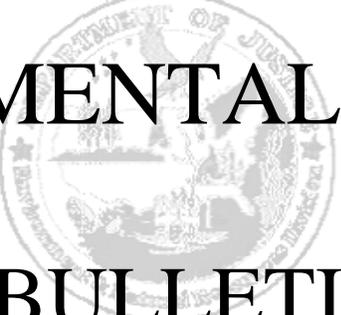


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# ENVIRONMENTAL CRIMES

## MONTHLY BULLETIN

*October 2007*

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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 a significant photograph from the case, you may email this, 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*, and *Quick Links*.

## **AT A GLANCE**

### *SIGNIFICANT OPINIONS*

▲ [United States v. W.R. Grace et al.](#), \_\_\_ F.3d \_\_\_, 2007 WL 2728767 (9th Cir. Sept. 20, 2007).

Districts	Active Cases	Case Type / Statutes
C.D. Calif.	<a href="#">United States v. Hai Nguyen</a>	<i>Sea Lion Stabbing/ Marine Mammal Protection Act</i>
D. Colo.	<a href="#">United States v. Carlos Barragan</a>	<i>Int'l Trade of Exotic Skins/ Conspiracy, Money Laundering, Smuggling</i>
D. Conn.	<a href="#">United States v. Ionia Management S.A.</a>	<i>Vessel/ APPS, False Statement</i>
	<a href="#">United States v. Petros Renieris</a>	<i>Vessel/ False Statement, Obstruction</i>
M.D. Fla	<a href="#">United States v. Zane Fennelly</a>	<i>Spiny Lobster Harvesting/ Destruction of Property to Avoid Seizure</i>
S.D. Fla.	<a href="#">United States v. Janitse Martinez</a>	<i>Queen Conch Harvest/ Lacey Act</i>
	<a href="#">United States v. Karl Kuhn, II</a>	<i>Manatee Taking/ Lacey Act</i>
S.D. Ind.	<a href="#">United States v. Midwest Sheets Company</a>	<i>Cardboard Manufacturer / Clean Water Act</i>
M.D. La.	<a href="#">United States v. Honeywell Int'l, Inc.</a>	<i>Mislabeled Cylinder/ Clean Air Act Negligent Release</i>
D. Md.	<a href="#">United States v. MeTompkin Bay Oyster Company</a>	<i>Undersized Crab Harvesting/ Lacey Act</i>
	<a href="#">United States v. Terrance Yates</a>	<i>Asbestos Abatement/ False Statement</i>
D. Mass.	<a href="#">United States v. Aristides Couto</a>	<i>Fish Wholesaler/ False Statement, Evading Currency Transaction Reporting Requirements</i>
D. Ore.	<a href="#">United States v. Great Cats of the World, Inc.</a>	<i>Ocelot Purchase/ Endangered Species Act</i>
D. P.R.	<a href="#">United States v. Nicanor Jumalon</a>	<i>Vessel/ Conspiracy, APPS, Obstruction</i>
N.D. Tex.	<a href="#">United States v. Fujicolor Processing, Inc.</a>	<i>Photo Processing Plant/ Clean Water Act</i>
S.D. Tex.	<a href="#">United States v. The Hunting Consortium</a>	<i>Wild Game Hunting/ Lacey Act</i>
W.D. Va.	<a href="#">United States v. Southern Finishing, Inc.</a>	<i>Furniture Manufacturer/ RCRA</i>

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## Significant Opinions

### 9<sup>th</sup> Circuit

**United States v. W.R. Grace et al., \_\_\_ F.3d \_\_\_, 2007 WL 2728767 (9<sup>th</sup> Cir. Sept. 20, 2007).**

On September 20, 2007, the Ninth Circuit Court of Appeals, on an interlocutory appeal, reversed six pretrial orders issued by the district court and remanded the case for trial. Specifically, the Ninth Circuit's order restored the Clean Air Act knowing endangerment object of the conspiracy count that had been twice dismissed by the district court; agreed with the government's definition of asbestos under the Clean Air Act; granted a *writ of mandamus* to rule that the defendants were not entitled to an affirmative defense that would have required the government to prove visible emissions of asbestos had occurred; and ruled that three categories of evidence excluded by the district court were "of the type reasonably relied upon" by experts under Rule 703 and, therefore, could be used for that purpose by the government. This ruling follows a previous Ninth Circuit opinion issued in July, 2007, that reversed two additional pretrial orders by the district court, which had limited the government's ability to call witnesses and precluded the government's experts from relying on certain studies and data that had not been identified nine months prior to trial. (United States v. Grace, 439 F. 3d 1119 (9<sup>th</sup> Cir. 2007)). The defendants have sought *en banc* review of the earlier decision. No new trial date has been set.

