
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

May 2013

EDITOR'S NOTES:

Prosecutor Practice Tip:

When deciding whether to impose restitution or community service payments in environmental crimes cases, please consult: [ECS:Guidance on Restitution, Community Service, and Other Sentencing Measures Imposed in Environmental Crimes Cases \(January 16, 2009\)](#), the USAM (9-16.325) provision: [United States Attorney Manual Title 9 Section 16.325](#), and the Organizational Community Service article by Kris Dighe published in the United States Attorney's Bulletin



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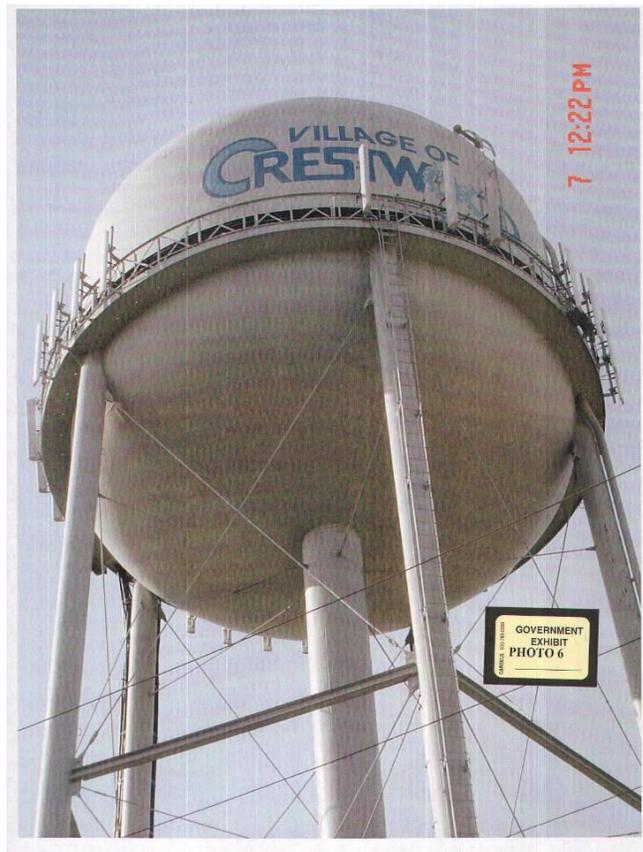
July 2012 edition:

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 Associations' website: regionallassociations.org 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 publically available. If a press release was not generated, then please only provide facts that are appropriate to disclose to the public.

NOTICE: The United States Fish and Wildlife Service and the Environmental Crimes Section collaborated with West Services on the publication of an updated book of federal fish and wildlife statutes. To obtain a free copy please contact [REDACTED].

The Environmental Crimes Intranet Site is available to those who have access to United States Department of Justice operated sites: [Environmental Crimes Section webpage](#).



Water Tower for the Village of Crestwood. See [United States versus Neubauer](#), below, for more details on the trial.

AT A GLANCE:

- [Southern Union Co. versus United States](#), No. 1:07-CR-000134 (D.R.I.).

DISTRICT	CASES	CASE TYPE/STATUTES
Northern District of California	United States versus Nancy Black	<i>Whale Feeding/MMPA</i>
Southern District of Florida	United States versus Shusen Wei et al. United States versus Walter Bloecker et al. United States versus Larkin Baggett United States versus Jason Cardinale United States versus FSD Group, LLC	<i>Rhino Horn Imports/Smuggling</i> <i>Aquarium Wholesaler/ Conspiracy, Lacey Act</i> <i>Chemical Distributor/Firearms, CWA, RCRA</i> <i>Charter Fishing Company/False Statement</i> <i>ODS Sale/Smuggling</i>
Middle District of Georgia	United States versus Alexander Morrissette et al.	<i>ODS Venting/CAA</i>
Northern District of Illinois	United States versus Theresa Neubauer	<i>Municipal Employee/ False Statements</i>
Eastern District of Louisiana	United States versus Anselmo Capillanes	<i>Vessel/ APPS</i>
District of Massachusetts	United States versus Larry McKissick	<i>Trucking Company/CWA</i>

