

ENVIRONMENTAL CRIMES MONTHLY BULLETIN

March 2007

EDITORS' NOTE:

Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin. If you have a significant photograph from the case, you may email it, along with your information, to Elizabeth Janes at [REDACTED]. Material 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 at <http://www.regionalassociations.org>.

You may quickly navigate through this document using electronic links for the *Active Cases* and *Additional Quick Links*.

AT A GLANCE

Districts	Active Cases	Case Type / Statutes
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N.D. Fla.	<u>United States v. Michael Bonner</u>	<i>Charter Vessel Permits/ Magnuson-Stevens Act</i>
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Indictments

United States v. Jan Swart et al., No. 07-CR-00021 and 22 (D. Colo.), ECS Senior Trial Attorney Bob Anderson [REDACTED], **ECS Trial Attorney Jim Nelson** [REDACTED] and **AUSA Greg Holloway** [REDACTED].

On February 5, 2007, U.S. Fish and Wildlife Service (“USFWS”) agents arrested Jan Swart and Willem Basson, South African residents and citizens, in Harrisburg, Pennsylvania. The defendants were charged in the District of Colorado with Lacey Act smuggling and false labeling violations, respectively, of leopard parts from animals killed by American sport hunters in South Africa in 2002.

Swart and Basson are South African big game outfitters who entered the country recently to advertise their services at an outdoors show in Harrisburg. Basson guided a Florida trophy hunter on an illegal leopard hunt in South Africa in 2002, gave the hide and skull to Swart for smuggling to Zimbabwe, and then smuggled them into the United States. Basson instructed his American client to apply for a USFWS import permit using false information. Swart took the hide provided by Basson and four others from leopards killed in South Africa and smuggled them by road to Zimbabwe. From there he bribed an official to provide Zimbabwe export permits for the parts, which then were imported in 2004 to Denver, Colorado. Swart was accompanied during his smuggling trip to Zimbabwe by a Denver taxidermist who ultimately received the parts and by another American hunter.

Trial is scheduled to begin on April 23, 2007. This case was investigated by the United States Fish and Wildlife Service.

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United States v. CESI et al., Nos. 07-CR-20030 and 20037 (E.D. Mich.), ECS Senior Counsel James Morgulec [REDACTED] and AUSA Mark Chutkow [REDACTED]

On January 24, 2007, a 12-count indictment was returned charging Comprehensive Environmental Solutions, Inc. (“CESI”), a business that operates a wastewater treatment and disposal facility, and three former employees, with Clean Water Act violations, conspiracy, making false statements and obstruction of justice, in connection with illegal discharges of untreated liquid wastes from the facility. An information and plea agreement for a fourth former employee also were filed.

The employees named in the indictment are Bryan Mallindine, the former president and CEO of CESI who is charged with conspiracy, a CWA violation, and obstruction of justice; Michael Panyard, a former president, general manager, and sales manager for the company is charged with conspiracy, three CWA violations, and seven false statement charges; and Charles Long, a former plant and operations manager is charged with conspiracy and a CWA violation. Former plant manager, Donald Kaniowski, has agreed to plead guilty to a CWA violation for unlawfully bypassing treatment equipment and discharging untreated liquid wastes into the Detroit sanitary sewer system. He is scheduled to be sentenced on May 23, 2007.

The indictment alleges that in 2002 CESI took over ownership and operations at a plant that had a permit to treat liquid wastes brought to the facility through a variety of processes and then discharge it to the Detroit sanitary sewer system. The facility contained 12 large above-ground tanks capable of storing more than 10 million gallons of liquid industrial wastes.

According to court records, although the facility’s storage tanks were at or near capacity, the company continued to accept millions of gallons of liquid wastes which it could not adequately treat or store. Furthermore, in order to reduce costs and maintain storage space at the facility for additional wastes, the defendants often bypassed treatment processes and discharged untreated wastes directly to the sewer, made false statements, and engaged in other surreptitious activities in order to conceal their misconduct. Trial is scheduled to begin on April 17, 2007.

