
ENVIRONMENTAL CRIMES



MONTHLY BULLETIN

August 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.regionalassociations.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.)

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Trials

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Indictments

United States v. Fleet Management Limited et al., No. 3:08-CR-00160 (N.D. Calif.), ECS Senior Trial Attorney Richard Udell [REDACTED] and AUSAs Stacey Geis [REDACTED] and Jonathan Schmidt [REDACTED]

On July 22, 2008, a grand jury returned a second superseding indictment charging Fleet Management Limited, a Hong Kong ship management company, with negligently causing the discharge of 50,000 gallons of oil from the *Cosco Busan* into the San Francisco Bay in November 2007. The company is further charged with falsifying documents to conceal the company's negligence after the ship crashed into the San Francisco Bay Bridge. Captain John Cota was previously charged in this matter.

Fleet Management, the company responsible for operating the *Cosco Busan*, was charged with three false statement violations and three counts of obstructing justice. According to the indictment, Fleet Management, acting through senior ship officers and shore-based supervisory officials, concealed documents with the intent to obstruct the investigation of the spill. The falsified documents include a fictitious passage plan for November 7, 2007, the day of the crash, as well as for two prior voyages made after the company assumed management of the vessel in October 2007.

The corporation is further charged with Clean Water Act misdemeanor violations and with violating the Migratory Bird Treaty Act for causing the death of protected species of migratory birds. As a result of the discharge of heavy fuel oil from the *Cosco Busan*, approximately 2,000 birds died, including brown pelicans, marbled murrelets, and western grebes. The brown pelican is a federally endangered species and the marbled murrelet is a federally threatened species and an endangered species under California law.

Fleet Management is now charged as a co-defendant with Cota, a California ship pilot who was responsible for navigating ships through challenging waters. On the day of the spill, while piloting the ship from port in heavy fog, the captain and the company purportedly failed to pilot a collision-free course and failed to adequately review the proposed course with the crew on official navigational charts. Further, the defendants allegedly failed to use the ship's radar as they approached the Bay Bridge, failed to use positional fixes, and failed to verify the ship's position using official aids of navigation throughout the voyage. These failures led to the ship's striking the bridge and causing the discharge of approximately 50,000 gallons of heavy fuel oil.

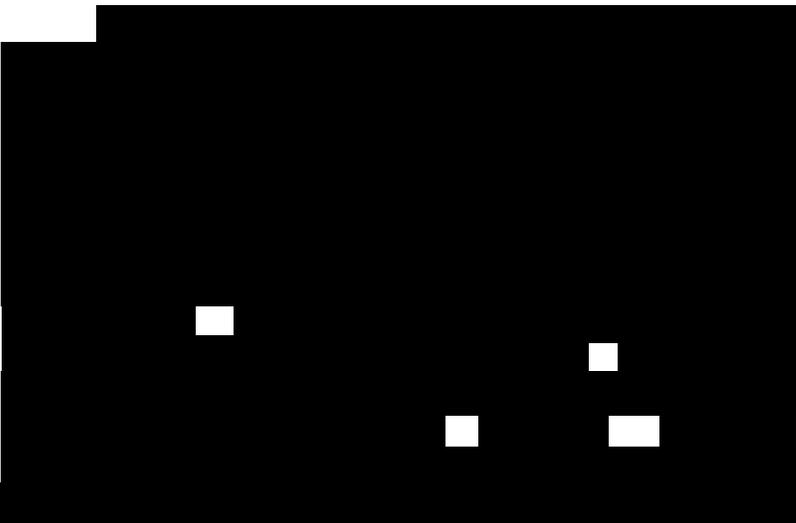
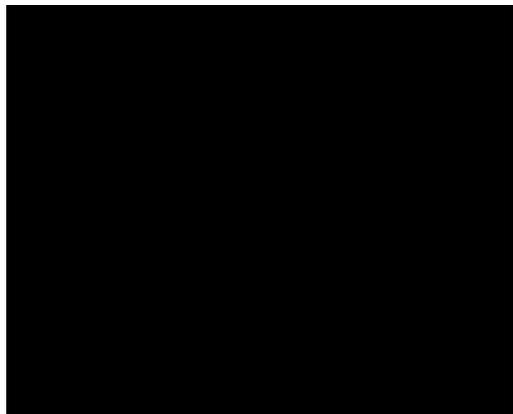
Fleet Management also is charged with negligence for failing to adequately train the new crew that it had placed on the ship and for failing to post an adequate lookout.

