
ENVIRONMENTAL CRIMES



MONTHLY BULLETIN

November 2008

EDITOR'S NOTE:

Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin. If you have any significant and/or interesting photographs from the case, you may email these, along with your submission, to Elizabeth Janes: [REDACTED]. Material also may be faxed to Elizabeth at (202) 305-0396. If you have information to submit on state-level cases, please send this to the Regional Environmental Enforcement Associations' website: <http://www.regionallassociations.org>.

You may navigate quickly through this document using electronic links for *Active Cases*, *Additional Quick Links* and *Back to Top*. (Some of you may need to hold down the ctrl key while clicking on the link.)

ATA GLANCE

Districts	Active Cases	Case Type / Statutes
D. Alaska	<u>United States v. Mario Rivera et al.</u>	<i>Halibut Sales/ Lacey Act</i>
C.D. Calif.	<u>United States v. Peter Xuong Lam et al.</u>	<i>Catfish Imports/ Conspiracy, Lacey Act, Food and Drug Act</i>
N.D. Calif.	<u>United States v. James Saunders</u> <u>United States v. Casilda Shipping, Ltd. et al.</u>	<i>Whale Teeth Sales/ Lacey Act, Endangered Species Act</i> <i>Vessel/ Conspiracy, APPS</i>
D. Colo.	<u>United States v. Jerry Mason et al.</u> <u>United States v. Martin Villegas Terrones</u>	<i>Leopard Hunts/ Endangered Species Act</i> <i>Sea Turtle Products/ Smuggling</i>
M.D. Fla.	<u>United States v. Francisco Bagatela et al</u>	<i>Vessel/ APPS</i>
S.D. Fla.	<u>United States v. James Hanson, Jr., et al.</u>	<i>Queen Conch and Spiny Lobster Imports/ Lacey Act, Forfeiture</i>
D. Hawaii	<u>United States v. Jerome Anches et al.</u>	<i>Freight Transporter/ RCRA Storage, Mail Fraud</i>
D. Mass.	<u>United States v. Carmelo Oria et al.</u>	<i>Vessel/ APPS, Obstruction, Falsifying Records</i>
D. Md.	<u>United States v. Joseph Peter Nelson et al.</u>	<i>Striped Bass Harvesting/ Conspiracy, Lacey Act</i>
E.D. Mich.	<u>United States v. Bryan Mallindine et al.</u>	<i>Waste Disposal Facility/ CWA, False Statement</i>
D. Minn.	<u>United States v. Martin Meister et al.</u>	<i>Metal Finisher/ Conspiracy to violate CWA, CWA misdemeanor</i>
D. N. J.	<u>United States v. Holy House Shipping AB</u>	<i>Vessel/ APPS, False Statement</i>
N.D.N.Y.	<u>United States v. Paul Mancuso et al.</u>	<i>Asbestos Abatements/ Conspiracy to violate CAA, CERCLA and Mail Fraud; CAA, CERCLA</i>
D. Ore.	<u>United States v. Lenar Equipment, Inc.</u>	<i>Chinese Tractor Imports/ CAA</i>
D. R. I.	<u>United States v. Southern Union Company</u>	<i>Mercury Release/ RCRA Storage</i>
D. Utah	<u>United States v. Jay Atwater et al.</u>	<i>Furniture Restorer/ RCRA, CWA, SDWA</i>
W.D. Wash.	<u>United States v. STX Pan Ocean Co. Ltd. et al.</u>	<i>Vessel/ APPS, Misprision of a Felony</i>

Additional Quick Links

- ◇ [Trials](#) pp. 3 - 5
- ◇ [Indictments](#) pp. 6 - 9
- ◇ [Pleas](#) pp. 9- 11
- ◇ [Sentencings](#) pp. 11 - 16
- ◇ [Editor's Box](#) p. 17

Trials

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 ECS Supervisory Paralegal Will Taylor [REDACTED]

On October 29, 2008, Peter Xuong Lam was found guilty by a jury of conspiring to import mislabeled fish in order to avoid paying federal import tariffs. Lam also was found guilty on three counts of dealing in fish that he knew had been illegally imported. Arthur Yavelberg was found guilty of conspiracy to trade 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 tariffs by falsely labeling fish for import and then selling it in the United States at below market price.

According to evidence presented during the two week trial, two Virginia-based companies, Virginia Star Seafood Corporation, 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 aka basa.

An anti-dumping duty or tariff was placed on *Pangasius hypophthalmus* imports from Vietnam in January 2003, after a petition was filed by the catfish farmers of America. The petition alleged that this fish was being imported from Vietnam at less than fair market value.