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## Trials

**United States v. Ionia Management S.A. et al., No. 3:07-CR-00134 (D. Conn.), ECS Trial Attorneys Lana Pettus ( [REDACTED] and Malinda Lawrence [REDACTED] Supervisory AUSA Anthony Kaplan [REDACTED], AUSA William Brown [REDACTED], and CMDR Luke Reid.**

On September 6, 2007, the jury returned guilty verdicts against Ionia Management S.A. (“Ionia”) on all 18 counts, including several charges that were transferred from three other districts to Connecticut for trial. The charges in the other districts have been disposed of with the conclusion of this trial. Ionia was on probation in the Eastern District of New York for a similar case in 2004 at the time of these new charges.

On June 7, June 14, and June 20, 2007, Ionia, a Greek company that manages a fleet of tanker vessels, and second engineer Edgardo Mercurio were charged in four districts for their involvement in the overboard dumping of waste oil from the *M/T Kriton* into international waters and falsification of records to impede the United States Coast Guard and other authorities from learning of the illegal conduct.

The indictments, returned in Connecticut, Florida, New York, and the Virgin Islands, charged Ionia and Mercurio with falsifying records to conceal the illegal discharge of waste oil and using and presenting false oil record books to the Coast Guard during port inspections. Mercurio was additionally charged with encouraging other crewmembers to lie to the Coast Guard about the violations. Mercurio pleaded guilty in July of this year to four APPS violations, one from each of the districts charged. He is scheduled to be sentenced on October 12, 2007 and the company will be sentenced on November 28th.

This case was investigated by the Coast Guard Investigative Service and the United States Environmental Protection Agency Criminal Investigative Division. Assistance also was provided by the Netherlands Royal Military Police, Ministry of Transport, Public Works, and Water Management.

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## Indictments

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

On September 26, 2007, Aristides Couto was charged in a two-count information with concealing a scheme to pay cash to fishing vessel owners for their catches by falsifying reports to the National Oceanic and Atmospheric Administration (“NOAA”) and by structuring hundreds of cash transactions.

The information alleges that for 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 allegedly 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, it is further alleged that 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.

According to the information, 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, it is alleged that 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. Janitse Martinez et al., No. 1:07-CR-20690 (S.D. Fla.), AUSA Tom Watts-FitzGerald**

On September 25, 2007, Janitse Martinez and Ramone Placeres were charged with Lacey Act violations in connection with a conspiracy to smuggle large quantities of queen conch taken from Caribbean waters to customers throughout Canada and the United States.

According to court documents, from approximately May 2004 through November 2006, Martinez and Placeres were, respectively, the owners of Caribbean Conch, Inc., and Placeres & Sons Seafood, Inc., and were engaged in the business of selling seafood products. During this time, the defendants are alleged to have caused the illegal shipment of more than 113,000 pounds of queen conch from Haiti, Honduras, and Columbia to Canada without proper permits.

Queen conch is a protected species under the Endangered Species Act and is a species listed for protection since 1992 in CITES Appendix II. In September 2003, an embargo was enacted by the CITES parties for queen conch and conch products that originated from many of the conch-producing countries of the Caribbean to help stem the significant declines in the species due in large part to rampant illegal harvesting. The embargo banned all imports of queen conch to any nation that was a signatory to CITES.

The defendants' smuggling activities were detected in March 2006 when a shipment of 2,100 pounds of queen conch, falsely labeled as "Frozen Whelk meat, product of Canada" was intercepted by a Fish and Wildlife Service Inspector at the Peace River Bridge in Buffalo, New York. The Fish and



Canadian inspector with seized conch

Wildlife Service's National Forensic Laboratory in Ashland, Oregon, conducted DNA analysis of the seafood product and confirmed it was queen conch and not whelk, which sometimes is used as a cheap substitute for queen conch.

Investigative efforts by Canadian and American enforcement authorities led to the simultaneous execution of search warrants in both countries and the seizure of more than 63,000 pounds of illegally traded queen conch.

This case was investigated by the United States Fish and Wildlife Service, the NOAA Office for Law Enforcement, and Environment Canada's Wildlife Enforcement Branch, Wildlife Enforcement Division.

