
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

December 2009

EDITOR'S NOTE:

Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin.

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

AT A GLANCE

Districts	Active Cases	Case Type / Statutes
D. Alaska	<u>United States v. Douglas Smith</u>	<i>Sea Otter Killing/ Lacey Act, Conspiracy</i>
D. Colo.	<u>United States v. Cargill Meat Solutions Corp.</u>	<i>Meat Packing Plant/ CWA Misdemeanor</i>
S.D. Fla.	<u>United States v. Bruce Bivins</u>	<i>Sea Turtle Eggs/ Lacey Act</i>
E.D. La.	<u>United States v. Georgios Stamou et al.</u>	<i>Vessel/ APPS, False Statement</i>
D. Mass.	<u>United States v. Stephen C. Delaney, Jr., et al.</u>	<i>Misbranding Fish/ Lacey Act</i>
W.D.N.Y.	<u>United States v. John Signore</u>	<i>Battery Storage/ RCRA</i>
W.D.N.C.	<u>United States v. Howard William Ledford</u> <u>United States v. Chiu Hung Lo (aka Sherry Lo)</u>	<i>Ginseng/ Lacey Act</i>
D.S.D.	<u>United States v. Wayne Breitag</u>	<i>Leopard Hunt/ Lacey Act, Smuggling</i>
W.D. Wash.	<u>United States v. Guadalupe Sanchez-Roman</u>	<i>Vegetable Oil Dumping/ CWA Pretreatment</i>

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Trials

United States v. Wayne Breitag et al., No. 1:09-CR-10035 (D.S.D.), ECS Trial Attorney James Nelson [REDACTED] AUSAs David Conner [REDACTED] and Timothy Maher ([REDACTED] and ECS Paralegal Bettina Baumer-Whitaker [REDACTED]



Defendant holding rifle

On October 30, 2009, a jury convicted Wayne Breitag for smuggling the hide of a leopard into the United States in violation of CITES. He also was found guilty of two Lacey Act violations.

Breitag traveled to South Africa in August 2002 to hunt leopards while guided by Jan Groenewald Swart, a South African outfitter, doing business as "Trophy Hunting Safaris." After Breitag killed one, Swart arranged to have the hide smuggled from South Africa into Zimbabwe, where he purchased fraudulent CITES export permits for the leopard hide. Breitag then submitted

applications to the U.S. Fish and Wildlife Service falsely claiming that he had hunted and killed the leopard in Zimbabwe. In November 2004, inspectors seized a shipment of five leopard hides and three leopard skulls at the Denver International Airport, which included the hide of the leopard that Breitag had illegally killed in South Africa in 2002. Swart served an eighteen-month prison sentence, and was deported upon his release.

This case was investigated by the United States Fish and Wildlife Service.

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Informations and Indictments

United States v. Stephen C. Delaney, Jr., et al., No. 1:09-CR-10312 (D. Mass.), ECS Senior Trial Attorney Elinor Colbourn [REDACTED], ECS Trial Attorney Jessica Moats ([REDACTED] AUSA Nadine Pellegrini ([REDACTED], and ECS Paralegal Kathryn Loomis [REDACTED]

On November 4, 2009, a four-count superseding indictment was returned charging Stephen C. Delaney, Jr., and South Shore Fisheries with Lacey Act false labeling and misbranding violations related to the labeling of fish as species or country of origin that were false or misleading.

Delaney is the president and owner of South Shore Fisheries, which operated primarily as a seafood packing and repacking company. In 2004, 2005 and 2009, the defendants are alleged to have relabeled or repackaged products for wholesalers, including in some cases falsely labeling them.

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

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Plea Agreements

United States v. Douglas Smith, No. 5:09-CR-0003 (D. Alaska), AUSAs Steven Skrocki [REDACTED] and Aunnie Steward [REDACTED]

On November 17, 2009, Douglas Smith, a non-native Alaskan, pleaded guilty to a Lacey Act conspiracy and a Lacey Act violation stemming from the illegal killing and attempted illegal sale of sea otters.

The plea agreement states that, beginning in July 2007 and continuing through October 2008, Smith conspired with an unnamed co-conspirator in a scheme to unlawfully harvest sea otters in order to sell their hides. Smith agreed to permit an unnamed co-conspirator to use his boat for the illegal killing of sea otters. In exchange for permitting the use of his boat, Smith received a percentage of profits from the subsequent sale of their hides by his co-conspirator. Neither Smith nor the co-conspirator are Alaskan Natives and, therefore, they are prohibited from hunting or killing sea otters. The Marine Mammal Protection Act further bars non-Alaskan Natives from possessing any non-authentic Native handicraft made from marine mammals or their parts.

This case was investigated by the United States Fish and Wildlife Service.