Cota also is charged with making false statements to the Coast Guard in 2006 and 2007 concerning his medications and medical conditions. Coast Guard regulations require that pilots have an annual physical examination that results in the completion of a medical evaluation form. The form must be completed by a licensed physician or physician's assistant, signed by the pilot, and then submitted to the Coast Guard. Cota is alleged to have knowingly and willfully made false statements on the forms when he certified that all the information he provided was complete and true to the best of his knowledge. In fact, the indictment states that Cota knew that the information he provided was neither complete nor true, including information regarding his current medications, the dosage, possible side effects and medical conditions for which the medications were taken.

On July 17, 2008, during a motions' hearing, the court denied Cota's motion to dismiss the Clean Water Act count and his motion to dismiss the false statement counts. The court granted Cota's motion to sever the false statement counts from the CWA and MBTA counts. A trial on the CWA counts is tentatively scheduled to begin on October 6, 2008.

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. Mac Rivenbark, No. 1:08-CR-20633 (S.D. Fla.), AUSA Tom Watts-FitzGerald

On July 10, 2008, an indictment was filed against Mac Rivenbark charging him with Lacey Act violations in connection with the illegal importation of more than 1,400 orchids from the Republic of the Philippines in February 2005.

The indictment alleges that, on February 25, 2008, Riverbank presented documents to customs authorities at Miami International Airport falsely stating that this shipment of orchids had been artificially propagated, when in fact they were collected from the wild in the Republic of the Philippines.

Orchids are protected under CITES and have been listed under the international treaty since January 1975.

This case was investigated by the United States Fish and Wildlife Service, the United States Department of Agriculture, Office of Inspector General, and the United States Immigration and Customs Enforcement.

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Orchids attached to tree bark

United States v. Thomas Jerry Nix, Jr., No. 3:08-CR-05015 (W.D. Mo.), AUSA Steven M. Mohlhenrich



Paddlefish roe

On July 9, 2008, Thomas Jerry Nix, Jr., was charged in a seven-count indictment for violations stemming from using illegal nets to harvest the roe (eggs) from paddlefish that subsequently was processed into caviar and sold to a Tennessee company. Between January 11 and February 11, 2008, Nix is alleged to have sold approximately 387 pounds of paddlefish caviar out of state for \$35,820.

The indictment states that, from December 31, 2007, to February 17, 2008, Nix and an unindicted co-conspirator participated in a conspiracy to transport and sell paddlefish roe that was taken in violation of state and federal laws. Nix set gill nets (a commercial fishing net set vertically in the water so that fish swimming into it are entangled by the gills in its mesh) in Table Rock Lake (“the Lake”). Nix returned to check the nets every one to three days, removing the fish that were caught, and relocating the nets on the Lake as the paddlefish moved upstream to spawn.

After removing and packaging the roe from the fish he had caught, and in order to conceal his illegal activities, Nix allegedly weighted the dead fish with rocks so that they would sink in the Lake. The defendant processed the roe into caviar, which was weighed, packaged, transported and sold in Tennessee. According to the indictment, Nix represented that the caviar had been lawfully taken in Arkansas, which was untrue since the defendant did not possess a fishing license from the state, nor did he possess the required permits and documents from the state of Missouri, where he resides.

On February 17, 2008, Nix and his co-conspirator were apprehended by Missouri Department of Conservation agents with approximately 78 pounds of unprocessed paddlefish roe. A search of the

defendant's residence revealed approximately 91 pounds of paddlefish roe that had been processed into caviar and packaged in containers labeled for sale to a company located in Tennessee.

