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# ENVIRONMENTAL CRIMES SECTION



## MONTHLY BULLETIN

*September 2014*

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### 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 the 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 more recent briefs and memoranda from your cases, to ensure we have a brief bank that is up-to-date and useful.

***REMINDER TO AUSAs:***

**WHEN CODING YOUR ENVIRONMENTAL CASES, THERE IS A USA-5A CODE FOR ENVIRONMENTAL CRIMES (ECCR), BUT IT IS LINKED TO GOVERNMENT REGULATORY OFFENSES (GRO), CRIMINAL APPEALS (CRA), AND CRIMINAL FORFEITURE (CRF). EOUSA HAS REQUESTED THAT A LINK ALSO BE ADDED TO WHITE COLLAR CRIME/FRAUD (WCC).**



**1 Leucistic (albino) Boa Constrictor  
See U.S. V. Stone, below, for more details**

## **Glossary for September 2014 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:

BGEPA = Bald and Golden Eagle Protection Act  
CAA = Clean Air Act  
CWA = Clean Water Act  
FIFRA = Federal Insecticide, Fungicide and Rodenticide Act  
RCRA = Resource Conservation and Recovery Act

Other abbreviations:

CITES = Convention on International Trade in Endangered Species  
ECS = Environmental Crimes Section  
EPA = Environmental Protection Agency  
ICE = Immigration and Customs Enforcement  
NOAA = National Oceanic and Atmospheric Administration  
NTSB = National Transportation Safety Board  
OSHA = Occupational Safety and Health Administration  
POTW = Publically Owned Treatment Works  
USC = United States Code

## AT A GLANCE:

DISTRICT	CASES	CASE TYPE/ STATUTES
District of Alaska	<a href="#"><u>United States v. James Riggs et al.</u></a>	<i>Moose Hunting/Lacey Act</i>
Eastern District of California	<a href="#"><u>United States v. Jose Antonio Reyna-Chavez</u></a>	<i>Marijuana Grower/ Depredation of Government Lands, Drugs, Immigration</i>
Northern District of California	<a href="#"><u>United States v. Pacific Gas and Electric Company</u></a>	<i>Explosion/ Pipeline Safety Act, Obstruction</i>
District of Connecticut	<a href="#"><u>United States v. Thomas H. Faria</u></a>	<i>Wastewater Discharges/CWA</i>
Southern District of Florida	<a href="#"><u>United States v. Charles R. Jamison</u></a>	<i>Marine Wildlife Sales/ Lacey Act, Conspiracy</i>
	<a href="#"><u>United States v. Eric Burman</u></a>	<i>Spiny Lobster Imports/ Conspiracy</i>
	<a href="#"><u>United States v. True Nature Seafood, LLC</u></a>	<i>Seafood Distributor/ Lacey Act</i>
Middle District of Georgia	<a href="#"><u>United States v. Bio-Tech Management</u></a>	<i>Pesticide Spraying/ Conspiracy, False Statement, Mail Fraud, FIFRA</i>
District of Idaho	<a href="#"><u>United States v. John W. Myre</u></a>	<i>Lead Paint Fumes/CAA</i>
Western District of Louisiana	<a href="#"><u>United States v. Colfax Treating Company</u></a>	<i>Wood Treatment/ CWA</i>
District of Maryland	<a href="#"><u>United States v. Michael D. Hayden, Jr., et al.</u></a>	<i>Striped Bass/ Conspiracy</i>
Western District of Missouri	<a href="#"><u>United States v. Felix Baravik et al.</u></a>	<i>Paddlefish/ Lacey Act</i>
District of Montana	<a href="#"><u>United States v. Brent Powell</u></a>	<i>Wetlands/CWA</i>

<b>DISTRICT</b>	<b>CASES</b>	<b>CASE TYPE/ STATUTES</b>
District of Nevada	<a href="#">United States v. Henry Batista et al.</a>	<i>Vehicle Emissions Testing/ False Statement</i>
Northern District of Ohio	<a href="#">United States v. Benedict Lupo et al.</a>	<i>Oil and Gas Servicing Company/ CWA</i>
Western District of Pennsylvania	<a href="#">United States v. Ronald A. Wright</a>	<i>Well Certification/ False Statement</i>
District of Rhode Island	<a href="#">United States v. Roberts Chemical Company</a>	<i>Chemical Storage/CAA</i>
District of South Dakota	<a href="#">United States v. Cody Weyer</a>	<i>Bald Eagle Killing/ BGEPA</i>
Northern District of Texas	<a href="#">United States v. Michael G. Johnson</a>	<i>Vehicle Engine Testing/ CAA, Wire Fraud</i>
District of Utah	<a href="#">United States v. Jeremy Stone</a>	<i>Snake Breeder/ Lacey Act</i>
Western District of Wisconsin	<a href="#">United States v. Alvin C. Sowinski et al.</a>	<i>Wildlife Poisoning/ BGEPA</i>