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**United States v. Karl F. Kuhn II, et al., No. 07-CR-60227 (S.D. Fla.), AUSA Tom Watts-FitzGerald** [REDACTED]

On September 21, 2007, Karl F. Kuhn II and Charles V. Podesta, Jr., were charged with an Endangered Species Act violation for the illegal "taking" of a West Indian Manatee.

According to court documents, on March 13, 2007, Podesta posted a pair of videotape clips on the "MySpace" website he maintained under the name "Nerezza." The video clips depicted the defendants attempting and ultimately succeeding in hooking and fighting a manatee in a Fort Lauderdale-area canal. Kuhn was identifiable directly from the video clips, while Podesta was later identified through follow-up by investigation on other postings to the site.

According to data collected by the Florida Fish and Wildlife Conservation Commission Marine Mammal Pathobiology Laboratory, 26 manatee deaths have been associated with fishing gear between 1974 and 2006.

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

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**United States v. Hunting Consortium et al., No. 4:07-CR-00381 (S.D. Tex.), ECS Senior Counsel Claire Whitney** [REDACTED]

On September 12, 2007, The Hunting Consortium, a hunting outfitter based in Berryville, Virginia, and Robert Kern, company president, were charged with violating the Lacey Act for conducting illegal hunts in Russia.

According to the indictment, in the summer of 2002, Kern organized a hunt in Russia. During the hunt, Kern employed helicopters to locate trophy-sized moose and sheep for hunters on the trip. The helicopters then were used as airborne shooting platforms by the hunters. The use of helicopters in the taking of wildlife is prohibited by Russian law. The trophy parts of the wildlife were then transported from Russia and imported into the United States at an airport in Houston.

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

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**United States v. Carlos Barragan et al., No. 1:07-CR-00358 and 359 (D. Colo.), ECS Senior Trial Attorney Bob Anderson [REDACTED] Trial Attorney Colin Black [REDACTED], and AUSA Linda McMahan [REDACTED]**



**Exotic skin products**

On September 6, 2007, five individuals were arrested for their roles in the illegal international trade of exotic skins and parts manufactured from sea turtles and other protected species. The arrests, which were part of a joint operation with Mexican authorities, were made following the return of two indictments on August 22, 2007.

The two indictments jointly charge 54 counts which include conspiracy, smuggling and money-laundering violations that took place over a two-year period. The defendants are alleged to have smuggled approximately 25 separate shipments of wildlife skins and products between Mexico and the United States between early 2005 and 2007. The shipments contained more than 700 tanned skins from sea turtle, caiman, python and other protected species and well over 100 items, such as boots, belts and wallets, manufactured from the skins of those species. The indictments allege that nearly \$60,000 was paid to the Mexican suppliers of the illegal skins and products, in addition to "crossing fees" paid to the alleged smugglers.

Jorge Caraveo, Maria de los Angeles Cruz Pacheco, Carlos Leal Barragan, Octavio Anguiano Munoz, and Esteban Lopez Estrada all are charged in the first indictment with multiple counts of smuggling sea turtle skins, items manufactured from sea turtle skins, and other wildlife skins from Mexico into the United States and with money laundering by receiving payment for the smuggled goods via international payments from the undercover agents. Five of the seven species of sea turtles are listed as "endangered" and six species of sea turtles are found on and along the coasts of Mexico.

A second indictment charges Oscar Cueva, Miguel Vazquez Pimentel, Martin Villegas Terrones and Esteban Lopez Estrada with similar violations. Lopez Estrada also is named in the first indictment. They are charged with a conspiracy to smuggle exotic skins into the United States, and to transfer funds from the United States to Mexico, along with substantive counts of smuggling and money laundering.

This case is the culmination of a three-year undercover operation conducted by the United States Fish and Wildlife Service and the result of a joint operation between the Department of Justice; the United States Fish and Wildlife Service, Branch of Special Operations; and Mexican law enforcement authorities.

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**United States v. Hai Nguyen, No. 2:07-CR-00880(C.D. Calif.), AUSA Craig H. Missakian [REDACTED]**

On August 30, 2007, Hai Nguyen was charged with violating the Marine Mammal Protection Act for stabbing a California sea lion which had to later be euthanized.

The indictment states that, on July 27, 2007, Nguyen was fishing from a dock on the Balboa Peninsula in Newport Beach. The sea lion, which had been swimming in the water near the dock and may have been interfering with Nguyen's fishing, approached the dock, getting close enough so that Nguyen could reach down and stab the animal.

