

---

# ENVIRONMENTAL CRIMES



## MONTHLY BULLETIN

*April 2008*

---

***EDITOR'S NOTE:***

Please continue to submit information on relevant case developments in federal prosecutions for inclusion in the Bulletin. If you have any significant and/or interesting photographs from the case, you may email these, along with your submission, to Elizabeth Janes: (██████████). Material also may be faxed to Elizabeth at (██████████). If you have information to submit on state-level cases, please send this to the Regional Environmental Enforcement Associations' website: <http://www.regionalassociations.org>.

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



<b>Districts</b>	<b>Active Cases</b>	<b>Case Type / Statutes</b>
W. D. Ky.	<a href="#"><u>United States v. Canal Barge Company, et al.</u></a>	<i>Benzene Spill/ PWSA</i>
E. D. La.	<a href="#"><u>United States v. Energy Partners, Ltd.</u></a>	<i>Compressor Oil Spill/ RHA</i>
D. Md.	<a href="#"><u>United States v. Frank Coe</u></a>	<i>Vessel/ Conspiracy, APPS</i>
N. D. N.Y.	<a href="#"><u>United States v. John Chick</u></a>	<i>Asbestos Removal/ CAA Conspiracy</i>
S.D. Ohio	<a href="#"><u>United States v. James Schaffer</u></a>	<i>Deer Hunting Business/ Conspiracy, Lacey Act</i>
E. D. Pa.	<a href="#"><u>United States v. George Chittenden</u></a>	<i>Paint Waste/ RCRA Storage</i>
W. D. Pa.		<i>Tiger Skin Shipment / Lacey Act</i>
D. S. D.	<a href="#"><u>United States v. Dakota Pork Industries</u></a>	<i>Meat Processing Wastewater Discharge/ CWA Tampering</i>
E. D. Tenn.	<a href="#"><u>United States v. Archer Daniels Midland Company</u></a>	<i>Cellulose Wastewater Discharge/ CWA</i>
S. D. Tex.	<a href="#"><u>United States v. Dushko Babukchiev</u></a>	<i>Vessel/ APPS, False Statement</i>

### ***Additional Quick Links***

- ◇ [Significant Opinions](#) p. 4
- ◇ [Trials](#) p. 5
- ◇ [Indictments](#) pp. 5 - 6
- ◇ [Pleas](#) pp. 6 - 11
- ◇ [Sentencings](#) pp. 12 - 17
- ◇ [Editor's Box](#) p. 18

## Significant Opinions

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

**United States v. Beau Lewis, --- F.3d ----, 2008 WL 659578 (9th Cir. Mar. 13, 2008), ECS Senior Trial Attorney Bob Anderson (406) 829-3322, ENRD Appellate Attorney John Smeltzer (202) 305-0343, and former Appellate Attorney Todd Aagaard.**

On March 13, 2008, the Ninth Circuit reversed and remanded a judgment against Beau Lewis who was convicted of conspiracy and illegally importing protected reptiles into the United States. In an earlier appeal, the Ninth Circuit reversed Lewis' convictions because, in the Ninth Circuit's view, the district court improperly excluded a 117-day period of pre-trial delay under the Speedy Trial Act due to a government motion seeking to present the testimony of its case agent sequentially and in installments. [*United States v. Lewis*, 349 F.3d 1116 (9th Cir. 2003)]

In the first appeal ("Lewis I"), the Ninth Circuit remanded the matter to the district court to determine whether to dismiss the indictment with or without prejudice under the Speedy Trial Act. On remand, the district court dismissed without prejudice, stating that the Ninth Circuit had limited the period of delay he should consider to be 117-days.

Lewis was re-indicted, convicted by another jury and he again appealed, raising numerous issues. Stating that the district court incorrectly read Lewis I as limiting its review to the discrete 117-day period that the court earlier found sufficient to violate the Speedy Trial Act, the Ninth Circuit remanded for the district court to review the entirety of the pre-trial delay suffered by the defendant and to make specific factual findings as to which periods are excluded under the Act. In the Ninth Circuit's view, these additional periods of delay may have exacerbated the prejudice to the defendant and thus may weigh in favor of dismissing the indictment with prejudice.

Judge O'Scannlain dissented, stating that the Speedy Trial Act did not require the court to calculate the precise number of days.

[Back to Top](#)

## ***Trials***

**United States v. Canal Barge Company, Inc., No. 4:07-CR-00012 (W. D. Ky.), ECS Senior Trial Attorney Jennifer Whitfield (██████████) and AUSAs Madison Sewell (██████████) and Randy Ream (██████████)**

On March 21, 2008, after hearing 10 days of testimony, the jury returned guilty verdicts against all four defendants (three individuals and the corporation) for violating the Ports and Waterways Safety Act (“PWSA”). They were acquitted on the conspiracy and negligent Clean Water Act charge.

