
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

September 2012

EDITOR'S NOTE:

If you have other significant updates and/or interesting photographs from a case, please email them to Elizabeth Janes: [REDACTED]. If you have information concerning state or local cases, please send it directly to the Regional Environmental Enforcement Associations' website: www.regionalassociations.org.



Mounts covered after illegal treatment with pesticide that is prohibited for indoor use. See [U.S. v. Smither](#), below, for details.

AT A GLANCE:

- [Bullcoming v. New Mexico](#), 131 S. Ct. 2705 (2011).
- [United States v. Agosto-Vega](#), 617 F.3d 541 (1st Cir. 2010).
- [United States v. Chemical & Metal Industries, Inc.](#), 677 F.3d 750 (5th Cir. 2012).
- [United States v. Pineda-Moreno](#), ___ F.3d ___, 2012 WL 3156217 (9th Cir. Aug. 6, 2012).
- [Northwest Environmental Defense Center v. Brown](#), 640 F.3d 1063 (9th Cir. 2011).
- [United States v. Freedman Farms, Inc.](#), 786 F. Supp. 2d 1016 (E.D.N.C. 2011).

DISTRICT	CASES	CASE TYPE/ STATUTES
S.D. Ala.	United States v. Giuseppe Bottiglieri Shipping Company S.P.A., et al. United States v. Prastana Taohim et al.	<i>Vessel/ APPS</i> <i>Vessel/ Obstruction</i>
D. Alaska	United States v. William Duran Vizzerra, Jr.	<i>Painting Business/ RCRA</i>
		
D.D.C.	United States v. Sanford Ltd., et al.	<i>Vessel/ APPS, Conspiracy, Obstruction</i>
S.D. Fla.	United States v. Culinary Specialties, Inc., et al. United States v. Manuel Ravelo, Jr., et al. United States v. Alejandro Gonzalez United States v. Michael W. Kimbler et al. United States v. Dale Leblang et al.	<i>Shrimp Mislabeling/ Lacey Act; Food, Drug, and Cosmetics Act; Conspiracy</i> <i>Spiny Lobster Harvest/ Conspiracy</i> <i>Vessel/ False Statement, Obstruction</i> <i>Spiny Lobster Harvest/ Conspiracy</i> <i>Quarantined Plant Shipments/Plant Protection Act, Conspiracy</i>

DISTRICT	CASES	CASE TYPE/ STATUTES
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D. Mass.	<u>United States v. John Tetreault</u>	<i>Municipal Employee/ False Statement</i>
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D. Mont.	<u>United States v. Matthew Black Eagle et al.</u> <u>United States v. Matthew Whitegrass et al.</u>	<i>Electroplating Waste/ RCRA</i> <i>Elk Hunting/ Lacey Act</i>
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DISTRICT	CASES	CASE TYPE/ STATUTES
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W.D.N.Y.	<u>United States v. Michael V. Johnson</u>	<i>Turtle Meat Processor/ Lacey Act</i>
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M.D. Tenn.	<u>United States v. Gibson Guitar Corporation</u>	<i>Musical Instrument Manufacturer/ Lacey Act</i>
N.D. Tex.	<u>United States v. Jeffrey D. Gunselman et al.</u> <u>United States v. Team Industrial Inc.</u>	<i>Bio-Diesel Fuel Fraud/ Wire Fraud, Money Laundering, False Statement</i> <i>Refinery Leak Detection/ CAA Negligent Endangerment</i>
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DISTRICT	CASES	CASE TYPE/ STATUTES
W.D. Va.	United States v. David T. Davis	<i>Bear Gall Bladder and Migratory Bird Part Sales/ Lacey Act, MBTA, Alcohol and Drug Laws, Animal Fighting and Sale</i>
E.D. Wis.	United States v. Daniel Evanoff United States v. Corrie Korn et al.	<i>Aluminum Products/ CAA</i> <i>Duck Hunting/ Lacey Act</i>

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Significant Environmental Decisions

First Circuit

United States v. Agosto-Vega, 617 F.3d 541 (1st Cir. 2010).

The defendant was the owner and principal officer of an automobile dealership, as well as a real estate development company located in Puerto Rico. Soon after purchasers began moving into residences in a housing project developed by the real estate company, several homes began to experience frequent overflows of raw sewage from their septic tanks, which would drain into storm sewers. The defendant directed employees of the real estate company to use a hose to suction raw sewage from the septic tanks. That wastewater was either discharged directly into storm drains that

emptied into a creek via an underground pipe, or into a large tank truck that would be emptied into the storm drains or directly into the creek. The creek was a tributary of a major river that emptied into the Atlantic Ocean.

The defendant (and the automobile dealership) were indicted by a federal grand jury on one count of conspiracy to violate the Clean Water Act and on three counts of aiding and abetting in the unlawful discharge of raw sewage from a point source into waters of the United States. Both defendants were convicted by a jury on all counts. On appeal, the defendant contended *inter alia* that the government had failed to prove that he had knowledge of the illegal discharges, or that the creek constituted “navigable waters of the United States.”

Held: The First Circuit, on other grounds, vacated the convictions of both defendants and remanded for a new trial. However, the court found that the jury reasonably could have found that the defendant had been fully aware of the raw sewage problem at the project, had regularly visited the project during periods when overflows were occurring, and knew that he was ultimately responsible for solving the pollution problems. Eyewitnesses testified as to the dumping of raw sewage into the storm drains and directly into the creek, and the jury reasonably could have concluded that such activities could not have occurred without the direction, knowledge, and approval of defendant, who had the most to gain or lose economically by the activities at the site.

The court further found that the government had established regulatory jurisdiction over the creek under either Justice Kennedy’s “significant nexus” standard or the plurality’s test in Rapanos, but the government was not required to prove that defendant was aware of the facts connecting the creek to the regulatory definition of “waters of the United States.” Finally, the evidence established that the defendant, as one who created the conditions for, and had ultimate responsibility for, the discharges, could be held liable as an aider and abettor of those unlawful discharges.

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Fifth Circuit

United States v. Chemical & Metal Industries, Inc., 677 F.3d 750 (5th Cir. 2012).

Defendant company recycled hazardous compounds for manufacturers, including Honeywell. An employee of Honeywell died from exposure to toxic industrial waste from a container that defendant had mislabeled.

Defendant was indicted on one count of knowingly storing hazardous waste without a permit in violation of RCRA, and one count of negligent endangerment by negligently releasing a hazardous air pollutant into the ambient air in violation of the Clean Air Act. Defendant pleaded guilty to Count Two in exchange for dismissal of Count One. Defendant was sentenced to serve two years’ probation, fined \$1 million, and ordered to pay \$2 million in restitution. Defendant appealed the size of the fine and award of restitution as exceeding the amount authorized under relevant statutes.

Held: The Fifth Circuit, finding no evidence to support the fine imposed and the restitution awarded by the district court, modified the fine and vacated the restitution order, and, as modified, affirmed the judgment of that court. An order of restitution that exceeds the victim’s actual losses or damages is an illegal sentence. As the district court did not make a finding of any pecuniary gain or loss, the imposition of the \$1 million fine was in error. Correspondingly, the court’s imposition of \$2 million in restitution was impermissible as there was no finding of loss.