Further evidence presented at trial showed that Kich Nguyen, the head of the Vietnamese producer, 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.

Many of the purchasers knew or should have known that the fish they were purchasing at less than market value was falsely labeled. Henry Yip, T.P. Company, David Wong, True World Foods, Inc., David Chu, Dakon International, Du Sa Ngo, Southern Bay, Joseph Xie, and Agar Supply all have entered guilty pleas related to their participation in these transactions. Sentencings in all but two of these cases are pending and are scheduled for February 23, 2009.

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

[Back to Top](#)

United States v. Bryan Mallindine et al., Nos. 2:07-CR-20037 and 20030 (E.D. Mich.), ECS Senior Counsel James Morgulec [REDACTED], AUSA Mark Chutkow [REDACTED] and RCEC David Mucha [REDACTED]

On October 21, 2008, after a three-week trial, all three defendants were found guilty. Michael Lanyard, a former president, general manager, and sales manager for Comprehensive Environmental Solutions, Inc. (“CESI”), was convicted on all nine counts in the indictment, including conspiracy, Clean Water Act, and false statement counts in connection with illegal discharges of millions of gallons of untreated liquid wastes from the facility. Bryan Mallindine, another former president and company CEO was convicted of one count of negligently bypassing the facility’s required pretreatment system, a misdemeanor violation of the CWA. Charles Long, a former plant and operations manager, was convicted on both counts for which he was charged, which were conspiracy and a CWA violation.



Bypass hose connecting to sewer

In 2002, CESI took over ownership and operations at a plant that had a permit to treat liquid waste brought to the facility through a variety of processes and then discharge it to the Detroit sanitary sewer system. The facility contained 12 large above-ground tanks capable of storing more than 10 million gallons of liquid industrial wastes. Although the facility’s storage tanks were at or near capacity, the defendants continued to accept millions of gallons of liquid wastes which the plant could not adequately treat or store. Furthermore, in order to reduce costs and maintain storage space at the facility for additional wastes, the defendants often bypassed treatment processes and discharged untreated wastes directly to the sewer, made false statements, and engaged in other surreptitious activities in order to conceal their misconduct.

Former plant manager, Donald Kaniowski, previously pleaded guilty to a CWA violation and is scheduled to be sentenced on November 17, 2008. CESI recently pleaded guilty to CWA and false statement violations and all four remaining defendants are to be sentenced in March 2009.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Federal Bureau of Investigation, with the assistance of the United States Coast Guard and the Michigan Department of Environmental Quality Office of Criminal Investigations.

[Back to Top](#)

United States v. Southern Union Company, No. 1:07-CR-000134 (D.R.I.), ECS Senior Trial Attorney Kevin Cassidy [REDACTED], AUSA Terrence Donnelly [REDACTED] SAUSA Diane Chabot [REDACTED] and ECS Paralegal Steve Foster [REDACTED]

On October 15, 2008, Southern Union Company was convicted by a jury on one RCRA storage violation. The company had been charged with two counts of illegal storage of waste mercury and one count of failing to immediately notify local authorities of a release of mercury from its facility.

During the three-week trial, the government presented evidence that Southern Union began a program in 2001 to remove from customers' homes gas regulators that contained mercury. Southern Union employees brought the regulators to a facility in Pawtucket, on the edge of the Seekonk River.

Southern Union initially hired an environmental services company to remove the mercury from the regulators, and then shipped the mercury to a facility in Pennsylvania for further processing.



Mercury on ground

When the removal contract expired, gas company technicians continued to remove the regulators from customers' homes. The defendant stored the mercury-containing regulators, as well as loose liquid mercury, in various containers including plastic kiddie pools in a vacant building at the facility.

The evidence showed that, in 2002, 2003, and 2004, a local gas company official drafted requests for proposals for removal of the mercury that was collecting at the facility. The company, however, never finalized the proposals or put them out to bid. By July 2004, approximately 165 mercury-containing regulators were stored at the site, as were various other containers, such as glass jars and a plastic jug, containing a total of more than a gallon of mercury.

In September 2004, vandals broke into the mercury storage building and took several containers of liquid mercury. Some of the containers were shattered causing mercury to be spilled around the facility's grounds. They also took some of the mercury to a nearby apartment complex. For about three weeks, puddles of mercury remained on the ground at the site, and more mercury lay spilled at the apartment complex. On October 19, 2004, a gas company employee discovered mercury on the ground of the facility and evidence that there had been a break-in.