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

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Pleas / Sentencings

United States v. Dennis Rodriguez, No. 3:05-02498 (W.D. Tex.), ECS Senior Trial Attorney Jennifer Whitfield [REDACTED] AUSA Donna Miller [REDACTED] and AUSA Laura Franco Gregory [REDACTED]



Hazardous waste stored in blue drums

On February 16, 2007, Dennis Rodriguez, president and chief operator of North American Waste Assistance (“NAWA”), pleaded guilty to three RCRA violations. Specifically, he pleaded guilty to one count of making a false statement in a manifest, one count of transporting hazardous waste to an unpermitted facility in Texas, and one count of transporting hazardous waste to an unpermitted facility in South Carolina.

NAWA is a waste disposal company located in El Paso, Texas, that disposed of hazardous and non-hazardous waste. In March 2003, NAWA was hired by a local construction company to dispose of approximately 180 55-gallon drums of construction-related waste. About 84 of the drums contained an expired petroleum-based concrete curing compound, which is an ignitable hazardous waste. Rodriguez generated a manifest that stated that the drums contained "Non-RCRA, Non-Regulated" waste and made arrangements to transport the drums to disposal sites in Texas and South Carolina, which were not permitted to accept or dispose of hazardous waste. Rodriguez is scheduled to be sentenced for May 11, 2007.

This case was prosecuted by the United States Environmental Protection Agency Criminal Investigation Division and the Texas Commission on Environmental Quality.

United States v. Honeywell International, Inc., No. 3:07-CR-00031 (M.D. La.), AUSA Corey Amundson [REDACTED] **with assistance from ECS Senior Trial Attorney Jennifer Whitfield**

On February 13, 2007, Honeywell International Inc., pleaded guilty to a CAA violation for the negligent release of hazardous air pollutants, negligently placing another person in imminent danger of serious bodily injury or death. The company has agreed to pay a total of \$12 million in fines and restitution.

On July 23, 2003, Delvin Henry, an employee at Honeywell's Baton Rouge plant, opened a one-ton cylinder that had been stored for five years and erroneously labeled as containing a relatively benign refrigerant. Once opened, approximately 1,800 pounds of spent antimony pentachloride, a highly toxic and corrosive hazardous material, were released from the cylinder. Henry was struck by the material and died the following day from his injuries.



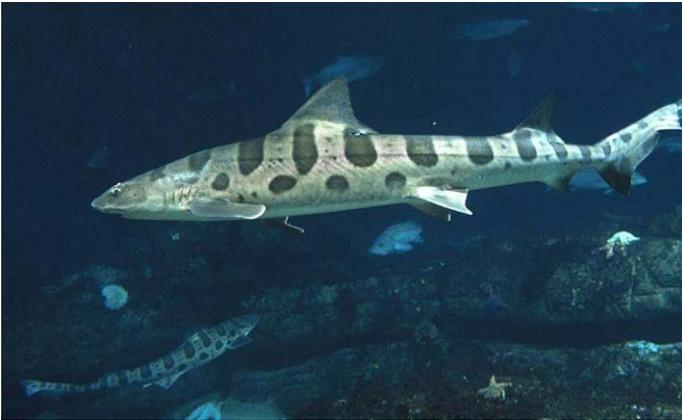
Mislabeled cylinder

The company has agreed to pay an \$8 million fine, and the following in restitution: \$2 million will be paid to Henry's three children; \$1.5 million will be divided between the Louisiana Department of Environmental Quality and the Louisiana State Police Hazardous Materials Unit; and \$500,000 will be paid to the Louisiana State Police Emergency Operations Center. This constitutes the largest criminal fine and restitution ordered in the Middle District of Louisiana.

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

United States v. Kevin Thompson et al., 4:06-CR-00051 (N.D. Calif.), AUSAs Maureen Bessette and Stacey Geis

On February 12, 2007, \$410,000 previously in restitution previously ordered from six individual defendants in a prosecution for poaching juvenile leopard sharks, along with \$500,000 from an organization under a non-prosecution agreement, were combined with \$600,000 in private donations to fund a program for rehabilitating and restoring marine wildlife habitat in the San Francisco Bay to further protect the California leopard shark.