The court declined to remand the matter to provide the government an opportunity to submit evidence on the gain or loss issue. Instead, it modified the fine to \$500,000 (the maximum under the Alternative Fines Act), and vacated the restitution award.

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Ninth Circuit

Northwest Environmental Defense Center v. Brown, 640 F.3d 1063 (9th Cir. 2011).

An environmental organization filed a citizen suit against the Oregon State Forester and members of the Oregon Board of Forestry, as well as several lumber companies, contending that they violated the Clean Water Act by failing to obtain NPDES permits for point source discharges from systems of ditches, culverts and channels that received stormwater runoff from two logging roads in a state forest. The district court held that the discharges were exempt from the NPDES program under the Silvicultural Rule.

Held: The Ninth Circuit reversed, holding that the channels funneling runoff were “discernible, confined and discrete conveyances” of pollutants from point sources subject to the NPDES program. The court went on to reject the defendant’s argument that the Silvicultural Rule, which exempts *natural* runoff from silvicultural activities, applied to industrial logging.

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District Courts

United States v. Freedman Farms, Inc., 786 F. Supp. 2d 1016 (E.D.N.C. 2011).

In a prosecution for discharging pollutants into wetlands in violation of the Clean Water Act, the trial court gave notice of its preliminary jury instruction regarding what constitutes a “water of the United States,” indicating that it would instruct the jury using only the “significant nexus” standard from Justice Kennedy’s concurring opinion in Rapanos. The government moved for reconsideration of that determination, arguing that the instruction should incorporate both the “significant nexus” standard and the “relatively permanent, standing, or continuously flowing bodies of water standard” from the plurality opinion in that case.

Held: The court denied the government’s motion for reconsideration. The court parsed the principles for determining the holding of a fractured decision such as in Rapanos, and noted the great difficulty in applying such principles to the specifics of the Rapanos decision. It then analyzed the Rapanos decision in detail, as well as decisions of the Fourth Circuit and other courts following Rapanos, and decided to follow its original determination to instruct solely upon the “significant nexus” standard.

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Significant Non-Environmental Decisions

Supreme Court

Bullcoming v. New Mexico, 131 S. Ct. 2705 (2011).

The defendant was convicted by a jury of driving while intoxicated, based principally upon a forensic report stating that his blood-alcohol concentration (measured by a gas chromatograph) was above the threshold level punishable as aggravated DWI. (The trial occurred after Crawford but before Melendez-Diaz.) The forensic analyst who completed and certified the report was not called to testify at trial; another analyst (who was familiar with the testing device but had not directly observed the testing of the defendant's blood) was called instead. The trial court admitted the report as a business record and the defendant was convicted. While acknowledging that the report was testimonial, the New Mexico Supreme Court affirmed, finding that the certifying analyst had been a "mere scrivener" who simply transcribed machine-generated test results and the testifying analyst qualified as an expert with respect to the testing machine and the state laboratory's procedures. It held that the defendant's Sixth Amendment right of confrontation of witnesses had not been violated by the first analyst's failure to testify.

Held: The U.S. Supreme Court ultimately granted certiorari and (in a 5-4 decision) reversed the judgment of the state supreme court and remanded the case for further proceedings. The Court found that the certificates of analysis in this case, as in Melendez-Diaz, had been made specifically for the purpose of establishing some fact in a criminal trial. Thus, the forensic report was testimonial under Crawford, since the first analyst had not been simply recording a machine output, but rather had also been certifying that the sample had not been contaminated and that no human error had been made in the testing process. The testifying analyst could not adequately convey to a jury the certifying analyst's level of proficiency, or what he had known or observed, nor expose any lapses or lies on his part. Thus, defendant had a Sixth Amendment right to confront the particular analyst who had certified the report, unless that analyst was unavailable at trial and defendant had had a prior opportunity to cross-examine him.

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Ninth Circuit

United States v. Pineda-Moreno, ___ F.3d ___, 2012 WL 3156217 (9th Cir. Aug. 6, 2012).

The defendant was suspected of growing marijuana in the back country of Oregon. DEA agents subsequently observed the defendant and other men pay cash for large amounts of fertilizer that he loaded into a vehicle that he owned. The agents monitored travels by the men in the vehicle, observing evasive driving behavior and the purchase of items consistent with possible remote growing operations. The agents (either on a public street or in a public parking lot) attached mobile tracking devices to the underside of the vehicle, and began monitoring its location on public streets, a public

parking garage, and in an accessible driveway next to the defendant's home. By monitoring the vehicle's movement, the agents learned that it had traveled to two suspected marijuana grow sites.

Based upon the information from the tracking devices and from their earlier surveillance, agents from DEA and other law enforcement agencies stopped the defendant's vehicle and took the men into custody for immigration violations. They then performed a consensual search of the defendant's home and uncovered two large bags containing marijuana.

The defendant was indicted for conspiring to manufacture marijuana and for manufacturing marijuana. He moved to suppress evidence derived from use of the mobile tracking devices, arguing that the attachment of the devices to his vehicle, as well as trespassing on his driveway, all without a warrant, violated the Fourth Amendment. The district court denied the motion. The defendant then pleaded guilty to the conspiracy charge, reserving the right to appeal the denial of his suppression motion. The Ninth Circuit affirmed the denial of the motion to suppress on the ground that the installation and use of the tracking device had not constituted a search under the Fourth Amendment. The defendant filed a petition for certiorari in the U.S. Supreme Court.

Subsequent to the Ninth Circuit's decision, the U.S. Supreme Court decided Jones, holding that installation of a GPS tracking device on a vehicle and its use to monitor the vehicle's movements constituted a "search" under the Fourth Amendment. Thereupon, that Court granted the defendant's petition for certiorari, vacated the judgment of the Ninth Circuit, and remanded the matter so that the Ninth Circuit could consider it further in light of Jones.

Held: The Ninth Circuit affirmed denial of the defendant's suppression motion and his resulting conviction, holding that the use of electronic tracking devices to monitor movements of a vehicle along public roads did not constitute a "search" under the Fourth Amendment. The agents' conduct, prior to Jones, in attaching the tracking devices in public areas and monitoring them had been done in objectively reasonable reliance upon, and thus was authorized by, then-binding circuit precedent. Thus, the critical evidence in the case was not subject to the exclusionary rule.

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Trials

United States v. House of Raeford Farms, Inc., et al., No. 1:12-CR-00248 (M.D.N.C.), ECS Trial Attorney Mary Dee Carraway, ECS Senior Trial Attorney Daniel Dooher, and ECS Paralegal Lisa Brooks.



Turkey waste and parts

On August 20, 2012, a jury convicted House of Raeford Farms (Raeford Farms) on ten of the 14 felony Clean Water Act counts charged (33 U.S.C. § 1319(c)(2)(A)). Plant manager Gregory Steenblock was acquitted.