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

[Back to Top](#)

Indictments

United States v. Paul Mancuso et al., Nos. 5:08-CR-00548 and 00611 (N.D.N.Y.), ECS Trial Attorney Todd Gleason [REDACTED] and AUSA Craig Benedict [REDACTED]

On October 16, 2008, Paul Mancuso, Lester Mancuso, and Steven Mancuso were charged with conspiracy to defraud the United States, violate the Clean Air Act, violate CERCLA, and commit mail fraud, in connection with the illegal removal of asbestos from numerous locations throughout central and upstate New York. Paul and Lester Mancuso also were charged with substantive CAA and CERCLA violations.

In 2003, Paul Mancuso was convicted of CAA violations related to illegal asbestos removal and disposal activities and in 2004 he was convicted of insurance fraud related to his prior asbestos business. As a result of those prior convictions he was prohibited from either directly or indirectly engaging in any asbestos abatement activities or associating with anyone who was violating any laws.

Paul and Steven Mancuso are brothers, and Lester Mancuso is their father. The present indictment charges that Paul Mancuso set up companies in the names of relatives and associates to hide his continued involvement with asbestos removal. He and his father thereafter engaged in numerous illegal asbestos abatement activities that contaminated various businesses and homes and, on multiple occasions he dumped asbestos from his removal jobs on roadsides and in the woods.

Steven Mancuso, an attorney, is charged in the conspiracy count with aiding his family in its illegal asbestos enterprise by preparing false and fraudulent documents to make it appear that their activities were legal and that they were entitled to payment for their work. Paul Mancuso and his family ran their illegal asbestos business from the offices of Steven Mancuso's law firm.

Ronald Mancuso, another brother of Paul and Steven Mancuso, pleaded guilty on October 2, 2008, to a conspiracy to violate CERCLA. Ronald admitted to participating in dumping asbestos in the woods in September and October 2005.

Paul, Steven and Lester Mancuso are scheduled for trial to begin on December 22, 2008, and Ronald Mancuso is scheduled to be sentenced on February 4, 2009. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the New York State ("NYS") Department of Environmental Conservation. Assistance was provided by the NYS Department of Labor, Asbestos Control Bureau; the NYS Worker's Compensation Board, Office of Fraud Inspector General; and the NYS Insurance Fund, Division of Confidential Investigations.

[Back to Top](#)

United States v. Joseph Peter Nelson, et al., No.8:08-CR-00482 (D. Md.), ECS Trial Attorneys Wayne Hettenbach [REDACTED] Madison Sewell [REDACTED] and Jeremy Peterson [REDACTED] and AUSA Stacy Belf [REDACTED]

On October 15, 2008, a seven count indictment was returned against commercial fishermen Joseph Peter Nelson and Joseph Peter Nelson, Jr., alleging conspiracy and Lacey Act violations for their role in illegally harvesting and systemically under-reporting their catch of striped bass from the Potomac River. In 2003 the men engaged in unlawful sales of striped bass with undercover officers posing as fish wholesalers who were part of the Interstate Watershed Task Force ("IWTF"). The

IWTF was a joint task force involving agents from Maryland, Virginia, and the U.S. Fish and Wildlife Service. The investigation subsequently revealed that in addition to these transactions, the fishermen had been catching more fish than allowed under their Maryland quota and under-reporting their catch to Maryland Department of Natural Resources since approximately 2003 or longer.

This case was investigated by the United States Fish and Wildlife Service, the Maryland Department of Natural Resources, and the Virginia Marine Police.

[Back to Top](#)

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

On October 2, 2008, two foreign firms that own and operate the *M/T Nautilus*, an oceangoing chemical tanker, were charged along with the ship's chief engineer for covering up discharges of oil-contaminated waste at sea.

Consultores de Navegacion S.A. ("Consultores") of Spain, Iceport Shipping Co. Ltd., ("Iceport") of Cyprus, and chief engineer Carmelo Oria of Spain were variously charged in a five-count superseding indictment with one count of conspiracy and one APPS violation for failing to maintain an accurate oil record book ("ORB") concerning the disposal of oil-contaminated waste. The three defendants also were charged with one count of making false statements to the Coast Guard regarding the overboard dumping of this waste. Additionally, Consultores and Iceport were charged with falsifying records with the intent to impede an investigation and with obstruction of justice.

The indictment charges that between June 2007 and March 2008, Consultores and Iceport, acting through Oria and senior engineers on the *Nautilus*, directed engine room crew members to use a metal pipe to bypass the ship's oil water separator and instead discharged the oil-contaminated waste directly overboard.