Canal Barge Company, Inc. (“CBC”), port captain Paul Barnes, captain Jeffrey Scarborough, and pilot Randolph Martin were charged in June of last year with conspiracy and PWSA and CWA violations. On or about June 16, 2005, CBC Barge 222 had a benzene leak while on the Ohio River and failed to report the leak (or hazardous condition) to the United



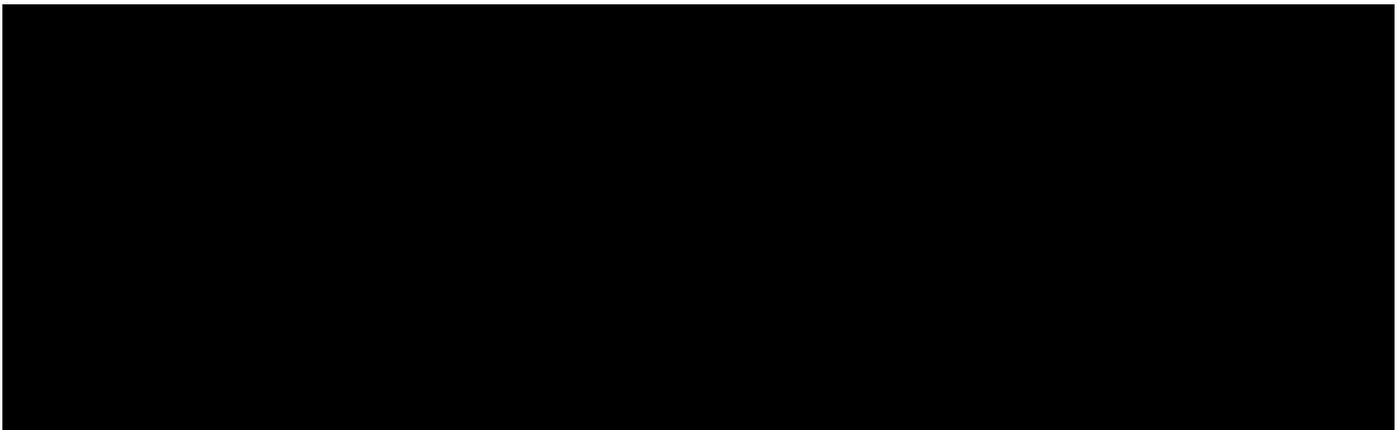
**Stains from benzene leak on Barge 222**

States Coast Guard. The defendants were further alleged to have concealed the leak by patching it up and then transferred the barge to another barge company without informing the second company of the leak. A few days later the patch failed, causing another leak, exposing crew members on the vessel to benzene fumes, and requiring them to seek medical attention.

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

[Back to Top](#)

## ***Indictments***





[Back to Top](#)

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

On March 17, 2008, Joseph Cota, the pilot of the *Cosco Busan*, a 65,131-ton container ship that collided with the San Francisco Bay Bridge this past November resulting in the discharge of approximately 58,000 gallons of oil, was charged with a negligent violation of the Clean Water Act and a violation of the Migratory Bird Treaty Act.

According to the information, Cota was licensed as a bar pilot and was utilized for navigating ships through challenging waters. In California large ocean-going vessels are required to be piloted when entering or leaving port.

On November 7, 2007, while piloting the *Cosco Busan* from port in heavy fog, Cota purportedly failed to pilot a collision-free course and failed to adequately review the proposed course with the captain and crew on official navigational charts. Further, Cota allegedly failed to use the ship's radar as he approached the Bay Bridge, failed to use positional fixes, and failed to verify the ship's position using official aids of navigation throughout the voyage. These failures led to the ship's striking the bridge and causing the discharge of several thousand gallons of heavy fuel oil.

The spill caused the deaths of approximately 2,000 birds, including Brown Pelicans, Marbled Murrelets and Western Grebes. The Brown Pelican is a federally-designated endangered species and the Marbled Murrelet is a federally-designated threatened species and an endangered species under California law.

This case is part of an on-going investigation being conducted by the United States Coast Guard Investigative Service, the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, the United States Fish and Wildlife Service, and the California Department of Fish and Game, Office of Spill Prevention and Response.

[Back to Top](#)

## ***Pleas***

**United States v. Archer Daniels Midland Company, No. 1:08-CR-00017 (E. D. Tenn.), AUSA Matthew Morris ( [REDACTED]**

On March 5, 2008, Archer Daniels Midland Co., owner and operator of the Southern Cellulose Plant, pleaded guilty to four Clean Water Act violations for illegally discharging pollutants into a city storm drain leading to a tributary of Chattanooga Creek, which flows to the Tennessee River. The

company will pay a \$100,000 fine and has agreed to donate \$100,000 for advanced training for local and state environmental regulators and investigators in the Chattanooga area.