Raeford Farms is a turkey slaughtering and processing facility located in Raeford, North Carolina. In 2005 and 2006, plant employees were directed to bypass the facility's pretreatment system and to send untreated wastewater directly to the local POTW. In addition, employees discharged thousands of gallons of wastewater into a pretreatment system that did not have the capacity to adequately treat the wastewater before it

was discharged to the POTW. This wastewater was contaminated with blood, grease, and body parts from slaughtered turkeys. A former employee testified that the facility continued to “kill turkeys” despite being warned that the unauthorized bypasses had an adverse impact on the city’s wastewater treatment plant.

Many of these bypasses took place while Raeford Farms was subject to a local consent order requiring that it construct a new pretreatment system and that it comply with all its permit requirements. Sentencing is scheduled for November 28, 2012.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the North Carolina State Bureau of Investigation.

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United States v. Sanford Ltd., et al., No. 1:11-CR-00352 (D.D.C.), ECS Trial Attorney Ken Nelson, AUSA Frederick Yette, ECS Trial Attorney Steve DaPonte, SAUSA Jim McLeod, and ECS Paralegals Jessica Egler and Ben Laste.

On August 15, 2012, after a 13-day trial, a jury convicted Sanford Ltd., a New Zealand fishing company, of conspiracy, two APPS violations, and two obstruction violations, but acquitted the company of one obstruction count. Chief Engineer Ronald Pogue was found guilty of an APPS charge and obstruction for falsifying the oil record book, but was acquitted on the conspiracy charge (18 U.S.C. §§ 371, 1505, 1519; 33 U.S.C. §§ 1907(a), 1908(a)).

This case involved the *F/V San Nikunau*, a fishing vessel that docked at the port of Pago Pago, American Samoa, in July 2011. The Coast Guard discovered that the vessel was engaged in the routine practice of dumping bilge wastes over the side of the ship without first processing them through a properly functioning oil water separator and oil content monitor. These discharges were not recorded in the ORB. Coast Guard personnel also witnessed two illegal discharges of bilge waste directly into Pago Pago Harbor. In addition to a fine, the government is seeking criminal forfeiture of over \$24,000,000. Engineer Rolando Ong Vano previously pleaded guilty to an APPS violation for his role in the overboard discharges.

Sentencing is scheduled for November 16, 2012. This case was investigated by the United States Coast Guard.

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Inspecting holes in vessel

Informations/Indictments

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United States v. Jeffrey D. Gunselman et al., No. 5:12-CR-00078 (N.D. Tex.), AUSA Paulina Jacobo.

On August 9, 2012, Jeffrey D. Gunselman and several corporations were charged in a 79-count indictment with wire fraud, money laundering, and making false statements under the Clean Air Act (18 U.S.C. §§ 1343, 1957, 42 U.S.C. § 7413(c)(2)(A)) related to the operation of his now defunct company, Absolute Fuels, LLC, and other related corporate entities.

The indictment charges the defendants with 51 counts of wire fraud, 24 counts of money laundering and four false statement violations. The indictment also includes a forfeiture allegation which would require the defendant to forfeit approximately \$42 million, real estate, automobiles, jewelry, an airplane and other miscellaneous property traceable to his convicted offenses.

From September 2010 to October 2011, Gunselman, d/b/a/ Absolute Fuels, LLC, and the other related corporate defendants, devised a scheme to defraud money from the U.S. Environmental

Protection Agency (EPA), various brokers, energy companies and others. Gunselman falsely represented that he and each corporate defendant were in the business of producing bio-diesel fuel; however, Gunselman did not have a bio-diesel fuel-producing facility. His business operation consisted of falsely generating renewable fuel credits and selling them to oil companies and brokers. Gunselman and his companies also made verbal and written statements to the EPA that proved to be false and misleading.

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

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United States v. Slade E. Barnett, Jr., No. 2:12-CR-00378 (D. Utah), AUSA Jared Bennett.

On August 9, 2012, a two-count indictment was unsealed charging Slade E. Barnett, Jr., with a false statement violation and a violation of the Clean Water Act (18 U.S.C. § 1001(a)(3); 33 U.S.C. § 1319(c)(2)(B)).

Barnett was the principal agent for Denali Industries, LLC, which was in the business of manufacturing bio-diesel fuel from grease, vegetable oil, and other substances. From December 2007 through June 2008, Barnett allegedly directed employees to dump grease and other waste oils into the sewer system. On two occasions, the discharges caused sewer system pumps to fail, and a third discharge clogged 300 feet of sewer pipe with grease, requiring it to be replaced. When asked to provide information on the facility's wastewater processing, Barnett allegedly provided false and misleading information to local regulators. Barnett is specifically charged with knowingly introducing a pollutant into a sewer system that the person knew or should have known could cause property damage.

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

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United States v. Vernon L. Hoff et al., No. 12-CR-00184 (D. Minn.), AUSA Laura M. Provinzino.

On July 18, 2012, Vernon L. Hoff and Kyler J. Jensen were charged with conspiracy, Endangered Species Act and false statement violations (16 U.S.C. §1538(a)(1)(G); 18 U.S.C. §§ 371, 1001(a)(1), (a)(2)) for allegedly killing two gray wolves, burying them in the Superior National Forest (Forest), and then lying to federal investigators about the incident.

The indictment alleges that on February 17, 2010, after Jensen intentionally killed the wolves with his vehicle, he and Hoff agreed that the wolves should be taken to the Forest and buried. Jensen then allegedly loaded the two gray wolves into his vehicle, took them to the Forest, and buried them with a bulldozer. At the time, the gray wolf was listed as a threatened species under the ESA. It was removed from the list in Minnesota in January of 2012.

Hoff is alleged to have lied to federal agents when questioned about the incident, and Jensen has denied burying the carcasses. Trial is scheduled for October 9, 2012.

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

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Plea Agreements

United States v. Culinary Specialties, Inc., et al., No. 1:12-CR-20117 (S.D. Fla.), AUSA Norman O. Hemming, III.

On August 22, 2012, Culinary Specialties, Inc., and company owners Walter Schoepf and Karl Degiacomi, pleaded guilty to violations stemming from the false labeling and misbranding of shrimp. The company pleaded guilty to conspiracy to violate the Lacey Act and the Food, Drug, and Cosmetics Act. Schoepf and Degiacomi pleaded guilty to a Lacey Act false labeling violation (18 U.S.C. § 371; 16 U.S.C. §§ 3372(d)(1), (d)(2), 3373(d)(3)(A); 21 U.S.C. §§ 331(a), 333(a)(2), 343(a)(1), 343(b)).

From June 2008 through July 2009, the defendants conspired with Richard Stowell, United Seafood, Inc., Adrian Vela, and the Sea Food Center, to violate the Lacey Act by mislabeling and selling approximately 500,000 pounds of shrimp. The shrimp, valued at more than \$400,000, was ultimately sold to supermarkets in the northeastern United States.

This case was investigated by the National Oceanic and Atmospheric Association Office of Law Enforcement.

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United States v. Manuel Ravelo, Jr., et al., No. 4:12-CR-10006 (S.D. Fla.), AUSAs Tom Watts-FitzGerald and Antonia Barnes.