Witnesses in the area contacted the Newport Beach Police Department, which arrested Nguyen. Animal control officers were later able to trap the sea lion, which was transported to the Pacific Marine

Mammal Center in Laguna Beach. Doctors who examined the sea lion determined that its wounds were too severe for it to recover.

This case was investigated by the National Oceanic and Atmospheric Administration, Office of Law Enforcement, and the Newport Beach Police Department.

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## **Pleas / Sentencings**

### **CORRECTION FROM LAST MONTH'S ISSUE:**

**United States v. Zane Fennelly, No. 3:07-CR-00204, (M.D.Fla.), ECS Trial Attorney Georgiann Cerese [REDACTED] and AUSA John Sciortino [REDACTED].**

On August 6, 2007, Zane Fennelly, former captain of a Jacksonville, Florida-based commercial fishing vessel, was arrested on an indictment returned on August 2, 2007. The indictment alleges a violation of 18 U.S.C. §2232 for knowingly disposing of, and attempting to destroy, three bags containing spiny lobster tails that were caught within the exclusive economic zone (“EEZ”) of the United States.

The spiny lobster fishery in the EEZ off the coast of Florida is only open between August 6<sup>th</sup> and March 31<sup>st</sup>. On July 21, 2006, upon the approach of United States Coast Guard and Florida Fish and Wildlife Conservation Commission officers, Fennelly attempted to get rid of his out-of-season spiny lobster tail catch. The bags did not sink, however, and were retrieved by law enforcement.

This case was investigated by the National Oceanic and Atmospheric Administration (“NOAA”) Fisheries Service Office for Law Enforcement, the Florida Fish and Wildlife Conservation Commission and the United States Coast Guard.

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**United States v. Nicanor Jumalon et al., Nos. 3:07-CR-00390 and 398 (D.P.R.), ECS Senior Trial Attorney David Kehoe [REDACTED] and Special Counsel to the USA AUSA Jacqueline Novas [REDACTED]**

On September 27, 2007, Captain Nicanor Jumalon pleaded guilty for his involvement with the illegal dumping of oil-contaminated ballast water from the *M/V Sportsqueen*, a 479-foot general cargo vessel. Jumalon pleaded guilty to obstruction of justice and was sentenced to serve eight months' in prison. On September 20<sup>th</sup>, India-based shipping company Accord Ship Management ("Accord") and chief engineer Francisco Sabando also pleaded guilty to dumping sludge, bilge wastes, and oil contaminated ballast water from the ship.

Accord pleaded guilty to a four-count criminal information charging conspiracy, an APPS violation, and two obstruction of justice charges. Accord was sentenced to pay a \$1.75 million fine and to serve a three-year term of probation during which time all of the ships in its fleet will be banned from entering U.S. waters and ports.

Sabando pleaded guilty to two obstruction violations and was sentenced to serve five months' incarceration for his involvement in bypassing the oily water separator.

On April 14, 2007, during the boarding of the ship in San Juan, Coast Guard investigators discovered that the captain had ordered crew members to discharge oil-contaminated ballast water into the ocean prior to arriving in port. Jumalon admitted to these actions and made false statements to the Coast Guard about the cause of the oil contamination in the ballast tanks. During the boarding, inspectors learned that Sabando had ordered crew members to dump oily sludge and bilge wastes into the ocean and had falsified the ship's oil record book to conceal these discharges. The bypass pipes and hoses were subsequently recovered by inspectors with help from lower level crew members. Five crew members were awarded \$50,000 each as part of the APPS whistleblower provision.

This case was investigated by the United States Coast Guard.

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**United States v. Southern Finishing, Inc., No. 4:07-CR-00027 (W.D. Va.), AUSA Jennie Waering [REDACTED] and SAUSA David Lastra [REDACTED]**

On September 19, 2007, Southern Finishing, Inc., a manufacturer of wood and metal components for the furniture and cabinet industry, pleaded guilty to one RCRA violation for illegally storing hazardous waste at its facility in Martinsville, Virginia.

The company accumulated, without a permit, a total of 150 55-gallon drums containing waste paint, solvents and finishes from January 2002 to April 2004. In June 2003, Southern Finishing received an additional shipment of metal-coating material that contained hazardous air pollutants. After later learning that the Clean Air Act prohibits the application of this coating, the company stored this material with the other wastes when the manufacturer refused to take it back. To evade detection



Overboard discharge pipe

by regulators, the hazardous waste drums (many of which were leaking or punctured) were concealed among labeled drums of other waste and product material.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the National Enforcement Investigations Center, the Roanoke Police Department, the Virginia Department of Environmental Quality and the Blue Ridge Environmental Task Force.

