ENVIRONMENTAL CRIMES

MONTHLY BULLETIN

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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.)

AT A GLANCE

- **United States v. McWane Inc., et al. --- F.3d ----, 2008 WL 794982 (11th Cir.(Ala.) Mar. 27, 2008)**

[redacted]

Districts	Active Cases	*Case Type* / Statutes
E. D. Ark.	**United States v. Wally El-Beck**	***Waste Incinerator/* Mail Fraud, Wire Fraud**
C. D. Calif.	**United States v. Ann Sholtz**	***Pollution Credits Trading/* Wire Fraud**
N. D. Calif.	**United States v. John Cota** **United States v. Luke Brugnara et al.** **United States v. Steven Tieu et al.** **United States v. Danny Yep**	***Vessel Pilot/* Negligent CWA, MBTA, False Statement** ***Blocking Access to Upstream Habitat/* ESA, False Statement** ***Stuffed Tiger Import/* Endangered Species Act, Lacey Act** **Asian Arowana Fish Sales/ *Endangered Species Act***
S. D. Fla.	**United States v. George A. Townsend, III.**	***Yellowfin Tuna Import/* Lacey Act**
N.D. Ill.	**United States v. Crown Chemical, Inc. et al.**	***Cleaning Products Wastewater/* Pretreatment CWA, Conspiracy**
E. D. La.	**United States v. M&N Foods, Inc.**	***Food Processor Wastewater/* Negligent CWA**
D. Mass.	**United States v. Albania Deleon et al.** **United States v. Aristides Couto**	***Asbestos Training Certificates/* CAA, False Statement, Mail Fraud, Tax, Conspiracy** ***Fish Wholesaler/* False Statement, Evading Currency Transaction Reporting Requirements**
D. Minn	**United States v. Keith Rosenblum et al.**	***Metal Finishing Waste/* Negligent CWA, Conspiracy,**
[redacted]	[redacted]	[redacted]

Districts	Active Cases	*Case Type* / Statutes
E. D. Mo.	**United States v. Jason Becks** **United States v. Matthew Burghoff**	***Hazardous Waste Abandoned/* RCRA** ***Asbestos Abatement/* CAA, Bank Fraud, Money Laundering, False Statement**
D. N. J.	**United States v. Danny Chien**	***Internationally Protected Wood/* Smuggling**
E. D. N. C.	**United States v. Paccship (UK), Ltd.** **United States v. James E. Johnson, Jr. et al**	***Vessel/* APPS, False Statement** ***Duck Hunt/* MBTA, Conspiracy**
W. D. Pa.	**United States v. Charles Victoria**	***Asbestos Abatement/* CAA, Conspiracy**
[redacted]	[redacted]	[redacted]
E. D. Tex.	**United States v. William Stoner** **United States v. John Mazoch**	***Importation of Harmful Fish/* Lacey Act** ***Gas Cylinder Storage/* RCRA, Conspiracy**
W.D. Wash.	**United States v. Frankie Gonzales et al.**	***Whale Hunt/* Marine Mammal Protection Act, Conspiracy**

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Significant Opinions

11th Circuit

United States v. McWane Inc., et al. --- F.3d ----, 2008 WL 794982 (11th Cir. (Ala.) Mar. 27, 2008)

On March 27, 2008, the Eleventh Circuit denied the government's petition for rehearing *en banc*. Judge Wilson (joined by Judge Barkett) issued a 20-page dissent from the denial of rehearing, in which he adopted many of the government's arguments and called the Eleventh Circuit panel's error "one of exceptional importance, implicating both the jurisdictional scope of the CWA and the interpretation of fragmented [Supreme Court] decisions generally." Further, Judge Wilson called the panel's decision to remand the case for new trial "bizarre" given that eight Supreme Court justices likely would have found CWA jurisdiction in the case. The government has 90 days to file a petition for *certiorari* with the Supreme Court.