On August 22, 2012, Manuel Ravelo pleaded guilty to a Lacey Act conspiracy violation (18 U.S.C. § 371). From August 2007 through approximately September 2008, Ravelo sold and transported spiny lobster in violation of harvest requirements, licensing provisions, and bag and trip limits.

The defendant was required to immediately surrender his navigation equipment and location data for all of his artificial habitat sites, along with his Crawfish and Dive Endorsements. He also will be required at sentencing to forfeit a 29' Sea Vee vessel and all the associated equipment used for the illegal harvesting.

As part of the resolution of this case, Ravelo has already removed more than 300 artificial lobster habitats known as "casitas" from approximately 200 different sites in the Florida Keys National Marine Sanctuary. Ravelo's involvement in the scheme was valued at more than \$375,000 in retail value. Co-defendants Scott Greager, Rush C. Maltz and Titus A. Werner previously pleaded guilty to and were sentenced for their roles in the conspiracy. [See Also *U.S. v. Kimbler et al.*, which arose from this same investigation.]

Ravelo is scheduled to be sentenced on November 19, 2012. This case was investigated by the National Oceanic and Atmospheric Association Office of the Law Enforcement and the United States Fish Wildlife Service Office of Law Enforcement.

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Casitas removed from Sanctuary

United States v. Jeremy Hoefs, et al., No. 1:12-CR-10027 (D.S.D.), AUSA Mikal Hanson.

On August 21, 2012, Jeremy Hoefs pleaded guilty to a misdemeanor Lacey Act violation (16 U.S.C. §§ 3372(a)(1), 3372(a)(2)(A), 3372(c)(1) and 3373(d)(2)) stemming from his involvement in the unlawful hunting of geese and ducks in 2008 and 2009. Co-defendants Vernon Renville and Mark Belote entered similar pleas on August 3rd and July 25th, respectively. Mike Evangelista, Damien Rexrode, and Mike Bishop remain variously charged in a ten-count indictment with conspiracy, Migratory Bird Treaty Act, and Lacey Act violations with trial scheduled to begin on October 23, 2012.

The defendants are charged with taking ducks and geese that were not lawfully tagged, shooting ducks over the possession limit, guiding hunters who did not have valid hunting licenses, and altering dates on tags to falsely indicate that the birds were taken on a series of days, instead of on a single day.

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

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United States v. William Duran Vizzerra, Jr., No. 3:12-CR-00069 (D. Alaska), ECS Trial Attorney Todd Mikolop, RCEC Karla Perrin, and AUSA Aunnie Steward.

Abandoned hazardous waste

On August 17, 2012, William Duran Vizzerra Jr. pleaded guilty to a RCRA disposal violation (42 U.S.C. § 6928(d)(2)(A)), for the abandonment of paint waste.

Vizzerra was the president and part-owner of Precision Pavement Markings Inc., a road and parking lot painting and striping business that operated from a storage lot in Anchorage between approximately 2006 and 2009. Vizzerra used the lot to store hazardous waste, including methyl methacrylate paint and toluene that was used to clean and flush the paint lines, nozzles, and sprayers used in his business. In approximately November 2009, Vizzerra abandoned

approximately 320 55-gallon drums, 179 five-gallon pails, and two 200-gallon totes of paint waste that was found to be hazardous due to its extreme flammability.

A year later, a citizen reported the abandoned drums to the U.S. Environmental Protection Agency. Investigators observed that many of the drums were marked as "waste" or displayed hazardous markings, such as "flammable" or "flammable liquid." Other containers were found to be rusted and in very poor condition.

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

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United States v. Daniel Evanoff, No. 2:12-CR-00150 (E.D. Wis.), ECS Trial Attorney Mary Dee Carraway, AUSA Tracy Johnson, and RCEC Dave Taliaferro.

On August 7, 2012, Daniel Evanoff pleaded guilty to a Clean Air Act tampering violation (42 U.S.C. § 7413 (c)(2)).

Evanoff was a vice president of Allotech International, a subsidiary of J.L. French, a company that makes die-cast aluminum products for the automobile industry. This aluminum processing is a source of air emissions that are limited under CAA Title V permit requirements.

As a company vice president, the defendant's duties included overseeing environmental compliance and the supervision of engineers who were responsible for daily monitoring reports and other pollution control records. From 2007 through 2009, Evanoff admitted to directing employees to alter the baghouse leak detection and temperature readings and creating charts with falsified readings, so that the plant appeared to be operating within permitted emissions levels.

Evanoff was recently convicted in the Western District of Kentucky for a similar offense. He is scheduled to be sentenced on November 5, 2012, in that case.

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

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United States v. Jason Prejean et al., Nos. 6:10-CR-00244, 6:12-CR-00162 (W.D. La.), AUSA Myers P. Namie.

On July 31, 2012, Jason Prejean and his company Prejean Web Enterprises, d/b/a One Low Price Cleaners, pleaded guilty to misdemeanor Clean Water Act violations (33 U.S.C. § 1319 (c)(1)(B)) stemming from a discharge of tetrachloroethylene (also known as PERC) into the local POTW. Company manager Jason Bruno previously pleaded guilty to a similar violation.

In May 2009, the local fire department responded to an emergency call regarding noxious fumes emanating from a local shopping center. Several individuals were transported to a local emergency room after being overcome. Investigators subsequently determined that PERC had been dumped into the drains from Bruno's cleaners business from December 2007 through May 2009.

At one point in time, the cleaners had been using a hazardous waste disposal company to properly dispose of the wastewater; however, it stopped using the service to avoid paying the pickup and disposal fees.

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

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United States v. Matthew Black Eagle et al., Nos. 4:11-CR-00033, 4:12-CR-00032 (D. Mont.), AUSA Kris McLean.

On July 31, 2012, Matthew Black Eagle pleaded guilty to a RCRA storage violation (42 U.S.C. § 6928(d)(1)) stemming from the discovery in June 2010 of 44 drums containing hazardous waste that were located on property he owned. Co-defendant Robert Darin Fromdahl was previously sentenced after pleading guilty to a similar violation.

In June 2010, a rancher discovered the drums on property he was leasing from the Ft. Peck tribe. Black Eagle, the owner of the property, stated that Fromdahl (the owner of an electroplating business) paid him \$500 in 2009 to store the drums. Black Eagle initially denied knowing what the drums contained, but later admitted to being told that they mostly contained toxic acid copper.

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

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Photo 9
Northwest view of drum cache.

United States v. David Hausman, No. 1:12-CR-00576 (S.D.N.Y.), ECS Senior Trial Attorney Richard Udell and AUSA Janis Echenberg.

On July 31, 2012, antiques expert David Hausman pleaded guilty to a two-count information charging him with obstruction and Lacey Act violations (16 U.S.C. §§ 3372 (d)(2), 3373 (d)(2)(A); 18 U.S.C. § 1519) for his involvement in the trafficking of Rhinoceros horns. At the time of the offenses, Hausman was a confidential informant for investigators during Operation Crash, a nationwide, proactive law enforcement effort to stem the black market trade in endangered Rhinoceros horns. As such, he was prohibited from engaging in any illegal activity involving the Rhino trade during the time that he was providing this assistance.