In addition to conspiracy, Nix is charged with one Lacey Act violation for possessing and transporting unprocessed paddlefish roe taken in violation of federal regulations and five Lacey Act counts for transporting and selling paddlefish caviar across state lines. A forfeiture allegation will require Nix to forfeit equipment and vehicles, including a 20-foot Bumblebee 200 Pro boat and trailer.

The American paddlefish is native to the Mississippi River drainage system and is taken for both its meat and roe. Once common throughout the Midwest, over-fishing and habitat changes have caused major population declines. The paddlefish is a close relative of the sturgeon from which most commonly known caviars were obtained. With diminishing worldwide sturgeon populations and increased international protection for declining stocks, American paddlefish has become an increasingly popular and valuable substitute for sturgeon caviar. Female paddlefish reach reproductive maturity at nine to 11 years of age, producing up to 10 pounds of roe, and can weigh 100 pounds or more.

This case was investigated by the United States Fish and Wildlife Service and the Missouri Department of Conservation.

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



Rio Gold

On July 9, 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; were charged with conspiracy to violate APPS, substantive violations of APPS, false statements made to the Coast Guard, and the falsification of records. The charges stem from the illegal discharge of oil and garbage into the ocean on several occasions prior to the *Rio Gold's* call on the port of Oakland on May 26, 2008.

According to the indictment, 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.

The violations came to the attention of the Coast Guard after four crew members stepped forward while the ship was being inspected in Oakland on May 26, 2008. Subsequent investigation uncovered the bypass pipe and the omissions and false entries made in the oil record book.

This case was investigated by the United States Coast Guard.

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Pleas

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United States v. Alaska Electric Light and Power, No. 3:08-CR-00022 (D. Alaska), AUSA Aunnie Steward [REDACTED].

On July 16, 2008, Alaska Electric Light and Power (“AEL&P”) pleaded guilty to a violation of the Bald and Golden Eagle Protection Act for destroying a bald eagle nest during construction of the Dorothy Lake Hydroelectric project in southeast Alaska. The company was sentenced to pay a \$50,000 fine and will pay \$50,000 in community service, which is to be dedicated to raptor rehabilitation in southeast Alaska. An additional \$25,000 in restitution will be paid to the United States Forest Service as reimbursement for a historic cabin that also was destroyed during blasting.

As part of the permit for the project, AEL&P was required to minimize impact to the bald eagles in the area. The company was warned repeatedly that it was required to protect a tree known to contain a bald eagle nest and had been denied permission by the Department of Interior to take the tree down. Despite this knowledge, the tree with the nest was destroyed.

During the investigation it also was discovered that AEL&P was not in compliance with certain Clean Water Act requirements. These violations were dealt with through a civil resolution with the U.S. Environmental Protection Agency.

As part of its sentence, the company will serve 18 months’ probation during which time it will update a Juneau area raptor study completed in 2001 and ensure that any recommendations are carried out on any new facilities to ensure avian protection. AEL&P also will undertake education of its employees, agents and contractors regarding obligations under the Bald and Golden Eagle Protection Act.

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

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United States v. Darrel Norris et al., No. 3:08-CR-05487 (W. D. Wash.), AUSA Jim Oesterle
[REDACTED]

On July 15, 2008, Darrel Norris, a pigeon breeder, pleaded guilty to a Migratory Bird Treaty Act ("MBTA") violation for killing a peregrine falcon. The case is a result of a year-long undercover sting targeting bird club members accused of killing thousands of hawks and falcons.

Along with 11 other members of the Northwest Roller Jockeys Pigeon Club prosecuted so far, Norris raised "roller" pigeons for competition. The unusual birds stall in flight, tumbling downward and performing acrobatics. The stalls make rollers easy prey for falcons and hawks, prompting some pigeon owners to kill the protected birds.

