
ENVIRONMENTAL CRIMES



MONTHLY BULLETIN

June 2009

EDITOR'S NOTE:

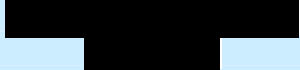
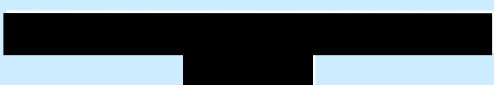
Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin.

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>.

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ATA GLANCE

- [United States v. Fleet Management Ltd.](#), 2009 WL 148313 (3rd Cir. May 28, 2009).

Districts	Active Cases	Case Type / Statutes
D. Ariz.	<u>United States v. Cedric Salabye</u>	<i>Eagle Feathers/ Bald and Golden Eagle Protection Act</i>
C.D. Calif.	<u>United States v. Peter Xuong Lam et al.</u>	<i>Mislabeled Catfish/ Lacey Act</i>
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M.D. Fla.	<u>United States v. STX Pan Ocean Co. Ltd., et al.</u>	<i>Vessel/ APPS, Conspiracy, False Statement</i>
S.D. Fla.	<u>United States v. Edward Saul Aria Ducker</u>	<i>Queen Conch Smuggling/ Lacey Act Conspiracy</i>
N.D. Ga.	<u>United States v. Ruzial Ltd.</u> <u>United States v. Qi Gui Nie</u>	<i>Endangered Wildlife Items/ Lacey Act</i> <i>Fish Imports/ Lacey Act</i>
D. Hawaii	<u>United States v. Jerome Anchets et al.</u>	<i>Freight Distributor/ RCRA Storage</i>
D. Idaho	<u>United States v. Cory King</u>	<i>Farm Manager/ SDWA, False Statement</i>
D. Md.	<u>United States v. Jerry Decatur Jr., et al.</u> <u>United States v. Keith Collins et al.</u> <u>United States v. John W. Dean et al.</u>	<i>Striped Bass Poaching/ Lacey Act</i>
D. Mass.	<u>United States v. Carmelo Oria et al.</u> <u>United States v. ExxonMobil Corporation</u>	<i>Vessel/ APPS</i> <i>Oil Terminal/ CWA Misdemeanor</i>

Districts	Active Cases	Case Type / Statutes
E.D. Mich.	<u>United States v. Wayne Duffiney</u>	<i>Intentional Vessel Sinking/ CWA</i>
D. Mont.	<u>United States v. WR Grace et al.</u> <u>United States v. Randall Reis</u>	<i>Vermiculite Mine Operator/ CAA, Conspiracy</i> <i>Chemical Manufacturer/ RCRA Storage</i>
W.D. Mo.	<u>United States v. John Richards</u>	<i>Turtle Exports/ Lacey Act false labeling</i>
D.N.J.	<u>United States v. Style Craft Furniture Co., Ltd., et al</u>	<i>Furniture Manufacturer/ Protected Wood Smuggling</i>
N.D.N.Y.	<u>United States v. Certified Environmental Services, Inc. et al.</u>	<i>Asbestos Air Monitor/ CAA, Conspiracy, Mail Fraud, TSCA, False Statement</i>
W.D.N.C.	<u>United States v. Kirby Case et al.</u>	<i>Treatment Plant Operator/ CWA, CWA Misdemeanor</i>
D. Ok.	<u>United States v. Christopher Gauntt</u>	<i>Treatment Plant Operator/ False Statement</i>
E.D. Tex.	<u>United States v. Lyle Hester et al.</u> [REDACTED]	<i>Water Treatment Systems/ RCRA Storage</i> [REDACTED]
W.D. Va.	<u>United States v. KIK (Virginia) LLC</u>	<i>Household Chemical Manufacturer/ CWA Misdemeanor</i>
S.D.W.V.	<u>United States v. David Blevins</u>	<i>Painting Company/ RCRA Storage</i>
E.D. Wash.	<u>United States v. Gypsy Lawson, et al.</u>	<i>Monkey Smuggling/ ESA</i>
W.D. Wash.	<u>United States v. Craig Magnusson</u> <u>United States v. Kevin Steele</u> <u>United States v. Craig James et al.</u>	<i>Illegal Pier Construction/ Rivers and Harbors Act</i> <i>Seafood Broker/ Lacey Act</i> <i>Old Growth Tree Damage/ Conspiracy to Commit Depredation against Forest Service Property</i>

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Significant Environmental Decisions

Third Circuit

United States v. Fleet Management Ltd., 2009 WL 148313 (3rd Cir. May 28, 2009).

Last year, in the month before trial was scheduled, the government filed an interlocutory appeal seeking to overturn a trial court ruling that a government inspector could not offer expert opinion testimony about whether a vessel had discharged oily waste at sea. On May 28, 2009, in a 2-1 split, the Third Circuit upheld the trial court decision, holding that the trial court had not abused its discretion in finding that the inspector's methodology was unreliable.

This is a prosecution against a shipping company and two individuals for (among other offenses) allegedly failing to maintain an oil record book documenting certain discharges of oil-contaminated sludge waste and bilge water from a cargo ship into the ocean while the ship was en route from Chile to Philadelphia. The alleged violation was discovered during a Coast Guard inspection of the ship in the port of Philadelphia in 2007.

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TRIALS

United States v. W.R. Grace et al., No. 9:05-CR-0007 (D. Mont.), ECS Senior Trial Attorney Kevin Cassidy [REDACTED] ECS Trial Attorney Jeremy Peterson [REDACTED] and AUSA Kris McLean [REDACTED]

On May 8, 2009, after hearing 11 weeks of testimony, the jury acquitted all defendants on all counts largely as the result of the court's excluding significant pieces of evidence from the jury's consideration. Defendants originally were charged with conspiracy to defraud government agencies, including the EPA, knowing endangerment under the CAA, and obstruction of justice. Grace owned and operated a vermiculite mine in Libby, Montana, from 1963 through 1990. Vermiculite was used in the production of many consumer products such as attic insulation and potting soils, as well as spray-on fireproofing for steel beams. The vermiculite from the Libby Mine was contaminated with a particularly friable and toxic form of tremolite asbestos. In the late 1970s, the company confirmed the toxicity and friability of its vermiculite through internal studies, which it failed to disclose to the EPA. Despite knowledge of the hazardous asbestos contamination, Grace continued to mine, manufacture, process, and sell its vermiculite and vermiculite-containing products, thereby endangering its workers, the community of Libby, its industrial customers, and consumers.

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

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United States v. Cory King, No. 4:08-CR-0002 (D. Idaho), AUSA George Breitsameter [REDACTED] and SAUSA Dean Ingemanson [REDACTED]



Bypass pipe

On April 30, 2009, a jury convicted Cory King on all four counts of violating the Safe Drinking Water Act and one count of making false statements. During the three-day trial, the jury heard evidence that King, the farm manager of the Double C Farms in Burley, Idaho, had willfully injected water from the feedlot into a waste disposal and injection well without having obtained a permit. The investigation also discovered two buried by-pass lines that allowed King to inject surface water without reversing the

backflow prevention valves. These buried by-pass lines could not be observed from the surface.