In September 2011, however, Hausman arranged via the Internet to purchase a taxidermied head of an endangered Black Rhinoceros with two horns attached. Hausman did not know that the seller was an undercover U.S. Fish and Wildlife Service (FWS) officer. Before purchasing the horns Hausman took several steps to conceal his involvement from law enforcement and insisted that there be no email communications to avoid creating a paper trail. After purchasing the Rhino mount at a truck stop, he was later observed sawing off the horns in a motel parking lot.

The investigation also determined that prior to this incident Hausman had paid a straw buyer to purchase a Black Rhinoceros mount from a Pennsylvania auction house because the law forbids interstate trafficking. Hausman had told the FWS that this was an illegal sale, but not that he was the ultimate purchaser. Again the defendant directed that the buyer not send any email to avoid creating a paper trail. After telling the buyer to remove the horns and mail them to him, Hausman made a set of fake horns and directed the straw buyer to attach them to the Rhino head in the event that law enforcement conducted an investigation.

Sentencing is scheduled for December 5, 2012. Operation Crash is a continuing investigation being conducted by the United States Fish and Wildlife Service in coordination with other federal and local law enforcement agencies including U.S. Immigration and Customs Enforcement Homeland Security Investigations. "Crash" is the term used to describe a herd of Rhinoceros.

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United States v. Euranus Johnson, No. 1:12-CR-00115 (S.D. Ind.), AUSA Zachary Myers.



Chrome plating waste

On July 23, 2012, Euranus Johnson pleaded guilty to a RCRA storage violation (42 U.S.C. §§ 408 (a)(4); 6928(d)(2)(A)) and to one count of Social Security fraud.

In August 2004, Johnson was the owner of the Antique Chrome Shop, a chrome plating business. He did not have a permit to store the hazardous waste that was generated during the plating process. An inspector found 40 containers of hazardous waste on the property in January 2011 and advised Johnson that it must be properly disposed. Johnson illegally stored the waste in the basement of the building until June 2011. Due to water coming into contact with the waste, a green liquid was seen flowing from the building into a nearby alley.

The Social Security fraud violation was the result of the defendant collecting his full disability payment when he should have received a lesser amount, when factoring in income earned from the chrome plating business.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Social Security Administration Office of Inspector General.

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United States v. Team Industrial Inc., No. 2:12-CR-00030 (N.D. Tex.), AUSA Christy L. Drake.

On July 18, 2012, Team Industrial Services, Inc., (Team) pleaded guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)). The company, which provided leak detection and repair services, failed to follow required procedures when conducting emissions monitoring of refinery components.

Between 2007 and 2009 Team employees working at the Borger-area refinery knowingly failed to properly

conduct emissions monitoring. They also manipulated testing data to falsely represent emissions monitoring events that were not performed. As a result, potentially harmful emissions were released into the ambient air, and falsified reports were provided to state and federal regulators.

As part of the plea agreement, Team agreed to implement an environmental compliance plan that specifically addresses its leak detection and reporting activities. This facility will be placed on the EPA's List of Violating Facilities and will, therefore, be ineligible for any federally funded contracts, grants, or loans, until the EPA removes it from the list.



Borger-area refinery

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and The Texas Commission on Environmental Quality's Environmental Crimes Unit.

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United States v. John Tetreault, No. 1:12-CR-10146 (D. Mass.), AUSA Anton Giedt.

On July 10, 2012, John Tetreault pleaded guilty to two false statement violations (18 U.S.C. § 1001 (a)(2)) for submitting falsified drinking water reports to the Massachusetts Department of Environmental Protection.

Tetreault was employed as superintendent of the City of Avon Water Department. In June and November 2010, he submitted monthly reports with falsified data concerning chlorine level readings. Sentencing is scheduled for October 2, 2012.

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

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United States v. David T. Davis, No. 3:12-CR-00002 (W.D. Va.), AUSA Ramin Fatehi and SAUSA K. Michelle Welch.

On June 18, 2012, David T. Davis pleaded guilty to multiple federal offenses involving the illegal sale of bear gall bladders, the sale of fighting gamecocks, the possession of protected migratory birds, and the distribution of marijuana (7 U.S.C. § 2156; 16 U.S.C. § 703; 18 U.S.C. § 3372; 21 U.S.C. § 841; 26 U.S.C. § 5601). Davis is currently serving a 90-day sentence after pleading guilty in county court to animal cruelty charges as well as multiple counts of possessing a firearm while manufacturing, transporting, or selling illegal alcohol.

Between 2010 and 2011, through a series of undercover transactions, Davis sold agents black bear gall bladders, gamecocks, and marijuana seeds. Davis also admitted to possessing the talons of a Red Tailed Hawk, a migratory bird. Sentencing is scheduled for October 17, 2012.

This case was investigated by the United States Department of Agriculture, Office of the Inspector General; the Virginia Department of Alcoholic Beverage Control; the Virginia Animal Fighting Task Force; the United States Forest Service; the National Park Service, Law Enforcement Division; the United States Fish and Wildlife Service; the Virginia Department of Agriculture; the Virginia Department of Game and Inland Fisheries; and the Virginia Attorney General's Office. The Humane Society of the United States assisted in recovering and caring for the animals involved in this case.

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Sentencings

United States v. Alejandro Gonzalez, No. 1:11-CR-20868 (S.D. Fla.), ECS Trial Attorney Ken Nelson and AUSA Jaime Raich.

On August 29, 2012, Alejandro Gonzalez was sentenced to serve 21 months' incarceration followed by one year of supervised release. Gonzalez was previously convicted by a jury of three false statement violations and one obstruction charge (18 U.S.C. §§ 371, 1001(a)(2), 1505) in connection with the issuance of false safety documents in April and December of 2009 for two cargo vessels, the *M/V Cala Galdana* and the *M/V Cosette*.

As a naval engineer and a vessel classification surveyor, Gonzalez was responsible for surveying the safety and seaworthiness of merchant vessels on behalf of foreign countries. In 2008, inspectors found that the *Cala Galdana* was taking on water and advised that it needed to be drydocked. On several occasions, the defendant told Coast Guard officials that the vessel had undergone maintenance work at a drydock when in fact this had never happened. Gonzalez further obstructed the Coast Guard's port state control examination of the *Cosette* by issuing a fraudulent safety certificate without conducting a proper survey. Inspectors subsequently discovered exhaust fumes and fuel pouring into the engine room, endangering the crew and the ship.

This case was investigated by the United States Coast Guard and the Coast Guard Investigative Service.

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United States v. Michael W. Kimbler et al., No. 4:12-CR-10002 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On August 20, 2012, Michael W. Kimbler and Michael Bland were sentenced after previously pleading guilty to conspiring to illegally harvest spiny lobsters from artificial habitat placed in the Florida Keys National Marine Sanctuary (Sanctuary) (18 U.S.C. § 371). Kimbler will serve nine months' incarceration, followed by a one-year term of supervised release. Bland, who provided investigative assistance, was sentenced to serve a one-year term of probation, with a special condition of six months' home confinement.