Investigation revealed that roller pigeon club members had killed as many as 2,000 hawks and falcons annually. Among the species killed were Cooper's hawks, red-tailed hawks and peregrine falcons, all of which are protected by international treaty.

Ten other defendants have pleaded guilty to MBTA violations and have paid fines or have been sentenced to perform community service. The court sentenced Norris to complete 120 hours of community service, stating that a fine would be too burdensome on the 69-year-old defendant.

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

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United States v. Kirby Dean Case, No. 3:08-CR-00077 (W.D.N.C.), AUSA Steven Kaufman [REDACTED]
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On July 15, 2008, Kirby Dean Case, the operator of a wastewater treatment plant, pleaded guilty to two Clean Water Act violations. Case admitted to discharging pollutants from the Town of Dallas publically owned treatment works ("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.

On April 14, 2008, the Town of Dallas, North Carolina, 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, which found during an inspection in November 2007 that the town's wastewater treatment plant was severely 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. Lawrence Aviation Industries, Inc. et al., No. 2:06-CR-00596 (E.D.N.Y.), AUSA Mark Lesko [REDACTED]

On July 9, 2008, Lawrence Aviation Industries, Inc., (“LAI”) and its owner and operator, Gerald Cohen, pleaded guilty to RCRA violations for their roles in storing more than 12 tons of hazardous waste at the facility.

LAI began operating in 1959 and manufactured titanium sheets used primarily in the aeronautics industry. Cohen became the sole owner and operator of LAI in 1982. Part of the manufacturing process required the use of large tanks containing corrosive acid and base liquids. At some point in time, LAI stopped using two of the tanks in the manufacturing operations, and instead used them to store liquids and sludge.



Tank containing hazardous waste

An inspection and testing of the contents of the tanks by USEPA and NYDEC in April 2003, confirmed that they contained corrosive hazardous waste, which had been stored without a permit.

Sentencing is scheduled for November 7, 2008. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the New York Department of Environmental Conservation.

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United States v. HSKM, Inc., No. 1:08-CR-20365 (E.D. Mich.), AUSA Janet Parker [REDACTED] and SAUSA Dave Mucha [REDACTED].

On July 7, 2008, a corporation formerly known as Hoskins Manufacturing Company, and now known as HSKM, Inc., pleaded guilty to a TSCA violation.

Hoskins Manufacturing produced specialty nickel-chrome alloys and once had several facilities in Michigan, which it abandoned in 2001 when it went out of business. The violation specifically stems from the defendant’s abandonment of a PCB-containing transformer at one of its facilities.

Hoskins Manufacturing became the focus of a joint criminal investigation by EPA and MDEQ after Superfund emergency response teams responded to the three abandoned manufacturing sites in Michigan in 2003 and 2004. At sentencing, which is scheduled for October 7, 2008, the now-defunct corporation will be required to repay \$1.7 million in Superfund costs over the course of a year, and also will be required to publish a public apology.

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

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Sentencings

United States v. George Chittenden, No. 2:08-CR-00063 (E.D. Pa.), SAUSA Martin Harrell ([REDACTED]) and AUSA Cathy Votaw ([REDACTED]).



Agents sampling hazardous wastes

On July 21, 2008, George Chittenden was sentenced as the result of illegally storing hazardous waste in 2004 and 2005.

Chittenden, the owner of Spra-Fin, Inc., a powder-coating and painting facility, closed the facility in mid-2004, leaving behind a variety of wastes, including hazardous solvents, paints, and finishes. The wastes were stored in places such as unlocked trailers, a fenced area, and outdoors on a concrete pad for more than a year until they were discovered by EPA investigators in April 2005. In the summer of 2005, Chittenden attempted to complete an EPA-supervised clean up, but the agency had to finish the job in the fall of 2005. The defendant pleaded guilty in March of

this year to a RCRA storage violation.