In May 2005, an Idaho State Agriculture inspector found that an earthen berm had collapsed and wastewater from the beef cattle feedlot was overflowing and running into a ditch that emptied into an irrigation pond. The inspector also discovered that two irrigation wells had their backflow prevention valves installed backwards, which allowed water in above-ground irrigation pipes to flow backwards down into the wells and into the subsurface. Later that day, the inspector returned and discovered the valves had been removed and reinstalled properly. Investigation revealed that King had submitted an application in 1987 to operate a deep underground injection well at the facility but had never been issued a permit.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Idaho State Agriculture Department, with assistance from the Idaho State Department of Water Resources.

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United States v. Wayne Duffiney, No. 1:07-CR-20501 (E.D. Mich.), AUSA Janet Parker

On April 28, 2009, Wayne Duffiney was convicted by a jury on three of the four charges stemming from the intentional sinking of his boat in waters connected to Lake Huron.

Duffiney specifically was convicted of violating the Clean Water Act by discharging pollutants into the navigable waters of the United States; sinking or causing the sinking of the *Misty Morning* in the navigable channels of Lake Huron; and of failing to mark the sunken vessel with navigation aids after it was sunk in the Lake Huron



navigation channel. He was acquitted on the charge of willfully causing and permitting destruction and injury to the boat in the territorial waters of the United States

In May 2007, Duffiney hauled his 44-foot boat, the *Misty Morning*, through the town of Cheboygan, Michigan, to the Cheboygan River without a trailer and dumped the boat into the navigable river. Duffiney then towed the damaged boat out into Lake Huron under cover of darkness and left it in the navigation channel. The next day, when Coast Guard officials discovered it, the boat was nearly vertical in the lake, with the bow at or near the surface and the stern toward the bottom. Duffiney was forced to tow it back into the Cheboygan River where he left it mostly submerged for a day or so before he pulled it from the water.

This case was investigated by the United States Coast Guard Investigative Service, and the Michigan Department of Environmental Quality.

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Informations and Indictments

United States v. Fleet Management Limited et al., No. 3:08-CR-00160 (N.D. Calif.), ECS Senior Trial Attorney Richard Udell and SAUSA Christopher Tribolet.

On May 26, 2009, the grand jury returned a third superseding indictment charging Fleet Management Limited ("Fleet"), a Hong Kong corporation, with the same CWA, MBTA, false statement, and obstruction counts relating to the discharge of oil from the *M/V Cosco Busan*, which crashed into the San Francisco Bay Bridge in November 2007, but added an amount of gross loss to persons that included at least \$20 million. The spill of more than 50,000 gallons of heavy fuel oil caused the deaths of approximately 2,000 migratory birds.

The company had announced its intent to enter an unconditional plea to the second superseding indictment and contested the applicability of the Alternative Fines Act. On May 27th, the court conducted a hearing at which Fleet requested that it be allowed to plead to the prior indictment. The court requested briefing on whether Fleet's announcement of its intent to plead guilty to the second superseding indictment precluded the government from seeking a third superseding indictment, as well as other issues. The ship's pilot, John Cota, pleaded guilty in March 2009 to CWA/OPA and MBTA counts and has been scheduled for sentencing on July 17, 2009.

This case was investigated by the United States Coast Guard Investigative Service, the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, the United States Fish and Wildlife Service and the California Department of Fish and Game, Office of Spill Prevention and Response.

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United States v. Certified Environmental Services, Inc., et al., No. 09-CR-00319 (N.D.N.Y.), ECS Trial Attorney Todd Gleason [REDACTED] and AUSA Craig Benedict [REDACTED]

On May 28, 2009, Certified Environmental Services, Inc. (“CES”), an asbestos air monitoring company and laboratory, was indicted along with the company owner, six present and former employees, and a supervisor of an asbestos abatement company. The indictment describes a decade-long scheme in which asbestos was illegally removed, scattered, and left behind in numerous buildings and homes in Syracuse and other upstate New York locations, while the air monitoring company and laboratory gave the abatement contractors false air results to use to prove to building owners that the asbestos had been properly removed. In other instances where asbestos was properly removed, fraudulent air monitoring still occurred.

The 17-count indictment charges CES, owner Barbara Duchene, supervisor Nicole Copeland, former supervisor Elisa Dunn, air monitors Sandy Allen and Thomas Juliano, and Frank Onoff, a supervisor for Paragon Environmental Construction, Inc., with conspiracy to defraud the United States; to violate the Clean Air Act; to violate the Toxic Substances Control Act, and; to commit mail fraud. The defendants are also charged with substantive Clean Air Act, mail fraud and false statements violations.

Paragon Environmental Construction, Inc., and another of its supervisors have previously pleaded guilty to felonies related to illegal asbestos abatement in violation of the Clean Air Act.

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

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[REDACTED]

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

On April 28, 2009, Qi Gui Nie was indicted on smuggling and Lacey Act charges for illegally importing and attempting to import 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, imported and attempted to import into the United States from Vietnam ten live endangered Asian Bonytongue fish. During an inspection of Nie's shipments into the United States, false bottoms were discovered hidden in boxes containing legally-imported fish and coral. The fish were located in the hidden compartments. The Asian Bonytongue fish, which is commonly referred to as the Asian Arowana fish, are highly sought after by the Asian community because it is believed that the fish will bring good fortune and protection 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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Pleas

United States v. John Richards, No. 6:08-CR-03098 (W.D. Mo.), ECS Senior Trial Attorney Georgiann Cerese

On May 28, 2009, John Richards pleaded guilty to a two-count information charging him with two Lacey Act false labeling violations. Richards, using the name of Loggerhead Acres Turtle Farm, was in the business of buying and selling reptiles in Missouri and via the Internet. Between 2003 and 2004, Richards exported endangered species of turtles, including Blandings and the western chicken species to Japan. Specifically, he admitted to providing documentation with two different shipments falsely indicating that there had been no charge for the turtles despite Richards' having received payment for them.

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

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United States v. Jerome Anches et al., No.1:08-CR-00577 (D. Hawaii) AUSA Marshall Silverberg

Stored hazardous waste

On May 26, 2009, Jerome Anches pleaded guilty to a RCRA storage violation. Anches and co-defendant Stephen Swift were variously charged in a five-count indictment with RCRA and mail fraud violations.

Anches was the president of Martin Warehousing and Distribution ("MWD"). MWD was in the business of transporting and distributing freight. In August 2001, there was a hazardous waste spill involving the puncture of a 55-gallon drum of tetrachloroethylene by a MWD forklift driver. MWD contacted the Honolulu Fire Department, which arrived and contained the spill.

MWD also contacted Pacific Environmental Company ("PENCO"), which specialized in the clean-up of hazardous wastes sites and the disposal of hazardous waste. Shortly thereafter, PENCO employees arrived to clean-up the site. After providing samples of this material to be tested by a lab, PENCO verified that the waste must be treated as hazardous and placed the material in a container on MWD's property.