It is further alleged that during a port call in Boston in March 2008, the defendants presented a false ORB that did not disclose these illegal overboard discharges and that the defendants falsely stated to inspectors, among other things, that Oria never ordered the pumping of oil-contaminated waste overboard.

This case was investigated by the United States Coast Guard.

[Back to Top](#)

United States v. Jay Atwater et al., No. 1:08-CR-00114 (D. Utah), AUSA Jared Bennett [REDACTED]

On October 1, 2008, a furniture restoration business and its owner were charged with violations stemming from the dumping of hazardous solvents into a public sewer system. Jay Atwater and Heritage Restoration were charged with RCRA, CWA and SDWA violations.

The indictment states that, during the furniture restoration process, Atwater and others acting under his control used a solution containing between 70 and 76 percent methylene chloride to strip the paint. The rinse water generated during this process allegedly was dumped into sub-surface soil on numerous occasions between approximately 2000 and April 2007 in violation of RCRA.



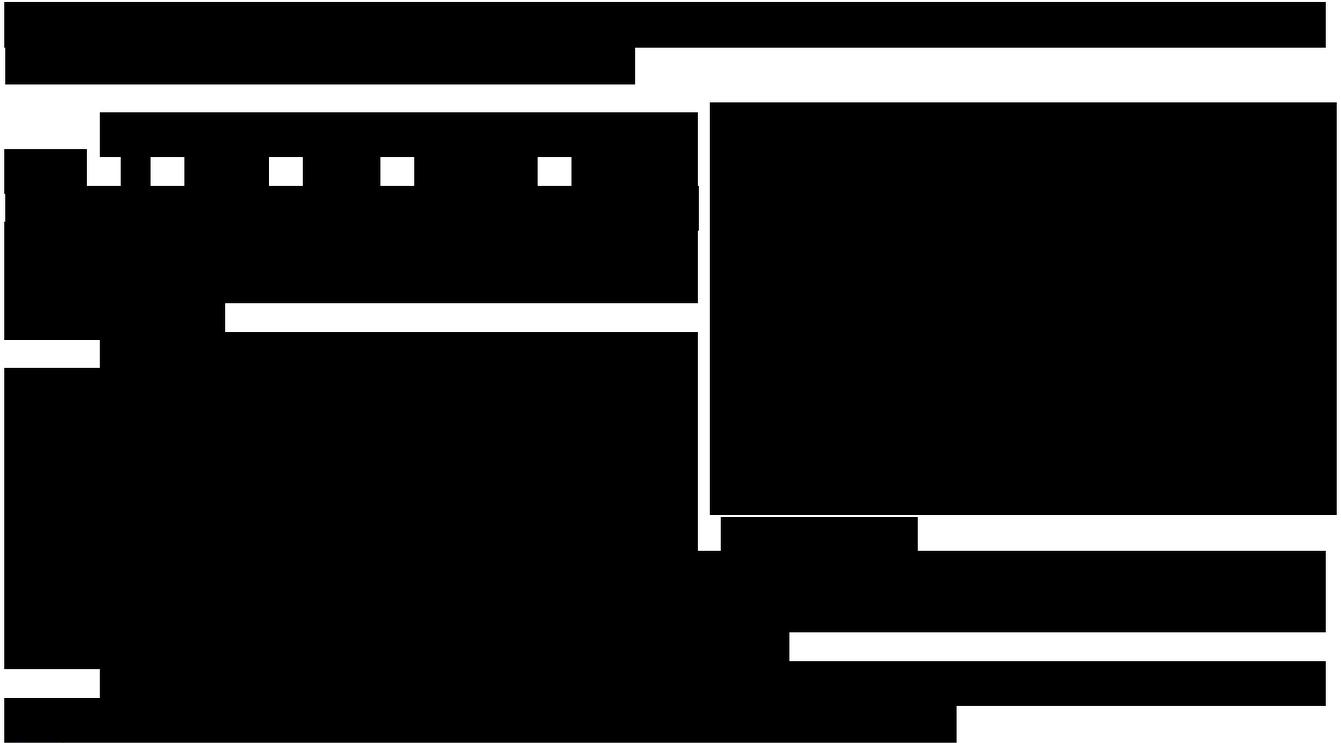
After April 2007, Atwater modified the process for disposing of the rinsewater by discharging it down

a sink that led into a POTW, in violation of the CWA, resulting in toxic fumes and vapors with the potential to cause acute worker health or safety problems.