Chittenden was sentenced to serve three years' probation with a special condition of five months' home confinement. He will complete 160 hours of community service within the first year of probation and publish advertisements detailing his conviction and sentence in a local newspaper and trade publication. Despite the fact that EPA spent more than \$140,000 in clean up costs, the court found that the defendant was financially unable to pay full restitution. He was ordered to pay \$12,000 during the term of probation.

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United States v. David Jacobs, No. 1:07- CR-00527 (N.D. Ill.), AUSA April Perry [REDACTED] and SAUSA Dave Mucha [REDACTED].

On July 17, 2008, David Jacobs, the president and owner of Northwestern Plating Works, Inc., was sentenced to serve 46 months' incarceration followed by three years' supervised release. Jacobs pleaded guilty in March of this year to a two-count indictment charging him with failing to properly dispose of hazardous wastes generated through the firm's electroplating processes and with embezzling nearly \$1 million from an employee pension plan.

Northwestern Plating had been active in the metal finishing business since the 1920s, but ceased operations in August 2005. The Chicago Department of Environment investigated the plant and discovered large amounts of plating chemicals and wastes. Between July 2005 and April 2006, Jacobs illegally stored and disposed of cyanides, acids, corrosives, brass, copper, zinc, and nickel in violation of RCRA.

The second count of the indictment states that the company operated an employee profit-sharing plan that provided retirement income to employees. The plan was administered by Jacobs, who also acted as the sole trustee for the plan. Between September 2001 and March 2005, Jacobs converted approximately \$830,000 in plan funds for his own use in violation of the Employee Retirement Income Security Act. As part of his sentence, Jacob will pay \$832,890 in restitution to victims of the pension fraud and \$1,259,695 in restitution to EPA for clean up costs.

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

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United States v. Ken Pap, No. 5:07-CR-04043 (N.D. Iowa), AUSA Forde Fairchild**Corroded drums**

the facility. Many of the drums were rusting, unmarked, and in danger of falling apart. The drums had been stacked two or three high and four to five deep in some areas. Inspectors determined that many of the areas were unsafe for inspection because of the condition of the drums.

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

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United States v. B. Navi Ship Management Services et al., Nos. 4:08-CR-00032 and 00033 (S.D. Tex.), ECS Trial Attorney Jim Nelson, ECS Senior Litigation Counsel Howard Stewart and SAUSA William Miller

On July 9, 2008, B. Navi Ship Management Services (“B. Navi Ship Management”), an Italian shipping company, was sentenced to pay a \$1.2 million fine and a \$500,000 community service payment to the National Fish and Wildlife Foundation. The company will complete a three-year term of probation and implement an environmental compliance plan with a court appointed monitor.

B. Navi Ship Management and chief engineer Dushko Babukchiev pleaded guilty in February of this year to charges stemming from the illegal dumping of oily sludge, bilge wastes, and oil contaminated ballast water from the *M/V Windsor Castle*, a 27,000 gross-ton bulk carrier vessel.

On August 17, 2007, the *Windsor Castle* was boarded by Coast Guard inspectors when it arrived at port in Houston, Texas. During the boarding, inspectors learned that the chief engineer had ordered crew members to dump oil sludge and bilge wastes into the ocean and had falsified the ship’s oil record book to conceal these discharges. With assistance from several lower level crew members, inspectors discovered and seized the bypass hose and pipes used to dump the oil sludge, bilge waste, and contaminated ballast water overboard.

B. Navi Ship Management pleaded guilty to an APPS violation and a false statement violation. Babukchiev pleaded guilty to a false statement violation and was sentenced in February to serve a three-year term of probation. A fine was not assessed

This case was investigated by the United States Coast Guard.

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United States v. Ronald Jagielo, No. 1:07-CR-00190 (W.D.N.Y.), AUSA Marty Littlefield (**Hazardous waste on the ground**

On June 30, 2008, Ronald Jagielo was sentenced to serve 21 months' incarceration followed by three years' supervised release. He also will pay \$1 million in restitution to the USEPA for cleanup costs.