PENCO then prepared manifests and hazardous waste labels for Anches and informed him that the company could transport the waste for proper disposal for approximately \$16,500. Anches declined the offer due to the cost and let the waste sit without proper permitting until February 2005.

In February 2005, Anches agreed to sell the MWD property to RRL, Inc., and to Swift, the *de facto* "responsible corporate officer" for RRL. The contract required that the hazardous waste be manifested and properly removed from the property. Swift or one of his employees, however, simply moved the container down the street from the RRL offices. The waste was moved again about a week later, from the street to property owned by Swift, without a manifest. Swift continued to unlawfully store this waste from February 2005 to May 2008.

In a letter dated January 4, 2008, the Department of Health for the State of Hawaii wrote to Swift's attorney and asked a number of questions, including whether Swift had taken care of a container with the hazardous waste located on his property. Swift responded in a letter dated January 21, 2008, with a number of false statements, including the representation that the container located on the Haleahi property did not contain waste but rather "damaged freight."

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

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United States v. Jerry Decatur, Jr., et al., No. 1:09-CR-00055 (D. Md.), ECS Senior Trial Attorney Wayne D. Hettenbach, ECS Trial Attorney Jeremy Peterson, AUSA Stacy Belf, ECS Paralegal Stephen Foster, and former ECS Trial Attorney Madison Sewell.

On May 15, 2009, Jerry Decatur, Jr., pleaded guilty to a Lacey Act violation for illegally taking and over-harvesting striped bass. He further pleaded guilty to an MBTA baiting violation for placing corn in an area to attempt to attract and take migratory birds. Co-defendant Jerry Decatur, Sr., pleaded

guilty last month to a similar Lacey Act violation and Kenneth Dent pleaded guilty to trafficking in illegally taken striped bass in violation of the Lacey Act.

On approximately 13 occasions between 2004 through 2007, Decatur illegally harvested more than 10,000 pounds of striped bass from the Potomac River. The defendant fished out of season, kept over-sized fish or used nets that violated applicable regulations. He then sold the catch to two fish wholesalers in Washington, D.C. Additionally, he failed to attach tags to the majority of the striped bass that he caught thereby exceeding his limit by thousands of pounds. In 2003 through 2007, Decatur harvested more than 65,000 pounds over his limit. The fair market retail value of this rockfish was in excess of \$329,000.

This investigation was conducted by an interstate task force formed by the United States Fish and Wildlife Service, the Maryland Natural Resources Police, and the Virginia Marine Police Special Investigative Unit.

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United States v. Christopher Neil Gauntt, No. 6:09-CR-00047 (E.D. Okla.), ECS Senior Trial Attorney Dan Dooher [REDACTED]

On April 29, 2009, Christopher Neil Gauntt, the former supervisor of the Fort Gibson Water Treatment Plant ("FGWTP") in Fort Gibson, Oklahoma, pleaded guilty to a false statement violation for falsifying a monthly operating report ("MOR") that certified the safety of drinking water from the facility.

Gauntt admitted that, on or about June 12, 2008, he submitted a MOR containing false data for drinking water that is provided to residents who rely upon the FGWTP for their drinking water.

Under the Safe Water Drinking Act, the FGWTP must certify that it is providing drinking water that is safe for human consumption. Gauntt admitted that he falsely recorded the turbidity and chlorine levels in the MOR that was submitted to the Oklahoma DEQ in June 2008. In August 2008, Fort Gibson alerted residents to the turbidity violations. Prior to the plea, the FGWTP indicated that it did not receive information that anyone experienced ill effects from the drinking water during that time period.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Oklahoma Attorney General's Office.

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United States v. STX Pan Ocean Co. Ltd., et al., No. 8:09-CR-00163 (M.D. Fla.), ECS Trial Attorney Leslie Lehnert [REDACTED], **AUSA Cherie Krigsman** [REDACTED], **and SAUSA Lt. William George.**

On April 24, 2009, STX Pan Ocean Co. Ltd. (STX), headquartered in Seoul, Korea, and the owner of the commercial cargo ship, *M/V Ocean Jade*, pleaded guilty to conspiracy as well as to falsifying and failing to properly maintain records. The ship's chief engineer Hong Hak Kang, a Korean citizen, also pleaded guilty to failing to maintain required ship's records and for making false statements.

According to court documents, in late July 2008, Kang ordered several crew members to dump approximately 10 barrels containing oily waste water directly overboard. Kang also made false entries into the ship's oil record book by applying a pre-established formula, rather than recording the actual amounts of oily waste and sludge transferred, burned or discharged. In September 2008, chief officer Jeong Gyu Lee, a Korean national, instructed several members of the deck department to dispose of oily waste from the crane houses directly into the ocean using a bypass hose that was placed over the

side of the vessel. When the *Ocean Jade* arrived in the Port of Tampa on October 7, 2008, ship's officers presented false oil and garbage record books and several crew members provided Coast Guard investigators with false statements about the prior dumping incidents.

Lee was sentenced on April 23, 2009, to time served followed by three years' supervised release, and will be allowed to immediately leave the country to return to Korea without violating his sentence. He previously pleaded guilty to an APPS and to an 18 U.S.C. §1001 false statement violation. The court declined to sentence Lee to the 20 days jointly recommended by the parties in the plea agreement. Although the court considered the issue of vessel pollution to be extremely serious and thought that everyone on the ship should be incarcerated, he expressed concern about how serving 20 days in jail would affect any future deportation proceedings.

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

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United States v. Cedric Salabye, No. 3:08-CR-00672 (D. Ariz.), ECS Senior Trial Attorney Georgiann Cerese [REDACTED] and ECS Trial Attorney Todd Mikolop [REDACTED].

On April 23, 2009, Cedric Salabye pleaded guilty to one count of violating the Bald and Golden Eagle Protection Act for selling parts from a bald eagle in August 2006.

Salabye was initially charged in a four-count indictment in June 2008, including a forfeiture count for the items he sold. As part of the plea, Salabye also agreed to forfeit all feathers which he sold, some of which actually were abandoned after sale.

Between July 2003 and August 2006, Cedric was charged with selling individual eagle feathers, as well as fans containing feathers, without a permit. The fans sold for as much as \$700.

Sentencing is scheduled for July 13, 2009, and this case was investigated by the United States Fish and Wildlife Service.

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Sentencings

United States v. Keith Collins et al., No. 8:09-CR-00049 (D. Md.), ECS Senior Trial Attorney Wayne D. Hettenbach [REDACTED] ECS Trial Attorney Jeremy Peterson [REDACTED], AUSA Stacy Belf [REDACTED] and former ECS Trial Attorney Madison Sewell.

On May 28, 2009, Keith Collins was sentenced to serve 13 months' incarceration followed by two years' supervised release. He was further ordered to pay a \$4,500 fine, as well as pay \$70,569 in restitution to the National Fish and Wildlife Foundation to support the Chesapeake Bay Striped Bass Restoration Account.