DISTRICT	CASES	CASE TYPE/ STATUTES
District of Maryland	United States versus David Ector	<i>Fill Material Discharge/CWA</i>
District of Nevada	United States versus DPL Enterprises, Inc., et al.	<i>Pesticide Company/FIFRA, False Statement</i>
District of New Jersey	United States versus Atlantic States Cast Iron Pipe Company	<i>Pipe Manufacturer/CWA, CERCLA, CAA, Obstruction, Conspiracy, False Statement</i>
Northern District of New York	United States versus Olivia Terrance et al.	<i>Reptile Smuggling/ Conspiracy, Lacey Act</i>
Eastern District of North Carolina	United States versus Harvey B. Pridgen et al.	<i>Wetlands/CWA</i>
District of Utah	United States versus Larkin Baggett	<i>Chemical Distributor/ CWA, RCRA, Firearms</i>
Eastern District of Virginia	United States versus Jeffrey S. Adams et al.	<i>Striped Bass Harvesting/ Lacey Act</i>
Western District of Virginia	United States versus Edward K. Durst	<i>Asbestos Abatement at School/ CAA</i>

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Significant Environmental Decisions

District Court

Southern Union Co. versus United States, No. 1:07-CR-000134 (D.R.I.), ECS Trial Attorney Colin Black, Appellate AUSA Skip Lockhart, AUSA Terrence Donnelly, and RCEC Dianne Chabot.

On April 25, 2013, the district court issued its preliminary decision on remand. The court ruled against the government on the two major issues, finding that the prosecution had waived its right to a jury determination of the number of days of violation by failing to request a special verdict form at trial, and concluding that the maximum statutory fine (of \$500,000) capped both the criminal fine and any monetary community service that could be ordered by the court. The court invited input from the parties and the public on how it should fashion a community service obligation with the broadest impact possible given that its value could not exceed \$500,000.

In December 2012, the district court heard oral argument on three issues on remand: 1) the empanelling of a sentencing jury; 2) whether the \$12 million community service payment survived the Supreme Court's decision; and 3) whether, if the government loses on issues 1 and 2, the maximum fine is \$500,000 under 18 U.S.C. § 3571(c) (rather than \$50,000 under RCRA). On June 21, 2012, the Supreme Court reversed the \$6,000,000 criminal fine imposed upon Southern Union and remanded the case for further proceedings. The Court held that criminal fines should be treated the same as sentences of incarceration, and that the rule of Apprendi versus New Jersey, 530 U.S. 466 (2000), therefore was applicable. Apprendi held that the Sixth Amendment's jury trial guarantee requires that any fact (other than the fact of a prior conviction) that increases the maximum punishment authorized for a crime must be proved to a jury beyond a reasonable doubt.

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Trials

United States versus Theresa Neubauer, No. 1:11-CR-00533 (N.D. Ill.), AUSAs Erika Csicsila and Timothy Chapman, and SAUSA Crissy Pellegrin.



Well Building

On April 29, 2013, following a one-week trial, a jury convicted Theresa Neubauer, the former Supervisor of the Village of Crestwood Water Department, of 11 counts of making false statements (18 U.S.C. § 1001(a)). Neubauer has been Crestwood's Chief of Police since 2008, but was placed on administrative leave pending the outcome of this case.

Former Crestwood certified water operator Frank Scaccia, previously pleaded guilty to one count of engaging in a scheme to conceal a material fact (18 U.S.C. § 1001(a)).

The charges stem from a decades-long scheme to conceal from the government and Crestwood's residents that, beginning in the 1980s, Crestwood regularly supplemented its general drinking water supply, which consisted of "finished" water purified by the City of Chicago, with untreated groundwater pumped from an underground well. By concealing the use of the well, Crestwood avoided having to properly monitor its drinking water, as required by the Safe Drinking Water Act, for inorganic, organic and radiological contaminants. Later testing of the well in 2007 revealed that it contained organic contaminants, including vinyl chloride.

Evidence at trial established that Neubauer engaged in the scheme with others (including Scaccia and a former Village mayor) to avoid the cost of (a) repairing Crestwood's leaking water system, (b) purchasing more finished water, and (c) conducting the required contaminant monitoring. In addition to lying in monthly operating reports and annual consumer confidence reports, the Village also made false statements about the well's usage in reports submitted to the Illinois Department of Natural Resources that related to Crestwood's consumption of Lake Michigan water. As an employee of the Water Department for almost three decades, Neubauer accounted for all of Crestwood's water usage and distributed the false reports to the various government agencies.