On October 24, 2007, the Eleventh Circuit vacated the convictions in *United States v. Robison*, 505 F. 3d 1208 (2007), and remanded the case for a new trial. The court held that the district court failed, in light of *Rapanos v. United States*, 126 S.Ct. 2208 (2006), to provide the correct jury instructions on the jurisdictional issue of what constituted a "water of the United States" under the Clean Water Act, that the error was not harmless, and that the defendants therefore were entitled to a new trial on the Clean Water Act counts. The *Rapanos* case was decided by the Supreme Court almost one year after the trial had ended. The court also reversed the defendants' convictions on the conspiracy charge, without discussion, and on the false statement violation.

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District Courts

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Trials

United States v. Frankie Gonzales et al., No.3:07-CR-05656 (W.D. Wash.), AUSA Jim Oesterle [redacted]

Gray whale with buoys

On April 8, 2008, after a one-day bench trial, Wayne Johnson and Andrew Noel were found guilty of conspiracy and a violation of the Marine Mammal Protection Act ("MMPA").

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. William Secor, Frankie Gonzales and Theron Parker pleaded guilty March 27th to a MMPA violation.

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, and they then shot it approximately16 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. Secor, Gonzales and Parker are scheduled to be sentenced on June 6, 2008. Johnson and Noel are scheduled to be sentenced on June 20, 2008.

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. Keith Rosenblum et al., No. 2:07-CR-00294 (D. Minn.), AUSA David Genrich

Inside the plant, north line

On March 31, 2008, two top officials of the Eco Finishing Company ("ECF"), a metal finishing business, were convicted of multiple Clean Water Act violations following a nine-day trial. A jury convicted Keith Rosenblum, company president and CEO, of a CWA conspiracy, two felony CWA violations and 10 negligent CWA counts. Martin Meister, a plant manager, was convicted on eight negligent CWA violations.

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 60,163 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. This activity was designed to deceive regulators by limiting the company's discharge of pollutants when it was being monitored. When regulators ended compliance testing, the company would resume normal operations, often resulting in violations.

ECF pleaded guilty to one knowing CWA violation and was sentenced in February 2007 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 previously 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 FBI, the Minnesota Pollution Control Agency, and the Metropolitan Council Environmental Services.

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Indictments

United States v. John Cota, No. 3:08-CR-00160(N.D. Calif.), ECS Senior Trial Attorney Richard Udell [redacted] AUSA Stacey Geis [redacted] and AUSA Jonathan Schmidt [redacted]

Damage to Bay Bridge by the *Cosco Busan*

On April 22, 2008, a superseding indictment was returned adding charges that Joseph Cota made false statements to the Coast Guard concerning his medications and medical conditions in 2006 and 2007. Cota was the pilot of the *Cosco Busan*, a 65,131-ton container ship that collided with the San Francisco Bay Bridge this past November resulting in the discharge of approximately 58,000 gallons of oil. He was initially charged last month with a negligent violation of the Clean Water Act and a violation of the Migratory Bird Treaty Act.

According to court documents, Cota was licensed as a bar pilot and was utilized for navigating ships through challenging waters. In California, large ocean-going vessels are required to be piloted when entering or leaving port. On November 7, 2007, while piloting the *Cosco Busan* from port in heavy fog, Cota purportedly failed to pilot a collision-free course and failed to adequately review the proposed course with the captain and crew on official navigational charts. Further, Cota allegedly failed to use the ship's radar as he 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 several thousand gallons of heavy fuel oil.

The spill has caused the deaths of approximately 2,000 birds, 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.

The new charges include two counts of lying to the Coast Guard on annual medical forms. Coast Guard regulations require that pilots undergo 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.

This case is part of an on-going investigation being conducted 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. Luke Brugnara et al., No. 3:08-CR-00236 (N.D. Calif.), AUSA Maureen Bessette [redacted]

On April 10, 2008, Luke Brugnara and his corporation, Brugnara Corporation, were charged with four counts of "taking" steelhead trout in violation of the Endangered Species Act and two counts of making a false statement during the course of the investigation.