Collins is one of several fisherman who recently pleaded guilty to one felony violation of the Lacey Act for his involvement in the selling, buying, illegal harvesting, and systemic under-reporting of striped bass (also known as rockfish) taken from the Chesapeake Bay and Potomac River between 2003 and 2007. Collins was assisted in this scheme by two Maryland-designated fish check-in stations. In each year, he recorded a lower weight of striped bass than he actually caught. Collins and the check-in station operators would also falsely inflate the actual number of fish harvested. By under-

reporting the weight of fish harvested and over-reporting the number of fish taken, the records would make it appear that the defendants had failed to reach the maximum poundage quota for the year, but had nonetheless run out of tags. As a result, the state would issue additional tags that could be used by the defendants allowing them to catch striped bass above their maximum poundage quota amount. Collins admitted that the estimated fair market value of the fish involved in the illegal transactions was between \$600,000 and \$750,000. In addition, Collins falsely tagged many of the striped bass that he caught in pound nets with tags indicating that the fish had been caught using a hook and line.

As a result of these prosecutions, to date a total of 15 individuals and two fish wholesalers have been charged for illegally harvesting and under-reporting their catch of striped bass. Ten individuals and one company have pleaded guilty. Seven individuals including Collins have been sentenced to a total of 46 months in prison plus 13 months' home detention. Approximately \$165,500 in fines and \$284,800 in restitution have been ordered.

This case was investigated by an interstate task force formed by the United States Fish and Wildlife Service, the Maryland Natural Resources Police, and the Virginia Marine Police Special Investigative Unit.

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United States v. Kirby Case, et al., No. 3:08-CR-00212 (W.D.N.C.), AUSA Steven Kaufman ([REDACTED])

On May 28, 2009, Kirby Case was sentenced to pay a \$5,000 fine, complete a two-year term of probation to include two months' home confinement, and perform 400 hours of community service. Case, the operator of the POTW for the Town of Dallas, North Carolina, previously pleaded guilty to two CWA violations. Supervisor George W. Hughes, III, was sentenced on April 30, 2009, to pay a \$1,000 fine and will complete a one-year term of probation, stemming from his pleading guilty to a misdemeanor CWA violation.

Case admitted to discharging pollutants from the POTW into the Dallas Branch of the Catawba River Basin in violation of the POTW's permit. He also admitted to filing discharge monitoring reports with the North Carolina Department of Environment and Natural Resources between November 2006 and December 2007 that included falsified sample levels for chlorine, ammonia, fecal coliform, and other materials. Hughes pleaded guilty to failing to supervise Case as he diluted samples with tap water that were taken from the POTW.

In April 2008, the Town of Dallas was fined more than \$140,000 by the state for the improper operation and maintenance of the POTW resulting in discharges of poorly treated or untreated wastewater that blanketed a half-mile of the receiving stream with sludge four to eight inches deep.

The fine, the state's largest for water pollution, was imposed by the North Carolina Division of Water Quality, after an inspection in November 2007 revealed that the town's POTW was profoundly noncompliant, with half of its treatment capacity out of service and the remaining half overloaded with sewage solids. Solids also were present in the chlorine contact chamber. Since the chlorine chamber was not in use, the effluent from the plant was not disinfected. Although solids were being discharged with effluent, the town submitted samples that made it appear that the plant was adhering to the state's permit limits for the discharge.

During the inspection, the Dallas branch (a tributary of Long Creek) was observed to have a several-inch thick layer of partially-treated sewage about half a mile downstream from the plant's discharge point. State inspectors also found evidence of two unreported spills – one of untreated sewage, the other of partially treated wastewater – that reached the Dallas branch, as well. The Town has been fined by the state 27 times since March 2003 for amounts totaling nearly \$43,000.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the North Carolina Division of Water Quality.

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United States v. Edward Saul Arias Ducker, No. 1:08-CR-20035 (S.D. Fla.), AUSA Tom Watts-FitzGerald [REDACTED]

On May 27, 2009, Edward Saul Arias Ducker was sentenced based upon his earlier plea to conspiring to violate the Lacey Act for his involvement in the smuggling of large quantities of queen conch into the United States and Canada for commercial sale without required CITES permits. This is the final case brought under Operation Shell Game, a joint investigation by the U.S. NOAA/FWS and the Environment Canada Division of Wildlife. Ducker, a Honduran national who provided substantial assistance in the matter, was sentenced to five months' time served and a two-year term of supervised release. He will be released to INS for deportation.

The defendant had been the subject of a sealed indictment addressing his involvement from January 2003 through January 2006 in a scheme by which Honduran vessels controlled by Ducker harvested queen conch from Honduran waters and then transferred the product at sea to Columbian-registered vessels for landing and processing in Columbia. The conch was later shipped to Canada and to the United States, without required CITES permits, and in many instances, falsely labeled as Whelk, a cold-water mollusk not protected under CITES. The scheme involved more than 115,000 pounds of conch, with a retail value exceeding \$1.7 million.

The 18-month investigation was conducted by the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration Office for Law Enforcement, and Environment Canada's Wildlife Enforcement Branch, Wildlife Enforcement Division, in Halifax, Montreal, Toronto, and Vancouver. The United States National Marine Fisheries Service and Canadian and American border officials also contributed to this investigation.

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United States v. Lyle Hester et al., No. 1:08-CR-00067 (E.D. Tex.), AUSA Jim Noble [REDACTED]

On May 27, 2009, Lyle Hester, a shop foreman, and his son Kevin, the president of Simply Aquatics Inc., each were sentenced after previously pleading guilty to a RCRA violation. Kevin Hester will serve 20 months' incarceration and Lyle Hester will serve 14 months. Each is to be held jointly responsible for \$391,442 in restitution to be paid to the USEPA for clean-up costs.

Both originally were charged, along with the company, with conspiracy and four RCRA violations for illegally transporting and disposing of hazardous wastes. The charges against the company were dismissed.

Simply Aquatics is in the business of installing and servicing water treatment chemical injection systems for municipalities. In the process they used chemicals such as gaseous chlorine and sodium hydroxide to clean out the systems. In January 2007, investigators executed a search warrant on Kevin Hester's property and discovered that both Kevin and his father Lyle had buried 113 old compressed gas



Buried cylinders

cylinders in a ten-foot deep hole on the property. The investigators determined that 33 of the cylinders were under high pressure and contained a combined total of 952 pounds of chlorine gas.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Texas Commission on Environmental Quality, and the Texas Environmental Enforcement Task Force.