### **Additional Quick Links:**

- ◇ [Informations/Indictments](#) pp. 6 - 7
- ◇ [Plea Agreements](#) pp. 7 - 10
- ◇ [Sentencings](#) pp. 10 – 16

## Informations/Indictments

### **United States v. Jose Antonio Reyna-Chavez, No. 1:14-CR-00161 (E.D. Calif.), AUSA Karen Escobar.**

On July 31, 2014, Mexican national Jose Antonio Reyna-Chavez (Reyna) was charged in a five-count indictment with conspiracy, drug charges, avoiding immigration officers, and damage to public land and natural resources (18 U.S.C. §§ 1361, 1325; 21 U.S.C. §§ 841, 846).

According to the indictment, Reyna was involved in the cultivation of more than 1,500 marijuana plants in the Blue Canyon-area of the Sierra National Forest in Fresno County when he attempted to flee from law enforcement officers. The cultivation operation was within three miles of a public campground and approximately seven miles from Shaver Lake. The cultivation caused significant damage to the land and natural resources. Removed from the grow site were six large helicopter net-loads of material and debris, including fertilizer, propane tanks, and pesticides.

This case was investigated by the U.S. Forest Service; the Bureau of Alcohol, Tobacco, Firearms and Explosives; and the Fresno County Sheriff's Office.

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### **United States v. Pacific Gas and Electric Company, No. 14-CR-00175 (N.D. Calif.), ECS Trial Attorney Mark Romley and AUSAs Kim Berger and Hailey Mitchell Hoffman.**



**2 Houses in flames after pipeline explosion**

On July 30, 2014, a 28-count superseding indictment was filed charging Pacific Gas and Electric Company (PG&E) with 15 additional violations of the Natural Gas Pipeline Safety Act (PSA), and an obstruction charge (18 U.S.C §1505; 49 U.S.C. § 60123). PSA violations were uncovered during the investigation initiated after the fatal San Bruno natural gas pipeline explosion in 2010.

The superseding indictment alleges that PG&E obstructed the NTSB's investigation that began immediately following the explosion. According to the indictment, during the course of the NTSB's investigation, the company provided a version of a policy outlining the way in which it addressed manufacturing threats on its pipelines.

PG&E later withdrew that policy, claiming it was produced in error, and was an unapproved draft. The company was allegedly operating under the so-called "draft" from 2009 through early April 2011. As a result, it did not properly assess and prioritize as high-risk many of its oldest natural gas pipelines, which ran through urban and residential areas.

The indictment alleges that PG&E knowingly and willfully violated the PSA and its regulations between 2003 and 2010. According to the indictment, the charges stem from the company's record keeping and pipeline "integrity management" practices. The indictment alleges that PG&E, knowing that its records regarding its larger natural pipelines were inaccurate and incomplete, nevertheless failed to correct these deficiencies.

The company also allegedly failed to identify threats to its larger natural gas pipelines and, when they were identified, failed to take appropriate action to investigate the seriousness of those threats.

This case was investigated by the U.S. DOT Office of Inspector General, the FBI, the Pipeline and Hazardous Material Safety Administration, and the city of San Bruno Police Department.

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## Plea Agreements

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

On August 25, 2014, Ronald A. Wright pleaded guilty to a false statement violation (18 U.S.C. § 1001(a)(3)) in connection with permits issued under the Safe Drinking Water Act's underground injection control program.

Wright worked as a contractor for S&T Services and Supply, a company that performed well-plugging services. Between September 2009 and April 2011, Wright prepared certificates that falsely stated that abandoned wells had been properly plugged. EPA relies upon this type of information when issuing permits for Class II injection wells. The agency requires that all abandoned wells within a quarter mile of the proposed injection well be properly plugged. Sentencing is scheduled for December 22, 2014.

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

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

On August 22, 2014, Charles R. Jamison pleaded guilty to a Lacey Act conspiracy violation (16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1); 18 U.S.C. § 371) for the sale and purchase of juvenile bonnethead sharks.