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**United States v. MeTompkin Bay Oyster Company et al., No. 1:07-CR-00411 (D. Md.), ECS Senior Trial Attorney David Kehoe [REDACTED] and AUSA Christopher Romano [REDACTED]**

On September 17, 2007, MeTompkin Bay Oyster Company ("MBOC") pleaded guilty to, and was sentenced for, selling undersized Chesapeake Bay crabs in interstate commerce in violation of the Lacey Act.

The investigation began when the government received information that crabbers from Tangier Island, Virginia, were selling soft shell blue crabs from the Chesapeake Bay to seafood dealers in Crisfield, Maryland, including MeTompkin. Many of these crabs were found to be less than three and a half inches in length in violation of Maryland State law. Posing as representatives from a business in West Virginia, United States Fish and Wildlife Service ("USFWS") agents and an officer from the Maryland Department of Natural Resources ("MDNR") purchased approximately \$1,500 worth of undersized crabs on three occasions in 2005 and 2006 from the company. The subsequent execution of a search warrant at the facility's warehouse resulted in the seizure of approximately 3,274 dozen undersized crabs valued at approximately \$26,000.

The company will pay a \$50,000 fine and forfeit the undersized crabs seized during the execution of the search warrant. During its three-year term of probation, the defendant will allow agents and inspectors from the USFWS and the MDNR increased access to its facility, and it will implement employee training programs and more effective notice measures with its suppliers to prevent similar violations in the future.

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

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**United States v. Petros Renieris, No. 3:07-CR-00199 (D. Conn.), ECS Trial Attorney Malinda Lawrence [REDACTED], AUSA Bill Brown [REDACTED] and Supervisory AUSA Anthony Kaplan [REDACTED]**

On September 17, 2007, Petros Renieris, a chief engineer on the *M/T Kriton*, pleaded guilty for his role in falsifying oil record book entries, as well as for obstructing the U.S. Coast Guard and other authorities in their investigation.

The *Kriton* is owned and operated by Ionia Management, a Greek company that manages a fleet of tanker vessels. Renieris further admitted that he deliberately ignored the conduct of employees he supervised as they dumped oil-contaminated wastes from the ship bypassing the oily water separator. He also admitted to destroying the bypass hose while the Coast Guard conducted an inspection of the ship.

Ionia Management was convicted by a jury last month and an engineer has previously pleaded guilty. [See Trial Section, p. 5 above for summary.] Renieris pleaded guilty to an APPS violation is scheduled to be sentenced on December 3, 2007.

This case was investigated by the Coast Guard Investigative Service and the United States Environmental Protection Agency Criminal Investigative Division. Assistance also was provided by the Netherlands Royal Military Police, Ministry of Transport, Public Works, and Water Management.

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[REDACTED]

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**United States v. Terrance Yates, No. 8:07-CR-00202 (D. Md.), ECS Trial Attorney Noreen McCarthy [REDACTED] and AUSA Gina Sims [REDACTED]**

On September 17, 2007, Terrance Gates was sentenced to serve a five-year term of probation, complete 200 hours of community service and pay \$55,708.73 in restitution for clean-up costs. He pleaded guilty in June of this year to making false statements on a report submitted to the U.S. EPA in connection with the improper disposal of asbestos-containing waste materials.

Yates owned and operated Hazport Solutions, Inc., which contracted with asbestos abatement companies to transport regulated asbestos-containing material ("RACM") from asbestos abatement sites to authorized landfills. Between August 2004 and July 2006, Yates contracted with at least five hazardous waste removal companies to transport between 12 and



**Asbestos warning labels**

17 trailers full of RACM from locations in Maryland, Virginia, and the District of Columbia to an EPA-approved landfill in Pennsylvania. Instead of transporting the waste to the approved landfill, however, the defendant took the trailers to a lot in Severn, Maryland, where he abandoned them for more than a year until they were discovered by law enforcement. Some of the bags containing asbestos had been damaged, and loose asbestos-containing debris was found in the trailers.

Yates subsequently returned waste shipment records to the companies that had paid for the proper disposal, falsely certifying that the waste had been disposed of at the Pennsylvania landfill.

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

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

On September 13, 2007, Honeywell International, Inc. was sentenced as the result of a negligent release of hazardous air pollutants that caused the death of employee Delvin Henry. The company will pay an \$8 million fine, complete a two-year term of probation, and pay 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.

On July 23, 2003, 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.