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United States v. Peter Xuong Lam et al., No. 2:07-CR-00449 (C.D. Calif.), ECS Senior Trial Attorney Elinor Colbourn [REDACTED] AUSA Joe Johns [REDACTED] and Supervisory Paralegal Will Taylor [REDACTED]

On May 18, 2009, Peter Xuong Lam and Arthur Yavelberg were sentenced after being convicted by a jury last October for their roles in a scheme to import misbranded Vietnamese catfish (*Pangasius hypophthalmus*.) Lam was sentenced to serve 63 months' incarceration and will forfeit more than \$12 million. Yavelberg will complete a one-year term of probation. Lam was found guilty of conspiring to import mislabeled fish in order to avoid paying federal import tariffs. He also was found guilty on three counts of dealing in fish that he knew had been illegally imported. Yavelberg was found guilty of a misdemeanor conspiracy for trading in misbranded food.

To date, 12 individuals and companies, including Lam and Yavelberg, have been convicted for criminal offenses related to a scheme to avoid paying an anti-dumping duty or tariff by falsely labeling fish for import and then selling it in the United States at below market price. In January 2003, this tariff was placed on *Pangasius hypophthalmus* imports from Vietnam after a petition was filed by the catfish farmers of America who suspected that their prices were being undercut.

According to evidence presented at trial, two Virginia-based companies, Virginia Star Seafood Corp., of which Lam became president, and International Sea Products Corporation, illegally imported more than ten million pounds, or \$15.5 million worth, of frozen fish fillets from Vietnamese companies Binh Dinh, Antesco, and Anhaco between May 2004 and March 2005. These companies were affiliated with Cafatex, one of the largest producers in Vietnam of a fish called *Pangasius hypophthalmus*. Although the fish imported by Virginia Star and International Sea Products was labeled and imported as sole, grouper, flounder, snakehead, channa and conger pike, (a type of eel), DNA tests revealed that the frozen fish fillets were in fact *Pangasius hypophthalmus*, aka catfish.

Further evidence presented at trial showed that Kich Nguyen, the head of Cafatex, imported the fish to his son, Henry Nguyen, who oversaw Virginia Star, International Sea Products, and a third company, Silver Seas, of which Yavelberg was president. Lam then knowingly marketed and sold millions of dollars worth of the falsely labeled and illegally imported fish to seafood buyers in the United States as basa, a trade name for a more expensive type of Vietnamese catfish, *Pangasius bocourti*, and also as sole. All of the fish sold was invoiced to match the false labels that were still on the boxes. The jury convicted Yavelberg of marketing the fillets, without his necessarily knowing they had been mislabeled. The organizer of the smuggling conspiracy, Henry Nguyen, remains a fugitive and is believed to be residing in Vietnam.

This case was investigated by the National Oceanic and Atmospheric Administration Fisheries Office of Law Enforcement, the Food and Drug Administration's Office of Criminal Investigations, and the United States Immigration and Customs Enforcement.

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United States v. Garrett Smith, No. 2:07-CR-00573 (E.D. Calif.), AUSA Robert Tice-Raskin**Recovered Burmese tortoises**

On May 12, 2009, Garrett Smith was sentenced to pay a \$2,000 fine and will complete a three-year term of probation as the result of previously pleading guilty to conspiracy to smuggle wildlife. Smith originally was charged in a 21-count indictment with a variety of wildlife smuggling violations.

According to the indictment, Smith, working with an unknown international co-conspirator known as "Turtle Man," (believed to reside in Singapore), engaged in a conspiracy to illegally smuggle wild tortoises into the

United States for sale. The overseas conspirator and others acting at his direction obtained Burmese Star Tortoises and Indian Star Tortoises in Asia and sold them to Smith via e-mail transactions. The tortoises, which were illegally imported into this country without proper documentation and with misleading labels, were then sold to distributors and customers across the United States. Approximately 30 protected Indian Star Tortoises and five protected Burmese Star Tortoises were imported illegally. Burmese Star adults can sell on the black market for up to \$7,000 each, with juveniles and sub-adults selling for approximately \$3,750.

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

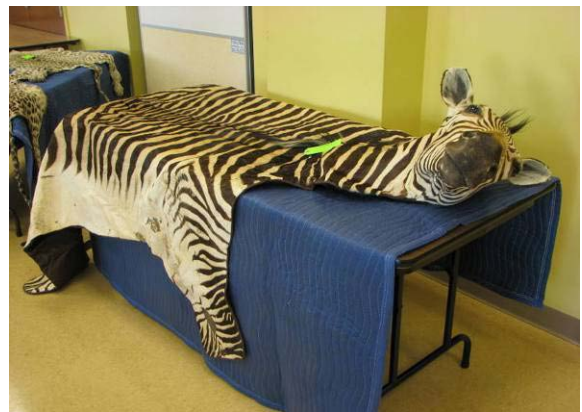
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United States v. Ruzial, Ltd., No. 0:09-CR-60088(S.D. Fla.), AUSA Tom Watts-FitzGerald

On May 11, 2009, Ruzial, Ltd., a Cayman Islands corporation, pleaded guilty to a Lacey Act felony violation after a luxury yacht owned by the corporation was intercepted with 29 wildlife items on board including specimens from protected species such as a reticulated python, lion, zebra and jaguar. Also seized were specimens of elephant ivory, stuffed tigers, wild feline skins and snake skin. Ruzial was sentenced to pay a \$50,000 fine which will go into the Lacey Act Reward Fund, and an additional \$100,000 to be paid to the National Fish and Wildlife Foundation ("NFWF").

In December 2007, the yacht registered in the Cayman Islands made entry into the United States at Port Everglades Florida. Inspection by customs inspectors and wildlife agents confirmed the presence on board of numerous wildlife items protected under CITES.

Some of the wildlife items were installed as fixtures on the vessel, while others were used as decoration. None of them had been properly declared to customs nor were they accompanied by the required permits and other documentation. The contraband wildlife is conservatively valued at more than \$85,000. All items were subsequently forfeited as part of the plea agreement. The \$100,000 payment to NFWF will be used to construct and install public information displays in the Southern

**Zebra skin**

District of Florida at selected international airports and international embarkation facilities for passengers departing the U.S., in order to acquaint them with the restrictions placed by domestic and international law on the trade and transportation of protected species.

This case was investigated by United States Immigration and Customs Enforcement's Office of Investigations, the United States Fish and Wildlife Service, and the United States Customs and Border Protection.

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United States v. Craig Magnusson, No. 2:08-CR-00215 (W.D. Wash.), AUSA Jim Oesterle (

On May 11, 2009, Craig Magnusson was sentenced to serve a one-year term of probation and a fine was not assessed. Magnusson was convicted in a bench trial earlier this year of violating the Rivers and Harbors Act.

The defendant, an attorney, constructed and maintained a pier, float, boatlift, and catwalk at his home on Lake Washington without obtaining a permit. The Army Corps of Engineers ("Corps") first issued a notice of violation to Magnusson for this activity in July 2001. After the Corps received a new complaint from county officials in June 2002, and photos of the work in April 2003, the Corps issued a second letter directing Magnusson to cease any further work, remove the existing work, or apply for an after-the-fact permit. The defendant was charged by indictment in June 2008 after he continued to ignore regulatory officials.

This case was investigated by the United States Army Corps of Engineers.