Finally, the indictment alleges that the defendants violated the Safe Drinking Water Act and the state of Utah's Underground Injection Control Plan by performing numerous underground injections from 2001 to 2007 without a permit.

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

[Back to Top](#)



[Back to Top](#)

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



Corroded drum and battery

On September 24, 2008, a five-count indictment was returned variously charging Jerome Anches and Stephen Swift with RCRA violations and mail fraud.

Anches was the president of Martin Warehousing and Distribution ("MWD"). MWD was in the business of transporting and distributing freight. On or about August 14, 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 a fee of \$16,534. 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 WMD property to RRL, Inc., and to Stephen 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 where it sat on the street near 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."

Trial is scheduled for November 25, 2008. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

[Back to Top](#)

Pleas

United States v. Holy House Shipping AB, No. 1:08-CR-00782 (D.N.J.), ECS Trial Attorney Gary Donner [REDACTED] and AUSA Ron Chillemi [REDACTED].

On October 17, 2008, Holy House Shipping AB ("Holy House"), the operator of the *M/V Snow Flower*, pleaded guilty to one APPS violation and one 18 U.S.C. §1001 false statement violation.

Court documents state that crewmembers on the *Snow Flower* alerted the Coast Guard that they had been ordered by the chief engineer to discharge oily sludge overboard while bypassing the oily water separator. The discharges occurred during a voyage from Los Angeles, California, to Chile. In February 2008, during a port call in New Jersey, inspectors were presented with an oil record book containing false entries indicating that oil sludge had been burned at times when the incinerator was not in use. Inspectors further discovered a bypass pipe and were told by crew members that a valve malfunction had caused one of the ballast tanks to be contaminated with heavy fuel oil, which then was pumped overboard.

As part of the plea, Holy House has agreed to pay a \$1 million fine plus a \$400,000 community service payment to the National Fish and Wildlife Fund. The company has further agreed to complete a three-year term of probation and to implement an environmental compliance plan. Sentencing is scheduled for February 6, 2009.

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

[Back to Top](#)

United States v. James Saunders, No.3:08-CR-00724 (N.D. Calif.), AUSA Stacey Geis

On October 16, 2008, James Saunders pleaded guilty to three Lacey Act and three Endangered Species Act violations for selling Sperm Whale teeth without a valid permit, teeth that then were used for scrimshaw, the art of the engraving or carving figures on ivory pieces.

From 2002 to 2006, Saunders, along with a supplier from the Ukraine, arranged for the importation of large quantities of Sperm Whale teeth into the United States. Once the teeth were imported, Saunders then helped to get them sold to merchants who specialized in scrimshaw. On three specific dates between August 2003 and February 2004, Saunders admitted to participating in the importation of well over 600 Sperm Whale teeth from the Ukraine. The defendant was involved in sales valued at more than \$200,000.

Sentencing is scheduled for April 30, 2009. This case was investigated by the National Oceanic and Atmospheric Administration.

[Back to Top](#)

United States v. Francisco Bagatela et al., No. 8:08-CR-00424 (M.D. Fla.), ECS Trial Attorney Leslie Lehnert, AUSA Cherie Krigsman, and SAUSA Lt. William George.

On October 14, 2008, Francisco Bagatela and Robert Racho, two Phillipine citizens who served as chief engineers aboard a cargo ship operated by Hiong Guan Navegacion Japan Co. Ltd., pleaded guilty to falsifying and failing to properly maintain the oil record book for the commercial vessel *M/V Balsa-62*.

From June 2007 through February 2008, chief engineer Bagatela used a bypass pipe to discharge untreated oily bilge waste overboard approximately twice a month. He further directed other crew members to use the bypass, as well.

In February 2008, Racho replaced Bagatela as the chief engineer and continued to use the bypass pipe. Both Bagatela and Racho deliberately concealed these unlawful discharges from the Coast Guard by not recording them in the ORB. In December 2007 and May 2008, during port calls in Tampa, the ORB with the false entries and omissions was presented to inspectors. Based in part on information from crew members, the Coast Guard subsequently located evidence onboard corroborating allegations that the ship had been unlawfully discharging oily waste.

This case was investigated by the United States Coast Guard.

[Back to Top](#)



Bypass hose

United States v. STX Pan Ocean Co., Ltd. et al., No. 3:08-CR-05653 (W.D. Wash.), AUSA Jim Oesterle ([REDACTED]) and SAUSA LCDR Mark Zlomek.