As a certified water operator, Scaccia was responsible for directing laborers in the operation of the well and preparing monthly monitoring reports and consumer confidence reports. As part of the scheme, Scaccia directed Crestwood employees to conceal the well's usage from government officials during sanitary survey inspections by removing a well log book, by disabling the well's pump timer, and by taking steps to make it appear as if there had not been anyone inside the well house for an extended period of time.

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

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Plea Agreements

United States versus Nancy Black, No. 5:12-CR-00002 (N.D. Calif.), ECS Trial Attorney Christopher Hale and AUSA Jeffrey Schenk. Defendant with whale blubber



On April 23, 2013, Nancy Black pleaded guilty to a violation of the Marine Mammal Protection Act (16 U.S.C. § 1375) for illegally feeding orca whales in 2004 and 2005. The defendant is a marine biologist who was conducting research on whales in the Monterey Bay National Marine Sanctuary.

Orca whales (also known as killer whales) prey on gray whales in the Sanctuary. When orcas manage to kill a gray whale, the pod of orcas does not always eat all of the gray whale at once. Often, portions of the carcass, including strips and chunks of blubber (some over six feet in length and weighing over a hundred pounds), remain floating or semi-submerged after a kill. Orcas and sea birds feed on these chunks of blubber while they are still available in the area.

In April 2004, while on her boat in the Sanctuary, Black and her assistants came to an area where orcas had killed a gray whale calf. In an effort to get a better look at the orcas, she and her crew collected several chunks of blubber, which they attached to a rope. Black possessed a valid research permit, but it did not authorize her to feed the whales. She also admitted to doing the same thing in April 2005.

In a separate incident in October 2005, the defendant met with a Sanctuary officer and a National Oceanic and Atmospheric Administration (NOAA) investigative agent. The officer was investigating a reported harassment of an endangered humpback whale in the Sanctuary. The interaction with the humpback whale was filmed by one of Black's crewmembers. The officer asked her to give him a copy of the videotape. Black agreed to do so, but prior to this meeting she had edited the video footage removing several minutes that included footage of the humpback whale between two vessels that belonged to Black's whale watching business, among other footage, and sounds. The defendant did not inform the officer that she had edited the tape, and admitted that her actions could have impeded or influenced NOAA's investigation into this humpback whale incident.

Sentencing is scheduled for August 6, 2013. This case was investigated by NOAA and the Federal Bureau of Investigation, with support from Monterey Bay National Marine Sanctuary enforcement personnel.

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United States versus Edward K. Durst, No. 7:12-CR-00079 (W.D. Va.), AUSA Jennie Waering and SAUSA David Lastra.

On April 22, 2013, Edward K. Durst pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) for the illegal removal of asbestos from a building at Virginia Technical University in 2007.

Durst was a foreman employed by an asbestos abatement company. During the abatement, he instructed other employees to remove and dispose of aluminum window frames with asbestos glazing by loading them onto unlabeled vehicles. The materials were then transported to a metal recycling facility where Durst was paid for the scrap aluminum.

This case was investigated by the Blue Ridge Environmental Task Force, which includes the United States Environmental Protection Agency Criminal Investigation Division, the Office of Inspector General United States Housing and Urban Development, the Virginia Tech Police Department, and the Christiansburg Police Department.

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United States versus Olivia Terrance et al., No. 8:12-CR-00376 (N.D. N.Y.), AUSA Craig Benedict.

On April 3, 2013, Olivia Terrance pleaded guilty to participating in a conspiracy to violate the Lacey Act and the Endangered Species Act, and to illegally export wildlife from the United States (18 U.S.C. § 371).

Terrance admitted that, in 2009 and 2010, she smuggled turtles and reptiles worth hundreds of thousands of dollars from the United States into Canada where they were sold to retailers and collectors. She was apprehended when law enforcement officials followed her by car and helicopter after she received a shipment of wildlife and transported it by boat into Canada. Co-defendant Dennis Day awaits extradition from Canada.