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United States v. Cannon Seafood, Inc., et al., No. 1:09-CR-00023 (D.D.C.), ECS Senior Trial Attorney Wayne D. Hettenbach **ECS Trial Attorney Jeremy Peterson (**
AUSA Stacy Belf, **ECS Paralegal Stephen Foster** **and former ECS Trial Attorney Madison Sewell.**

On May 8, 2009, two commercial fisherman and a seafood business were sentenced for their involvement in the selling, buying, illegal harvesting, and systemic under-reporting of striped bass (also known as rockfish) taken from the Chesapeake Bay and Potomac River between 2003 and 2007. Cannon Seafood Inc., its owner and president, Robert Moore, Sr., and employee, Robert Moore, Jr., each previously pleaded guilty to one felony violation of the Lacey Act.

Cannon Seafood was sentenced to pay an \$80,000 fine and \$28,000 in restitution. The Moores each were sentenced to complete 120 days of home confinement and complete a three-year term of probation. Robert Moore, Sr., was further ordered to pay a \$40,000 fine and \$15,000 in restitution, complete 100 hours of community service, and he must remain out of the seafood business. Robert Moore, Jr., will pay a \$30,000 fine and \$10,000 in restitution. He also must hang a sign outside Cannon Seafood during the period of probation stating: "Striped bass not sold here by order of U.S. District Court."

From April 2003 until June 30, 2007, the Moores bought striped bass from Thomas Hallock, a commercial fisherman from Maryland, and Jerry Decatur, Sr., and Jerry Decatur, Jr., two Virginia fisherman. The Moores knew that striped bass was regulated by size limits and only available for harvest during specific months. They were further aware that Virginia and Maryland required all commercially harvested striped bass to have plastic tags placed on them when they were caught.

According to court documents, during this time period, Hallock harvested more striped bass than allowed under his Maryland limit, and he did not report the striped bass that he was selling to

Cannon Seafood. He also caught the fish during the spawning season, when commercial harvest is prohibited, and sold this fish to the wholesale business. In turn, Moore, Jr., and other Cannon employees, on behalf of the company, generated and provided Hallock with false receipts for the Maryland-caught striped bass that had been transported from Maryland into the District of Columbia. These receipts falsely reflected that Cannon had purchased another species of fish from Hallock, and they also altered the weight and price of the fish in order to conceal the striped bass purchase. During this time period, Cannon Seafood generated 168 false receipts for more than 62,000 pounds of Maryland striped bass and paid Hallock more than \$139,000 for this fish.

Further, Moore, Sr., and other company employees arranged for and purchased striped bass from the Decatur that had been transported from Virginia into the District of Columbia, and which did not have the required tags. Moore, Jr., regularly saw striped bass that had been purchased from the Decatur without these tags and knew that Cannon was buying the bass illegally. The majority of untagged fish that Cannon bought from the Decatur was caught and bought during the prohibited spring striped bass spawning seasons. During this time period, Cannon purchased more than 30,000 pounds of untagged striped bass from the Decatur and paid more than \$87,000 for the fish.

This case was investigated by an interstate task force formed by the United States Fish and Wildlife Service, the Maryland Natural Resources Police, and the Virginia Marine Police Special Investigative Unit.

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United States v. Carmelo Oria et al., No. 1:08-CR-10274 (D. Mass.), ECS Trial Attorney Todd Mikolop [REDACTED], AUSA Linda Ricci [REDACTED] and SAUSA Christopher Jones ([REDACTED])

On May 6, 2009, Carmelo Oria, a citizen of Spain and a chief engineer for the *M/T Nautilus*, was sentenced to serve one month's incarceration, followed by two years' supervised release. He also was ordered to pay a \$3,000 fine. The defendant recently pleaded guilty to an APPS violation for falsifying the oil record book.

Oria, who served as a chief engineer between January and March 2008, was responsible for all engine room operations. During that time, Oria ordered engine room crew members to discharge oil-contaminated bilge waste from the ship's bilges directly into the ocean. When the ship entered the port of Boston on March 22, 2008, the ORB failed to note or disclose those overboard discharges.

Consultores De Navegacion ("Consultores") the owner of the *Nautilus* pleaded guilty on April 6, 2009, to conspiracy, falsification of records, false statements, obstruction, and an APPS violation for failing to maintain an accurate ORB.

This case was investigated by the United States Coast Guard.

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United States v. David Blevins, No. 5:08-CR-00107 (S.D.W.V.), SAUSA Perry McDaniel**Hazardous waste drums**

On May 4, 2009, David Blevins was sentenced to time served and two years' supervised release. He was further ordered to pay \$18,755 in restitution.

Blevins, the former president and owner of Clearfork Coatings, Inc, a commercial painting operation, previously pleaded guilty to a RCRA storage violation. From February 2001 through May 2003, the defendant stored paint waste without a permit at the company's facility in Mullens, West Virginia, some of which was classified as hazardous for ignitability. The defendant's failure to properly treat or dispose of the waste resulted in significant cost to the property owner, Norfolk Southern Railroad, which had to pay for proper removal and disposal of the hazardous waste

and other materials left at the site.

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

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United States v. Style Craft Furniture Co., Ltd., et al., No.1:08-CR-00279 (D. N. J.), ECS Senior Trial Attorney Elinor Colbourn and AUSA Seth Kosto

On May 1, 2009, Style Craft Furniture Co., Ltd., ("Style Craft") pleaded guilty to one count of smuggling internationally protected wood and was sentenced to pay a \$40,000 fine and will complete a three-year term of probation. In addition, the company must pay for an advertisement in a publication in China and a second one in a publication in the United States, advising other members of the industry of its actions and the consequences. Style Craft, a manufacturer of wooden baby furniture located primarily in China, imported approximately \$15 million in declared value of wood furniture in 2004-2005.

On approximately May 23, 2005, the company arranged for a container of baby furniture, including cribs and changing tables, to be shipped from China into the United States at Port Elizabeth, New Jersey. The furniture contained ramin wood. According to the factual statement, the invoice that Style Craft initially submitted to federal authorities when the shipment arrived stated that the wood was Brazilian Marupa and New Zealand Raduata Pine. Neither of these wood species is protected by international or U.S. law.

After the shipment was detained for further examination, the defendant company provided a re-export certificate, issued under CITES, for the shipment. The certificate authorized on May 25, 2005, the re-export of 1.08 cubic meters of ramin from China. Sampling of the shipment indicated that the volume of ramin wood contained in the shipment was approximately 6.121 cubic meters.

Company president Danny Chien, who was similarly charged with a smuggling violation, will participate in a pretrial diversion program. Under his agreement, Chien accepts responsibility for his conduct, agrees to comply with specified conditions for a period of six months and, if he successfully completes the program, the charge against him will be dismissed.

Ramin is a light colored tropical hardwood found in tropical forests in parts of Southeast Asia, including Indonesia and Malaysia. These forests also serve in part as habitat for endangered orangutan. Indonesia has one of the highest rates of deforestation of any country, much of it due to

illegal timber harvest. As a result, the Indonesian government is attempting to combat the illegal harvest of timber, including ramin, in part to protect the remaining orangutan habitat.