Between approximately June 2012 and October 2012, Jamison engaged in the harvest and sale of bonnethead sharks taken from the waters off the Florida Keys without obtaining the necessary licenses or vessel permits to do so. The animals were then 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 Refuge, and the U.S. Customs and Border Protection Air Marine Branch.

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**United States v. Felix Baravik, No. 13-CR-04017 (W.D. Mo.), ECS Trial Attorney Jim Nelson, AUSA Lawrence Miller, and ECS Paralegal Courtney Smith.**

On August 20, 2014, Felix Baravik pleaded guilty to a violation of the Lacey Act (16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(2)), for illegally trafficking in paddlefish caviar.

During March and April 2011, the U.S. Fish and Wildlife Service and the Missouri Department of Conservation conducted an investigation that included the operation of a covert paddlefish business.

A total of six defendants remain charged with Lacey Act and conspiracy violations for engaging in multiple transactions involving the purchase and processing of paddlefish eggs in 2011 and 2012. In addition to traveling to Missouri for the purpose of buying the eggs and processing them into caviar, one defendant allegedly attempted to export some of the paddlefish eggs in checked luggage on an international flight departing from Washington, D.C. Bogdan Nahapetyan pleaded guilty last year to a similar offense.



**3 Defendant holding paddlefish**

The global decline in other caviar sources, such as sturgeon, has led to an increased demand for paddlefish caviar. This increased demand has led to over-fishing of paddlefish, and the consequent decline of paddlefish populations.

This case was investigated by the U.S. Fish and Wildlife Service and the Missouri Department of Conservation, with assistance from the Oklahoma Department of Wildlife Conservation.

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**United States v. Roberts Chemical Company, No. 1:14-CR-00094 (D.R.I.), AUSA Terrence Donnelly.**

On August 18, 2014, Roberts Chemical Company pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7713(c)(1)) for failing to develop and implement a Risk Management Plan (RMP). The RMP is required to minimize the possibility of an ethyl ether release from its former Pawtucket, R.I., facility, and to protect workers, the community and emergency responders, in the event of a release or fire involving ethyl ether.

Roberts Chemical is in the business of storing, distributing and repackaging chemicals, some of which are designated as extremely hazardous. Ethyl ether is a volatile, extremely flammable liquid chemical. EPA regulations require facilities storing more than 10,000 pounds of ethyl ether to develop and implement a RMP. Despite storing more than 27,000 pounds of ethyl ether in November and December of 2008, the company failed to develop and implement a RMP.

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

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**United States v. Michael D. Hayden, Jr., et al., No. 13-CR-00469 (D. Md.), ECS Senior Trial Attorney Todd Gleason, ECS Trial Attorney Shennie Patel, AUSA Michael Cunningham, and ECS Paralegal Casey Layman.**



**4 Portion of illegally taken fish seized by investigators**

On August 1, 2014, Michael D. Hayden, Jr., and William J. Lednum pleaded guilty to conspiring to violate the Lacey Act (18 U.S.C § 371) for their illegal harvesting and interstate sale of Striped Bass.

Hayden, Lednum, and other co-conspirators, 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, Hayden and Lednum falsified paperwork related to their harvests and submitted those falsified documents to the State of Maryland. The state in turn

submitted this paperwork 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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**United States v. Thomas H. Faria, No. 3:14-CR-00149 (D. Conn.), AUSA Hal Chen and SAUSA Peter Kenyon.**

On July 8, 2014, Thomas H. Faria, a former chief executive officer and president of Faria Limited, LLC, doing business as Sheffield Pharmaceuticals (Sheffield), pleaded guilty to a felony violation of the Clean Water Act (33 U.S.C. § 1319(c)(2)(A)).

Sheffield manufactures a wide range of over-the-counter pharmaceutical creams, ointments and toothpastes. From approximately 1986 to July 2011, Sheffield discharged industrial wastewater from its New London manufacturing operations to the POTW without a permit. The POTW discharges to the Thames River in southeastern Connecticut. During this 25 year period, Sheffield lacked a pretreatment system at its factory to treat its industrial wastewater prior to discharge to the New London POTW, performed no regular monitoring of its discharges of industrial wastewater, and submitted no monthly monitoring reports to local regulatory officials.