Sentencing is scheduled for August 5, 2013. This case was investigated by the United States Fish and Wildlife Service, with assistance from the Department of Homeland Security, the Canadian Wildlife Service, the Royal Canadian Mounted Police, the Canada Border Services Agency, and the Mohawk Nation Tribal Police.

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United States versus Anselmo Capillanes, No. 2:13-CR-00049 (E.D. La.), AUSA Emily Greenfield.

On April 2, 2013, Anselmo Capillanes, a second engineer for the *M/T Stolt Facto*, pleaded guilty to violating the Act to Prevent Pollution from Ships (33 U.S.C. § 1908).

From October 2012 through January 2013, Capillanes admitted that he directed other crew members to bypass the oil water separator (OWS) and to dump untreated bilge wastes overboard. Fresh water was used to trick the OWS to make it appear that it was being used. These events were not noted in the oil record book, which was subsequently presented to Coast Guard inspectors when they boarded the vessel in New Orleans in January 2013.

Sentencing is scheduled for July 2, 2013. This case was investigated by the United States Coast Guard.

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Sentencings

United States versus Shusen Wei et al., No.1:13-CR-20085 (S.D. Fla.), ECS Senior Trial Attorney Richard Udell, AUSA Tom Watts-FitzGerald, and ECS Paralegal Lisa Brooks.



Libation cup carved from rhinoceros horn

On April 29, 2013, Shusen Wei was sentenced to time served (60 days) followed by two years' supervised release. Wei also was ordered to pay a \$5,000 fine after previously pleading guilty to a smuggling violation (18 U.S.C. § 554) for his involvement in a rhinoceros horn smuggling ring. Wei admitted to knowingly purchasing and causing the export of objects made from rhinoceros horn from the United States, without valid documentation, between September 2011 and August 2012.

Wei, Zhifei Li, and Qing Wang are charged with violations in multiple districts for their roles in the scheme. Li was indicted in Newark and Miami for international smuggling of rhinoceros horns. Wang is charged in a criminal complaint in New York City for his role in smuggling libation cups carved from rhinoceros horns from New York to Li via Hong Kong.

These cases are being investigated by the United States Fish and Wildlife Service Office of Law Enforcement, with assistance from the Department of Homeland Security.

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United States versus Jeffrey S. Adams, et al., Nos. 2:12-CR-00165 - 00166 (E.D. Va.), ECS Trial Attorney Jim Nelson.

On April 25, 2013, Jeffrey S. Adams and David C. Scott were sentenced after pleading guilty to a Lacey Act trafficking violation (16 U.S.C. §§ 3372(a)(1), 3373 (d)(1)(B)).

Adams will serve 180 days' home confinement as a condition of a three-year term of probation. Adams Fishing Adventures also was sentenced to complete a three-year term of probation. They are required to obtain and maintain Vessel Monitoring Units on all their vessels. These units contain a GPS system that uploads a vessel's location to a computer to facilitate real-time monitoring.

Scott, the captain of the *Stoney's Kingfisher*, was sentenced to pay a \$5,600 fine and \$1,900 in restitution to the National Oceanic and Atmospheric Administration. He also will complete a three-year term of probation during which he will be banned from any involvement in the charter or commercial fishing industry.

Since 1990, a moratorium has been in place on fishing for Striped Bass within the Exclusive Economic Zone (EEZ). A total of five charter fishing boat captains were prosecuted for selling charter fishing trips to illegally harvest Striped Bass from the EEZ.

This case was investigated by the National Oceanic and Atmospheric Administration Fisheries Office of Law Enforcement, and the Virginia Marine Police, with assistance from the Federal Communications Commission Enforcement Bureau.

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United States versus Walter Bloecker et al., No. 4:12-CR-10017 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On April 18, 2013, Walter and Lila Bloecker, the owners of a wholesale aquarium supply company, pleaded guilty to conspiring with Florida Keys divers to illegally harvest juvenile nurse sharks and other protected fish, in violation of the Lacey Act (18 U.S.C. § 371). The two were sentenced to complete one-year terms of probation to include 90 days' home detention.

Between June and October 2012, the defendants engaged in a series of transactions involving the illegal sale and interstate transportation of shark pups and oversized angelfish. Walter Bloecker did not have the required permits to legally sell sharks across states lines. He concealed the sale of shark pups by filing false documents stating that they were imported from Nicaragua, or that the containers contained moray eels. Lila Bloecker was responsible for the day-to-day operation of their company Aquatic Trading. She sold oversized angelfish that had been illegally harvested from the Keys to a buyer in Michigan.