In October 2003, and during two days in April 2004, the company discharged process wastewater containing cotton fibers and other pollutants without a NPDES permit.

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

[Back to Top](#)

### **United States v. David Jacobs, No. 1:07- CR-00527 (N.D. Ill.), AUSA April Perry**

On March 5, 2008, David Jacobs, the president and owner of Northwestern Plating Works Inc., pleaded guilty to a two-count indictment charging him with failing to properly dispose of hazardous wastes generated through the firm's electroplating processes and with embezzling nearly \$1 million from an employee pension plan.

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



**Drums of electroplating waste**

The second count of the indictment states that the company operated an employee profit-sharing plan that provided retirement income to employees. The plan was administered by Jacobs, who also acted as the sole trustee for the plan. Between September 2001 and March 2005, Jacobs converted \$830,000 in plan funds for his own use in violation of ERISA.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Department of Labor. Jacobs is scheduled to be sentenced on June 18, 2008.

[Back to Top](#)

### **United States v. Dakota Pork Industries, No. 4:08-CR-40001 (D.S.D.), AUSA Dennis Holmes**

On March 7, 2008, Dakota Pork Industries, Inc. ("DPI"), pleaded guilty to a Clean Water Act violation for tampering with a monitoring device.

DPI formerly operated a meat-processing plant that discharged wastewater into the City of Mitchell's POTW. The company's NPDES permit required continuous pH monitoring since the company had previously discharged waste water with levels that were as low as 5 and as great as 12.5. Ph levels this extreme could cause damage to POTW equipment.

Beginning at an unknown date and continuing until about October 2004, DPI employees periodically readjusted the calibration screw on the pH monitor after hearing the alarm that indicated

the pH levels were outside permitted levels. This action, in turn, caused the recorded results to falsely indicate the discharge was within limits.

At other times, after observing that the effluent was exceeding permit limits, employees also would remove the monitoring probe from the effluent stream and place it in a beaker of clean water or buffering solution for extended periods of time causing false results to be recorded. Finally, on occasion, employees submitted false pH data to the city in its monthly reports.

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

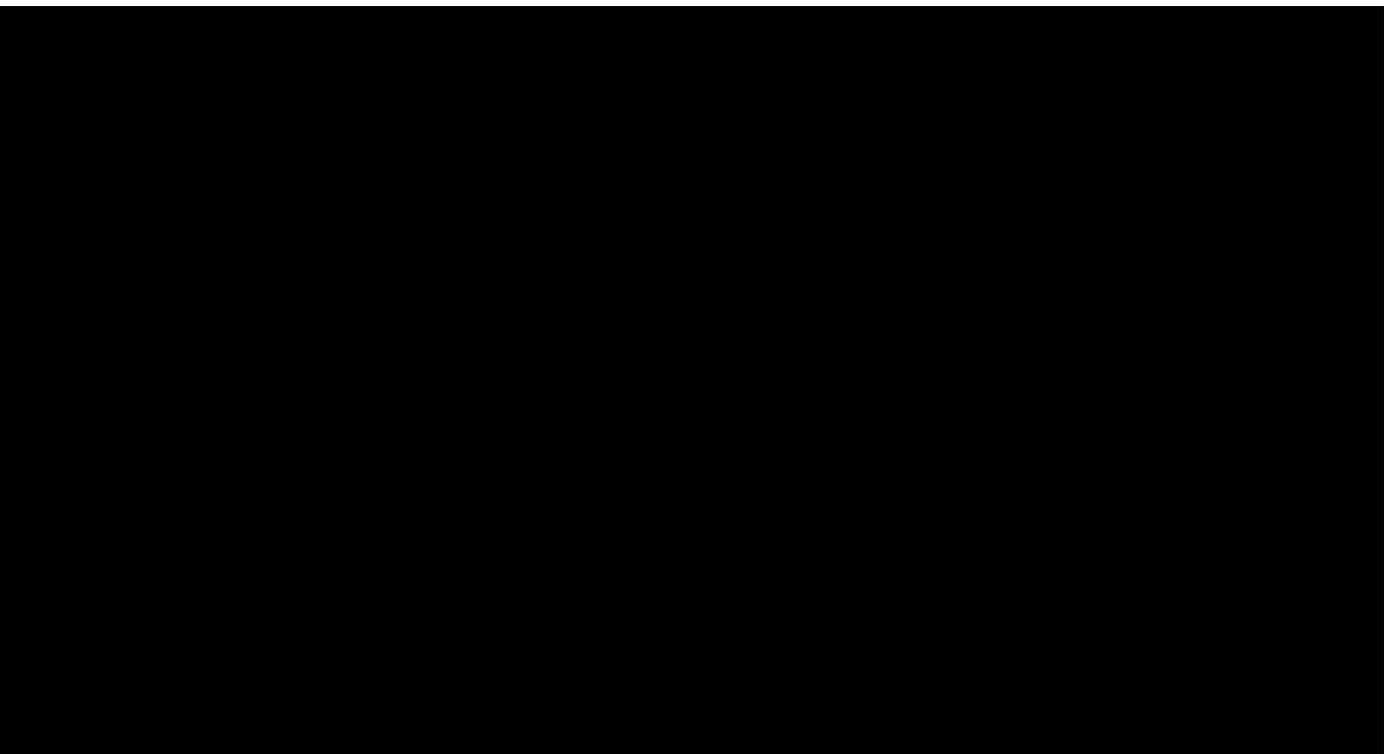
**United States v. James Schaffer, No. 2:08-CR-00022 (S.D. Ohio), AUSA Mike Marous ( [REDACTED] )**