After becoming the company's president and CEO in April 2003, Faria was told by employees that Sheffield was discharging pollutants, including toxic levels of zinc, in its industrial wastewater without a permit. After being informed that the company would need to install a wastewater treatment system in order to obtain a permit, the defendant declined to approve the expense and allowed the facility to continue discharging untreated industrial wastewater to the POTW. Faria continued this practice despite receiving advice from four environmental consulting firms (hired by the company) advising him that this was illegal.

Only after receiving a notice of violation from local regulators in April 2011 did the company finally install the wastewater treatment system the following July.

As part of the plea, Faria resigned his position as CEO and company president. Sentencing is scheduled for October 6, 2014.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Connecticut Department of Energy and Environmental Protection.

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## Sentencings

### **United States v. Bio-Tech Management Inc., d/b/a Bio-Tech Systems et al., No. 5:13-CR-00068 (M.D. Ga.), ECS Trial Attorneys Richard Powers and Adam Cullman, ECS Paralegal Ashleigh Nye, and Litigation Support Specialist Elga Ozols.**

On August 27, 2014, Bio-Tech Management, Inc., a pest control services company, and company owner Steven Murray were sentenced after previously pleading guilty to multiple offenses stemming from the misapplication of pesticides at nursing homes. Murray will serve 24 months' incarceration, followed by one year of supervised release. He also will pay a \$7,500 fine. The company will pay a \$50,000 fine and complete a three-year term of probation. Of the 52 counts charged, the defendants pleaded guilty to conspiracy, ten counts of unlawful use of a pesticide (FIFRA), three counts of making false statements, and two counts of mail fraud (18 U.S.C. §§ 371, 1001, 1341, 7 USC § 136j).

From October 2005 to June 2009, the defendants repeatedly misapplied the registered pesticide Termidor SC in nursing homes in the state of Georgia and falsified service reports to conceal the unlawful use. Murray and Bio-Tech sent invoices to their nursing home clients to solicit payment for the unlawful pesticide applications. At the direction of Murray, company employees routinely applied Termidor indoors, contrary to the manufacturer's label instructions. After the Georgia Department of Agriculture made inquiries regarding Bio-Tech's misuse of Termidor and other pesticides, Murray directed several of his employees to alter the service reports in order to obstruct the investigation.

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

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### **United States v. John W. Myre, No. 3:14-CR-00027 (D. Idaho), AUSA Traci Whelan.**

On August 20, 2014, John W. Myre was sentenced to pay a \$3,000 fine, complete a three-year term of probation, and perform 90 hours of community service. The defendant previously pleaded guilty to negligent endangerment under the Clean Air Act (42 U.S.C. §§ 7412(b)(1), 7413(c)(4)).

As a supervisor for the Dakota Southern Railroad, Myre was in charge of laborers working under him who used acetylene cutting torches to cut apart steel beams from an old railroad trestle in January 2013. The steel beams had been painted with lead-based paint that vaporized into the air when heated by the torches. One of the workers



**5 Steel beam cut from railroad trestle**

became ill and had to be hospitalized with acute lead poisoning, and the other workers all had high levels of lead in their bloodstreams.

As part of his sentence, Myre was ordered to attend and complete an OSHA class on safety standards involving lead paint.

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

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### **United States v. Michael G. Johnson, No. 3:13-CR-00257 (N.D. Tex.) AUSA Errin Martin.**

On August 19, 2014, Michael G. Johnson was sentenced to serve 28 months' incarceration, followed by two years' supervised release, and ordered to pay \$354,529 in restitution, following his guilty plea to wire fraud and making false statements under the Clean Air Act (18 U.S.C. § 1343; 42 U.S.C. § 7413(c)(2)(A)).

From 2007 through 2009, Johnson owned and operated System Launch Associates in Fort Worth. After 2009, Johnson conducted business in Austin, Texas; Dallas, Texas; Sterling Heights, Michigan; and Miles City, Montana. The CAA prohibits manufacturers from selling vehicles or engines that are subject to emission standards unless the vehicle or engine is covered by an EPA-issued Certificate of Conformity. System Launch purported to arrange testing of new vehicles and new vehicle engines for U.S. distributors of foreign-made vehicles. The company, however, never performed any testing and Johnson fabricated the testing data.

The defendant instructed his clients to have the vehicles delivered to him or to a test lab he chose, instructing them to pay half of the testing/application fee to him upfront and the remainder when the testing was completed. After he submitted the completed Certificate of Conformity application to the EPA, he provided a copy of the fraudulent vehicle test data to his clients.

