


ENVIRONMENTAL CRIMES MONTHLY BULLETIN

December 2007

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 quickly navigate through this document using electronic links for *Significant Opinions, Active Cases, Quick Links* and *Back to Top*. Just hold down the ctrl key while clicking on the link.

AT A GLANCE

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D. Colo.	<u>United States v. John Boyer et al.</u>	<i>Mountain Lion Hunt/ Lacey Act</i>
N.D. Ga.	<u>United States v. Deryl Parker</u>	<i>Drum Storage/ RCRA</i>
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D. Mass.	<u>United States v. Scott LeBlanc</u> <u>United States v. Aristides Couto</u>	<i>Black Bear Hunt/ Lacey Act</i> <i>Fish Wholesaler/ False Statements, Avoiding Currency Transaction Reporting Req's</i>
S.D. Miss.	<u>United States v. Dennie Pridemore</u>	<i>Sham Recycling Facility/ RCRA/ False Statements</i>
D. Nev.	<u>United States v. Cody Bartolini</u>	<i>Reptile Sales/ Lacey Act</i>
N.D.N.Y.	<u>United States v. John Brewer et al.</u>	<i>Asbestos Removal/ CAA Conspiracy</i>
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E.D. Tex. (E.D. La.)	<u>United States v. Rowan Companies, Inc. et al.</u>	<i>Sandblasting/ Clean Water Act, APPS, Negligent Clean Water Act, Failure to Report</i>
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Indictments

United States v. Texas Oil and Gathering et al., No. 4:07-CR-00466 (S.D. Tex.), ECS Trial Attorneys Lary Larson () and David Joyce ()



Texas Oil and Gathering

On November 14, 2007, a 14-count indictment was returned charging Texas Oil and Gathering ("TOG"), company president and owner John Kessel, and operations manager Edgar Pettijohn, with charges stemming from the illegal disposal of hazardous waste streams purchased by the defendants for processing into gasoline feed stock. The defendants are further alleged to have illegally disposed of industrial refinery waste (including hazardous waste) into a class II injection well.

Texas Oil and Gathering was a registered hazardous waste transporter and a used oil handler, but was not permitted to treat, store and/or dispose of hazardous waste.

As a result of its refinery operations, TOG generated wastewater which was trucked to a class II injection well for disposal. A class II injection well is only authorized to dispose of oil production waste and it is illegal to dispose of industrial process waste or hazardous waste in such a well.

From 2000 through 2003, tens of thousands of gallons of waste, often including ignitable waste, were hauled to the injection well. Many of these loads were not accompanied by hazardous

waste manifests, and it is alleged that the defendants instructed the truck drivers to falsify bills of lading to conceal the waste shipments.

The indictment further states that the defendants purchased waste streams from plastic manufacturing facilities and other chemical manufacturing plants. These waste streams were used as the primary feed stocks for TOG's distillation facility. The companies that generated the waste previously identified it as ignitable hazardous waste before selling it to TOG. The defendants are specifically charged with conspiracy to violate the Safe Drinking Water Act ("SDWA") and RCRA, plus the following substantive offenses: three RCRA violations for illegal disposal of hazardous wastes without a permit, three illegal transportations of hazardous waste to an unpermitted facility in violation of RCRA, and six SDWA counts for the illegal disposal of waste other than oil and gas production waste into a Class II injection well.

This case was investigated by the Texas Environmental Task Force, which includes the United States Environmental Protection Agency Criminal Investigation Division, the Texas Department of Fish and Game, and the United States Department of Transportation.

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United States v. Cody Bartolini, No. 2:07-CR-00237 (D. Nev.), AUSA Christina Brown [REDACTED]

On September 28, 2007, Cody Bartolini was charged with three felony counts of attempted unlawful interstate sale of wildlife, specifically, seven Green Mamba snakes, two Forest Cobras, one Black-Neck Spitting Cobra, and five different breeds of rattlesnakes.

According to the indictment, between December 2006 and March 2007, Bartolini attempted to sell the snakes on the Internet, even though he knew he had captured some of the snakes in violation of Nevada state law. Under Nevada law, it is illegal to possess certain non-indigenous snakes without proper licensing and permits. It is also illegal to possess indigenous snakes without proper permits (such as the rattlesnakes charged in the indictment), even those designated under state law as "unprotected," when the snakes are possessed for a commercial purpose.

