Thye Chaw pleaded guilty to smuggling 20 Asian Arowana fish (*Scleropages formosus*) into the United States from Asia. Sixteen of these fish were concealed inside the defendant's checked luggage, and another four were found in his home when he was placed under arrest. The black market value of these 20 fish is estimated to be over \$100,000. The Asian Bonytongue fish, which is commonly referred to as the Asian Arowana fish, are highly desired by the Asian community due to the belief that the fish will bring good fortune to the owner. The species also is listed in Appendix I of the Convention on International Trade in Endangered Species of Flora and Fauna (CITES).

This case was investigated by the Fish and Wildlife Service.

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Sentencings

United States v. Ronald Mancuso, No. 5:08-CR-00548 (N.D.N.Y.), ECS Trial Attorney Todd Gleason [REDACTED] and AUSA Craig Benedict [REDACTED]



Pile of dumped asbestos (foreground)

On July 29, 2010, Ronald Mancuso was sentenced to complete a three-year term of probation after previously pleading guilty to conspiring to illegally dump asbestos.

Ronald Mancuso's brothers, Paul and Steven, and father, Lester, were convicted and sentenced to serve significant terms of incarceration earlier this month. Ronald Mancuso testified against his brothers and father at trial.

As a consequence of a prior asbestos-related conviction, Paul Mancuso was forbidden from affiliating himself with the asbestos-removal industry in 2003. Ronald and Steven Mancuso assisted Paul Mancuso in continuing to operate illegal asbestos companies. Specifically, Ronald Mancuso and the

other co-conspirators operated various "shell companies" to conceal Paul Mancuso's involvement in the industry. On some of these projects, asbestos was removed in violation of EPA and OSHA regulations and was then illegally dumped on landowners' properties in Poland, New York.

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

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United States v. Thomas Mitchell Pitts, No. 4:10-mj-01014 (N.D. Miss.), AUSA Robert Mims [REDACTED]

On June 28, 2010, Thomas Mitchell Pitts pleaded guilty to a one-count information charging him with a FIFRA violation for misuse of a restricted use pesticide. The court sentenced Pitts to pay a \$5,000 fine, complete a six-month term of probation, and pay \$4,625 in restitution (\$4,000 to the victims and \$625 in laboratory costs).

In May 2010, the Environmental Protection Agency received a complaint that had been forwarded from the Fish and Wildlife Service. The complaint alleged that someone had baited fields with hotdogs that had been tainted with Temik (Aldicarb), a highly toxic restricted use pesticide regulated under FIFRA. The complaint further alleged that a number of animals



Poisoned animal

had been killed by the pesticide, and several neighborhood dogs were missing.

Investigators interviewed the complainant, who identified approximately 85 poisoned bait locations, as well as multiple dead animals that may have died due to poisoning, including at least three dogs, two coyotes, two skunks, six opossums, and two snakes. Also found were hotdogs and chicken that had been laced with a black granular material that appeared to have the characteristics of Temik.

The defendant met with investigators while they were touring the bait locations. Pitts, a farmer who leases the land where the bait stations were located, admitted that he was responsible for setting out the bait that contained Temik. He further stated that he was attempting to eliminate potential predators because he wanted to introduce 3,000 mallard ducks into the bayou for commercial hunting. Pitts signed a handwritten confession admitting to the poisoning and to destroying evidence to prevent its seizure.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division, with assistance from the Fish and Wildlife Service, the Mississippi Bureau of Plant Industry, and the Mississippi Department of Wildlife, Fisheries and Parks.

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**United States v. Thomas George, No. 2:10-CR-00029 (D.N.J.), AUSAs Marc Larkins [REDACTED]
[REDACTED] and Zahid Quarashi [REDACTED] and ECS Senior Trial Attorney Elinor Colbourn [REDACTED]**

On July 27, 2010, Thomas George was sentenced to serve 22 months' incarceration, followed by one year of supervised release. George previously pleaded guilty to an information charging one count of importing falsely labeled goods into the United States and one count of selling falsely labeled fish in the United States with the intent to defraud for importing falsely labeled fish from Vietnam and evading more than \$60 million in federal tariffs, as well as selling more than \$500,000 in similarly misbranded fish purchased from another importer.