The company pleaded guilty in February of this year to negligently causing the release of hazardous air pollutants and negligently placing another person in imminent danger of death in violation of the Clean Air Act.

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

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**United States v. Great Cats of the World, Inc., 3:06-CR-00314 (D. Ore.), AUSAs Dwight C. Holton [REDACTED] and Amy Potter [REDACTED]**

On September 10, 2007, Great Cats of the World ("Great Cats") was sentenced to pay a \$10,000 community service payment to the Oregon Zoo, and complete a one-year term of probation. The company pleaded guilty in June of this year to an Endangered Species Act violation.

Great Cats is an Oregon corporation located in Cave Junction, Oregon, which formerly operated in Minnesota under the name "Center for Endangered Cats." The Center for Endangered Cats purchased an ocelot from the Temple of Isis and submitted a document falsely claiming that the ocelot had been "donated," when in fact the defendant paid thousands of dollars for the animal.



Gas cylinders

The Temple of Isis previously pleaded guilty to a misdemeanor ESA conspiracy violation for the illegal sale of six ocelots. This defendant was sentenced to serve a two-year term of probation and pay \$60,000 to the Oregon Zoo.

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

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**United States v. Fujicolor Processing, Inc., 3:07-00181 (N.D. Tex.), ECS Trial Attorney Joe Poux and AUSA Shane Read**

On September 6, 2007, Fujicolor Processing, Inc. (“Fujicolor”), pleaded guilty to one count of negligently operating a source in violation of a pretreatment permit at its photo-processing facility in Terrell, Texas. Fujicolor admitted that it negligently discharged waste from the facility that exceeded the monthly concentration limit imposed by a pretreatment permit issued by the City of Terrell. The company was sentenced to pay a \$200,000 fine.

On July 15, 2002, the Terrell facility was issued an administrative compliance order and fine by the City in the amount of \$105,725. Inspectors had discovered through their analyses of wastewater samples that the facility had exceeded its monthly concentration limit for silver.

Fujicolor then initiated an extensive internal investigation of the Terrell facility, as well as its other photo-processing facilities. The investigation revealed that, from approximately 1999 through July 2002, employees at the Terrell facility “cherry picked” test samples by only reporting test results showing compliance with permit limits. The employees would send part of a sample to a laboratory for screening, while retaining the other part at the facility. If the analysis of the screened sample showed that it met the permit’s limit, then the retained portion of the sample would be sent to a different laboratory for official analysis, and the results subsequently reported to the City of Terrell. If however, the analysis of the screened sample showed that the sample exceeded the silver limit, another sample would be drawn and the process repeated until a compliant sample was obtained. Fujicolor’s internal investigation revealed that similar conduct had occurred at its facilities in New Britain, Connecticut, and Tukwila, Washington.

Fujicolor made a timely disclosure of its findings to federal and local officials, including the production of documents and information that substantially assisted the government’s investigation. The company further undertook extensive actions to address the issues identified in its internal investigation. These actions included: firing local, regional, and national employees and managers found to be responsible for the violations and who had failed to properly oversee compliance efforts; and authorizing a multi-million dollar investment in a new environmental compliance program while restructuring its nationwide environmental, safety and health compliance organization to include an enlarged environmental staff with direct reporting lines to senior executives.



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

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**United States v. Midwest Sheets Company, No. IP-07-CR-0007 (S.D. Ind.), AUSA Steve Debrot**  


On September 6, 2007, Midwest Sheets Company pleaded guilty to a Clean Water Act violation for a discharge resulting in a fishkill in Cicero Creek. The company was sentenced to pay a \$600,000 fine, \$150,000 of which is suspended pending successful completion of a term of probation.

Midwest Sheets operates a corrugated cardboard sheet manufacturing facility. As the result of a storage tank overflow, the company discharged approximately 1,479 gallons of pure caustic soda with pH of nearly 14. The overflow went into the POTW and eventually the river, where it caused the fish kill. After the overflow, another 320 gallons of the solution was negligently discharged. The discharges disrupted treatment plant operations for seven days, and nearly 2,000 fish were killed in Cicero Creek.

At sentencing, the company also was ordered to implement an environmental compliance program, conduct an environmental audit, and publish an apology in a local newspaper and a trade journal.

This case was investigated by the Indiana Inter-Agency Environmental Crime Task Force for the Southern District of Indiana which includes the United States Environmental Protection Agency Criminal Investigation Division, the USEPA National Enforcement Investigations Center, the Indiana Department of Natural Resources and the Federal Bureau of Investigation.

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