The defendants were involved in the illegal harvest of spiny lobster from April 2007 through approximately September 2011. Placing any artificial structure on the seabed within the Sanctuary is prohibited. Under NOAA supervision, they have begun removing these artificial structures using their own vessels and at their own expense.

Kimbler and Bland, along with other unnamed individuals, made multiple landings of lobster that exceeded the daily harvest and possession limit of 250 lobsters, and concealed the excess harvest



Holes in *M/V Cala Galdana*

by failing to report their catch as well as fraudulently using another person's documentation. Kimbler's involvement in the scheme was valued at more than \$200,000 in retail value, while Bland's exceeded \$70,000. The two will forfeit two vessels and equipment used to commit this crime. They also will surrender dive endorsements, navigation equipment, and location data for all their artificial habitat sites. [See Also *U.S. v. Ravelo, et al.*, which arose from this same investigation.]

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the United States Fish and Wildlife Service Office of Law Enforcement.

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United States v. Corrie Korn et al., Nos. 3:12-mj-00019 and 00020 (W.D. Wis.), AUSA Paul W. Connell.

On August 17, 2012, Corrie Korn was sentenced to pay a \$5,000 fine and will be barred from hunting and guiding for a two-year period. Probation was not ordered. Co-defendant Faling Yang was already sentenced to the same terms. Korn and Yang previously pleaded guilty to Lacey Act violations (16 U.S.C. § 3372) stemming from their operation of a commercial guiding company located on a national wildlife refuge near the Mississippi River.

Undercover investigation confirmed that the defendants, both local police officers, illegally killed and transported ducks in October 2009, by exceeding the permissible bag limits. The officers were placed on administrative leave pending resolution of the case.

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

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United States v. Giuseppe Bottiglieri Shipping Company S.P.A., et al., No. 1:12-CR-00057 (S.D. Ala.), ECS Trial Attorneys Todd Mikolop and Gary Donner, and ECS Paralegal Jessica Egler.

On August 15, 2012, Giuseppe Bottiglieri Shipping Company S.P.A and Chief Engineer Vito La Forgia were sentenced, after previously pleading guilty to an APPS violation (33 § U.S.C. 1908(a)). The company will pay a \$1 million fine plus make a \$300,000 community service payment. It also will complete a four-year term of probation and implement an environmental compliance plan. La Forgia will serve one month of incarceration followed by one year of supervised release. A fine was not assessed.

During an inspection of the *M/V Bottiglieri Challenger* at the port of Mobile in January 2012, Coast Guard inspectors found evidence of false entries made in the oil record book, along with evidence that overboard discharges of oily waste had been made via a bypass pipe that had been removed prior to the ship's arrival at port.

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. Prastana Taohim et al., No. 1:11-CR-00368 (S.D. Ala.), former ECS Trial Counsel David O'Connell, AUSA Mike Anderson, and ECS Paralegal Jessica Egler.

On August 15, 2012, Captain Prastana Taohim was sentenced to serve a year and a day of incarceration followed by three years' supervised release. A fine was not assessed. Taohim was previously convicted by a jury of two counts of obstruction for dumping plastic at sea and then

ordering that the ship's garbage record book be falsified to conceal the dumping (18 U.S.C. §§1505, 1519). Specifically, the defendant's convictions stem from his ordering the dumping of hundreds of plastic pipes at sea (that had previously contained insecticide and were used to fumigate a grain shipment). He then ordered that the ship's garbage record book be falsified to conceal the disposal.

Co-defendants Target Ship Management, chief engineer Payongyut Vongvichiankul, and second engineer Pakpoom Hanprap have already been sentenced. They were involved in the overboard discharge of oily bilge waste from the *M/V Gaurav Prem* on multiple occasions as the vessel sailed from South Korea to Mobile. These discharges were not recorded in the oil record book. The illegal overboard discharges were made through a bypass pipe connecting the ship's bilge system to its ballast system.

This case was investigated by the United States Coast Guard Investigative Service and the United States Environmental Protection Agency Criminal Investigation Division. Additional assistance was provided by the Coast Guard Sector Mobile, and the Coast Guard Eighth District Legal Office.

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United States v. Cedyco Corporation, No. 12-CR-00167 (E.D. La.), ECS Trial Attorney Christopher Hale, AUSA Dorothy Taylor, and ECS Paralegal Ben Laste.

On August 15, 2012, Cedyco Corporation was sentenced to pay a \$557,000 fine, after previously pleading guilty to misdemeanor Clean Water Act violations for negligent discharges of oil (33 U.S.C. §§ 1319(c)(1)(A), 1321 (b)(3)).

Cedyco owned and operated several hydrocarbon facilities, including fixed barges, platforms, and wells, in the brackish bayous of South Louisiana. The company's negligent operation and poor maintenance of three of its facilities in Jefferson Parish led to harmful discharges of oil in 2008 into the navigable waters of the United States.

The fine will be paid directly into the Oil Spill Liability Trust Fund to aid the Coast Guard in responding to future oil spills. Additionally, Cedyco has agreed to cease operations and divest itself of all hydrocarbon business interests in the state of Louisiana.

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

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United States v. Peter Shtompil et al., No. 2:12-CR-00011 (E.D. Penn.), AUSA Sarah L. Grieb.

On August 10, 2012, Peter Shtompil was sentenced to pay a \$7,000 fine and will complete a three-year term of probation after previously pleading guilty to tampering with a monitoring method in violation of the Clean Water Act (33 U.S.C. § 1391(c)(4)).

Shtompil was the operations director for Nupro Industries Corporation (Nupro) d/b/a Neatsfoot Oil Refineries Corporation, and Advance Technologies. The company manufactures oils (at its Neatsfoot plant) and esters (at the Advance Technologies facility). Both processes generated wastewater that was classified as a hazardous waste and was required to be sampled and treated before being discharged to the Philadelphia POTW. From November 2006 to June 2007, Nupro and Shtompil watered down samples of wastewater that were taken prior to its discharge into the city's sewer system.

The company was recently sentenced to pay a \$200,000 fine, complete a three-year term of probation, and fund a \$25,000 community service project to benefit the Philadelphia Water

Department. In addition, Nupro will publish an advertisement regarding its conviction and will implement an environmental compliance plan.

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

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United States v. Donald Hudson, No. 2:12-CR-00115 (E.D. La.), AUSAs Dorothy Taylor and Emily K. Greenfield.

On August 8, 2012, Donald Hudson was sentenced to complete a two-year term of probation and will perform 120 hours of community service. Hudson previously pleaded guilty to a false statement violation (18 U.S.C. §1001) for lying to agents about blowout preventer system testing on a drilling rig located in the Gulf of Mexico.

In May 2010, the Bureau of Safety and Environmental Enforcement (BSEE) was notified that a crew on a rig operated by Helmerich & Payne, Inc., had falsified the rig's blowout preventer system tests by falsely reporting that every valve on the choke manifold was successfully pressure tested. From January through May 2010, the crew supervised by Hudson deliberately did not test a number of valves on the choke manifold because they knew that the valves would leak. During this period, the defendant was aware, on a few occasions, of what his crew was doing and personally authorized those few falsified test results.