Wildlife agents were notified by an Ohio game warden that Bartolini was offering to sell and trade venomous reptiles via the Internet. Agents were able to determine that Bartolini had been offering venomous snakes for sale or trade over the Internet from his residence in Las Vegas since at least September of 2004. A search warrant was executed at the defendant's residence in March of this year wherein 48 snakes of various species were seized, as well as a caiman, a Gila monster, and an alligator snapping turtle.

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

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Pleas / Sentencings

United States v. BP Products North America, Nos. 4:07-CR-00434 and 3:07-CR-00125 (S.D. Tex. and D. Alaska), ECS Senior Trial Attorney Dan Doohar [REDACTED], ECS Trial Attorney David Joyce ([REDACTED]) and AUSA Mark McIntyre [REDACTED], ECS Trial Attorneys Chris Costantini ([REDACTED]) and Ron Sutcliffe [REDACTED], AUSA Aunnie Steward [REDACTED], SAUSA Daniel Cheyette [REDACTED], ECS Supervisory Paralegal Will Taylor [REDACTED] and former ECS Contract Paralegal Joyce Russell.

On November 29, 2007, British Petroleum Exploration (Alaska), Inc. ("BPXA") was sentenced in the District of Alaska to pay \$20 million in fines, restitution and community service. The company officially pleaded guilty to a Clean Water Act violation for leaks of crude oil from a pipeline onto the tundra as well as into a frozen lake in Alaska. BPXA will pay \$12 million as a criminal fine, \$4 million will be paid as community service payments to the National Fish and Wildlife Foundation for the purpose of conducting research and activities in support of the arctic environment on the North Slope, and \$4 million in restitution will be paid to the state of Alaska. A three-year term of probation also was imposed.

This investigation involved two different leaks from oil transit lines operated by BPXA. The leaks occurred in March and August of 2006 and were the result of BPXA's failure to heed many warning signs of imminent internal corrosion that a reasonable operator should have recognized. The first pipeline leak, discovered by a worker on March 2, 2006, resulted in more than 200,000 gallons of crude oil spreading over two acres of tundra and reaching a nearby frozen lake, where oil spread out onto the ice along one shore. This spill was the largest ever to occur on the North Slope. The second leak occurred in August of 2006, but was quickly discovered and contained after leaking approximately 1,000 gallons of oil. Nevertheless, the second leak led to the shut down of Prudhoe Bay oil production on the eastern side of the field. BPXA shut down production because it could not guarantee the condition of the line and whether it was fit for service.

On November 28th, Judge Lee Rosenthal in the Southern District of Texas, held a status conference regarding the pending guilty plea from BP Products North America to a Clean Air Act violation and the subsequent sentencing stemming from a fatal explosion at a Texas refinery in March 2005 in which 15 people perished. The explosion was the result of hydrocarbon liquid and vapor being released from a "blowdown stack" and igniting during the startup of a unit that is used to increase octane content in unleaded gasoline. Several procedures required by the Clean Air Act for ensuring the



Oil sludge in pipeline

mechanical integrity and a safe startup had either not been established or had been ignored for several years.

Prior to the status conference, civil plaintiffs' attorneys for the victims of the explosion had filed motions to appear before the court. The attorneys for the victims filed the motions pursuant to the Crime Victims Rights Act. The motions also sought to have the plea agreement rejected and to have a presentence report ordered by the court. The judge ruled that, in lieu of a presentence report, the court will afford the victims the opportunity to provide information supporting their objections to the plea agreement. The victims' submissions are to be filed with the court by December 19th. The court ordered the government's responses by January 21, 2008, and a hearing was set for February 4, 2008.

The case in Texas was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the FBI in cooperation with the Texas Commission on Environmental Quality. The case in Alaska was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the FBI with assistance from the Department of Transportation's Office of Inspector General. Technical assistance was provided by the Pipeline and Hazardous Materials Safety Administration and the Alaska Department of Environmental Conservation.

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Investigation Division.