Plastic bags on deck

On October 3, 2008, STX Pan Ocean Co., Ltd., ("STX") pleaded guilty to an APPS violation for failing to maintain an accurate Garbage Record Book. Two senior officers, Emilio Canillo and Bong Jun Gang, have pleaded guilty to misprision of a felony for failing to notify Coast Guard inspectors of the false book. STX was sentenced to pay a \$500,000 fine, and will make a \$250,000 community service payment to the National Fish and Wildlife Foundation for use in projects to restore Puget Sound.

The dumping occurred from the *M/V Pan Voyager*, a South Korean-flagged 17,000 ton ocean going bulk carrier. In July 2008, the ship was in South Korea unloading grain when crew members discovered a hole in one of the vents leading to a fuel oil tank. A substantial amount of grain spilled into the hole, entered the tank, and contaminated the fuel oil. Senior officers subsequently ordered lower level crew members into the tank to remove the contaminated grain.

Crew members used buckets and dust pans to remove the grain/fuel oil waste and dumped it into drums, plastic lined rice sacks, and large plastic garbage bags. The crew used one of the vessel's cargo cranes to lift the grain/fuel oil waste onto the main deck and dumped the bags of waste overboard at night. The plastic bags and rice sacks were punctured in hopes that they would sink and further reduce the risk of detection. Coast Guard inspectors further discovered that a section of the deck railing had been cut away and then welded back into place to facilitate the illegal dumping.

Captain, Hae Wan Yang, who was on the bridge and wing of the ship during the dumping and observed the activity, also pleaded guilty to making a false statement and will be sentenced on December 8, 2008.

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

[Back to Top](#)

Sentencings

United States v. Casilda Shipping, Ltd. et al., No. 4:08-CR-00448 (N.D. Calif.), AUSAs Stephen Corrigan ([REDACTED]) and Wade Rhyne ([REDACTED]) and SAUSA Lt. Jeffrey King.

On October 22, 2008, Casilda Shipping, Ltd., a Greek company that owns the *Rio Gold*, a 23,000 ton ocean-going cargo ship flagged in Malta; Genesis Seatrading Corporation, the Greek operator; and Pantelis Thomas, the Greek chief engineer, all pleaded guilty to and were sentenced for conspiring to violate APPS and for falsifying the oil record book to cover up illegal discharges.

All three defendants were sentenced to complete a three-year term of probation. Casilda Shipping also will pay a \$750,000 fine, \$250,000 of which will be paid to the National Fish and Wildlife Foundation for use in projects to restore the Northern California coast. Additionally, a

portion of the fine will be paid to the crew members who brought the violations to the attention of the Coast Guard. Genesis Seatrading was ordered to implement an extensive three-year environmental compliance plan during the term of probation. Thomas will pay a \$5,000 fine and complete an unsupervised term of probation.

Between July 2007 and May 2008, Thomas ordered the crew to use a bypass to illegally discharge oily waste overboard, as well as to discharge two large plastic barrels, one filled with oil sludge and the other filled with hydrochloric acid. The oil record book was falsified to conceal these activities as well.

Coast Guard officials were approached by four crew members while the ship was being inspected in Oakland on May 26, 2008. Subsequent investigation revealed the bypass pipe and the omissions and false entries made in the ORB.

This case was investigated by the United States Coast Guard.

[Back to Top](#)

United States v. Jerry Mason et al., No. 1:08-CR-00318 (D. Colo.), ECS Trial Attorney Jim Nelson (██████████) and AUSA Greg Holloway (██████████)

On October 17, 2008, Jerry Mason pleaded guilty to and was sentenced for an Endangered Species Act violation for smuggling a leopard hide into the United States. He was sentenced to pay a \$10,000 fine plus a \$10,000 community service payment to the National Fish and Wildlife Fund. Mason will further complete a four-year term of probation during which he will be prohibited from hunting anywhere in the world. Trial is pending against co-defendant Wayne Breitag.



Defendant Mason with leopard

According to the indictment, both Breitag and Mason traveled to South Africa in August 2002 to hunt leopards while guided by a South African outfitter named Jan Swart d/b/a "Trophy Hunting Safaris." Swart arranged to have the hides smuggled from South Africa into Zimbabwe, where he purchased the fraudulent export permits. Breitag and Mason then submitted applications to the U.S. Fish and Wildlife Service claiming to have hunted the leopards in Zimbabwe. In November 2004, inspectors seized animal parts at the Denver International Airport including those from the leopards killed by the defendants.