From January 2003 to June 2006, George maintained a business relationship through Sterling Seafood ("Sterling") with a seafood distribution company located in Vietnam. As part of that business relationship, Sterling regularly purchased *Pangasius hypophthalmus*, sometimes referred to as Vietnamese catfish, which it would then resell in the United States. In January 2003, an "anti-dumping" duty or tariff was placed on all imports of Vietnamese catfish into this country because catfish was being marketed at a significantly lower price than the market rate at that time. The initial anti-dumping order imposed a duty of up to 63.88 percent on all catfish subject to the order, and it was adjusted based on market conditions.

George admitted that from 2004 to 2006, he and this Vietnamese distribution company engaged in a scheme to falsely identify the purchase and importation of Vietnamese catfish in order to evade the anti-dumping duties. George stated that he specifically instructed the Vietnamese company to falsely identify the Vietnamese catfish as "grouper" on commercial contracts, purchase orders, and other documents because grouper was not subject to any anti-dumping duties. Additionally, the defendant admitted that from 2004 to 2005, he purchased more than \$500,000 worth of similarly misbranded Vietnamese catfish that was imported from Vietnam by a Virginia corporation and then sold it throughout the United States.

In addition to the prison term, the court ordered George to pay \$64,173,839 in restitution for the unpaid tariffs, plus make a \$50,000 community service payment to the National Fish and Wildlife Foundation to be used for research into the identification of fish and other marine organisms.

This case was investigated by Immigration and Customs Enforcement, Customs and Border Protection, the National Oceanic and Atmospheric Administration, and the Food and Drug Administration.

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United States v. Texas Oil and Gathering et al., No. 4:07-CR-00466 (S.D. Tex.), ECS Senior Counsel Rocky Piaggione [REDACTED] ECS Trial Attorney Leslie Lehnert [REDACTED] and SAUSA William Miller.



Refinery

TOG's refinery process in an underground injection well permitted to accept only wastes generated by oil and gas production. The company pleaded guilty to conspiracy and to a RCRA violation for illegally disposing of hazardous waste.

TOG was a registered hazardous waste transporter and a used oil handler, but was not permitted to treat, store, or dispose of hazardous waste. As a result of its refinery operations, the company generated wastewater which was trucked to a Class II injection well that was not permitted to receive such wastes for disposal.

From January 2000 through January 2003, tens of thousands of gallons of waste, often including ignitable waste, were hauled to the injection well. Many of these loads were not accompanied by hazardous waste manifests, and the defendants instructed the truck drivers to falsify bills of lading to conceal the waste shipments. The government's investigation began in January 2003, when the injection well exploded and killed three workers. Although the explosion was not caused by the defendants, a closer look at the plastics manufacturing facilities and other chemical manufacturing plants who sold them their waste streams led to this prosecution.

This case was investigated by the Environmental Protection Agency Criminal Investigation Division, with assistance from the Texas Environmental Crimes Task Force.

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United States v. Kelvin Soto-Acevedo, No. 1:10-CR-20244 (S.D. Fla.), AUSA Tom Watts-FitzGerald (305) 961-9413.

On July 19, 2010, Kelvin Soto-Acevedo was sentenced to serve two years' probation and will perform 100 hours of community service. A fine was not assessed due to the defendant's inability to pay. His reptile business was shut down.

Soto-Acevedo previously pleaded guilty to Lacey Act violations for the illegal smuggling of 50 Puerto Rican slider turtles and 25 Puerto Rican brown tarantulas into South Florida from Puerto Rico. The New Wildlife Law of Puerto Rico prohibits the take, possession, transportation, and export of Puerto Rican slider turtles (*Trachemys stejnegeri*) and Puerto Rican brown tarantulas (*Cyrtopholis portoricae*) for use in commercial activities unless a valid permit has been obtained.

In February 2009, Soto-Acevedo received the restricted wildlife through the mail from two Puerto Rican residents after sending them \$275 in payment. The wildlife had a retail value of more than \$8,000 on the mainland. The defendant then sold the animals through his business, *A Touch of Class Reptiles*, located in Hialeah, Florida, using various internet sites specializing in reptiles. Neither the defendant nor his Puerto Rico-based suppliers possessed the appropriate permit to engage in these activities.

A sale made to a customer in Nebraska, whose subsequent attempts to re-sell the wildlife led to this investigation by the Fish and Wildlife Service.

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United States v. Chiu Hung Lo, No. 1:09-mj-63 (W.D.N.C.), ECS Trial Attorney Shennie Patel

On July 8, 2010, Chiu Hung Lo was sentenced to serve 30 days' incarceration, followed by seven months' home detention, and one year of supervised release. Lo also will be required to complete 50 hours of community service.