Between August 2009 and June 2012, Johnson submitted multiple applications containing fraudulent vehicle test data to the EPA and delivered that data to more than a dozen clients. The applications Johnson submitted were approved, with EPA issuing certificates based on the false information he provided.

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

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### **United States v. Jeremy Stone, No. 2:14-CR-0009 (D. Utah), AUSA Jared Bennett.**



**6 Leucistic (albino) Boa Constrictor**

On August 18, 2014, Jeremy Stone was sentenced to serve 12 months' home confinement as a condition of a one-year term of probation.

Jeremy Stone is the owner of Jeremy Stone Reptiles, which breeds and sells boa constrictors. In January 2009, Stone arranged for the shipment of four boa constrictors from Miami, Florida, to Lindon, Utah. This shipment came from Guyana. The official documents stated that these four boa constrictors were caught in the wild in Guyana. One of them, however, was an extremely rare (and extremely valuable), white, leucistic boa constrictor that was found in the wild in

Brazil. Brazil does not allow the export of wild caught snakes and, therefore, Brazil would not issue a CITES permit for its export.

Stone previously pleaded guilty to a misdemeanor Lacey Act violation (16 U.S.C. § 3373(d)(2)). As part of the plea agreement, he will forfeit eight boa constrictors as well as his CITES/USFWS import and export permits for the period that he is on home confinement.

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

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**United States v. Charley Allen, No. 2:14-CR-00026 (D. Utah), ECS Senior Trial Attorney Georgiann Cerese and AUSA Jared Bennett.**

On August 14, 2014, Charley Allen was sentenced to serve a year and a day of incarceration, followed by one year of supervised release. A fine was not assessed. Allen previously pleaded guilty to a felony violation of the Migratory Bird Treaty Act (16 U.S.C. §§ 703(a), 707(b)(2)) for selling anhinga and hawk feathers.

Between January 2009 and March 2009, Allen, a member of the Goshute Tribe, offered to sell and sold anhinga tail feathers. He sold two sets of twelve anhinga tail feathers for \$400 per set to a person in Arizona in January. He also sold two sets of twelve anhinga tail feathers for \$400 per set to an undercover officer in Arizona in February and March. In February 2009, Allen offered to sell seven sets of red-tailed, red-shouldered, and ferruginous hawk feathers to an undercover officer who was using an identity that was different from the covert identity used when Allen sold the anhinga tail feathers.

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

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**United States v. James Riggs et al., No. 3:13-CR-00123 (D. Ak.), AUSA Steven Skrocki.**

On August 13, 2014, James Riggs was sentenced to serve a two-year term of probation after previously pleading guilty to Lacey Act violations (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)). A fine was not assessed. Riggs was the fourth hunter to be sentenced in this case involving illegal moose hunts in Denali National Park in September 2012. Charlie W. Hart, Deric C. Hart, and Michael J. Barth were ordered jointly and severally responsible for \$15,000 in restitution to Denali National Park. They also will each pay a \$2,500 fine, complete two-year terms of probation, forfeit parts from the moose, and are banned from hunting for one year.

During a hunt that took place over several days in September 2012, all members of the group hunted for Bull Moose on park property. They used electronic moose cow calls (which is illegal under state law) and hunted the lands well outside the boundary of the approved area, including the mountainsides above.

This case was investigated by the National Park Service and the U.S. Fish and Wildlife Service, with assistance from the Bureau of Land Management.

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**United States v. Eric Burman, No. 4:14-CR-10008 (S.D. Fla.) AUSA Tom Watts-FitzGerald.**

On August 11, 2014, Eric Burman pleaded guilty to and was sentenced on a Lacey Act conspiracy charge (18 U.S.C. § 371) stemming from the illegal sale and purchase of Florida spiny lobster. Burman will complete a three-year term of probation and pay a \$250,000 fine, which will be deposited into Magnuson-Stevens Fishery Conservation and Management Act Fund.

Burman was engaged in the wholesale commercial seafood industry, including the export of live Florida spiny lobster, to a seafood market in China. Between August and September 2010, the defendant and others purchased spiny lobster from harvesters in Monroe County, Florida, without generating the

required documentation and without obtaining the proper licensure. Subsequently, a number of shipments were made to Hong Kong of this illegally acquired lobster.

This case was investigated by the NOAA Office of Law Enforcement and ICE-Homeland Security Investigations.

