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# ENVIRONMENTAL CRIMES SECTION



## MONTHLY BULLETIN

May 2014

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### ANNOUNCEMENT:

On April 24, 2014, Deborah Harris was selected as the new Chief of the Environmental Crimes Section. Deborah has been an Assistant Chief in ECS since 2007. In that capacity, she has spearheaded many initiatives and developed expertise in such areas as Worker Endangerment, Clean Air Act section 112r, and RIN Fraud, as well as a wide range of administrative matters affecting the Section and the Division. Deborah came to ECS as a trial attorney in 1999 after spending ten years with the Public Defender Service for the District of Columbia, where she had an extensive background in litigation. She has tried some of the Section's biggest cases, including *United States v. Robert Lucas et al.*, No. 1:04-CR-00060 (S.D. Miss.) and *United States v. Atlantic States Cast Iron Pipe Company et al.*, No. 3:03-CR-00852 (D. N. J.) and been involved in training and policy development. She received her JD and undergraduate degrees from the University of North Carolina at Chapel Hill and her Masters in Trial Advocacy from Georgetown University Law Center. Congratulations Deborah!

## EDITOR'S NOTES:

If you have significant updates and/or interesting photographs from a case, please email them to [NAME REDACTED]. If you have information concerning state or local cases, please send it directly to the [Regional Environmental Enforcement Associations'](#) website.

REMINDER: We are now producing a *separate* public version of the ECS Monthly Bulletin. When submitting details about your case developments please bear in mind that the information you provide could be disclosed to the public. As such, it would be very helpful if you would include a press release whenever possible to help ensure that the facts we are using are publicly available. If a press release was not issued, then please only provide facts that are appropriate to disclose to the public.

The [Environmental Crimes Intranet Site](#) is available to those who have access to U.S.D.OJ-operated sites.



**House burning after pipeline explosion that occurred on September 9, 2010, in San Bruno, California. [See U.S. v. PG&E](#), below, for more details.**

## **Glossary for May 2014 Edition of the Bulletin:**

The following Table of Cases is organized by District, the name of the case, the type of case, and the statutes. The Districts are spelled out within the chart, but they will be abbreviated within the summary of the case.

For example: District of Alaska will be noted as D. of Ak. The case name will be noted as United States v. John Jones.

The statutes are cited within the body of each case summary. The statutes will be abbreviated as follows:

CAA = Clean Air Act

CWA = Clean Water Act

ESA = Endangered Species Act

RCRA = Resource Conservation and Recovery Act

Other abbreviations:

CNMI = Commonwealth Northern Mariana Islands

ECS = Environmental Crimes Section

EPA = Environmental Protection Agency

NOAA = National Oceanic and Atmospheric Administration

USC = United States Code

USDOJ = United States Department of Justice

## AT A GLANCE:

<b>DISTRICT</b>	<b>CASES</b>	<b>CASE TYPE/ STATUTES</b>
Northern District of California	<a href="#">United States v. Pacific Gas and Electric Company</a>	<i>Pipeline Explosion/ Pipeline Safety Act</i>
District of Connecticut	<a href="#">United States v. Conopco, Inc. d/b/a Unilever Home and Personal Care USA</a>	<i>Wastewater Discharge/CWA</i>
Middle District of Florida	<a href="#">United States v. Taylor B. Martin et al.</a>	<i>Manatee Harassment/ ESA</i>
Southern District of Florida	<a href="#">United States v. Richard Perrin et al.</a>	<i>Marine Wildlife/Lacey Act, Conspiracy</i>
	<a href="#">United States v. Idaho Aquarium Inc., et al.</a>	<i>Marine Wildlife/Lacey Act, Conspiracy</i>
Middle District of Georgia	<a href="#">United States v. Robert Lewis</a>	<i>Waste Hauler/RCRA</i>
Southern District of Mississippi	<a href="#">United States v. William R. Miller et al.</a>	<i>Wetlands/ CWA</i>
Western District of Missouri	<a href="#">United States v. Earl P. Kearney</a>	<i>Wastewater Operator/CWA</i>
District of Nevada	<a href="#">United States v. Edward N. Levine et al.</a>	<i>Black Rhino Horn Sales/Conspiracy, Lacey Act, ESA</i>
District of New Mexico	<a href="#">United States v. Dale N. Smith</a>	<i>Eagle Feather Sales/MBTA, BGEPA, Lacey Act</i>
Eastern District of New York	<a href="#">United States v. Alan Dresner et al.</a>	<i>Fish Overharvesting/Mail Fraud, Wire Fraud, False Records</i>
	<a href="#">United States v. Joel Rakower et al.</a>	<i>Piranha Shipments/ESA</i>
Western District of New York	<a href="#">United States v. Lycoming Construction Services, LLC</a>	<i>Demolition/ CAA</i>
	<a href="#">United States v. Evan Harnden et al.</a>	<i>Demolition/ CAA, Accessory-After-the-Fact</i>