Leopards are listed on Appendix I of CITES. CITES requires that prior to the transport of any part of an Appendix I species from one country to another, an export permit from the country of origin (or a re-export certificate) and an import permit from the country to which the specimen will be shipped, must be obtained and accompany the shipment. The CITES authorities in South Africa set a yearly quota on the number of export permits issued by that country for Appendix I species, such as leopards. These permits are only issued for leopards that have been killed with a valid hunting permit.

Swart previously pleaded guilty to smuggling violations and is currently serving an eighteen-month prison sentence. This case was investigated by the United States Fish and Wildlife Service.

[Back to Top](#)

United States v. Lenar Equipment Inc., No. 3:08-CR-00281 (D. Ore.), AUSA Scott Kerin ([REDACTED])

On October 9, 2008, Lenar Equipment, Inc., pleaded guilty to and was sentenced for violating a little-used provision of the Clean Air Act for importing 10 Chinese-made tractors in 2005 that were not in compliance with U.S. emission standards.

This case is the first known criminal prosecution in the nation of a company violating the Clear Air Act's Transition Program for Equipment Manufacturers. That program restricts the manufacture and importation of non-road compression-ignited engines that do not comply with the CAA current emission standards, while allowing manufacturers to delay compliance for a limited period of time. It also imposes reporting and record-keeping requirements.

The company was sentenced to pay a \$ 20,000 fine, to complete a three-year term of probation, and will forfeit the tractors.

This case was investigated by the United States Environmental Protection Agency, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

[Back to Top](#)

United States v. Martin Villegas Terrones, No. 1:07-CR-00358 (D. Colo.), ECS Senior Trial Attorney Bob Anderson ([REDACTED]) **ECS Trial Attorney Colin Black** ([REDACTED]), and **AUSA Linda McMahan** ([REDACTED]).

On October 8, 2008, Martin Villegas Terrones, a Mexican national, was sentenced to serve 24 months' incarceration followed by three years' supervised release. Villegas Terrones pleaded guilty earlier this year to federal smuggling charges in connection with the sale and shipment of endangered sea turtle skins and skin products from Mexico to the United States.

A total of 11 people were charged in Denver in August 2007 following "Operation Central," a multi-year undercover United States Fish and Wildlife investigation. Villegas and six other defendants were arrested the following month. The seven defendants who were arrested in this case now have pleaded guilty: Chinese nationals Fu Yiner and Wang Hong; Mexican nationals Carlos Leal Barragan and Esteban Lopez Estrada; and Oscar Cueva and Jorge Caraveo from Texas.

There are seven known species of sea turtles. Five of the seven species are listed as endangered under the Endangered Species Act and all seven species are protected by CITES. Sea turtles are frequently killed illegally for their meat, skins, eggs and shell, all of which have commercial value.

Operation Central, a three-year undercover operation conducted by the United States Fish and Wildlife Service, has resulted in the arrests and guilty pleas of seven individuals from the United States, Mexico and China. Four of the indicted defendants remain at large.

[Back to Top](#)

United States v. Martin Meister et al., No. 2:07-CR-00294 (D. Minn.), AUSA David Genrich ([REDACTED])

On October 6, 2008, Martin Meister was sentenced to complete a two-year term of probation, complete 150 hours of community service, and make a community service payment of \$2,500 to the Mississippi River Fund in St. Paul. Meister, a plant manager for Eco Finishing Company ("ECF"), a metal finishing business, was convicted earlier this year, following a nine-day jury trial. He was convicted on eight negligent CWA violations along with the president of the company, Keith Rosenblum, who was convicted of a CWA conspiracy, two felony CWA violations, and 10 negligent CWA counts.

A superseding indictment was filed in January 2008 charging the defendants with conspiracy and several violations of CWA permit conditions related to, among other things, violations of limits on the company's discharge of metals and cyanide in its industrial wastewater. ECF, which operates around the clock, typically discharges approximately 60,000 gallons of industrial wastewater per day. Investigation began after the Metropolitan Council Environmental Services ("MCES") was contacted in January 2005 by an ECF environmental manager who was concerned about the company's wastewater treatment practices. The manager reported that violations documented during internal wastewater monitoring were not reported to MCES and that the facility's cyanide destruction system was not working properly. Internal documents revealed that the company was discharging levels of metals and cyanide that were well above the permitted limits.

Investigation further revealed that ECF on several occasions changed its production and wastewater treatment practices when regulators were conducting on-site compliance testing, by limiting its discharge of pollutants while it was being monitored. When regulators ended compliance testing, the company would resume normal operations, often resulting in violations.