This case was investigated by the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration Office of Law Enforcement.

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United States versus Alexander Morrisette et al., No. 3:12-CR-00037 (M.D. Ga.), AUSA Danial Bennett.



Removal of damaged HVAC system from roof of Wal-Mart store

On April 17, 2013, Alexander Morrisette was sentenced to serve 78 months' incarceration followed by three years' supervised release. Morrisette previously pleaded guilty to Clean Air Act violations (42 U.S.C. §§ 7671(g)(c), 7413(c)(1)) for releasing or venting ozone depleting substances into the atmosphere. He was further ordered to pay \$178,846 in restitution to repair several commercial air conditioners that had been illegally harvested for scrap metal. Co-defendant Randall Wimpey was previously sentenced to serve 15 months' incarceration followed by two years supervised release.

The two were involved in the theft of air conditioning units from several buildings in the Monroe, Georgia, area in 2011 and 2012. Investigators determined that the two had sold metals that they had removed from the units, with Morrisette receiving \$900 from a metal recycling shop for 865 pounds of copper and aluminum. In the process of dismantling the air conditioners, the defendants vented the refrigerant gas.

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

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United States versus Atlantic States Cast Iron Pipe Company et al., No. 03-CR-00852 (D. N. J.), former ECS First Assistant Chief Andrew Goldsmith and ECS Trial Attorney Deborah Harris.

On April 15, 2013, Atlantic States Cast Iron Pipe Company submitted to the court an \$8 million check, which is the total fine it was ordered to pay at the end of a four-year term of probation imposed in April 2009.

In April 2006, the company and four former managers were found guilty by a jury of multiple violations (including Clean Water Act; Clean Air Act; Comprehensive Environmental Response, Compensation, and Liability Act; conspiracy; obstruction of justice; and false statement) related to the unlawful operation of an iron pipe manufacturing facility.

In September 2012, the Third Circuit Court of Appeals affirmed all convictions and sentences in the case.

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United States versus Harvey B. Pridgen, et al., Nos. 4:12-CR-00092, 4:11-CR-00100 (E.D.N.C.) AUSA Banu Rangarajan.



Dump truck with load of dirt

On

April 10, 2013, Harvey B. Pridgen was sentenced to serve six months' incarceration followed by six months' house arrest while on supervised release. Pridgen also will pay a \$300,000 fine after previously pleading guilty to a negligent violation of the Clean Water Act (33 U.S.C. §§ 1311(a), 1319(c)(1)(A)) for the illegal filling of a wetlands in April 2010. Co-defendant Enoch Randolph Foy, Jr., previously pleaded guilty and was sentenced to pay a \$15,000 fine, and to complete a three-year term of probation to include six months' home confinement.

In April and May of 2007, the defendants used more than 50 dump truck loads of dirt (contaminated with petroleum) to fill in a wetlands, which are adjacent to a tributary of the Trent River, a water of the United States.

This case was investigated by the North Carolina State Bureau of Investigation, the United States Department of Agriculture Office of Inspector General, the Naval Criminal Investigative Service, the United States Army Corps of Engineers, and the United States Environmental Protection Agency Criminal Investigation Division.

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United States versus DPL Enterprises, Inc. et al., No. 2:12-CR-00393 (D. Neversus), ECS Senior Trial Attorney Richard Udell and AUSA Kathryn Newman.

On April 8, 2013, a company and two individuals were sentenced for their involvement in the misbranding of a pesticide. DPL Enterprises Inc. (d/b/a/ Air Care Indoor Quality Specialists) was sentenced to pay an \$80,000 fine and to complete a two-year term of probation. The company also will implement an environmental and occupational safety compliance plan. Company president and owner, Richard Papaleo, was sentenced to pay a \$15,000 fine and will also complete a two-year term of probation. Product engineer Michael Stanovich was sentenced to serve one year of probation. The defendants were in the business of manufacturing, marketing, and selling air duct cleaning equipment, filters, and various chemical compounds, as well as running an air duct cleaning and repair operation. In 2008 and 2009, DPL and its employees diluted, relabeled, and repackaged Sporicidin, which was sold to companies that used it for cleaning air ducts. The fake Sporicidin label made by the defendants was copied from an authentic label and claimed that it could kill various organisms, including HIV, Avian Flu, Salmonella, and Staphylococcus. The product the defendants sold, however, was diluted with ten parts water for every one part of Sporicidin.