This case was investigated by the United States Department of Agriculture Office of the Inspector General.

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United States v. ExxonMobil Corporation, No. 1:08-CR-10404 (D. Mass.), ECS Trial Attorney Gary Donner [REDACTED] AUSA Jonathan Mitchell [REDACTED] RCEC Andrew Lauterback [REDACTED] and SAUSA LCDR Russell Bowman.

On April 30, 2009, ExxonMobil Pipeline Company, a wholly-owned subsidiary of ExxonMobil Corporation, was sentenced to pay \$6.1 million after previously pleading guilty to a misdemeanor CWA violation stemming from the spill of approximately 15,000 gallons of low sulfur diesel oil into the Mystic River in January 2006.

ExxonMobil's oil terminal located in Everett, Massachusetts, includes an inland "tank farm," which is comprised of a tank loading rack and 29 large-scale oil storage tanks in which oil products were stored. Various above-ground pipes and valves connected those tanks to the terminal's marine transfer area located at the confluence of the Mystic and Island End Rivers. The Island End River flows into the Mystic River, which flows into Boston Harbor. Three berths were available for barges and ships to offload petroleum products that were piped to and stored in the tanks within the tank farm.

On January 9, 2006, the oil tanker *M/V Nara* docked at Berth 3 to unload petroleum products, including approximately 3.1 million gallons of low sulfur diesel ("LSD") oil. Later that morning, hoses running from the *Nara*'s tanks were attached to a product intake manifold on Berth 3. By mid-afternoon, pumps aboard the *Nara* began to pump LSD oil from the vessel through the manifold into a product receipt line that was connected to storage tanks on the tank farm. As it was being pumped from the *Nara*, the LSD flowed past a 10-inch seal valve located on Berth 3, which closed off a product receipt line from Berth 1. As a result of wear and tear, the valve did not close completely and leaked oil into the Berth 1 product receipt line.

ExxonMobil was aware of this defective valve after a contractor pressure-tested the valve in September 2005 and informed ExxonMobil that it leaked. Nevertheless, the company had failed to replace the valve by the time the *Nara* arrived in January 2006. As a result, LSD pumped from the vessel leaked through the defective valve into the Berth 1 product receipt line. At the other end of the line was a pressure relief valve capped by a 3/4-inch coupling, which had not been replaced in more than 30 years and was badly corroded.

As the oil continued to pump, this coupling burst causing it to leak into a line that already contained 2,500 gallons of kerosene which spilled along with 12,700 gallons of diesel oil into the Mystic River over a 24-hour period. A visible blue-green sheen on the river eventually spread up the Island End River and down to Boston Harbor, prompting several reports to the Coast Guard. ExxonMobil personnel did not discover the ruptured coupling and the full containment pan on Berth 1 until approximately 11:00 A.M. on January 11th, when the Coast Guard arrived at the facility to ask questions.



Low-sulfur diesel oil spill

As part of its plea agreement, ExxonMobil has agreed to pay the maximum possible fine of \$359,018 (twice the cost of the cleanup of the spill) and the cleanup costs of \$179,634. It will also make two community service payments. Specifically, it will pay \$1 million to the Massachusetts Environmental Trust to improve water quality in the Mystic River. This payment represents the largest settlement it has received since the Trust was founded. The company also will pay \$4,640,982 to the North American Wetlands Conservation Act Fund to be used to restore wetlands in Massachusetts. ExxonMobil further agreed that for the next three years, the Everett facility will be monitored by a court-appointed official and will be subject to a rigorous environmental compliance program.

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

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United States v. John Dean, et al., No. 8:09-CR-00049 (D. Md.), ECS Senior Trial Attorney Wayne D. Hettenbach [REDACTED] ECS Trial Attorney Jeremy Peterson [REDACTED] AUSA Stacy Belf [REDACTED] ECS Paralegal Stephen Foster [REDACTED], and former ECS Trial Attorney Madison Sewell.

During the week of April 27, 2009, three additional commercial fisherman were sentenced for illegally harvesting and under-reporting their catch of striped bass, also known as rockfish. The sentencings are part of the on-going prosecution of individuals and wholesalers who have participated in a black market to over-fish and under-report rockfish catch from the Chesapeake Bay and surrounding waterways, which is the largest spawning ground for striped bass on the East Coast.

John Dean was sentenced to serve one month of incarceration followed by five months of home detention. He also will pay a \$1,000 fine and was ordered to pay \$10,000 in restitution. Dean was responsible for overharvesting approximately \$100,267 worth of rockfish.

Thomas Crowder Jr., was sentenced to serve 15 months' incarceration followed by three years of supervised release. He also was ordered to pay a \$5,000 fine and \$96,250 in restitution. Crowder was responsible for overharvesting approximately \$956,200 worth of rockfish.

Charles Quade was sentenced to serve five months' incarceration followed by five months of home detention and three years of supervised release. He also was ordered to pay a \$1,000 fine and

\$15,000 in restitution. Quade was responsible for overharvesting approximately \$151,500 worth of rockfish.

The restitution will be paid into the National Fish and Wildlife Foundation Fund, which has established a Chesapeake Bay Rockfish Restoration Account. The fines paid by the defendants will be paid into the Cooperative Endangered Species Conservation Fund, which is maintained by the United States Fish and Wildlife Service.

Dean, Crowder and Quade each previously pleaded guilty to a felony Lacey Act violation, admitting that from 2003 to 2007 they illegally harvested rockfish with the assistance of a Maryland designated fish check-in station. In each year, they failed to record some of the striped bass that was caught or recorded a lower weight of striped bass than was actually caught. The three commercial fishermen and the check-in station operator would also falsely inflate the actual number of fish harvested. By under-reporting the weight of fish harvested, and over-reporting the number of fish taken, the records would make it appear that the defendants had failed to reach the maximum poundage quota for the year, but had nonetheless run out of tags. As a result, the state would issue additional tags that could be used by the defendants allowing them to catch striped bass above their maximum poundage quota amount.

Charges were filed in April 2009 against the fish wholesaler and its owner who operated the check-in station that assisted Dean, Crowder and Quade in violating the law. Golden Eye Seafood LLC and owner, Robert Lumpkins were charged with conspiracy to violate the Lacey Act and three substantive felony Lacey Act violations.

This investigation was conducted by an interstate task force formed by the United States Fish and Wildlife Service, the Maryland Natural Resources Police, and the Virginia Marine Police Special Investigative Unit.

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United States v. Gypsy Lawson et al., No. 2:08-CR-00026 (E.D. Wash.), AUSA Stephanie Van Marter

On April 27, 2009, three defendants were sentenced for their role in smuggling a rhesus macaque monkey into the United States from Thailand. Gypsy Lawson and her mother Fran Ogren each were sentenced to serve 60 days' incarceration followed by three years' supervised release. They also are jointly and severally liable for \$4,507.20 in restitution to be evenly divided between the Centers for Disease Control and the United States Fish and Wildlife Fund.