According to the indictment, Brugnara is alleged to have intentionally blocked the flow of Little Arthur Creek, an important watershed for steelhead, through his private dam on property purchased by his corporation in 2001 in Gilroy, California. Steelhead are known to migrate upstream of the dam on this property, and the population of steelhead in the Little Arthur Creek, running through the defendant's property, is listed as a threatened species. One of the reasons for this decline in steelhead populations is that their access to historic spawning and rearing areas upstream of dams has been blocked.

From approximately January 2007 through April 2007, the defendant allegedly closed off the opening or portal in his dam which had allowed the steelhead to migrate upstream. State and federal investigators located and observed numerous trapped adults downstream of the dam that were unable to migrate upstream to suitable spawning habitat. A federal fisheries biologist determined the trapped adult steelhead were of paramount importance to the survival of the species due to their low number found in the Pajaro River watershed and recommended that the adults be rescued and moved upstream. When the rescue team arrived to move the steelhead upstream, investigators found that they were gone and located significant evidence of poaching and trapping activities.

During the investigation Brugnara is accused of making false statements to local law enforcement officers for stating that he had not taken the fish that were caught in his dam and that he had not used the type of fishing lure that was capable of catching steelhead trout.

This is the first federal criminal case in the country charging an individual and corporation with the taking of steelhead through blocking access to upstream habitat.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the California Department of Fish and Game.

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United States v. Jason Becks, No. 4:08-CR-00198 (E.D. Mo.), SAUSA Anne Rauch [redacted] **and AUSA Michael Reap** [redacted]

On April 3, 2008, Jason Becks was charged with two RCRA violations for the transportation and disposal of hazardous waste.

According to the indictment, Becks was hired in January 2008 to complete an environmental site assessment at Economy Tire, Inc., in St. Louis, Missouri. Becks contracted with the owner of the building to remove and dispose of six 55 gallon drums inside the building for $600. The defendant then allegedly took the drums to another location where he abandoned them. Trial is scheduled to begin on June 2, 2008.

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

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United States v. Matthew Burghoff, No. 4:08-CR-00199 (E.D. Mo.) SAUSA Anne Rauch ([redacted] and AUSA Michael Reap [redacted]

On April 3, 2008, Matthew Burghoff was charged with multiple counts of bank fraud, money laundering, false statements and violations of the Clean Air Act stemming from his renovation of a building in St. Louis and numerous other buildings and businesses in the St. Louis area.

In September 2007, the City of St. Louis Air Pollution Control Division received an anonymous tip stating that unqualified personnel were removing asbestos-insulated piping at the Ford Building. On October 1, 2007, an inspector with the Missouri Department of Natural Resources conducted an inspection and observed asbestos debris swept into piles and approximately 60 black bags containing dry asbestos material. Burghoff as the owner and operator of the building was present during this inspection.

The indictment also states that Burghoff falsely told an EPA agent that he had employed an environmental company to inspect the Ford Building for the presence of asbestos before commencing any demolition work and that none had been found. He told the agent that vagrants must have broken into the building, cut and removed all of the pipes and left the asbestos behind.

The bank fraud and money laundering charges stem from a loan the defendant made from the Montgomery Bank in order to purchase and renovate the Ford Building. The indictment states that Burghoff had a subcontractor inflate a bill by approximately $133,000 that was then forwarded to the bank, which subsequently paid the extra money to the subcontractor. The subcontractor then kicked back the money to Burghoff. Finally, the defendant is charged with diverting money from bank loans on other buildings he renovated, representing the money as funds to be paid to subcontractors. Trial is currently scheduled to begin on June 16, 2008.

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

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United States v. Danny Chien et al., No.1:08-CR-00279 (D. N. J.), ECS Senior Trial Attorney Elinor Colbourn [redacted] and AUSA Seth Kosto [redacted].