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United States v. Petraia Maritime Ltd., No. 2:06-CR-00091 (D. Maine), ECS Trial Attorneys Wayne Hettenbach [REDACTED] and Kevin Cassidy [REDACTED] and AUSA Rick Murphy [REDACTED]

On November 27, 2007, Petraia Maritime Ltd., was sentenced to pay a \$525,000 fine and must complete two years' probation. The company was convicted by a jury in May 2007 on all three APPS violations charged, but was acquitted of obstruction.

Petraia Maritime Ltd. ("PML"), for the actions of its employees, was originally charged with three APPS violations for failure to maintain an accurate oil record book ("ORB") and one count of obstructing justice.

PML, a Swedish company, was the sole owner and operator of the *M/V Kent Navigator*, a freighter registered in Gibraltar and doing business in Maine. During a port inspection in August 2004, Coast Guard investigators discovered evidence of illegal bilge waste discharges and the concealment of those discharges since they were not recorded in the ORB. The obstruction charge stems from the company's allegedly concealing and destroying the equipment used to carry out the discharges.

Two chief engineers, Felipe Arcolas and Alfredo Lozada, previously pleaded guilty to making false entries in the ORB. They each were sentenced to serve one month's home confinement as part of a two-year term of probation and were further ordered to pay a \$3,000 fine.

This case was investigated by the United States Coast Guard.

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United States v. Rowan Companies, Inc., No. 2:07-CR-00298 (E.D. La., E.D. Tex.), ECS Senior Counsel Rocky Piaggione [REDACTED] ECS Trial Attorney David Kehoe [REDACTED] AUSAs Joe Batte [REDACTED] and Dee Taylor [REDACTED]



Rig Midland

On November 20, 2007, Rowan Companies, Inc., was sentenced to pay a \$7 million dollar criminal fine along with \$2 million in community service payments. In addition, as a term of probation, Rowan will reorganize its corporate structure to add an environmental division and to implement a comprehensive environmental compliance plan under which the company will commit that all of its rigs operating in U.S. waters will comply with U.S. and international environmental laws. In cooperation with the U.S. Environmental Protection Agency and the U.S. Coast Guard, Rowan will develop new sandblasting techniques and help establish new

industry standards for the minimization and containment of sandblasting debris over water. On November 2nd, Employees David Burcham and Murphy Comardelle each were sentenced to pay a \$5,000 fine. Burcham will complete a three-year term of probation and Comardelle will serve a two-year term of probation.

Rowan pleaded guilty October 9, 2007, to three felonies in connection with the routine discharge of pollutants and garbage into the Gulf of Mexico from one of the firm's oil rigs, the Rig Midland. Burcham and Comardelle each pleaded guilty to a failure to report knowledge of a felony in connection with the illegal discharges of waste oil from the Rig Midland.

According to the plea agreement, the operation and cleaning of offshore drilling rigs created substantial amounts of waste. The hydraulic cranes on board the Rig Midland required the use of large amounts of fresh hydraulic oil, and routine maintenance and operation of the rig necessitated the use of chemicals, paint, and other materials. The government's investigation revealed that between 2002 and 2004, employees on the Rig Midland routinely discharged waste hydraulic oil mixed with water, used paint, paint cans, and other pollutants and garbage into the Gulf of Mexico and failed to notify the government of the discharges in violation of the CWA and APPS. The charges associated with these violations were filed in the Eastern District of Texas. In the Eastern District of Louisiana, Rowan pleaded guilty to one CWA felony count for discharging pollutants into the Sabine River as a result of sand blasting operations used to clean the rig in Port Fourchon in 2004.

Nine supervisory employees of Rowan who worked on the Rig Midland also pleaded guilty to charges related to Rowan's violations. Carl Smith, James Rawson, Warren James, and Randy Hoover each pleaded guilty to negligently discharging pollutants into U.S. waters in violation of the CWA in connection to the sandblasting operations and each has agreed to pay a \$2,500 fine. Terry Glen Fox and Michael Friend pleaded guilty to misdemeanor charges for negligently discharging waste oil into U.S. waters in violation of the CWA and each has agreed to pay \$2,500 in fines. Finally, Michael Freeman pleaded guilty to a felony violation of the CWA for knowingly discharging waste oil into U.S. waters and faces a maximum fine of \$250,000, the exact amount to be determined by the court.