The BSEE is one of three agencies created after the Minerals Management Service was reorganized in April 2010. The MMS is now known as the Bureau of Ocean Energy Management, Regulation, and Enforcement, with the BSEE acting as its environmental enforcement arm.

This case was investigated by the Department of Interior Office of Inspector General, in cooperation with the BSEE.

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United States v. Timothy T. Smither et al., No. 5:11-CR-00371 (E.D.N.C.) AUSA Banu Rangarajan.



Original and illegally labeled pesticide

On August 8, 2012, Timothy T. Smither and his wife Denise were sentenced for their involvement in the mislabeling of a pesticide. Timothy Smither, a former manager of a pesticide company, will serve a year and a day of incarceration, followed by three years' supervised release. Denise Smither, a former office assistant, was sentenced to serve a two-year term of probation with a special condition of five months' home confinement. A restitution hearing has been scheduled for November 7, 2012.

In 2000, Miller Trophy Room decided to use a pesticide known as Termidor SC to treat animal trophy mounts, which is not authorized for indoor use. Smither and others also illegally relabeled the pesticide and created false Material Safety Data Sheets to conceal the actual ingredients of the re-labeled product that was subsequently shipped to and used by customers nationwide to treat trophy mounts. During the application process, some customers' hands and arms were directly exposed to Termidor. One customer reported that his wife operated a day care center out of their home and that

the children played on or near the mounts after the treatments. Customers were told that the chemical being applied was completely safe and that it was a Miller Trophy Room “secret” chemical.

Timothy Smither previously pleaded guilty to conspiring to commit mail fraud, wire fraud, and to violating FIFRA (18 U.S.C. § 371) and Denise Smither pleaded guilty to a FIFRA violation (7 U.S.C. § 136j (a)(2)).

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the North Carolina Department of Agriculture Structural Pest Control and Pesticides Division, and the North Carolina State Bureau of Investigation.

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United States v. Jai Ping Cheng et al., Nos. 1:12-CR-00032 and 1:11-CR-01100 (S.D.N.Y.), AUSA Janis Echenberg.

On August 8, 2012, Jai Ping Cheng was sentenced to time served followed by two years’ supervised release. Cheng was ordered to pay a \$3,000 fine and \$1,200 in restitution to the New York State Department of Environmental Conservation, plus perform 200 hours of community service.

Chen and co-defendant Cheng Yan Huang previously pleaded guilty to two FIFRA violations (7 U.S.C. § 136) for their roles in the illegal distribution and sale of unregistered and misbranded pesticides that were found in dozens of locations throughout Manhattan. The packages were particularly dangerous because they could lead people to mistake them to contain cookies or cough medicine. A woman was hospitalized after accidentally ingesting one of the pesticides, believing it to be medicine. Huang is scheduled for sentencing on September 12, 2012.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division, the New York State Department of Environmental Conservation, United States Immigration and Customs Enforcement's Homeland Security Investigations, and the United States Postal Inspection Service.

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United States v. William Zirkle, No. 3:12-mj-08005 (N.D. Ohio) AUSA Thomas Karol.

On August 3, 2012, William Zirkle was sentenced to serve a six-month term of probation and will perform 200 hours of community service. A fine was not assessed. Zirkle previously pleaded guilty to a Clean Water Act pretreatment violation (33 U.S.C. § 1319(c)(1)(A)) for negligently failing to ensure that wastewater was properly treated prior to being discharged to the local POTW.

Zirkle worked at the former SK Hand Tool Corporation manufacturing facility in Defiance, Ohio. As the result of an accident, approximately 200 gallons of chrome plating solution spilled into a cement pit near the pretreatment system in April 2008. The defendant attempted to treat the spill by adding chemicals into the pit, instead of having it pumped back through the system. As a result, improperly treated wastewater with a high concentration of chrome was discharged into the sewer system, causing subsequent damage.

This case was investigated by the Northwest Ohio Environmental Task Force, which includes the United States Environmental Protection Agency Criminal Investigation Division, the Ohio Environmental Protection Agency, and the Ohio Attorney General’s Office Bureau of Criminal Identification and Investigation.

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United States v. Ohio Valley Coal Company, No. 2:12-CR-00137 (S.D. Ohio), AUSA Mike Marous and RCEC Dave Mucha.

On August 1, 2012, Ohio Valley Coal Company (OVCC) was sentenced to pay a \$500,000 fine and \$87,000 in restitution to the Ohio EPA Division of Surface Water. The company also will complete a one-year term of probation and will implement an environmental compliance plan. OVCC previously pleaded guilty to two negligent Clean Water Act violations (33 U.S.C. §§ 1311(a), 1319(c)(1)(A)) stemming from two coal slurry spills that blackened a local stream in 2008 and again in 2010. The company admitted to violating its NPDES permit and to bypassing its surface impoundment treatment works.



Slurry discharge

In 2008, slurry pumped from a settling pond polluted the Captina Creek for 22 miles to the Ohio River. The 2010 spill was caused by a ruptured slurry pipeline. There have been at least nine OVCC coal slurry spills in Captina Creek dating back to 1999. Officials consider the Captina a high-quality stream, in part because it is the last known breeding ground in Ohio for the Eastern hellbender salamander, a state endangered species. The company has already spent \$6 million on the construction of a new pipeline, which is double-walled to help prevent future spills. Employees Donald Meadows and David Bartsch were previously prosecuted for their roles in the 2008 incident.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Ohio Environmental Protection Agency, and the Ohio Bureau of Criminal Identification and Investigation.

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United States v. Mari Leigh Childs d/b/a S&L Aqua Operations, No. 3:11-CR-00135 (N.D. Miss.), AUSA Robert Mims.

Chapman Subdivision wastewater lagoon

On August 1, 2012, Mari Leigh Childs was sentenced to serve a five-year term of probation with a special condition of six months' home confinement. Childs was further ordered to pay \$ 34,900 in restitution to a number of local water and sewer authorities.

The defendant previously pleaded guilty to making false statements in discharge monitoring reports (DMRs), operator logs, and lab reports that are required under the Clean Water Act from February 2006 through February 2009. She further admitted to making false statements in water sample logs sheets and drinking water reports that were required under the Safe Drinking Water Act from January 2007 through January 2009.

Childs and her husband were private wastewater and drinking water operators doing business as S&L Aqua Operations. Childs admitted to falsifying information and reports collected on behalf of the Rising Sun Subdivision Waste Water Treatment Plant and the Chapman Subdivision WWTP. The falsified data included test results for BOD, TSS, ammonia, chlorine, and pH levels. These data were used to prepare DMRs that were submitted to Mississippi Department of Environmental Quality. The company oversees operations at ten local wastewater treatment facilities and 12 public water systems.

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

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United States v. Dale Leblang et al., No. 12-CR-60015 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On July 27, 2012, four defendants were sentenced after previously pleading guilty to conspiracy violations (18 U.S.C. § 371) for the illegal transportation and sale in interstate commerce of a species of citrus plant that has been under quarantine in Florida for many years.