On April 16, 2008, Danny Chien, a Taiwanese citizen and resident of Shanghai, China, and Style Craft Furniture Co., Ltd., ("Style Craft") were each charged with one count of smuggling internationally protected wood.

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.

According to the indictment, on approximately May 23, 2005, Chien, the day-to-day manager and president of Style Craft Furniture, shipped a container of furniture from China into the United States at Port Elizabeth, N.J., containing a wood commonly called "ramin." The indictment alleges that the ramin originated from the wild in Indonesia and was imported without a valid required export permit or re-export certificate in violation of the CITES. International efforts to curb the illegal harvest of ramin, used in the manufacture of baby cribs, include its listing in Appendix II of CITES. The United States, Indonesia, Malaysia, and China are signatories to the convention.

For any trade of these species, CITES requires that the country of origin must issue a valid export permit. A permit can only be obtained if it has been determined that the export of the species will not be detrimental to the species' survival and that the specimen was not obtained in violation of wildlife protection laws. For any re-export, the country of re-export must issue a valid re-export certificate. The export permit or re-export certificate must be obtained prior to importation into the United States.

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. Albania Deleon et al., No. 1:07-CR-10277 (D. Mass.), AUSA Jonathan Mitchell [redacted]

On March 12, 2008, Albania Deleon, owner of the Environmental Compliance Training School ("ECTS"), was charged in a superseding indictment with conspiracy, five false statement violations, six mail fraud violations and 16 counts of procuring false tax returns. The charges are in addition to the initial indictment filed in August 2007 charging Deleon and employee Jose Francisco Garcia-Garcia with one false statement violation for issuing false asbestos training certifications. Garcia-Garcia pleaded guilty to the false statement charge in December of last year.

ECTS was one of the largest certified asbestos training schools in Massachusetts. Between 2001 and 2006, Deleon is alleged to have routinely issued asbestos certificates to people who did not attend required training courses or pass required tests. Many of those who received fraudulent certificates were illegal immigrants who then worked for a temporary service company, Methuen Staffing, also owned by Deleon, at demolition and construction sites overseeing asbestos removal.

The tax violations stem from the defendant's concealing the size of her payroll from IRS to avoid paying taxes. She did this, among other ways, by maintaining two payrolls where she deducted the correct amount of tax for some of her employees, but paid the majority of them using a second payroll wherein income taxes were not withheld nor were payroll taxes paid to the IRS. Finally, the mail fraud violations are based upon Deleon allegedly mailing to insurance representatives workers compensation insurance documentation that concealed the existence of those workers who received paychecks without taxes withheld, reducing the amount of workers compensation insurance that she paid.

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

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Pleas

United States v. Crown Chemical, Inc., et al., No. 06-CR00545 (N.D. Ill.), AUSA Tim Chapman [redacted]

On April 14, 2008, Crown Chemical, Inc. ("Crown") and company president and owner James Spain, pleaded guilty to conspiring to violate the CWA between approximately November 1985 and November 2001 by discharging untreated wastewater in violation of an approved pretreatment program. A third defendant, Catalino Uy, pleaded guilty to the same offense on March 12, 2008.

Crown manufactured cleaning products for residential, commercial and industrial use. Many of the products exhibited a pH lower than the local ordinance limit of 5-10. Wastewater exhibiting unlawfully high and low pH (some of which qualified as hazardous waste under RCRA) was generated during the cleaning of Crown's process tanks. Despite knowing about the pH limits, Spain directed Crown employees to discharge all of the untreated wastewater to the Crestwood, Illinois, POTW. As Crown's plant manager for many years, Uy also directed the unlawful discharges.

During the execution of a search warrant in November 2001, Spain falsely told the agents that all of Crown's wastewater was neutralized before discharge. Spain also instructed other Crown employees to tell the agents the same lie. On various occasions during the lengthy period of violation, Spain falsely informed the POTW that Crown did not discharge industrial waste to the sewer system.