Jagielo pleaded guilty in August 2007 to a RCRA violation for disposing of hazardous wastes between January 2004 and November 2006 at his family-owned business, MRS Plating. The wastes, containing cadmium, chromium and corrosive liquids, were dumped in and around his company's electroplating facility. The EPA currently is engaged in a clean-up of the facility as a Superfund waste site.

This is Jagielo's second felony conviction for violating criminal environmental laws. MRS Plating, a now defunct corporation, also was previously prosecuted in 1996 and in 2000. In 1996 MRS paid a \$40,000 fine plus more than \$16,000 in restitution. The company paid a \$90,000 fine and more than \$30,000 in restitution in 2000. Jagielo was sentenced to serve one year of incarceration in 2000 and paid a \$4,000 fine.

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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United States v. Andrew Noel et al., No. 3:07-CR-05656 (W.D. Wash.), AUSA Jim Oesterle (
and AUSA Carl Blackstone

On June 30, 2008, all defendants in this case involving an illegal whale hunt were sentenced. Wayne Johnson and Andrew Noel were sentenced to jail time (and were remanded into custody) after being convicted at trial this past April of conspiracy and a violation of the Marine Mammal Protection Act ("MMPA"). William Secor, Frankie Gonzales and Theron Parker pleaded guilty in March 2008 to an MMPA violation and each was sentenced to complete a term of probation.

Five members of the Makah Tribe were charged in

October 2007 with violations including conspiracy, unauthorized whaling and MMPA violations for the illegal killing of a gray whale off the coast of Washington in September 2007.

The day before the hunt, Noel sought weapons and ammunition from the Makah Tribe, claiming he was going to use the weapons for practice. He also received permission to borrow a 12-foot boat from the Tribe and obtained a large red buoy from a Makah tribal employee. On September 8, 2007, the five men set out from a location near Neah Bay in the 12-foot boat and a 19-foot boat registered to Frankie Gonzales.

Near Seal Rock off the northwest coast of Washington State, the men encountered a gray whale and struck it with at least four harpoons. They attached buoys to the whale to stop it from escaping,

**Gray Whale**

and then shot it several times with the high powered weapons obtained earlier. The fatally injured whale swam approximately nine miles and then, some 12 hours after it was struck, it died and sank in about 700 feet of water.

Johnson will serve five months' incarceration followed by one year's supervised release. He also will be required to complete 175 hours of community service. Noel will serve three months' incarceration followed by one year's supervised release. He will complete 200 hours of community service. Gonzales and Secor will complete two years' probation and 100 hours' community service and Parker will complete two years' probation plus 150 hours' community service.

This case was investigated by the National Oceanic and Atmospheric Administration Fisheries Service Office of Law Enforcement and the United States Coast Guard.

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United States v. Patrick Brown et al., Nos. 1:07-CR-0098 and 00339 (D. Md.), ECS Senior Trial Attorney Richard Udell () and AUSA Rod Rosenstein ()

On July 2, 2008, chief engineers Patrick Brown and Deniz Sharpe each were sentenced to complete two-year terms of unsupervised probation. Sharpe will pay a \$500 fine and complete 60 hours of community service and Brown will pay a \$1,000 fine and complete 80 hours of community service.

These were the last two defendants to be sentenced in the Pacific Gulf Marine ("PGM") prosecutions. Brown previously pleaded guilty to conspiracy and to an 18 U.S.C. § 1001 false statement violation and Sharpe pleaded guilty to an APPS violation.

Both defendants were employed as chief engineers for the *M/V Fidelio*. The *Fidelio* was one of four car carrier vessels managed by American-based operator PGM. From October 2001 through March 2003, the *Fidelio* used a bypass pipe to illegally discharge oil-contaminated bilge waste overboard. Brown knew of this practice and caused employees under his supervision to repeatedly discharge this unprocessed wastewater. He further was aware that the entries made in the oil record book ("ORB") under his supervision were falsified in order to conceal the illegal bypasses.