In March 2011, USDA inspectors discovered that *Calomondin*, a known carrier of both Citrus Canker Disease and the Citrus Greening Disease, was being sold from nurseries in Ohio and Illinois. Those plants were traced back to Allied Growers (Allied) in Ft. Lauderdale, which was owned and operated by Dale Leblang and David Peskind. Valico Nurseries (owned and operated by Randall Linkous and his daughter Andrea Moreira) provided the plants to Allied. All four defendants were aware of the quarantine and took various steps to conceal the true identity of the plants, including falsely labeling the plants when they were shipped out of Florida.

Linkous was sentenced to serve a one-year term of probation, to include six months of home confinement. Linkous also will perform 100 hours of community service and is prohibited from being involved with the sale of plants without permission from the court. Moreira will complete a one-year term of probation, perform 50 hours of community service, and is subject to a similar employment restriction. Defendants Leblang and Peskind were each ordered to serve one-year terms of probation, but were not placed under employment restrictions or ordered to perform community service, in light of their cooperation in the investigation and resolution of the case.

This case was investigated by the United States Food and Drug Administration.

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United States v. Michael V. Johnson, No. 1:12-mj-01034 (W.D.N.Y.), AUSA Aaron Mango.

On July 26, 2012, Michael V. Johnson was sentenced to pay a \$40,000 fine after pleading guilty to a misdemeanor Lacey Act trafficking violation (16 U.S.C. § 3372) for the purchase of Common Snapping Turtles, a protected species.

In 2007 and 2008, Johnson operated a business known as Turtle Deluxe, Inc., a turtle meat processing facility located in Millington, Maryland. As part of the operation, he purchased live turtles from people located in various states. On two occasions in 2007 and 2008, the defendant bought turtles from undercover law enforcement officers and resold the meat, with a market value of approximately \$8,400.

As part of the plea, the defendant already has made donations to the following organizations to support their turtle research and education efforts: \$7,500 to the Buffalo Zoo, \$7,500 to Teatown Lake Reservation, and \$5,000 to the Tiff Nature Preserve Buffalo Museum of Science.

This case was investigated by the United States Fish and Wildlife Service and the New York State Department of Environmental Conservation.

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United States v. Odysea Carriers, S.A. et al., Nos. 2:12-CR-00056, 00105 (E.D. La.), AUSAs Emily Greenfield and Dorothy Taylor.

On July 25, 2012, operator Odysea Carriers, S.A. was sentenced to pay a \$1 million fine and will make a \$100,000 community service payment to the National Fish and Wildlife Foundation. The company also will complete a three-year term of probation and will implement an environmental compliance plan.

Odysea previously pleaded guilty to an APPS violation, obstruction, and a PWSA violation (18 U.S.C. §1519; 33 U.S.C. §§ 1908(a), 1232(b)(1)) stemming from the illegal overboard discharges of sludge and oily water from the *M/V Polyneos* in 2011, and for failing to notify authorities of cracks found in the ballast tanks. Chief Engineer Pedro Guerero previously pleaded guilty to a false statement violation (18 U.S.C. § 1001(a)(3)). He was sentenced to pay a \$2,000 fine and will complete a three-year term of probation.

From June 2011 through October 2011, crew members used a bypass hose to pump the contents of the bilge tank, bilge oil tank, and sludge tank directly overboard into the ocean. Guerrero falsified the oil record book by omitting these discharges, and by stating that the incinerator had been used to dispose of the wastes, which was untrue.

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. Tammy Young, No. 6:12-CR-00157, (D. Ore.), AUSA Amy Potter.

On July 24, 2012, Tammy Young was sentenced after pleading guilty to an information charging her with a false statement violation (18 U.S.C. § 1001). She will complete a three-year term of unsupervised probation and will perform 100 hours of community service.

Young was the Water Treatment Plant Supervisor and Water Quality Technician for the Coos Bay North Bend Public Water Board (Water Board). The Water Board is a "community water system" that provides water to approximately 38,000 people.

As part of her duties, the defendant was responsible for sampling and testing drinking water, and submitting monitoring reports to health authorities. In May 2010, Young submitted a report containing falsified data for coliform bacteria levels.

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

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United States v. Matthew Whitegrass et al., No. 4:12-CR-00029 (D. Mont.), AUSA Jessica Betley.

On July 10, 2012, Matthew Whitegrass and Benjamin Yellow Owl were sentenced after pleading guilty to Lacey Act violations (16 U.S.C. §§ 3372(a)(4), 3373(d)(2)) stemming from the illegal killing of four elk in December 2011. The two were each sentenced to pay \$2,500 in restitution, a \$1,000 fine, complete a 28-month term of probation, and will forfeit their firearms.

In December 2011, a Glacier National Park ranger heard gunshots within the park boundaries. A total of four elk were found shot, and the defendants were apprehended with firearms in their truck, along with spent rifle casings, near the park. They were not authorized to hunt within the boundaries of the park.

This case was investigated by the Glacier National Park Law Enforcement Service and the United States Fish and Wildlife Service.

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United States v. Ronald M. Mittleider, No. 1:12-CR-10027 (D.S.D.), AUSA Meghan N. Dilges.

On July 5, 2012, Ronald M. Mittleider was sentenced to pay a \$3,000 fine, complete a one-year term of unsupervised probation, and pay \$6,825 in restitution to the State of South Dakota Department of Game, Fish, and Parks, and an additional \$3,500 to the National Fish and Wildlife Fund.

Mittleider previously pleaded guilty to violations of the Migratory Bird Treaty Act and the Lacey Act (16 U.S.C. §§ 3372, 3373; 707, 707) for illegally shooting and killing one hawk, and one owl. He further assisted in the illegal taking of pheasants over the daily limit on numerous occasions during paid commercial hunts at his lodge, known as Ron's Ringneck Ranch, in 2008 and 2009.

This case was investigated by the United States Fish and Wildlife Service, and the South Dakota Department of Game, Fish, and Parks.

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Other Litigation Events

United States v. Gibson Guitar Corp., (M.D. Tenn.), ECS Trial Attorney Lana Pettus and AUSA John Webb, with assistance from AUSA Carrie Daughtrey.

On August 6, 2012, Gibson Guitar Corp. (Gibson) entered into a deferred prosecution agreement to resolve criminal violations of the Lacey Act (16 U.S.C. §§ 3372, 3373) for illegally purchasing and importing ebony wood from Madagascar and rosewood and ebony from India.

Gibson will be required to pay a penalty of \$300,000 into the Lacey Act Reward Fund. The agreement further provides for a community service payment of \$50,000 to the National Fish and Wildlife Foundation to be used to promote the conservation, identification, and propagation of protected tree species used in the musical instrument industry and the forests where those species are found. The company also is required to implement an environmental compliance program.

Since May 2008, it has been illegal to import into the United States plants and plant products (including wood) that have been harvested and exported in violation of the laws of another country. The harvest of Madagascar Ebony, a slow-growing tree species, was banned in 2006.

Despite being informed of the ban, in October 2008 and September 2009, the company purchased four shipments of "fingerboard blanks," consisting of sawn boards of Madagascar Ebony, for use in the manufacture of guitars.

This case was investigated by the United States Fish and Wildlife Service with assistance from United States Immigration and Customs Enforcement.

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