On March 10, 2008, James Schaffer entered his guilty plea to a Lacey Act conspiracy and two Lacey Act violations stemming from his illegal operation of a hunting business in South Carolina. Schaffer's company, Graham's Turnout Hunt Company, catered to hunters from states such as South Carolina, Florida and Georgia. Between August and November 2005, Schaffer conspired with a co-conspirator in Ohio to transport a total of 54 white tail deer from Ohio to South Carolina, without the proper documentation and without proper testing.

Through a series of transactions, the defendant and others falsified invoices stating that the deer were being transported to Florida. Schaffer also never obtained the proper state permits to allow the deer to be transported into South Carolina. Without proper testing for diseases, the imported deer could infect the local deer population in South Carolina.

As part of the plea agreement, the defendant has agreed to pay \$50,000 to the National Wildlife Trust Fund and \$50,000 to the South Carolina Harry Hampton Wildlife Fund. He also could be sentenced to complete 500 hours community service in a South Carolina Park picking up trash or a comparable activity.

[Back to Top](#)



[Back to Top](#)

**United States v. Martin Villegas Terrones, No. 1:07-CR-00358 (D. Colo.), Senior Trial Attorney Bob Anderson (██████████), Trial Attorney Colin Black (██████████) and AUSA Linda McMahan (██████████)**

On March 11, 2008, Martin Villegas Terrones, a Mexican national, pleaded guilty to federal smuggling charges in connection with the sale and shipment of endangered sea turtle skins and skin products from Mexico to the United States.

A total of 12 people were charged in Denver in August 2007 following “Operation Central,” a multi-year undercover United States Fish and Wildlife investigation. Villegas and six other defendants were arrested the following month.

The seven defendants who were arrested in this case have now pleaded guilty: Chinese nationals Fu Yiner and Wang Hong; Mexican nationals Carlos Leal Barragan and Esteban Lopez Estrada; and Oscar Cueva and Jorge Caraveo from Texas. Fu Yiner and Wang Hong also have been sentenced to serve 138 days of imprisonment and 167 days of imprisonment, respectively.

There are seven known species of sea turtles. Five of the seven species are listed as endangered under the Endangered Species Act and all seven species are protected by CITES. Sea turtles are frequently killed illegally for their meat, skins, eggs and shell, all of which have commercial value.

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

[Back to Top](#)

**United States v. Frank Coe, No. 1:07-CR-00177 (D. Md.), ECS Trial Attorney David Joyce (██████████) ECS Senior Trial Attorney Richard Udell (██████████) and AUSA Tanya Kowitz (██████████)**



**Fidelio bypass**

On March 12, 2008, Frank Coe was sentenced to pay a \$500 fine and complete a two-year term of probation. Coe, a chief engineer for the *M/V Fidelio*, pleaded guilty in May of last year to a conspiracy and an APPS violation for falsifying the ship’s oil record book.