Papaleo told investigators that his company was not diluting the pesticide, but was merely re-packaging and re-labeling it for branding purposes. The company sold approximately 6,300 gallons of the misbranded and diluted pesticide between 2005 and 2010. The defendants previously pleaded guilty to Federal Insecticide Fungicide and Rodenticide Act violations (7 U.S.C. § 136j(a)(1)(E)); Papaleo and the company also pleaded guilty to a false statement violation (18 U.S.C. § 1001).

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from the Federal Bureau of Investigation.

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United States versus Larkin Baggett, Nos. 4:09-CR-10016, 10025, 2:07-CR-00609 (S.D. Fla., D. Utah), AUSA Tom Watts-FitzGerald, SAUSA Jody Mazer, AUSA Jared Bennett and SAUSA Alicia Hoegh.**Weapon carried by defendant**

On April 8, 2013, Larkin Baggett was re-sentenced to serve 156 months' incarceration, followed by five years' supervised release. He was ordered to pay \$45,030 in restitution (the same amount as before). This case involved Resource Conservation and Recovery Act and Clean Water Act charges (33 U.S.C. § 1317(d), 42 U.S.C. § 6928(d)(2)) in Utah and firearms violations (18 U.S.C. § 111 (a) and (b)) in Florida. The Eleventh Circuit Court of Appeals affirmed the convictions but remanded for

sentencing based on questions concerning one of the firearms charges and the restitution. The term of incarceration was reduced from 20 to 13 years.

Baggett was the owner and operator of Chemical Consultants, which was in the business of mixing, selling, and distributing various chemicals used in the trucking and construction industries in Utah. The chemicals were transported to customers in 55-gallon drums, which were returned to the business to be cleaned and reused. A variety of techniques were used to illegally clean the drums, including dumping the contents onto the floor or onto a paved alleyway behind the plant, and allowing the chemicals to evaporate. Baggett also instructed employees to wash out the drums directly into a sanitary sewer grate.

After the local sewer authority blocked the company's access to the POTW by plugging its sewer line, Baggett instructed employees to dump the residual chemicals and the process wastewater into this plugged sewer grate. After it spilled over, Baggett and/or his employees pumped the contents of the sewer grate into uncovered drums for evaporation. Once the chemicals in the drum were colorless, they dumped them onto a gravel area outside. Baggett was charged in Utah in September 2007 and fled the state in April 2008.

In July 2009, while on bond in the Utah case, Baggett travelled to Key West where he was involved in an altercation with local and federal law enforcement officers. As the agents attempted to arrest the defendant on a fugitive warrant, Baggett pointed his gun at them and was wounded as a result. Baggett pleaded guilty to using a deadly weapon, including a semi-automatic assault rifle against three EPA agents and a sergeant with the Monroe County Sheriff's Office.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division; the Bureau of Alcohol, Tobacco, and Firearms; and the Monroe County Sheriff's Office.

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United States versus Larry McKissick, No. 4:12-CR-40054 (D. Mass.), AUSA Anton Giedt.

TO THE TOWN OF CHARLTON, MASSACHUSETTS

On April 4, 2013, I entered a guilty plea to a criminal violation of the Clean Water Act for the negligent discharge of diesel fuel from my company's property at 11 Griffin Road in Charlton, MA and into the adjacent wetlands. The incident took place in June of 2010. The Massachusetts Department of Environmental Protection, which oversaw the cleanup over a six month period, has stated that its cost to clean up the fuel has been over \$600,000. I regret and apologize for my actions in connection with this incident. I have learned my lesson and am in the process of taking a course on the handling and response to oil and hazardous substance spills in order to avoid this type of incident in the future.