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

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United States v. Deryl Parker, No. 3:07-CR-00011 (N.D. Ga.), ECS Trial Attorney Lana Pettus [REDACTED] and AUSA Susan Coppedge ([REDACTED])

On November 20, 2007, Deryl Parker pleaded guilty to one RCRA violation for transporting 17 drums of hazardous and ignitable paint waste without a manifest.

From February 2003 to May 2004, Parker possessed at least 17 drums containing hazardous waste, with each drum holding approximately 55 gallons. These drums contained used lacquer thinner and waste paint which were comprised of xylene, acetone, and toluene - ignitable hazardous waste. Shortly after agents interviewed the defendant about these drums, he transported them to a disposal company without a manifest. Parker has a prior conviction for the storage and transportation of hazardous waste, and a superfund cleanup site already exists in Senoia, Georgia, due to his prior actions.

Sentencing is scheduled for February 26, 2008. This case was investigated by the United States EPA Criminal Investigation Division.

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United States v. Barry McMaster, No. 2:07-CR-00247 (W.D. Pa.), AUSA Luke Dembosky ([REDACTED])

On November 16, 2007, Barry McMaster pleaded guilty to a violation of 16 USC § 1538, a misdemeanor Endangered Species Act violation, for offering for sale, and causing the shipment of, an

endangered species in interstate commerce. In November 2004, McMaster offered a tiger skin for sale in interstate commerce and then caused the skin to be shipped on or about December 14, 2004.

Sentencing is scheduled for February 15, 2008. This case was investigated by the United States Fish and Wildlife Service.

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United States v. Dennie Pridemore, No. 5:06-CR-00043 (S.D. Miss.), ECS Senior Trial Attorney Jeremy Korzenik [REDACTED] and Trial Attorney Malinda Lawrence [REDACTED]



Cement blocks

On November 15, 2007, Dennie Pridemore pleaded guilty to all six counts in the indictment charging him with four RCRA and two false statement violations stemming from the operation of Hydromex, Inc., a sham recycling facility.

From 2000 through 2003, Pridemore, the former company president and manager, stored and disposed of hazardous waste without a permit with the intent of portraying his company as a recycler and as thereby being exempt from RCRA regulation. He specifically caused millions of pounds of spent paint abrasives contaminated with the toxic heavy metals lead, cadmium, and chromium to be disposed of on the Hydromex site by mixing the hazardous waste with cement to form

blocks on the pretext that these blocks were useful, marketable products when, in fact, they were not.

The company never sold any of the construction blocks made from the waste Pridemore claimed to be recycling, and the storage pads for heavy equipment that he constructed by pouring hazardous waste into the ground were mere fictions to conceal disposal. Hydromex never made any money from the products it manufactured. The only income it ever received was from the generator which paid Hydromex to accept its hazardous waste. Pridemore also made false statements to state and federal agencies in his efforts to deceive them into believing in the legitimacy of his recycling operation.

Sentencing is scheduled for February 7, 2008. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Mississippi Department of Environmental Quality.

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United States v. Scott LeBlanc, No. 07-CR-10243 (D. Colo., D. Mass.), ECS Senior Trial Attorney Robert Anderson [REDACTED] ECS Trial Attorney Jim Nelson [REDACTED] AUSA Linda McMahan [REDACTED] and AUSA Kenneth Shine [REDACTED]

On November 14, 2007, Scott LeBlanc pleaded guilty in Boston to a misdemeanor violation of the Lacey Act. LeBlanc admitted that, in September 2002, he traveled to Dolores County, Colorado, for a lawful elk hunt guided by Eric Butt d/b/a Outdoor Adventures. During that hunt, Butt and LeBlanc encountered a black bear. Butt informed LeBlanc that he (Butt) had a license to kill a black bear and urged LeBlanc to shoot and kill the bear, which he did. After the bear had been skinned, Butt and LeBlanc lied to a Colorado Division of Wildlife game warden, claiming that Butt, not LeBlanc, had shot and killed the bear. Based on that false information, the game warden "sealed" the bear in

Butt's name. Butt and LeBlanc then traveled to "Memories on the Wall Taxidermy", which was owned and operated by Paul Weyand. LeBlanc paid Weyand to turn the bear skin into a rug and ship the finished product to LeBlanc's home in Massachusetts. The bear rug was later seized from LeBlanc's home by federal agents.