California leopard shark

The investigation began in Miami, Florida, when a pet trade distributor, Ricky Hindra, was apprehended with 18 undersized leopard sharks from California. California state law places a minimum size limit of 36 inches for any commercial harvest of California leopard sharks. The reason for this restriction is that the leopard shark is a slow-growing species that does not reach sexual maturity until it is between seven and 13 years of age. The species may live as long as 30 years. Hindra subsequently was convicted in 2003 of violating the Lacey Act and sentenced to serve 18 months' incarceration. Two other

defendants entered into pretrial diversion agreements in Chicago, each agreeing to pay a \$5,000 fine plus perform community service. The investigation led back to the San Francisco Bay Area where the principal suppliers were located.

In February 2006, the following six defendants were variously charged with, and pleaded guilty to, Lacey Act conspiracy and substantive Lacey Act violations:

Kevin Thompson is the pastor of the Bay Area Family Church, HSA-UWC in San Leandro, California. From 1992 through 2003, Thompson instigated a scheme in which members of his church illegally harvested undersized California leopard sharks from the San Francisco Bay and sold them throughout the United States and abroad. Thompson pleaded guilty to conspiracy to violate the Lacey Act and was sentenced on January 22, 2007, to serve one year and one day of incarceration followed by three years' supervised release. He was further ordered to pay \$100,000 in restitution.

John Newberry admitted that, from 1992 through 2004, he and other church members, using church vessels, fished for undersized leopard sharks and stored the sharks at a facility located in San Leandro, California, owned by a business associated with the church. They subsequently shipped the sharks out of Oakland and San Francisco Airports for sale to dealers throughout the country and abroad. Newberry pleaded guilty to conspiracy to violate the Lacey Act and three substantive Lacey Act violations. He was sentenced on February 2, 2007, to serve six months in prison, and six months' of community confinement followed by three years' supervised release. Newberry was further ordered to pay \$50,000 in restitution.

Hiroshi Ishikawa admitted that, from 1996 through 2003, he caught and sold undersized leopard sharks taken from the San Francisco Bay with other church members, under the direction of Newberry and Thompson. Ishikawa pleaded guilty to a Lacey Act conspiracy and substantive Lacey Act violation. He was sentenced on October 11, 2006, to serve three years' probation and pay \$40,000 in restitution.

Vincent Ng admitted that, from 2001 through 2004, he bought and sold undersized sharks through his business, Amazon Aquarium, Inc. The sharks were subsequently sold throughout the

United States. Ng pleaded guilty to a Lacey Act conspiracy and two substantive Lacey Act violations and was sentenced on February 8, 2007, to serve a two-year term of probation with eight months' home confinement and pay \$100,000 in restitution.

Ira Gass admitted that, from 1996 through 2003, he purchased undersized leopard sharks taken from the San Francisco Bay and sold them to other marine aquaria dealers throughout the United States and abroad. When shipping the sharks, Gass intentionally mislabeled them as "common sharks" in order to avoid detection by wildlife inspectors. The sharks were sold throughout the United States and abroad. Gass pleaded guilty to a Lacey Act conspiracy and substantive Lacey Act violation. He was sentenced on February 5, 2007, to serve eight months in prison, followed by three years' supervised release, and must pay \$100,000 in restitution.

Sion Lim, a citizen of Singapore, regularly purchased and sold undersized California leopard sharks through his fish and corals wholesale distribution business, Bayside Marine Aquatics, located in Oakland, California. The sharks were sold throughout the United States. Lim pleaded guilty to two Lacey Act violations and was sentenced on June 6, 2006, to serve a one-year term of probation, pay a \$5,000 fine and \$20,000 in restitution.

As part of a non-prosecution agreement, \$500,000 will be paid by The Holy Spirit Association for the Unification of World Christianity ("HSA-UWC"), founded by the Reverend Sun Myung Moon.