Rosenblum recently was sentenced to serve 15 months' incarceration and was ordered to pay a \$250,000 fine. ECF pleaded guilty to one knowing CWA violation and previously was sentenced to pay a \$225,000 fine, \$25,000 in restitution to the Federal Transport Program, and is completing a three-year term of probation. Ted Gibbons, a former chemist for ECF, was sentenced in May 2006 to serve 18 months' incarceration followed by one year of supervised release. Gibbons pleaded guilty to one felony CWA pretreatment violation and two felony CWA tampering violations.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from the Federal Bureau of Investigation, the Minnesota Pollution Control Agency, and the Metropolitan Council Environmental Services.

[Back to Top](#)



[Back to Top](#)

United States v. James Hanson, Jr., et al., No. 1:08-CR-20627 (S.D. Fla.), AUSA Tom Watts-FitzGerald ([REDACTED]

On September 22, 2008, James Hanson, Jr., Hanson Seafood, Inc., and J.R.J.T., Inc., pleaded guilty to and were sentenced for Lacey Act violations for the illegal import of queen conch and spiny lobster from the Bahamas into the United States.

In December 2005, James Hanson was intercepted by a Coast Guard patrol vessel and taken to the Coast Guard Base at Miami Beach. During a boarding and inspection of his vessel, officers discovered more than 1,000 pounds of undeclared spiny lobster and approximately 340 pounds of queen conch, which had been purchased in the Bahamas. Hanson's intention was to land the seafood in the United States and market it through Hanson Seafood, Inc., a company he owned.



Defendant (foreground) on forfeited vessel

Hanson, who received a lesser sentence for cooperating with the government's investigation, was sentenced to pay a \$75,000 fine, ordered to perform 300 hours of community service, and will complete a three-year term of probation. He further was ordered to relinquish any claim to the proceeds of the seized product, which was valued at \$13,930. J.R.J.T., Inc., which is wholly owned by Hanson, was ordered to forfeit the boat used in the commission of the offense, a 37.8-foot sport fishing vessel, valued at approximately \$750,000. Hanson Seafood, Inc. is no longer an active business entity.

In imposing sentence, the court also took into consideration the pending donation by Hanson of approximately 223 acres of undeveloped property on Windley Key near Tavernier, Florida, to the State of Florida for preservation as a part of the Windley Key Fossil Reef Geological State Park. That property, which is comprised of mixed hammock, wetlands, and mangrove, and the surrounding shallows, are prime breeding and nursery habitat for queen conch and spiny lobster. Although not a condition of the resolution of the case, Hanson proposed the donation to state authorities to offset the consequences of his criminal offense.

Queen conch is a protected species under the Endangered Species Act and has been listed for protection under CITES Appendix II since 1992. To engage in trade in queen conch, all imports or exports must be accompanied by a CITES export certificate from the country of origin, or a re-export permit from a country of re-export.

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

[Back to Top](#)

United States v. Mario Rivera et al., No. 1:07-CR-00006 (D. Alaska), AUSA Steven Skrocki ([REDACTED]

On September 16, 2008, Mario Rivera was sentenced to pay a \$10,000 fine and will complete a three-year term of probation. Mario Rivera, along with co-defendants Jesse and Artimeo Rivera, pleaded guilty to misdemeanor Lacey Act violations stemming from their involvement in illegally selling and shipping halibut caught under the Sitka Sound Subsistence Halibut program.

The two brothers (Jesse and Mario) and their cousin (Artimeo) initially were charged in a seven-count indictment with conspiracy to violate the Lacey Act and substantive Lacey Act violations. They each were licensed as subsistence fisherman, which meant that they were only permitted to catch halibut for consumption purposes, and then only allowed to sell \$400 worth of fish in any given year.

In 2004, evidence obtained from fisheries observers provided grounds for the execution of search warrants on a Seattle seafood wholesaler. As a result of that search, investigators found checks and other records which established that, during the summer of 2003, the Riveras shipped more than 10,000 pounds of subsistence-caught halibut to the wholesaler. In exchange for the halibut, the Riveras were paid more than \$50,000.

Jesse Rivera was sentenced this summer to serve six months' imprisonment and will pay a \$40,000 fine. Artimeo Rivera was sentenced to serve one month in a half-way house and to pay a \$5,000 fine. Both also will complete a three-year term of supervised release with a special condition that prohibits them from engaging in any commercial or subsistence fishing.

This case was investigated by the National Marine Fisheries Service, Division of Law Enforcement.

[Back to Top](#)

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[Back to Top](#)