The two were convicted by a jury last year of two Endangered Species Act violations. Lawson and Ogren traveled from Thailand to Los Angeles International Airport in November 2007 and did not declare to customs officials that they were bringing any animals into this country. During the execution of a search warrant at Ogren's home in January 2008, several pieces of documentation were seized, including photographs and notes confirming how Ogren and Lawson obtained the monkey in Thailand and smuggled it into the United States. The monkey was later found at Lawson's home and taken into quarantine after the execution of a search warrant at her home. During the investigation authorities were quite concerned about the threat of a disease having already been transmitted to humans by the monkey. After it was placed in quarantine, it was confirmed that the monkey did not harbor any harmful viruses.

Among the items seized from Lawson were travel journals detailing the defendants' attempts to acquire a monkey small enough to conceal, as well as photographs of Lawson wearing loose fitting clothes with a bulge around her abdomen. The journals confirm that Lawson and her mother smuggled the monkey into the United States by hiding it under her shirt, pretending she was pregnant in order to get past authorities.

Co-defendant James Pratt previously pleaded guilty to a misdemeanor Lacey Act violation for possession and transportation of prohibited wildlife for his role in the case. He was sentenced to serve a one-year term of probation.

This case was investigated by the United States Fish and Wildlife Service and Immigration and Customs Enforcement with assistance from the Royal Thai Police and Natural Resources and Environmental Crime Suppression Division, which is based in Bangkok, Thailand.

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United States v. KIK (Virginia) LLC No. 7:09-CR-00001 (W.D. Va.), ECS Trial Attorney Lana Pettus [REDACTED] AUSA Jennie Waering [REDACTED], and SAUSA David Lastra [REDACTED]

On April 24, 2009, KIK (Virginia) LLC (“KIK”) was sentenced to pay a \$75,000 fine plus a \$25,000 community service payment to be divided equally between the National Fish and Wildlife Foundation Fund and the National Environmental Education Foundation Fund. The company will also complete a one-year term of probation. KIK previously pleaded guilty to a Clean Water Act misdemeanor violation for negligently discharging bleach into the sanitary sewer system in Salem, Virginia.

The company operated a facility that manufactured bleach and other household products. On September 4, 2003, local authorities discovered elevated concentrations of bleach in the sanitary sewer lines servicing the KIK facility. Investigation revealed that, from approximately November 2001 through September 2003, employees washed spilled and “off-spec” bleach into the plant’s floor drains, which led to the City of Salem’s POTW. The plant did not have a permit to discharge bleach to the sewer system and it was not monitoring its discharges.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, with assistance from the United States Fish and Wildlife Service and other members of the Blue Ridge Environmental Task Force.

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United States v. Kevin Steele, No. 2:08-CR-00376 (W.D. Wash.), AUSA Jim Oesterle [REDACTED] - [REDACTED]

On April 24, 2009, Kevin Steele, the operator of Mallard Cove Resources, a seafood brokerage business, was sentenced to serve 30 days’ incarceration, followed by three years’ supervised release. He also will pay a \$60,000 fine and \$100,000 in restitution to the National Fish and Wildlife Foundation. Steele previously pleaded guilty to a felony Lacey Act violation for the false labeling of a fish product and to a Lacey Act misdemeanor charge for introducing misbranded food into interstate commerce.

Steele was previously informed by a federal seafood program inspector that fish known as turbot or Greenland halibut could not be labeled or marketed as halibut. Despite that knowledge, between July 2003 and mid-2006, the defendant purchased more than 136,000 pounds of a fish commonly known as Greenland halibut or Greenland turbot from a fish wholesaler in Rhode Island. The fish was labeled as turbot and as a product from China. Steele then had the fish shipped to a cold storage facility where he directed that it be repackaged and relabeled as “Halibut Portions” or “Halibut Pieces,” and that it was a “Product of USA.”

The defendant sold more than 131,000 pounds of falsely labeled fish to retail stores and restaurants primarily in Utah and Texas.

The plea agreement required that Steele publish quarter-page advertisements in widely-circulated seafood industry magazines in which he describes his criminal conduct and apologizes for his actions.

This case was investigated by the National Oceanic Atmospheric Administration.

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United States v. Craig James et al., No. 3:07- CR-05642 (W.D. Wash.), AUSA Jim Oesterle [REDACTED]

On April 20, 2009, Craig James was sentenced to serve two years' incarceration followed by three years' supervised release for conspiring to steal and damage old growth western cedar trees in the Olympic National Forest. Some of the trees were nearly 600 years old.

Between November 2006 and February 2007, James and co-defendants Bruce Brown and Floyd Stutesman damaged and removed a variety of trees including 31 old growth western red cedar trees. United States Forest Service officers located the theft site after approximately thirty cords of cedar had been removed and sold to local mills. The defendants provided false documentation indicating the wood had been harvested from private property. A substantial quantity of the wood was considered "music wood," highly valued by manufacturers of musical instruments and found only in older trees. Evaluations indicate that the forest parcel damaged by James and his co-conspirators represents one of the last known stands of old growth western red cedar on the coastal plain in southwest Washington.

Brown was sentenced earlier this year to serve five months' incarceration followed by three years' supervised release. Stutesman was previously sentenced to serve five years' probation with a special condition of four months' home confinement. All three pleaded guilty to conspiracy to commit depredation against Forest Service property. On May 13, 2009, all three defendants were held jointly and severally liable for \$336,466 in restitution to be paid to the USDA Forest Service.

This case was investigated by the United States Forest Service Office of Enforcement and Investigations.

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United States v. Randall Reis, No. 2:07-CR-00009 (D. Mont.), ECS Trial Attorney Kevin Cassidy
and AUSA Kris McLean [REDACTED]

On April 15, 2009, Randall Reis was sentenced to complete a two-year term of probation and must perform 300 hours of community service. A fine was not assessed. After a two-day trial in September of last year, Reis was found guilty of two RCRA counts for the illegal storage of hazardous lead waste. Charges against the company were dismissed.

Reis was the 68-year-old CEO of MR3 Systems, Inc. ("MR3"), a chemical manufacturing facility, operating out of Butte, Montana, from 1999 through December of 2001. The facility both used and generated hazardous wastes, including toxic lead filter cake and corrosive liquids. Inspections conducted by the Montana Department of Environmental Quality ("MDEQ") confirmed that hazardous wastes were being illegally stored on site. The facility was closed in 2001 with the wastes left behind.

In June 2002, the owner of portable storage units rented by MR3 repossessed the storage units. He then emptied the contents, which included hazardous waste, onto MR3's parking lot. This prompted MDEQ to respond to an emergency situation in order to contain these wastes. During this process, officials discovered additional hazardous wastes stored at the defendants' facility, including


approximately 5,000 gallons of corrosive and cadmium toxic liquid in approximately ten storage vessels.

This case was investigated by Montana Department of Environmental Quality.

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