Spain and Crown are scheduled to be sentenced on September 3, 2008, but Uy has not yet been scheduled. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. M & N Foods, Inc., No. 2:08-CR-00086 (E. D. La.), AUSA Dee Taylor [redacted]

On April 3, 2008, M & N Foods, Inc., a food manufacturing company, pleaded guilty to a misdemeanor Clean Water Act violation for failing to file required discharge monitoring reports with the Louisiana Department of Environmental Quality ("LDEQ") for more than two years.

The company, which made spaghetti sauce and salad dressing for retail sale, was required by its permit to take samples of its wastewater discharge every six months and to report those results to the LDEQ. An inspection in November 2005 revealed that the company had not sampled, analyzed or forwarded the reports for the monitoring periods of 2003, 2004 and the first half of 2005.

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

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United States v. William Stoner, No. 5:08-CR-00024 (E.D. Tex.), AUSA Jim Noble [redacted]

On April 7, 2008, William Stoner pleaded guilty to a misdemeanor Lacey Act violation for the importation of harmful fish without a permit across state lines. Stoner admitted that he transported approximately 50 unsterilized Asian Grass Carp from the state of Arkansas into the state of Texas without a permit.

The information states that, on November 21, 2007, the defendant delivered the carp to the Quail Creek Country Club golf course to put them in the ponds to help keep down the weeds. Stoner would scuba dive in the depths of the six ponds at the club, raking through weeds and algae to find as many as 3,000 balls each time for which he was paid ten cents a ball. He bought the carp so that he could more easily locate the golf balls.

Acting on a tip from an Arkansas fish farmer, federal agents stopped Stoner in Texarkana and arrested him with a load of unsterilized carp, which devour marine vegetation and other fish so aggressively that they can alter an entire ecosystem. Fish and Wildlife agents ultimately were forced to recover and destroy the carp from five different water hazards at the country club, due to the risk that a flood event on the San Marcos River would allow the fish to escape the golf course and threaten native vegetation, including endangered Texas wild rice.

This case was investigated by Arkansas Game and Fish Commission, Texas Parks and Wildlife, and the United States Fish and Wildlife Service.

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United States v. Paccship (UK), Ltd., No. 4:08-CR-00016 (E.D. N.C.), ECS Assistant Chief Joe Poux [redacted] AUSAs Banumathi Rangarajan [redacted] and Thomas Murphy ([redacted]

On April 4, 2008, Paccship (UK), Ltd. ("Paccship), pleaded guilty to a three-count information charging it with one APPS violation and two false statement violations stemming from the illegal oily-waste discharge activities on two of its ships, the *M/V Pac Antares* and *M/V Pac Altair*, which were boarded by Coast Guard officials on two separate occasions in Morehead City, North Carolina. The company was sentenced to pay a $1.7 million fine, complete a four-year term of probation, pay $400,000 in community service projects, and will implement an environmental compliance program that includes a court-appointed monitor and outside independent auditing of its ships.

In April 2006, inspectors uncovered evidence that crewmembers aboard the *Antares* had discharged oil-contaminated waste from the ship prior to arriving in the United States and that the crewmembers had falsified the ship's oil record book ("ORB") in order to conceal the discharges. In November 2006, as the investigation of the *Antares* continued, the *Altair* arrived in Morehead City. Again inspectors uncovered similar evidence that crewmembers had discharged oil-contaminated waste from the ship prior to arrival in the United States and that they had falsified the ship's ORB. The chief engineer on the *Altair* and the second engineer on the *Antares* already have pleaded guilty to false statement violations.

This case was investigated by the United State Coast Guard Criminal Investigative Service.

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United States v. Charles Victoria, No. 2:06-CR-00230 (W.D. Pa.), AUSA Brendan Conway ([redacted]

On March 31, 2008, Charles Victoria pleaded guilty to conspiracy to violate the Clean Air Act. Victoria was a foreman for Industrial Commercial Consulting International, Inc. ("ICCI") which had been hired to remove asbestos-containing material from a portion of the decommissioned Woodville State Hospital in 1998.