The Monterey Bay Aquarium in Monterey, California, the John G. Shedd Aquarium in Chicago, Illinois, and the Cabrillo Aquarium in San Pedro, California, collaborated with and assisted federal wildlife agents and Illinois Conservation officers in the transport and care of 19 baby leopard sharks confiscated during the course of the two-year investigation. The baby sharks, which ranged in size from eight-and-a-half to 17 ½ inches, were shipped to California in July 2004 by Shedd Aquarium staff and received further care at the Monterey Bay Aquarium. Nine ultimately were returned to the wild in Monterey Bay in the summer of 2004. Three remain on exhibit at Monterey Bay Aquarium; seven died either at the Shedd Aquarium or Monterey Bay Aquarium because of their poor condition at the time they were confiscated.

This case was investigated by the National Oceanic and Atmospheric Administration's Fisheries Office for Law Enforcement in conjunction with the United States Fish and Wildlife Service, California Department of Fish and Game, the United Kingdom's Department for Environment Food and Rural Affairs Fish Health Inspectorate, and the Netherlands General Inspection Service.

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United States v. Chris Mulloy et al., No. 2:06-CR-00692 (C.D. Calif.), AUSA Joe Johns

On February 9, 2007, both Chris Mulloy and his sister, Darlah Mulloy, were each sentenced to serve two-year terms of probation. Chris Mulloy was further ordered to pay a \$5,000 fine. The Mulloys each pleaded guilty in November 2006 to a smuggling violation for their attempting to smuggle monkeys and birds into the United States from Thailand.

On September 19, 2006, two men were arrested for attempting to smuggle monkeys and birds into the U.S. from Thailand. Robert Cusack was found to have two endangered slow loris pygmy monkeys in his underwear, while birds of paradise escaped from Chris Mulloy's baggage as he attempted to get through Customs at the Los Angeles International Airport.

Cusack previously was sentenced to serve more than five months' incarceration for attempting to smuggle four birds of paradise, two lorises, and 50 rare orchids into this country.

Mulloy also attempted to sneak two newborn Asian leopard cats past the customs agents in carry-on luggage and later contacted his sister Darlah to ask for her help in getting rid of the

contraband cats. Chris Mulloy was charged with two smuggling violations for illegally receiving, concealing, and transporting wildlife and with two false statement violations. Darlah Mulloy was charged with one smuggling violation and one count of tampering with a witness.

The arrests came at the end of a four-year investigation. One of the smuggled cats has been living with an acquaintance of the Mulloys' for three years. Another was given to a friend who was unable to care for it, and the cat ultimately was left with the



Slow Loris Pygmy Monkeys

U.S. Fish and Wildlife Service in Texas, where it is being cared for by a wildlife facility. The lorises are housed at the Los Angeles County Zoo, but the four birds of paradise all perished.

The birds of paradise all perished.

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

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United States v. Ronald Evans et al., No. 3:05-CR-00159 (M.D. Fla.), AUSA John Sciortino ([REDACTED] SAUSA Jody Mazer [REDACTED] and DOJ Civil Rights Attorney Susan French [REDACTED]

On February 7, 2007, Jequita Evans was sentenced to serve 15 years' incarceration followed by five years' supervised release. Evans was convicted by a jury last summer of conspiracy to distribute crack cocaine and 48 counts of structuring cash transactions to avoid financial reporting requirements. Her husband, Ronald Evans, Sr., was found guilty of engaging in a continuing criminal enterprise that distributed crack cocaine; conspiracy to distribute crack cocaine; trafficking in untaxed contraband cigarettes; violating the CWA; two counts of violating the Migrant and Seasonal Farm Worker Protection Act; and 50 counts of structuring cash transactions to avoid financial reporting requirements. He was sentenced on January 26, 2007, to serve 30 years' incarceration followed by three years' supervised release. Ronald Evans, Jr., was sentenced on February 13, 2007, to serve 78 months' incarceration, followed by three years' supervised release after pleading guilty to conspiracy to possess narcotics.

Evans, Sr., owned two labor camps for migrant and seasonal agricultural workers. He and his codefendants operated a camp located in East Palatka, Florida, and another camp in Newton Grove, North Carolina. According to trial witnesses, the defendants operated the camps so as to extract the greatest economic benefit at the lowest possible cost from a group of homeless people. For many years, the defendants recruited African Americans from homeless shelters and other low income areas in cities across the Southeast, including Miami, Tampa, Orlando, Jacksonville, New Orleans, Birmingham, and Winston-Salem.