<b>DISTRICT</b>	<b>CASES</b>	<b>CASE TYPE/ STATUTES</b>
Western District of North Carolina	<a href="#">United States v. Pedro Salmeron</a>	<i>Vehicle Emissions Testing/CAA, Conspiracy</i>
District of Northern Mariana Islands	<a href="#">United States. v. Juan Manglona Ayuyu et al.</a>	<i>Bat Killing/ESA, Conspiracy, Obstruction</i>
Northern District of Ohio	<a href="#">United States v. Hardrock Excavating LLC et al.</a>	<i>Oil and Gas Company/ CWA</i>
Southern District of Ohio	<a href="#">United States v. Marietta Industrial Enterprises, Inc., et al.</a>	<i>Minerals Processor/ CAA, Accessory After-the-Fact</i>
District of South Carolina	<a href="#">United States v. Scott W. Farmer</a>	<i>Asbestos Removal/ CAA</i>
Western District of Washington	<a href="#">United States v. All Out Sewer and Drain Services, Inc., et al.</a> <a href="#">United States v. Stanley Xu et al.</a>	<i>Septage Hauler/ CWA, False Statement</i> <i>Asbestos Removal/CAA</i>

### **Additional Quick Links:**

- ◇ [Informations/Indictments](#) pp. 6 - 7
- ◇ [Plea Agreements](#) pp. 8 - 10
- ◇ [Sentencings](#) pp. 11 – 17

## Informations/Indictments

### **United States v. Dale N. Smith, No. 1:14-mj-01141 (D.N.M.), AUSA Paul Spiers.**

On April 4, 2014, a complaint was filed charging Dale N. Smith with Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, and Lacey Act violations (16 U.S.C. §§ 668(a), 703, 707(b), 3372(a)(1), 3373(d)(1)(B)). Smith is alleged to have posted advertisements for numerous works of Indian art on Craigslist in March 2014 that appeared to display federally-protected feathers.

This case was investigated by the U.S. Fish and Wildlife Service.



**Headdress with feathers**

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### **United States v. Edward N. Levine et al., No. 2:14-CR-00127 (D. Nev.), ECS Trial Attorney Todd Mikolop and AUSA Kate Newman.**

On April 2, 2014, Edward N. Levine and Lumsden W. Quan were charged with violations stemming from the illegal sale of black rhinoceros horns. The two are charged with conspiracy to violate the Lacey Act and the Endangered Species Act, and one count of violating the Lacey Act (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

According to the indictment, over the course of approximately two months, the defendants negotiated the sale of two black rhinoceros horns by e-mail and telephone, ultimately communicating with an undercover officer. Quan and Levine are further alleged to have offered for sale two black rhinoceros horns for \$55,000, agreeing to meet the buyer in Las Vegas. On March 19, 2014, after directing another person to drive with the horns from California to Las Vegas, the defendants flew from California to Las Vegas, to make the sale. Quan met the undercover officer in a Las Vegas hotel room, where he allegedly completed the transaction for the agreed upon amount. Both men were arrested later that day.

The indictment is a result of "Operation Crash," a nationwide effort led by the U.S. Fish and Wildlife Service and the Justice Department to investigate and prosecute those involved in the black market trade of endangered rhinoceros horns. The National Park Service, the U.S. Forest Service, and the Nevada Division of Wildlife assisted with the arrests in this matter.

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**United States v. Pacific Gas and Electric Company, No. 3:14-CR-00175 (N.D. Calif.), AUSA Stacey Geis.**



On April 1, 2014, a 12-count indictment was returned charging Pacific Gas and Electric Company (PG&E) with violations of the Natural Gas Pipeline Safety Act (PSA) (49 U.S.C. § 60123). PSA violations were uncovered during the investigation that was initiated after the fatal San Bruno pipeline explosion that killed eight people in 2010.