During several inspections by USEPA and the Allegheny County Health Department a variety of violations were found, including the dry removal of asbestos and failure to properly contain the asbestos-containing material. One inspection revealed that insulation containing asbestos that had been ripped from a steam pipe was allowed to sit on the ground for nearly a year. Some of this

asbestos eventually made its way into a nearby creek. ICCI previously was sentenced to pay a $300,000 fine and complete a three-year term of probation. The company may offset $25,000 of the fine by implementing an environmental compliance plan designed to prevent further violations. Up to $150,000 of the fine may additionally be offset through payments to support environmental projects in the vicinity of the former hospital. Victoria is scheduled to be sentenced on July 25, 2008.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from the EPA National Enforcement Investigations Center and the Allegheny County Health Department.

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United States v. John Mazoch et al., No. 1:07-CR-00086 (E.D. Tex.), AUSA James Noble ([redacted]

On March 31, 2008, John Mazoch, the vice president of Coastal Welding Supply ("CWS"), located in Beaumont, Texas, pleaded guilty to a RCRA conspiracy violation stemming from the unlawful storage of compressed gas cylinders.

In January 2006, state and federal investigators discovered approximately 555 compressed gas cylinders, containing various types of industrial gases, in a self storage facility in Sulphur, Louisiana. Investigators determined that Mazoch had directed the transportation of the cylinders, first from one CWS site to another in Sulphur, Louisiana. Then he directed James Hebert, a contractor working for CWS, to remove them from a second site. In March 2005, Mazoch paid Hebert $30,000 to take possession of the cylinders, and in April 2005 Hebert rented the storage unit where the cylinders were discovered.

Hebert and Mark Sample, a CWS employee who supervised Hebert and assisted with transporting the cylinders, both pleaded guilty in May of last year to a RCRA conspiracy violation.

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

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United States v. George A. Townsend, III, No. 1:08-CR-20056 (S.D. Fla.) AUSA Tom Watts-FitzGerald [redacted]

Fishing vessel, the *UNDA*

On March 10, 2008, George A. Townsend III pleaded guilty to a Lacey Act violation for the illegal importation of more than 11,000 pounds of yellowfin tuna from Trinidad and Tobago into Miami. Townsend owned and operated the Canadian-registered commercial longline fishing vessel, the *UNDA*, through a Bahamian-registered company and a business he incorporated in Canada. He did not hold a license to fish or tranship fish on the high seas.

On June 7, 2005, Townsend caused approximately 11,063 pounds of yellowfin tuna to be shipped in foreign commerce from Trinidad and Tobago to a seafood dealer in Miami, Florida. As part of the plea agreement, Townsend also will forfeit the fish.

This case was investigated by the NOAA Office of Law Enforcement.

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Sentencings

United States v. Steven Tieu et al., No. 4:08-CR-00203 and 204 (N.D. Calif.), AUSA Maureen Bessette [redacted]

Stuffed tiger

On April 24, 2008, Steven Tieu was sentenced to serve ten months' home confinement as a condition of three years' probation and will pay $5,000 in restitution to Panthera, a wild cat conservation organization. Tieu also will fund a plaque to be posted with an exhibit at the San Francisco Museum of Natural History educating the public about endangered wild felines.

Tieu and co-defendant Nicki Phung pleaded guilty April 16th to illegally importing a mounted stuffed tiger from Ho Chi Minh City, Vietnam, into San Francisco International Airport in December 2007. Tigers are listed as endangered species and neither defendant had obtained either an export permit from Vietnam or an import permit from the United States.

Phung pleaded guilty to a Lacey Act violation and Tieu pleaded guilty to an ESA violation. Phung is scheduled to be sentenced on July 25, 2008.