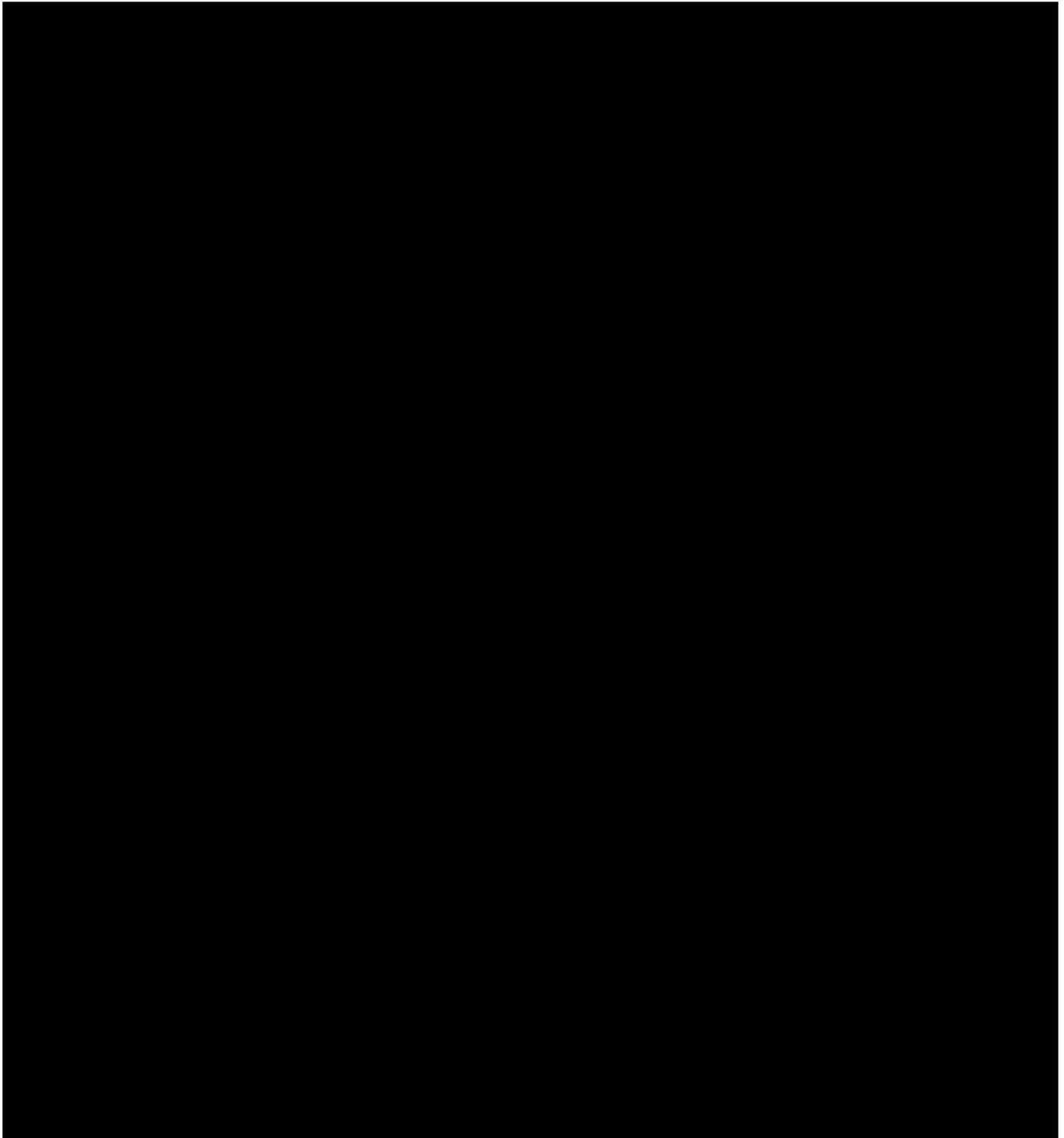
During his tenure as a chief engineer and a first engineer, Coe was involved in the illegal overboard discharge of oil-contaminated waste water and, as chief engineer, was responsible for the entries made in the ORB that did not reflect these

discharges. The oil water separator was, in fact, rarely used on this ship. During a Coast Guard inspection in

March 2003, Coe was unable to demonstrate that the OWS worked and, when a bypass pipe was subsequently discovered filled with oil, he denied having any knowledge of it.

The *M/V Fidelio* was one of four car carrier vessels managed by Pacific-Gulf Marine. The company was sentenced in 2007 to pay a \$1 million fine, \$500,000 in community service, and will complete three years of probation.

[Back to Top](#)



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

On March 19, 2008, George Chittenden, the owner of Spra-Fin, Inc., a powder-coating and painting facility, pleaded guilty to a one-count information charging a RCRA violation for storage of hazardous waste in 2004 and 2005.

After closing Spra-Fin in mid-2004, Chittenden left behind a variety of wastes at the facility, including hazardous solvents, paints and finishes. The wastes were stored in places such as



**Abandoned drums of hazardous waste**

unlocked trailers, a fenced area, and outdoors on a

concrete pad for more than a year until they were discovered by EPA investigators in April 2005. In the summer of 2005, Chittenden attempted to complete an EPA-supervised clean up, but the Agency had to finish the job in the fall of 2005.

The case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the National Enforcement Investigations Center.