The defendants charged the laborers \$50 per week for room and board, and they put them to work in the fields for wages at or near minimum wage. At the end of every weekday, the defendants gave the workers the opportunity to purchase, on credit and at inflated prices, crack cocaine and

untaxed generic-quality beer and cigarettes at a "company store" located on site. Records were kept of the laborers' purchases, and the defendants deducted these costs from the laborers' weekly pay.

"Advances" of crack cocaine also were available on payday in the workers' pay envelopes. As a result, the need arose for ready access to substantial amounts of cash to acquire drugs on a regular basis. The defendants obtained the money by cashing checks written by their farmer clients. Because large cash transactions must be reported by financial institutions, the defendants instructed the farmers to structure the payments to avoid reporting requirements. After Evans, Sr., was indicted, he obstructed justice by persuading one farmer to lie on his behalf to investigating IRS agents and to deny that the structuring took place.

With respect to the CWA violation, Cow Creek, a primary tributary of the St. Johns River, flows along the southern border of the Evans' labor camp in East Palatka. Evans, Sr., directed that a large PVC pipe be connected to the labor camp's heavily used septic tanks. The pipe continuously carried raw, untreated human waste underground for some distance and then discharged it directly into Cow Creek. The severely contaminated creek flowed approximately a mile to the St. Johns River.

Nine defendants originally were charged in this case. [REDACTED]

[REDACTED] Guilty pleas were taken between May and July 2006 from Eddie Lee Williams, Nathaniel Davenport, Emma Mae Johnson, Ronald Robert Evans, Jr., and Gilbert Irvin Labeaud III. All pleaded guilty to conspiracy to possess narcotics except for Labeaud who pleaded guilty to trafficking in untaxed contraband cigarettes. Johnson was sentenced to serve a one-year term of incarceration followed by three years' supervised release. Davenport was ordered to serve 63 months in prison followed by five years' supervised release, and Labeaud was sentenced to serve two years probation. Williams has not yet been sentenced.

As part of their sentencings, the Evans have forfeited the two labor camps, vehicles and other personal property.

This case was investigated by the United States Department of Labor Inspector General's Office, the United State Environmental Protection Agency Criminal Investigation Division, the Drug Enforcement Administration, and the Putnam County Sheriff's Office.

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United States v. Michael Bonner et al., Nos. 3:07-CR-13 and 14, LAC (N.D. Fla.), ECS Trial Attorney Mary Dee Carraway [REDACTED]

On February 6, 2007, Michael Bonner and Gerald Andrews Jr., pleaded guilty to a one-count misdemeanor information charging them with knowingly and willfully submitting false information to the Secretary of Commerce in violation of the Magnuson-Stevens Fishery Conservation and Management Act ("Magnuson-Stevens Act")

In November 2003, the Magnuson-Stevens Act placed a moratorium on charter vessel/head boat permits for Gulf coastal migratory pelagic fish and Gulf reef fish in an effort to address concerns regarding over-fishing and declining fish stocks. The regulation required that any person who could provide the National Marine Fisheries Service ("NMFS") with documentation verifying that, prior to March 29, 2001, s/he had a charter vessel or headboat under construction and had spent at least \$5,000 toward construction as of that date, was eligible for the permit. The moratorium created a limited-entry fishery in that the permits were not available to all charter boat owners.

Bonner was an Alabama boat builder and Andrews was a charter-boat fisherman in Florida. Defendants were charged with knowingly and willfully submitting false information (back-dated checks and sales agreements) to the NMFS regarding a matter that the Secretary of Commerce was considering in carrying out the Magnuson-Stevens Act. The defendants back-dated two sales

agreements and checks to a date prior to the March 29, 2001 moratorium qualifying date and submitted them to the NMFS in an attempt to secure letters of eligibility for permits for two commercial fishing vessels.

Sentencing is scheduled for April 24, 2007. The case was investigated by the National Oceanic and Atmospheric Administration, Office of Law Enforcement.