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**United States v. Henry Batista et al., Nos. 2:13-CR-00090 and 00091 (D. Nev.), ECS Senior Trial Attorney Ron Sutcliffe and AUSA Roger Yang.**

On August 6, 2014, Henry Batista was sentenced to serve six months' incarceration and six months' home confinement after previously pleading guilty to a false statement violation (18 U.S.C. § 1001). Batista had been charged in two counts to reflect conduct undertaken before and after the execution of a search warrant at which EPA investigators informed him that they knew he was using a computer emulator to conduct false tests. The latter false testing occurred at a new shop where the defendant obtained employment after being fired from the first shop. Luis Batista, Henry's brother, was caught on tape offering to perform false smog tests for \$60 per certificate using an emulator. In one of the recorded calls he said he was working on a wireless system so he would not have to physically appear at the testing stations. Luis already has been sentenced.

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

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**United States v. Benedict Lupo, et al., Nos. 4:13-CR-00113, 4:14-CR-00011 (N.D. Ohio), SAUSA Brad Beeson.**

On August 5, 2014, Benedict Lupo was sentenced to serve 28 months' incarceration and will pay a \$25,000 fine. Supervised release was not ordered. Lupo pleaded guilty to a Clean Water Act violation (33 U.S.C. § 1319(c)(2)(A)) for his role in the discharge of brine and oil-based drilling mud that eventually flowed into the Mahoning River, a water of the United States.

Lupo is the owner of Hardrock Excavating LLC. The company provides services to the oil and gas industry in Ohio and Pennsylvania, including the storage of brine and oil-based drilling mud. There are approximately 58 mobile storage tanks at the facility and each holds approximately 20,000 gallons.

After receiving an anonymous call in January 2013, inspectors found a hose connected to a storage tank that was discharging wastewater into a stormwater drain at the facility. The stormwater drain flowed into an unnamed tributary of the Mahoning River and ultimately into the river, where an oily sheen was clearly visible. On numerous occasions, Lupo directed employees Michael Guesman and Mark Goff to discharge storage tanks at night over a several-month period. Both have pleaded guilty to CWA violations and have been sentenced. Charges against the company are pending.

This case was investigated by the Ohio Environmental Protection Agency, the Ohio Department of Natural Resources, the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Investigation, the Youngstown Department of Public Works, and the Youngstown Fire Department.

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**United States v. True Nature Seafood, LLC, No. 1:14-CR-20480 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On August 5, 2014, True Nature Seafood, LLC (TNS), was sentenced after pleading guilty to mislabeling seafood, in violation of the Lacey Act (16 U.S.C. §§3372(d)(1) and (2), 3373(d)(3)(A)). TNS will pay a \$500,000 fine, make \$500,000 in community service payments, complete a five-year

term of probation, and implement an environmental compliance plan. The company was further ordered to forfeit proceeds in the sale of more than 43,000 pounds of toothfish seized by NOAA with a value of approximately \$400,862.

TNS was engaged in the wholesale purchase, importation, packaging, sale, and distribution of seafood products in interstate and foreign commerce. These activities included transactions involving seafood product that was imported, re-labelled, and transshipped from Miami to both domestic and foreign customers by and at the direction of TNS.

In August 2010, the company imported approximately 11,192 pounds of seafood product by commercial air carrier from Santiago, Chile. Documents accompanying the shipment described it as processed Steelhead Trout, with a wholesale value of \$62,233. After clearing U.S. Customs at MIA, the shipment was transferred to a cold storage facility in Miami. A few weeks later, a TNS employee transmitted instructions by email to a subsidiary of TNS, directing that the August 2010 consignment be re-labelled as Salmon. Thereafter, TNS caused the seafood product to be shipped to customers in both the United States and Canada, for which it subsequently received payments from its interstate and foreign customers for approximately \$77,536.

This case was investigated by NOAA Office of Law Enforcement and ICE Homeland Security Investigations.

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### **United States v. Alvin C. Sowinski et al., No. 3:14-CR-00030 (W.D. Wis.), AUSA Peter M. Jarosz.**



**7 Poisoned bear**

On August 4, 2014, Alvin C. Sowinski and his son, Paul A. Sowinski, were sentenced after previously pleading guilty to violations of the Bald and Golden Eagle Protection Act (16 U.S.C § 668(a)). Alvin Sowinski was ordered to pay a \$30,000 fine, and will complete a one-year term of probation to include four months' home confinement. He was further banned for seven years from hunting, fishing or trapping. Paul Sowinski will pay a \$10,000 fine, complete a one-year term of probation, and comply with a five-year ban on hunting, fishing or trapping privileges. The two were held jointly and severally responsible for \$100,000 in restitution.