LeBlanc was sentenced to pay a \$3,000 fine and \$5,000 in restitution to the Colorado Division of Wildlife's "Operation Game Thief", a fund used to offer financial incentives to citizens who provide information which leads to the arrest or citation of a wildlife poacher. LeBlanc also will complete a two-year term of probation and will be banned from hunting in Colorado and in the other Wildlife Violator Compact States for a five-year period. LeBlanc will forfeit both the bear rug and the bow and arrow used to kill the bear.

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

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United States v. John Boyer et al., Nos. 1:07-mj-01190 and 01191 (D. Colo.), ECS Trial Attorney Jim Nelson [REDACTED] and AUSA Linda McMahan [REDACTED]

On November 7, 2007, John Boyer and his wife Deborah Boyer, owners of "Let's Tree It Outfitters" in Reserve, New Mexico, pleaded guilty to an information charging them with a Lacey Act misdemeanor violation for an illegal hunting trip.

The Boyers admitted that they participated in the unlicensed hunting and killing of a mountain lion near Hot Sulphur Springs, Colorado, in January 2006, and that they later transported the illegally killed mountain lion to New Mexico.

Each defendant was sentenced to pay a \$3,000 fine and will each serve three years' probation. During the term of probation, neither will be allowed to hunt or accompany anyone hunting within the State of Colorado. Additionally, Deborah Boyer agreed not to accept, receive, or perform any taxidermy services on any wildlife hunted or killed within the State of Colorado. John Boyer also agreed to forfeit his ability to apply for or receive a Colorado hunting license for the remainder of his life. The Boyers were each ordered to pay an additional \$3,000 in restitution to the Colorado Division of Wildlife's "Operation Game Thief".

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

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

On November 2, 2007, Aristides Couto pleaded guilty 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 has operated a fish wholesale business through which he buys fish directly from commercial fishing vessels and resells 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.

Sentencing is scheduled for January 31, 2008. This case was investigated by the NOAA Fisheries Office of Enforcement and the Internal Revenue Service.

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United States v. John Brewer et al, No. 5:06-CR-00383 (N.D.N.Y.), AUSA Craig Benedict ([REDACTED])

On November 2, 2007, John Russo, John Brewer, and Mario Rolla, were sentenced for their involvement in illegal asbestos removal and disposal activities. All three defendants pleaded guilty to conspiring to violate the Clean Air Act.

In April and August of 2005, Rolla hired Russo and Brewer to remove asbestos from facilities located in Massachusetts and New York. The asbestos was not properly removed nor were regulatory officials notified of the removals. The defendants scattered substantial amounts of asbestos throughout the facilities, where it was left until discovered by the USEPA. Rolla paid coconspirators \$40,000 in cash for the two projects. Clean up resulting from the illegal asbestos activities has cost well in excess of \$2.5 million.

Russo and Brewer each were sentenced to serve 18 months' incarceration, followed by two years' supervised release. Russo's request for a stay of his sentence pending appeal was denied. Rolla was sentenced to serve a five-year term of probation and will pay a \$40,000 fine. Rolla was not sent to prison based upon his age (77) and his substantial assistance to federal authorities in prosecuting Russo. Rolla also paid the \$2.5 million in clean-up costs.

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United States v. Anthony McCullough et al., No. 1:07-CR-00082 (S.D. Ind.), AUSA Gayle Helart ([REDACTED])

On October 19, 2007, Anthony McCullough, the owner of Miller Environmental, was sentenced to serve four months' imprisonment and was ordered to pay a \$340,000 fine. Miller Environmental, a used oil and chemical manufacturing facility, will pay a \$170,000 fine and complete a five-year term of probation. Both defendants are jointly and severally liable for \$980 in restitution to the Rushville City Utility Company.

The defendants each pleaded guilty to three felony violations of the Clean Water Act, which included 34 discharges from three separate facilities into publicly-operated wastewater treatment facilities between July 2002 and November 2003. Miller Environmental employees, at the direction of McCullough, illegally discharged the wastes down the floor drains that went directly to the city of Shelbyville and city of Rushville's wastewater treatment plant.

Are you working on Environmental Crimes
issues?

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