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United States v. Fernando Magnaye, No. 3:07-CR-00077 (D.N.J.), ECS Senior Counsel Claire Whitney [REDACTED] and AUSA Brad Harsch [REDACTED]

On February 2, 2007, Fernando Magnaye, the chief engineer of the *M/T Clipper Trojan*, pleaded guilty to charges of presenting a false document to Coast Guard inspectors and to attempting to obstruct a Coast Guard inspection in an effort to conceal the ship's illegal discharges of oil sludge and oil-contaminated bilge waste overboard into the ocean.

Magnaye presented the ship's oil record book ("ORB") to inspectors on June 15, 2006, in Port Newark, New Jersey, falsely stating that the book was accurate. Magnaye knew that, from January through June 2006, there were illegal discharges of oil sludge and contaminated bilge waste that were not recorded in the ORB. Additionally, Magnaye asked the ship's fourth engineer to ensure that the Coast Guard would take a false reading of the contents of the ship's bilge sludge oil tank. Magnaye did so because an accurate reading of the tank's contents might have exposed the false entries in the ORB.

Sentencing is scheduled for May 31, 2007. This case was investigated by the United States Coast Guard Investigative Service.

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United States v. Bruce Penny et al., Nos. 2:06-CR-00761 and 765; 2:06-mj-01688 (C.D. Calif.), AUSA Dorothy Kim [REDACTED]

On February 2, 2007, Bruce Penny pleaded guilty to conspiracy to violate the Lacey Act for his involvement in illegally transporting and selling Asian Arowanas, commonly known as “dragon fish” or “lucky fish.” On January 29, 2007, co-defendant Anthony Robles also pleaded guilty to conspiracy to violate the Lacey Act and Peter Wu pleaded guilty to a Lacey Act smuggling violation for his involvement in the scheme.

The dragon fish is 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.

Penny sold several lucky fish to a purchaser in New York; Robles purchased dragon fish, sold some to Penny and helped Penny ship some of the fish to the New York buyer. Wu transported and sold an Asian Arowana to an undercover agent with the U.S. Fish and Wildlife Service.

Robles is scheduled to be sentenced on April 16, 2007, Penny is scheduled to be sentenced on April 30, 2007, and Wu is scheduled to be sentenced on May 21, 2007.

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

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United States v. Chian Spirit Maritime Enterprises, Inc., et al., Nos. 1:06-CR-00075, 76 (D. Del.), Special Litigation Counsel Greg Linsin [REDACTED] and ECS Trial Attorney Jeff Phillips [REDACTED]

On January 29, 2007, Chian Spirit Maritime Enterprises, Inc. (“Chian Spirit”), and Venetico Marine (“Venetico”), the Greek-based operator and owner, respectively, of the *M/V Irene E.M.*, a large bulk carrier, each pleaded guilty to one APPS violation for misleading United States Coast Guard investigators during an inspection of the vessel in Delaware Bay in December 2005. They each were sentenced to pay an aggregate of \$1.25 million, \$250,000 of which will be dedicated to a marine-based environmental enhancement community service project on the Delaware Bay.

During a routine Coast Guard inspection, inspectors uncovered evidence that the oil record book (“ORB”) had been falsified. Investigation further revealed that the vessel’s oil water separator (“OWS”) had been inoperable for the previous year and that overboard discharges of untreated oily water and bilge waste had taken place approximately four times per week while in the open ocean. Most of these discharges occurred at night or far from shore during trips to various ports, from Africa to Brazil and from Brazil to the United States. These illegal discharges were either recorded in the ship's ORB inaccurately as "discharges through the OWS" or not recorded at all. The ship’s engineers also constructed a bypass pipe, which was hidden during Coast Guard boardings. All defendants are alleged to have encouraged crew members to lie to investigators.

Chief engineer Adrien Dragomir pleaded guilty in August 2006 to one APPS violation for falsifying the ORB. He was sentenced to serve a one-year term of unsupervised probation. Grigore Manolache, the ship’s master, pleaded guilty in July 2006 to an information charging him with presenting false information to the Coast Guard and was also sentenced to serve a one-year term of unsupervised probation.