[Back to Top](#)

**United States v. Paul Weyand, No. 1:07-CR-00331 (D. Colo.), ECS Senior Trial Attorney Bob Anderson ( [REDACTED] ) Trial Attorney Jim Nelson ( [REDACTED] ) and AUSA Linda McMahan ( [REDACTED] )**

On March 25, 2008, Paul Weyand pleaded guilty to three misdemeanor Lacey Act violations stemming from the interstate sale and transport of deer, elk and black bear killed unlawfully in Colorado between 2002 and 2005. Weyand d/b/a *Memories on the Wall Taxidermy*, provided taxidermy and shipments' services to hunting clients of defendant Eric Butt, d/b/a *Outdoor Adventures*.

Butt was a registered outfitter who provided guided hunts for big game animals in Colorado, and Weyand was a taxidermist who received business from Butt's clients. Butt encouraged hunters who did not possess the appropriate big-game license to kill animals that Butt later falsely tagged using his license or another hunter's. Butt referred clients to Weyand who was aware that the carcasses he received for mounting had been illegally killed. Butt, who pleaded guilty last month to a Lacey Act conspiracy, is scheduled to be sentenced on May 27, 2008, and Weyand is scheduled to be sentenced on October 29, 2008.

[Back to Top](#)

## Sentencings

**United States v. Mark Clyde Booth, No. 07-CR-00485 (D. Colo.),** ECS Senior Trial Attorney Bob Anderson (██████████), ECS Trial Attorney Jim Nelson (██████████), and AUSA Greg Holloway (██████████)

On March 21, 2008, Mark Clyde Booth was sentenced to pay a \$10,000 fine, make a \$5,000 community service payment to the National Fish and Wildlife Foundation, and complete a three-year term of probation.

Booth pleaded guilty in January of this year to a single felony Lacey Act false labeling violation. Booth admitted he had falsified CITES permit applications for the importation of the trophy parts of a leopard he illegally killed in South Africa in 2003. Claiming that the animal was killed in Zimbabwe, Booth's leopard along with four others that were killed illegally were imported to Denver in November 2004.

Booth is the fifth individual to be convicted in this case, including the two South African guides who arranged the illegal hunts, the Denver taxidermist who accepted the shipment (See *U.S. v. Weyand* in the previous Plea Section), and another American hunter.

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

[Back to Top](#)

**United States v. James Driggers et al., No. 8:07-CR-00378, 452, 510 (M.D. Fla.),** AUSA Cherie L. Krigsman (██████████)

On March 17, 2008, James Driggers was sentenced to serve 15 months' imprisonment, followed by a one-year term of supervised release, for discharging diesel fuel from a fuel tank into a storm drain that flowed into McKay Bay Preserve, part of Tampa Bay, in violation of the Clean Water Act. Driggers, a former Cypress Gulf Development Corporation employee, was the third defendant to be sentenced for the unlawful discharge that occurred in October 2006. Co-defendant William



**Driggers with tank draining fuel**

Styers, after earlier pleading guilty to a CWA misdemeanor, was sentenced on March 11<sup>th</sup> to pay a \$2,500 fine, complete a one-year term of probation and perform 200 hours of community service.

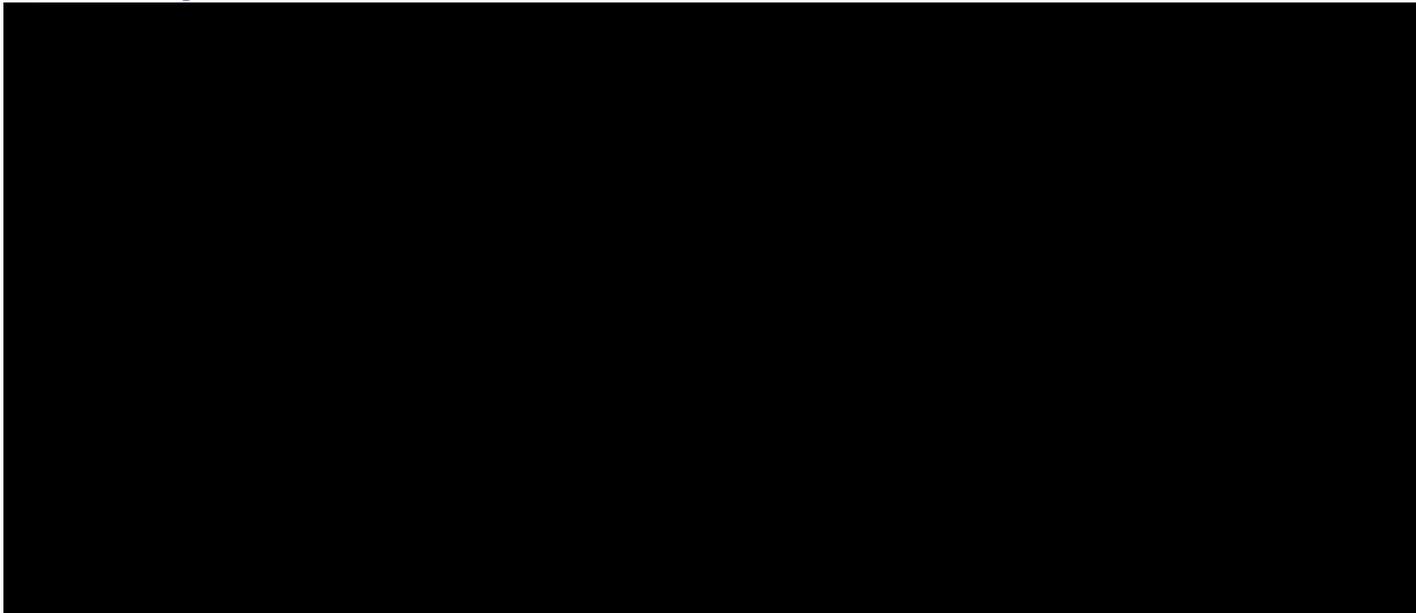
On October 17, 2006, company mechanics Driggers and Styers were instructed to clean out a 2,000 gallon above-ground fuel storage tank that was clearly labeled with "No. 2 Diesel Fuel" on both sides of the tank. Driggers positioned the tank over a storm drain located on 34th Street in Tampa, Florida, and allowed the contents of the tank to empty out for approximately 20 to 25 minutes. As