The Sowinski family owns approximately 8,000 acres, with about half consisting of an active farming operation. In May 2007, local wildlife officials began investigating the potential poisoning of animals on their property. A bald eagle, crow, gray squirrel, and a bobcat were found dead within 100 yards of a deer carcass that was

later found laced with Carbofuran.

In the winter of 2010 and continuing through April 2010, Alvin Sowinski placed several bait sites on his family's property for the purpose of killing predators. Found near the sites were numerous dead animals, including a bear, crows, ravens, chickadees, coyotes, one bobcat, one skunk, and three ermine. The bait was found to contain Carbofuran. The remains of two bald eagles and one rough-legged hawk also were found in another area of the property near a bait site from the winter of 2009, and in the vicinity of a deer stand used by Paul Sowinski. Numerous other dead animals were discovered after the execution of search warrants in May 2010 on Sowinski property.

The restitution is to be paid as follows: \$42,000 to EPA for cleanup costs, \$38,000 to Wisconsin Department of Natural Resources Fish and Game, and \$20,000 to the U.S. Fish and Wildlife Service Lacey Act Reward Account.

This case was investigated by the Wisconsin Department of Natural Resources, the U.S. Fish and Wildlife Service, the Oneida County Sheriff's Department, and the U.S. EPA Criminal Investigation Division.

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**United States v. Colfax Treating Company, No. 1:14-CR-00110 (W.D. La.), AUSA Joseph Jarzabek.**

On July 31, 2014, Colfax Treating Company was sentenced to pay a \$15,000 fine after pleading guilty to a misdemeanor Clean Water Act violation for negligently discharging wastes to the local POTW, in violation of its permit (33 U.S.C. § 1319(c)(1)(A)).

The company operated a wood treating facility in Pineville, Louisiana. A variety of chemicals are used in the treatment process, including pentachlorophenol. On June 13, 2008, the company discharged wastewater containing 7.1 mg/l of pentachlorophenol into the POTW, in violation of the 5.64 mg/l concentration limits allowed under the company's permit.

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

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**8 Creosote material**

**United States v. Cody Weyer, No. 1: 14-CR-50036 (D.S.D.), AUSA Meghan Dilges.**



**9 Bald Eagle**

On July 31, 2014, Cody Weyer was sentenced to pay a \$500 fine and \$10,000 in restitution after pleading guilty to a violation of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)). Weyer also will complete a one-year term of unsupervised probation and is prohibited from hunting during that year. The restitution will be paid to the Black Hills Raptor Center.

In January 21, 2014, while a local Game Fish and Parks officer responded to a complaint of dead deer, the officer found a dead bald eagle in a pasture leased by Weyer. The defendant had filed a complaint with a game warden's office that several eagles were killing deer on his property. He later admitted to

shooting at and killing hawks and eagles, knowing it was illegal to do so.

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

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**United States v. Brent Powell, No. 9:14-CR-00020 (D. Mont.) AUSA Kris McLean.**

On July 9, 2014, a Montana Rancher was sentenced after pleading guilty to a Clean Water Act violation (33 U.S.C. §§ 1319(c)(1), 1344) for damaging a wetland on an Indian Reservation. Brent Powell was sentenced to pay a \$20,000 fine and will complete a three-year term of unsupervised probation.

Powell operates B.P. Cattle Company on property that includes a wetland bordering Sabine Creek and Mission Creek. These wetlands also lie within the Flathead Indian Reservation. Prior to performing work in wetlands along Pistol Creek in 2004, he failed to submit a Tribal Application for the Alteration of Aquatic Land or Wetland on the Flathead reservation, known as an 87A (ALCO). As a result, the Army Corps of Engineers issued Powell a cease and desist order for the activities on Pistol Creek, requiring him to remediate the area.



**Aerial view of side-casted material on defendant's property**

In 2010, Powell again dredged several channels on his property along the Sabine and Mission Creeks, without submitting an ALCO. As a result of the work, heavy sediment was observed in the manmade channels, and cloudy water was observed flowing into Sabine Creek.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Army Corps of Engineers, and the environmental specialists of the Flathead Tribe.

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