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

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United States v. Anne Sholtz, No. 2:05-CR-00017 (C. D. Calif.), AUSAs Dorothy Kim ([redacted] and Joe Johns ([redacted].

On April 14, 2008, Anne Sholtz was sentenced to complete a five-year term of probation with a special condition of a one-year term of home confinement.

Sholtz pleaded guilty three years ago to one wire fraud violation. She admitted to using forged documents and her knowledge of trading pollution credits to defraud AG Clean Air, a New York-based company that trades in energy credits, in January 2005. She was charged with taking $12.5 million from investors who were falsely told that the money would be used to purchase pollution credits that would be sold to a Southern California Mobil refinery.

In 1993, the South Coast Air Quality Management District, the air pollution control agency that regulates 28,000 pollution-emitting businesses in the Los Angeles metropolitan area, established the Regional Clean Air Incentive Market or RECLAIM. In 1998, the United States Environmental Protection Agency approved the RECLAIM program, under which each pollution-emitting facility is issued an annual allocation that limits the amount of nitrogen oxides and sulfur oxides that can be emitted. If a facility improves its pollution-control equipment, it may sell part of its pollution-producing allocation via RECLAIM Trading Credits or RTCs.

Sholtz was the owner of Sholtz & Associates, which later merged with another company and became EonXchange. Through these companies, she operated an Internet site called Automated Credit Exchange ("ACE"), which was a forum for companies to trade and sell RTCs. ACE was closed in August 2002 due to bankruptcy.

The defendant approached an officer of AG Clean Air in 1999, telling him that Mobil Corporation needed to purchase a large quantity of RTCs for use at a refinery in southern California. Over the next two years, AG Clean Air purchased $12.5 million worth of RTCs based on Sholtz's representations that Mobil would purchase the RTCs for $17.5 million. Sholtz sent AG Clean Air a $9 million payment, but when AG Clean Air demanded the remaining money, she claimed that Mobil was having trouble paying for the RTCs. As part of the fraud, the defendant sent a series of faxes and e-mails to AG Clean Air that purportedly documented ongoing negotiations between Ace and Mobil. In 2002, Sholtz finally admitted that she had fabricated documents and had associates pretend to be Mobil employees. She claimed that she was forced into these lies by an ACE employee who sold RTCs without her knowledge. AG Clean Air eventually filed a lawsuit against Sholtz and her company.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the South Coast Air Quality Management District.

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United States v. Aristides Couto, No. 1:07-CR-10319 (D. Mass.), AUSA Jon Mitchell ([redacted]

On April 8, 2008, Aristides Couto was sentenced to serve one year and one day of incarceration followed by three years' supervised release and will pay a $10,000 fine.

Couto pleaded guilty in November 2007 to a two-count information charging him with concealing a scheme to pay cash to fishing vessel owners for their catches by falsifying reports to the National Oceanographic and Atmospheric Administration ("NOAA") and by structuring hundreds of cash transactions.

Over several years, Couto operated a fish wholesale business through which he bought fish directly from commercial fishing vessels and resold it to wholesalers and retailers. Beginning in at

least 2002, Couto convinced fishing boat captains to sell their fish to him by offering to pay for part of their catch in cash ranging from $2,000 to $10,000 per trip.

In exchange for his willingness to pay in cash, the defendant often demanded and received prices for fish that were lower than the prevailing daily prices. He also paid captains cash for fish caught in excess of regulatory limits, thereby enabling them to avoid detection by law enforcement.

Couto concealed his cash payments in two ways. First, he routinely lied in the dealer reports he was required to submit to NOAA by understating the amount of fish he purchased. NOAA relies on these reports to help it balance the interests of the fishing industry with the appropriate regulations to conserve the size of fish stocks. Over a four-year period, the defendant concealed approximately $774,000 in fish purchases from authorities.