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United States v. Howard William Ledford, No. 1:09-mj-66 (W.D.N.C.), ECS Trial Attorney Shennie Patel ([REDACTED])

On November 9, 2009, Howard William Ledford pleaded guilty to two violations of the Lacey Act for the illegal purchase of wild ginseng over a two-year period. Between 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 the price of and demand for its roots remain high. 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 medicinal properties. Individuals who transport/buy or sell ginseng in interstate commerce must obtain the required export certificates and permits. Ledford unlawfully purchased wild ginseng worth approximately \$109,000.

This case was investigated by the United States Fish and Wildlife Service.

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

On November 9, 2009, Chiu Hung Lo pleaded guilty to one Lacey Act violation in connection with purchases of wild ginseng from an undercover agent over a three-year period. Lo was charged with purchasing wild ginseng out of season, purchasing ginseng without a dealer's license, and transporting ginseng in interstate commerce without the required export certificates. She admitted to making unlawful purchases of 136.9 pounds of wild ginseng with a fair market value of \$54,760.

This case was investigated by the United States Fish and Wildlife Service.

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United States v. Fleet Management Ltd., No. 07-CR-00279 (E.D. Pa.), ECS Trial Attorney Tom Ballantine [REDACTED] and AUSA Joan Burnes [REDACTED]

On November 3, 2009, Fleet Management Ltd. pleaded guilty to delivery of a false record, a misdemeanor violation. At sentencing, Fleet has agreed to pay a \$100,000 fine, and will make an additional \$25,000 community service payment to a Philadelphia organization that assists visiting merchant sailors. The charge stems from the actions of a chief engineer for the cargo ship *Valparaiso Star* who knowingly presented a false oil record book to the Coast Guard during an inspection at the Port of Philadelphia in January 2007. The false entry related to substantial changes in the ship's bilge water tank.

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

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United States v. Guadalupe Sanchez-Roman, No. 3:09-CR-5724 (W.D. Wash.), AUSA Jim Oesterle [REDACTED]

On October 28, 2009, Guadalupe Sanchez-Roman, a Mexican national, pleaded guilty to a CWA pretreatment violation for dumping wastewater containing grease and vegetable oil into the municipal sewers in Tacoma through floor drains at a self-service car wash. He was sentenced to time served (64 days) followed by one year's supervised release and may not re-enter the country without permission from U.S. authorities.

According to records filed in the case, the owners of Center Street Car Wash in Tacoma contacted the Tacoma City Public Works Department office after surveillance photos at the car wash showed the same man dumping what appeared to be oily waste water into their drain system on approximately 70 different occasions between April 2009 and August 2009. Numerous signs were visible stating that it is illegal to dump such waste. After EPA agents reviewed the photos, they identified the defendant and subsequently observed him retrieving a drum of waste from a restaurant, which was located near the car wash. They further saw Sanchez-Roman drive into a car wash bay where he proceeded to wash the truck after pulling the plug on the drum of cooking oil and grease waste.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with the assistance of the Tacoma Public Works Department.

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Defendant draining drum of oily waste water

United States v. John Signore, No. 1:09-CR-00339 (W.D.N.Y.), AUSA Aaron Mango



Shredded battery cases

On October 23, 2009, John Signore pleaded guilty to one RCRA storage violation for his involvement in the storage of shredded battery cases (known as “chips”), a hazardous waste.

Signore was a plant manager at the Tulip Corporation, which reprocessed and recycled these chips into a useable material. Tulip purchased the chips from various suppliers, and they were delivered to the plant in tractor trailers. Each load contained approximately 40,000 pounds of chips, a significant proportion of which were contaminated with lead.

From approximately October 2004 through July 2007, at Signore’s direction, the chips were occasionally stored outside the facility with the amount

steadily increasing as processing equipment broke down and the surplus of chips increased. In July 2007 state hazardous waste inspectors observed approximately 80,000 pounds of chips being stored without a permit. Samples of chips analyzed for lead confirmed that they were hazardous waste.

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

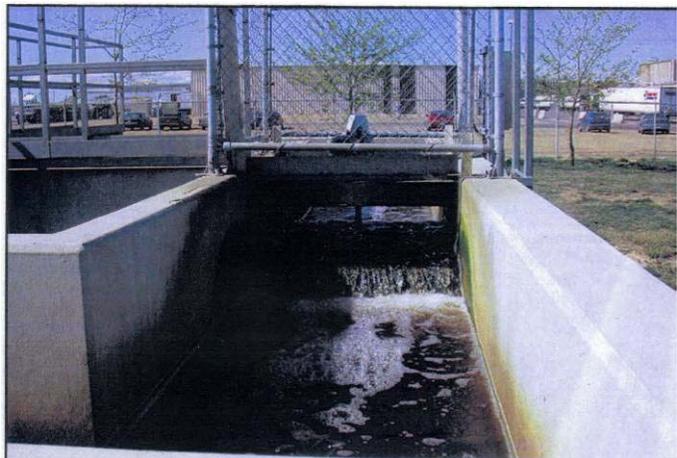
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Sentencings

United States v. Cargill Meat Solutions Corp., No. 09-MJ-01171 (D. Colo.), AUSA John Haried

On November 13, 2009, Cargill Meat Solutions Corporation (“Cargill”) was sentenced to pay a \$200,000 fine after pleading guilty to two negligent violations of the Clean Water Act.