Driggers' supervisor, Styers saw that he was dumping the fuel into the drain, but he did nothing to stop it. The fuel discharge caused a fish kill and was observed by a number of citizens who immediately contacted the authorities.

After pleading guilty to a CWA misdemeanor violation, the company was sentenced in January 2008 to pay a \$5,000 fine and \$21,000 in clean-up costs. It also paid civil penalties in the amount of \$10,301 to the Florida Department of Environmental Protection and \$3,000 to the United States Coast Guard.

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

[Back to Top](#)



[Back to Top](#)

**United States v. Cotter Corporation, No. 1:08-po-01022 (D. Colo.), Senior Trial Attorney Bob Anderson (██████████) and AUSA Linda McMahan (██████████)**

On March 12, 2008, the Cotter Corporation pleaded guilty and was sentenced for its role in the poisoning deaths of migratory birds at its uranium processing facility near Canyon City, Colorado.

Cotter pleaded guilty to a misdemeanor violation of the Migratory Bird Treaty Act, in connection with a spill of approximately 4,500 gallons of organic solvent in October 2005, which was released from a building at the processing facility and flowed into a catchment pond. Approximately 40 geese and ducks were killed after coming into contact with the solvent, which was removed by Cotter employees within a few days of the spill.

The company was sentenced to pay a \$15,000 fine plus \$15,000 in restitution to be paid to the National Fish and Wildlife Foundation. During a one-year term of probation, the company will prepare and implement an environmental compliance plan designed to prevent future spills and ensure speedy, effective clean-up of any discharges that might occur.

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

[Back to Top](#)

**United States v. True World Foods Chicago, LLC, et al., No. 2:07-CR-00449 (C.D. Calif.), ECS Senior Trial Attorney Elinor Colbourn [REDACTED], ECS Trial Attorney Mary Dee Caraway [REDACTED] and AUSA Joe Johns [REDACTED]**

On March 11, 2008, True World Foods Chicago, LLC, ("True World Foods") was sentenced to pay a \$60,000 fine for its role in purchasing and re-selling falsely labeled frozen fish fillets in violation of the Lacey Act. The corporation further forfeited \$197,930 which represented its purchase value of the fish and agreed, pursuant to a plea agreement entered on December 10, 2007, to publish a full page advertisement regarding this incident in a seafood industry publication of wide circulation.

A multi-count indictment was returned in May 2007, charging True World Foods, David Wong, Henry Yip, Virginia Star Seafood Corp., International Sea Products Corp., Silver Seas Company, Blue Ocean Seafood Corporation, Henry Nguyen, Peter X. Lam, Arthur Yavelberg, Cafatex, Anhaco, Antesco, Binh Dinh Import Export Company, David Chu, Dakon International, and T.P. Company with conspiracy to violate the Lacey Act, the Food, Drug, and Cosmetics Act, and customs laws, specifically for knowingly entering goods by payment of duty less than owed, entry of goods by means of false statements, and trafficking in illegally imported merchandise. Several defendants were further charged with substantive violations of the Lacey Act, entry of goods by means of false statements, importation contrary to law, and trafficking in illegally imported merchandise.