In addition to falsifying his dealer reports, Couto sought to hide his large cash transactions by structuring cash withdrawals from his bank accounts to avoid regulations that require banks to report to the U.S. Department of the Treasury cash transactions over $10,000. Over a three-year period, he withdrew cash in $9,900 increments on 133 occasions.

This case was investigated by the NOAA Fisheries Office of Enforcement and the Internal Revenue Service.

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United States v. Wally El-Beck, No. 4:05-CR-00179 (E.D. Ark.), AUSA Angela Jegley ([redacted]

On March 20, 2008, Wally El-Beck, the operator of a municipal incinerator, was sentenced to serve 18 months' imprisonment after being convicted by a jury in October 2006 of 37 counts of mail fraud and one count of wire fraud.

Between December 31, 2000, and March 5, 2003, El-Beck made numerous fraudulent solicitations to industrial waste generators located in Tennessee and Illinois claiming that he could dispose of their waste through incineration. He received approximately 13,000 drums of waste at the Arkansas Municipal Waste to Energy facility located in Osceola, Arkansas. The waste in the drums was not incinerated, however, and the companies that generated it were forced to pay a second time to have the drums transported to another site where the waste was properly destroyed.

More than four million dollars has been spent by the U.S. EPA Superfund to clean up the site, in addition to more than one million dollars spent by companies victimized in the scheme.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Arkansas Department of Environmental Quality and the United States Postal Service Inspector General's Office with assistance from the EPA's National Enforcement Investigations Center.

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United States v. Danny Yep, No. 3:07-CR-00481 (N.D. Calif.), AUSA Stacey Geis [redacted]

On March 20, 2008, Danny Yep was sentenced to serve two months' incarceration followed by four months' home confinement for selling an endangered species to an undercover United States Fish and Wildlife Service agent via the Internet.

In 2004, Yep was apprehended for selling an Asian Arowana fish to an agent using an Internet auction site called Aquabid. Asian Arowanas, commonly known as "dragon fish" or "lucky fish" are native to Southeast Asia and can grow to approximately three feet in length. Under the ESA and international treaties, permits are required to export endangered species from their country of origin, as well as to import them into the United States. In the United States, Asian Arowanas can sell on the black market for as much as $10,000.

This case is part of a larger federal effort to crack down on the illegal trade of endangered and protected species on the Internet, upon which illegal traffickers are relying more heavily to offer their goods for sale.

Yep also will pay a $2,000 fine and complete three years' supervised release. This case was investigated by the United States Fish and Wildlife Service.

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United States v. James E. Johnson, Jr., et al. 4:07-CR-00054 (E.D.N.C.), AUSA Barbara Kocher ([redacted]

On March 11, 2008, five defendants pleaded guilty to, and were sentenced for, Migratory Bird Treaty Act violations stemming from an illegal duck hunt. James E. Johnson, Jr., Able Bland and John Ragland pleaded guilty to MBTA violations, and Troy Godwin and Raymond Rhoden pleaded guilty to an MBTA conspiracy.

For the 2006/2007 hunting season, Johnson purchased more than 20 tons of corn. On January 12 and 14, 2007, Johnson's employees Godwin and Rhoden, using Johnson's boat, placed corn in Porpoise Creek, thereby illegally baiting the area. On January 16, 2007, Godwin and Rhoden

transported Johnson, Ragland, and Bland to a waterfowl hunting blind in Porpoise Creek. From the position of the blind, Johnson, Ragland and Bland shot several Scaup ducks. Johnson then contacted Godwin and Rhoden, who had previously left the area, to return to the blind to retrieve the freshly killed ducks. Once the ducks were retrieved, Johnson, Ragland and Bland then resumed hunting.

Johnson was sentenced to pay a $7,500 fine and will complete a one-year term of probation. Rhoden and Godwin were ordered to pay $500 fines and complete a one-year term of probation. Bland and Ragland were each sentenced to pay $1,000 fines. During their probationary periods, the defendants are not allowed to hunt.

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

[redacted]

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