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. Princess Cruise Lines, Inc., No. 3:07-CR-00005-JDR (D. Alaska), ECS Senior Trial Attorney Bob Anderson [REDACTED] and AUSA Steve Skrocki [REDACTED]

On January 29, 2007, Princess Cruise Lines, Inc., (“Princess”) pleaded guilty to a one-count information charging the company with failing to operate its vessel, the *Dawn Princess*, in a slow, safe speed near humpback whales in waters near Glacier Bay National Park and Preserve, Alaska.



Humpback whale in front of ship

On July 12, 2001, the vessel was accelerating through 14 knots as it left Park waters and failed to slow or alter course after two humpback whales were observed on a closing course about half a mile away,

eventually crossing in front of the vessel. Some passengers and crew believe the vessel struck one of the whales, and a pregnant dead humpback surfaced in the area a few days later with injuries consistent with a vessel strike. Failure to slow the vessel in this situation violated a regulation enacted earlier in 2001 to protect humpback whales near Glacier Bay, supporting the anti-take provisions of the Endangered Species Act (“ESA”) and Marine Mammal Protection Act. Shortly after the event, Princess issued a press release acknowledging the incident and admitting the possibility that it struck the whale. Princess subsequently imposed a permanent 10-knot speed restriction on all its vessels in nearby waters.

Violation of the “speeding” regulation was charged as a class-A misdemeanor under the ESA, carrying a maximum corporate penalty of a \$200,000 fine and a five-year term of probation. Pursuant to the plea agreement, the company was sentenced to pay the maximum fine with an additional \$550,000 community-service payment to be made to the National Park Foundation and earmarked for Glacier Bay research.

This case is believed to represent the first criminal charge and conviction for a whale-strike by a vessel.

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United States v. Chang-Sig O et al., No. 2:06-CR-00599 (D.N.J.), ECS Trial Attorney David Kehoe [REDACTED].

On January 26, 2007, chief engineer Chang-Sig O was sentenced to serve five months in prison followed by two months’ supervised release during which time he may not return to U.S. navigable waters serving as a ship’s engineer. Second Engineer Mun Sig Wang was sentenced to serve three years’ probation during which time he is prohibited from serving as an engineer on board any vessel that enters into U.S. navigable waters.

Wang pleaded guilty in December 2006 to an APPS violation for presenting a false oil record book to inspectors during a port inspection of the bulk carrier *M/V Sun New* in Camden, New Jersey earlier in 2006. The false record book concealed the dumping of oily wastes overboard using a pipe built to bypass the vessel's oil-water separator. O pleaded guilty to obstruction of justice for maintaining a false ORB and for lying to the Coast Guard about his knowledge of the bypass hoses used to circumvent pollution control equipment.

On January 3, 2006, Coast Guard inspectors boarded the ship and discovered that members of the engine room crew had used bypass hoses to discharge oily wastes overboard into the ocean without using the vessel's oil-water separator. Upon further investigation, inspectors discovered that the ship's crew had disposed of significant amounts of oily waste into the ocean at least twice during the voyage from South Korea to New Jersey. The Sun Ace Shipping Company, the ship's operator, previously pleaded guilty to an APPS violation and was sentenced in November 2006 to pay a \$400,000 fine plus an additional \$100,000 community service payment. On December 12, 2006, an APPS award of \$200,000 (half of the fine), was ordered to be divided among three crew member whistle blowers.

This case was investigated by the United States Coast Guard.

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United States v. John Chick, No. 06-CR-514 (N.D.N.Y.), AUSA Craig Benedict [REDACTED].

On January 24, 2007, John Chick pleaded guilty to conspiracy to violate the Clean Air Act stemming from the illegal removal of asbestos from the Cayuga County Board of Elections Building in Auburn, New York. The defendant was originally charged with conspiring to violate the CAA; six substantive CAA violations related to the illegal removal and disposal of asbestos from the building in February 2006; and three counts of making false statements, including denying that he used Cayuga County prison inmates to perform some of the illegal work and falsely stating that he gave them masks during the removal activities.

Chick is scheduled to be sentenced on June 5, 2007. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the New York State Department of Environmental Conservation, with assistance from the New York State Department of Labor, Asbestos Control Bureau.

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issues?

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