The conspiracy charge stems from the defendants' illegal scheme to import from Vietnam millions of pounds of *Pangasius hypophthalmus*, aka Vietnamese catfish, aka basa, by identifying and labeling the fish as other species in an effort to avoid an anti-dumping duty that was imposed on Vietnamese catfish in January of 2003. The substantive charges involve the defendant importers' creation of false paperwork and labels for the fish and the submission of false statements to Customs and Border Patrol to effect the illegal entry of the fish.

The indictment further alleges that, after the Vietnamese catfish were imported into the United States, Henry Nguyen and other salesmen for the Virginia companies marketed and sold the illegally imported catfish to seafood buyers, including Henry Yip of T.P. Company, David Wong of True World Foods, Inc., and David Chu of Dakon International. Nguyen additionally is charged with attempting to re-export the product following the execution of a search warrant.

Wong pleaded guilty earlier this year to one Lacey Act violation and Yip pleaded guilty last year to a misbranding violation. The remaining defendants are scheduled for trial April 22, 2008.

This case was investigated by Immigration and Customs Enforcement, the National Marine Fisheries Service, and the Food and Drug Administration.

[Back to Top](#)

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

On March 6, 2008, John Chick was sentenced to serve 15 months' incarceration followed by three years' supervised release. He also will pay \$108,000 for cleanup costs.

Chick pleaded guilty in January 2007 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. He originally was 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.

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.

[Back to Top](#)

**United States v. Mark Allen Wright, No. 3:07-CR-00507 (S.D. Iowa) AUSA Joel Barrows** [REDACTED]

On March 3, 2008, Mark Allen Wright, the POTW director for the City of Oxford, was sentenced to serve two years' probation and ordered to perform 120 hours of community service as the result of pleading guilty to a false statement violation.

On monthly reports required to be submitted by the POTW to the Iowa Department of Natural Resources, Wright admitted to falsifying data regarding specific discharge parameters on approximately 37 reports between September 2002 and March 2006.

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

[Back to Top](#)

**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 February 28, 2008, Zane Fennelly was sentenced to serve four months' incarceration followed by one year of supervised release. Fennelly, the former captain of a Jacksonville, Florida-based commercial fishing vessel, pleaded guilty in October 2007 to a violation of 18 U.S.C. § 2232 for knowingly disposing of, and attempting to destroy, three bags containing spiny lobsters 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 from August 6<sup>th</sup> through 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.

[Back to Top](#)

**United States v. Dushko Babukchiev et al.**, Nos. 4:08-CR-00032 and 00033 (S.D. Tex.), ECS Senior Litigation Counsel Howard Stewart [REDACTED] ECS Trial Attorney Jim Nelson [REDACTED] and SAUSA William Miller [REDACTED]



**Bypass in place on the ship**

On February 19, 2008, chief engineer Dushko Babukchiev was sentenced to serve a three-year term of probation. A fine was not assessed. Babukchiev and Italian shipping company B. Navi Ship Management Services (“B. Navi Ship Management”) pleaded guilty February 7<sup>th</sup> to charges stemming from the illegal dumping of oily sludge, bilge wastes, and oil contaminated ballast water from the *M/V Windsor Castle*, a 27,000 gross-ton bulk carrier vessel.

On August 17, 2007, the *Windsor Castle* was boarded by Coast Guard inspectors when it arrived in port in Houston, Texas. During the boarding, inspectors learned that the chief engineer had ordered crew members to dump oil sludge and bilge wastes into the ocean and had falsified the ship’s oil

record book to conceal these discharges. With assistance from several lower level crew members, inspectors discovered and seized the bypass hose and pipes used to dump the oil sludge, bilge waste, and contaminated ballast water overboard.

B. Navi Ship Management pleaded guilty to a two-count criminal information charging it with an APPS violation and a false statement violation. Babukchiev pleaded guilty to a false statement violation for presenting the oil record book to inspectors during the August 2007 boarding. The company is scheduled to be sentenced on July 9, 2008.

This case was investigated by the United States Coast Guard.

[Back to Top](#)

**United States v. Energy Partners, Ltd., No. 2:08-CR-00021 (E. D. La.), AUSA Dee Taylor**

On February 21, 2008, Energy Partners, Ltd., an oil and gas exploration and production company pleaded guilty to a Rivers and Harbors Act violation. In February 2006, in the aftermath of Hurricane Katrina, the company allowed a leak of compressor oil to spill into the Mississippi River for several days and failed to promptly clean it up. The company was sentenced to pay a \$75,000 fine, pay \$25,000 restitution to the Louisiana State Police, and complete a one-year term of inactive probation.



**Oiled pelican from spill**

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Coast Guard Investigative Service, with assistance from the Louisiana Department of Environmental Quality.

[Back to Top](#)

Are you working on Environmental Crimes  
issues?

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

  
Elizabeth R. Janes  
Program Specialist  
Environmental Crimes Section  
U.S. Department of Justice

[Back to Top](#)