Larry McKissick, II
Charlton Welding and Repair
11 Griffin Road
Charlton, MA

Apology printed 4/27/13 in Worcester Telegram & Gazette

On April 4, 2013, Larry McKissick was sentenced to pay a \$75,000 fine and will complete a one-year term of probation to include four months' home detention. McKissick previously pleaded guilty to a negligent violation of the Clean Water Act (33 U.S.C. § 1319(c)(1)(A)).

The defendant is the owner of Charlton Welding and Repair, a trucking and plowing company. In June 2010, McKissick washed diesel fuel off the parking lot after the fuel had been released from a

storage tank on the property. An estimated 3,200 gallons of diesel fuel were released from the tank and washed into a tributary stream connected to the Quinebaug River. The fuel spill impacted nearby wetlands and residents of a housing complex, triggering a six-month cleanup response by the local regulators at a cost of more than \$680,000.

McKissick was further ordered to submit a written public apology within two weeks of sentencing to either *the Boston Globe Metro West Edition*, *Worcester Region Edition*, or *Worcester Telegram and Gazette*. He also must complete a spill prevention and countermeasures training course.

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

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United States versus Jason Cardinale, No. 9:12-CR-80209 (S.D. Fla.), AUSA Norman O. Hemming, III.

On April 4, 2013, Jason Cardinale was sentenced to pay a \$1,000 fine to be paid into the Magnuson-Stevens Fishery Conservation Management Act Fund. He also will complete a three-year term of probation. Cardinale, the owner of Samana Expert Fishing Charters, previously pleaded guilty to making a false statement (18 U.S.C. § 1001(a)(3)) to the National Oceanic and Atmospheric Administration.

Cardinale owned two fishing vessels for which he was issued commercial fishing permits for several species of fish, including king or Spanish Mackerel, South Atlantic Snapper, and Atlantic Dolphin and Wahoo. These permits required the filing of reports detailing the number of fish taken during a specific period of time.

From January 2010 through February 2012, Cardinale submitted false “No Fishing Activity Reports” to NOAA. The agency relies on such reports to properly manage the fisheries under its jurisdiction.

This case was investigated by the NOAA Fisheries Office of Law Enforcement and the Florida Fish and Wildlife Conservation Commission.

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United States versus David Ector, No. 8:12-CR-00574 (D. Md.), AUSA David I. Salem.

On March 13, 2013, David Ector was sentenced to serve a two-year term of probation. A fine was not assessed. Ector previously pleaded guilty to a Clean Water Act violation (33 U.S.C. § 1319 (c)(1)(A)) for discharging fill material into the Chesapeake Bay without a permit. As a condition of probation, the defendant was ordered to remove this material, at his own expense.

Ector owns a cliff-front property in Calvert County, Maryland. Over a two-day period in May 2010, Ector caused large rocks (rip rap) to be dumped over the cliff-face in to the Bay. Ector did not obtain the required permits for this activity. The rip rap also scraped away soil on the cliff-face as it slid down the slope, interfering with the critical habitat of the Puritan Tiger Beetle, an endangered species.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Fish and Wildlife Service.

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United States versus FSD Group, LLC, No. 1:13-CR-20025 (S.D. Fla.), SAUSA Jodi Mazer.

On March 5, 2013, FSD Group, LLC pleaded guilty to a smuggling violation (18 U.S.C. § 545) for the illegal purchase and sale of ozone-depleting substances (ODS). The company was sentenced to pay a \$100,000 fine, complete a three-year term of probation, and implement an environmental compliance plan. The company also will forfeit \$180,051, which covers duties owed to the United States Customs and Border Protection for incorrectly classified merchandise.

FSD Group, which also operates under the name Saez Distributors, is an international supplier and distributor of merchandise for heating, ventilation, air conditioning, and refrigerator systems, as well as equipment and products that contain ODS. The company has been in business for 35 years and is knowledgeable about the proper way to handle ODS. Between October 2008 and March 2009, however, the company illegally imported 65,592 kilograms of restricted HCFC-22, with a fair market value of approximately \$733,096.

This matter and others involving the smuggling and distribution of ozone-depleting substances are being investigated through a multi-agency initiative known as Operation Catch-22. To date, the initiative has resulted in the convictions of nearly a dozen individual and corporate defendants.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division, Immigration and Customs Enforcement Homeland Security Investigations, the Florida Department of Environmental Protection Criminal Investigation Bureau, and the Miami-Dade Police Department.

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