Cargill operates a meat packing plant located in Fort Morgan, Colorado. The plant processes approximately 5,000 head of cattle and generates about 1,500,000 gallons of wastewater daily. A wastewater treatment plant is located on site to remove pollutants such as feces, dirt, and meat scraps from the wastewater that is discharged to the South Platte River. On one occasion in October 2003, the facility discharged wastewater that was above permitted



Contact chamber

limits for fecal coliform. On a separate occasion in July 2004, a wastewater sample revealed that Cargill had exceeded permitted limits for total suspended solids.

Under an administrative agreement with the EPA, the company also will implement a compliance plan which will include additional staff training, making mechanical upgrades to its wastewater treatment operation, and reassigning personnel who were responsible for the violations. Under this agreement, any further violations will subject Cargill to possible sanctions, including debarment from federal contracts.

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

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United States v. Qi Gui Nie, No. 1:09-CR-00218 (N.D. Ga.), AUSA Mary Roemer [REDACTED]



Box with false bottom concealing fish

November 10, 2009, Qi Gui Nie was ordered to pay a \$25,000 fine and will complete a five-year term of probation. Nie previously pleaded guilty to a smuggling violation stemming from importing endangered and prohibited wildlife into the United States through the port of Atlanta.

In October 2008, Nie, doing business as Lucky Fin, Inc., a North Carolina-based wildlife importer, attempted to smuggle ten live endangered Asian Bonytongue fish into the United States from Vietnam. During an inspection of Nie's shipments, false bottoms

were discovered hidden in boxes containing legally-imported fish and coral. The smuggled fish were found in the hidden compartments. 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. Asian Arowana fish are protected under the Endangered Species Act through CITES.

This case was investigated by the United States Fish and Wildlife Service.

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United States v. Bruce Bivins, No. 9:09-CR-80060 (S.D. Fla.), AUSA Lauren Jorgensen [REDACTED]

On November 9, 2009, Bruce Bivins was sentenced to serve two years' incarceration followed by three years' supervised release after pleading guilty to unlawfully possessing and transporting sea turtle eggs.

In May 2009, Bivins was stopped by a Town of Palm Beach police officer after he was seen carrying a bag near the edge of the Intercoastal Waterway. After the officer identified himself and asked Bivins to stop, Bivins took off running. The officer watched as Bivins ran toward the Intercoastal and saw him toss the bag he was carrying. The defendant then came back toward the officer and surrendered. The bag, which was recovered and searched shortly thereafter, contained 119 Loggerhead sea turtle eggs. Approximately half of the eggs were observed to be covered in sand, and

the other half were not, indicating that they may have been collected from a female sea turtle while she was laying the eggs and before they touched the ground. The defendant is appealing his sentence.

This case was investigated by the United States Fish and Wildlife Service and the Town of Palm Beach Police Department.

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United States v. Georgios Stamou et al., No. 2:09-CR-00186 (E.D. La.), ECS Trial Attorney Christopher Hale (██████████) and AUSA Dee Taylor (██████████).

On November 5, 2009, Georgios Stamou, a Greek citizen and the chief engineer of the bulk cargo ship *M/V Theotokos*, was sentenced to pay a \$15,000 fine and will complete a five-year term of probation. He is banned from U.S. ports and waters. The court cited the defendant's cooperation with the government when handing down the sentence.

Stamou, who previously pleaded guilty to an APPS violation and an 18 U.S.C. § 1001 false statement violation, was the third crewmember from the ship to plead guilty to crimes related to the discharge of oily wastes while on the high seas. Captain Panagiotis Lekkas and the second ranking officer, Charles Posas, both pleaded guilty to multiple felony counts and have been sentenced. The vessel management company Polembros Shipping Limited recently pleaded guilty to a five-count indictment for its role in the illegal discharges.

As chief engineer, Stamou was in charge of the engineering department and had been made aware that the oily water separator ("OWS") had stopped working. During a voyage from Korea to Panama, the defendant spoke with a company representative and notified him that there was a problem with the OWS. He then directed crew members to discharge bilge wastes knowing that they would necessarily be discharged directly overboard through the bilge line or sewage discharge valve. None of these discharges were noted in the oil record book, which was presented to Coast Guard inspectors in October 2008.

This case was investigated by the United States Coast Guard.

Are you working on Pollution or Wildlife Crimes Cases?

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

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

THANK YOU!