Sharpe admitted that, on November 17, 2003, he failed to note in the ORB that overboard discharges of bilge waste had been made without going through the oil water separator ("OWS"). During his tenure both as chief engineer and as first engineer, Sharpe was involved in the deliberate discharge of oil-contaminated waste water which had not been processed through the OWS and for which entries were either falsely made or omitted from the ORB.

PGM previously was sentenced to pay \$1.5 million after pleading guilty to circumventing the OWS on the four giant car carrier ships it operated.

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

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United States v. Ofer (Ships Holding) Ltd. et al., Nos. 4:08-CR-00103 and 00104 (S.D. Ga.), AUSA Jeff Buerstatte () with assistance from ECS Trial Attorney Chris Costantini ()

On June 27, 2008, Ofer (Ships Holding) Ltd ("Ofer") pleaded guilty to a two-count information for violations stemming from failure to maintain the oil record book ("ORB") for the *M/V Marseille*. The ORB was presented to U.S. Coast Guard personnel during a port inspection in October 2007. Investigation revealed that oily water discharges made through an illegal bypass had not been recorded in the ORB between October 5 and October 18, 2007. The company was sentenced to pay a \$780,000

fine and to complete a three-year term of probation. A portion of the fine, \$280,000, was applied toward the APPS violation and half of that will be paid to whistleblower crew members, who were directed to install a bypass pipe allowing wastes to be discharged illegally at night. One crew member will be paid \$126,000, and two other crew members will receive \$7,000 each for their assistance during the investigation.

[REDACTED]

This case was investigated by the United States Coast Guard.

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United States v. Zamorro Shone, No. 1:08-CR-20034 (S.D. Fla.), AUSA Tom Watts-FitzGerald

[REDACTED]

On June 27, 2008, Zamorro Shone was sentenced to time served, with credit for four and a half months' incarceration, and one year of supervised release. A fine was not assessed.

Shone, a Canadian citizen, pleaded guilty in May of this year to a two-count indictment for his involvement in the smuggling of significant quantities of misbranded queen conch from Canada to the United States in violation of the U.S. Food, Drug and Cosmetic Act.

From about October 2005 through March 2006, the defendant and others associated with a Hialeah-based seafood company, known as Caribbean Conch, Inc., caused multiple shipments of queen conch from Haiti through Canada to the United States, totaling 6,972 pounds. At the time queen conch from Haiti was under international embargo, and would have required special permit documentation to enter the United States, if legally harvested elsewhere.

Queen conch is protected under CITES, but it is not listed under the Endangered Species Act as a protected species. In September 2003, an embargo was enacted by the CITES parties for queen conch and conch products that originated from many of the conch-producing countries of the Caribbean to help stem the significant declines in the species due in large part to rampant illegal harvesting. The embargo banned all imports of queen conch to any nation that was a signatory to CITES.

Shone and his Canadian-based company, Pacific Marine Union Corporation, received the queen conch shipped by air from Haiti to Toronto, and they re-packaged it as "Frozen Whelk meat, product of Canada," arranging transportation by refrigerated truck to Hialeah, Florida. In March 2006, a shipment of 2,100 pounds of falsely-labeled conch was intercepted by a United States Fish and Wildlife Service Inspector in Buffalo, New York. The Fish and Wildlife Service's National Forensic Laboratory in Ashland, Oregon, conducted DNA analysis of the seafood product and confirmed it was queen conch and not whelk, which sometimes is used as a cheap substitute.

Co-defendants Janitse Martinez and Ramone Placeres each were sentenced in January of this year to serve two months' imprisonment, followed by one year of supervised release. Placeres was further ordered to pay a \$10,000 fine. Martinez and Placeres were, respectively, the owners of Caribbean Conch, Inc., and Placeres & Sons Seafood, Inc.

The 18-month long investigation by Canadian and American enforcement authorities led to the simultaneous execution of search warrants in both countries and the seizure of more than 63,000 pounds of illegally traded queen conch.

These cases were investigated by the United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration Law Enforcement Office, and the Wildlife Officers of 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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