Lo pleaded guilty in November 2009 to one violation of the Lacey Act for the illegal purchase of wild ginseng over a two-year period. From 2003 through 2005, the Fish and Wildlife Service conducted an undercover operation to identify the illegal interstate and foreign sales/purchases of ginseng. Lo admitted to



Ginseng root

purchasing approximately 136 pounds of wild ginseng for approximately \$55,000 without the required export certificates and transported or caused the transport of wild ginseng into Georgia from North Carolina. She also forfeited approximately 430 pounds of wild ginseng worth approximately \$172,000.

Ginseng has declined from historic levels and continues to be under threat from overexploitation because demand and price for its roots remain high. Some varieties of ginseng root can sell for as much as \$1,000 a pound in Asian markets, where it is revered for its supposed medicinal properties. Individuals who transport or buy and sell ginseng in interstate commerce must obtain the required export certificates and permits.

This case was investigated by the Fish and Wildlife Service Office of Law Enforcement, with assistance from the National Park Service, and the Georgia Department of Natural Resources.

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United States v. Arthur Batala et al., No. 3:10-mj-04114 (D. Ariz.), ECS Trial Attorney Shennie Patel

On July 2, 2010, Hopi Indian Tribe members Arthur Batala, Darrell Batala, and Steven Silas were sentenced for illegally having in their possession a protected golden eagle, in violation of the Migratory Bird Treaty Act.

The three defendants were sentenced to pay \$500 each in restitution to the Hopi Wildlife and Ecosystems Management Program. Arthur Batala also will complete a two-year term of probation, Darrell Batala will complete a one-year term of probation, and Silas will complete one year of unsupervised probation.

Eagles are viewed as sacred in many Native American cultures, and the feathers and other parts of the birds are central to Native American religions and customs. By law under the MBTA and the Bald and Golden Eagle Protection Act, enrolled members of federally recognized Indian tribes may obtain permits to take a limited number of eagles for religious purposes. Arthur Batala was only permitted to take one eaglet from a nest but took two. His brother Darrell and nephew Silas helped him to take the two eagles.

This case was investigated by the Fish and Wildlife Service, the Hopi Resource Enforcement Services, and the Navajo Nation Department of Fish and Wildlife.

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Other Litigation Events

United States v. Ionia Management, S.A., No. 1:02-CR-00530 (E.D.N.Y.), ECS Trial Attorney Lana Pettus [REDACTED] and AUSA Vamshi Reddy [REDACTED]

On July 19, 2010, the court entered a probation revocation order, finding that Ionia Management, S.A., had committed 10 violations of probation. In September 2007, Ionia was convicted of 18 felony counts in the District of Connecticut for conspiracy, APPS violations, falsification of records, and obstruction. At the time of the conviction in Connecticut, Ionia was on probation in New York for an APPS violation. After pleading guilty the company was sentenced in October 2004 to complete a three-year term of probation and was ordered to pay a \$150,000 fine, which was suspended on the condition that the company make a community service payment in the same amount.

Ionia admitted that it violated the conditions of probation by committing the crimes for which it was convicted in Connecticut and for falsifying information it had been ordered to submit to the Coast Guard. As a result of these violations, the court in the Eastern District of New York revoked Ionia's probation and resentenced the company to pay a \$500,000 fine and complete a new five-year period of probation. The court suspended \$125,000, which is to be paid into than National Fish and Wildlife Fund.

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United States v. Pacific-Gulf Marine, No. 06-CR-00302 (D. Md.), ECS Senior Trial Attorney Richard Udell [REDACTED] and AUSA Michael Cunningham [REDACTED]

On July 20, 2010, the court extended the period of probation of Pacific-Gulf Marine ("PGM") for two additional years subject to a revised and enhanced Environmental Compliance Program ("ECP").

The company was originally sentenced in January 2007 to pay a \$1 million fine plus a \$500,000 community service payment after pleading guilty to four APPS violations for the illegal discharges of oily waste from four of its U.S.-registered vessels, all of which bypassed their oily water separators ("OWS"). PGM was placed on a three-year term of probation and was subject to the terms of an environmental compliance plan that requires the company to undergo audits performed by an outside and independent entity and a review by a Court Appointed Monitor ("CAM"). The audits included a one-hour test of the OWS without dilution of the bilge waste to ensure that the equipment was in good working order. The Office of Probation issued a Notice of Violation this past January based on information provided by the CAM alleging that the required test had been performed on two ships with fresh water. PGM admitted that it had violated probation and agreed to extend the term of probation another two years to the maximum five-year period and further agreed to implement a revised ECP that will remain in effect for three years.

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