The indictment alleges that PG&E knowingly and willfully violated the PSA and its regulations between 2003 and 2010 through its record-keeping and pipeline “integrity management” practices. PG&E allegedly failed

to address record-keeping deficiencies concerning its larger natural gas pipelines knowing that their records were inaccurate or incomplete. It also allegedly failed to identify threats to its larger natural gas pipelines and did not take appropriate actions to investigate the seriousness of threats to pipelines when they were identified. Lastly, the company is charged with failing to adequately reprioritize and assess threatened pipelines after the pipelines were over pressurized.

**Houses flattened after explosion**

This case was investigated by the U.S. Department of Transportation Office of Inspector General, the FBI, the Pipeline and Hazardous Material Safety Administration, and the city of San Bruno Police Department.

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**United States v. Earl P. Kearney, No. 6:14-CR-03022 (W.D. Mo.), AUSA Steve Mohlhenrich.**

On April 1, 2014, Earl Patrick Kearney was charged in a 12-count indictment with Clean Water Act false statement violations (33 U.S.C. § 1319(c)(4)) stemming from the submission of fake wastewater sampling results.

Kearney was employed as a wastewater treatment operator for a two housing developments between May 2010 and August 2011. He was responsible for conducting wastewater sampling at the facilities and submitting those results to the Missouri Department of Natural Resources. The indictment alleges that Kearney altered sample data on quarterly discharge monitoring reports that he submitted to the state so that it appeared they were in compliance with their discharge permits. The actual test results for total phosphorous, however, showed that they were, in fact, in violation of their permits.

The Overlook subdivision wastewater treatment facility discharged to Table Rock Lake. The Morningside development wastewater treatment facility discharged to an unnamed tributary to Brush Creek, a tributary of Table Rock Lake.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Missouri Department of Natural Resources.

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## Plea Agreements

**United States v. Alan Dresner et al., Nos. 14-CR-00202 and 00225 (E.D.N.Y.), ECS Trial Attorney Christopher Hale and ECS Paralegal Casey Layman.**

On April 23, 2014, Alan Dresner, a federally-licensed fish dealer, pleaded guilty to a wire fraud violation (18 U.S.C. § 1343) stemming from his role in systematically underreporting fluke (summer flounder) that was being harvested as part of the federal Research Set-Aside (RSA) Program. Anthony Joseph, captain of the *F/V Stirs One*, pleaded guilty on April 11<sup>th</sup> to mail fraud, wire fraud, and false records violations (18 U.S.C. §§ 1341, 1343, 1519) for submitting hundreds of falsified fishing logs and aiding and abetting the submission of falsified dealer reports.

Between July 2009 and December 2011, the defendants falsified fisheries dealer reports as part of a scheme to defraud the United States of 246,376 pounds of overharvested and underreported fluke valued at approximately \$625,000.

As a federal fish dealer, Dresner had a NOAA permit to purchase fish directly from commercial fishing vessels without having to go through an intermediary. In July 2009, Dresner learned that Joseph (with his federally licensed trawler) was consistently overharvesting fluke through Joseph's abuse of the RSA Program. By July 2009, Dresner was making regular purchases of illegal fluke from Joseph.

In an effort to conceal his activities, Joseph submitted both electronic and hard copies of logs and reports containing erroneous data. NOAA relies on these documents to set quotas and implement other management measures designed to ensure sustainable fisheries. According to the plea agreement, Joseph remarked that the RSA Program was a "license to steal" because the program allowed him to launder what would otherwise be illegal fluke by pretending those fluke were caught under the RSA Program. He was also heard referring to the RSA Program as the "Research Steal-Aside."

Joseph is scheduled to be sentenced on October 7, 2014 and Dresner is scheduled for October 22, 2014.

These cases were investigated by NOAA National Marine Fisheries Service, with assistance from the New York State Department of Environmental Conservation Police.

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**Harvested fluke (summer flounder)**



**United States v. Lycoming Construction Services, LLC, No. 1:14-CR-00040 (W.D.N.Y.), AUSA Aaron Mango.**



**Lycoming aerial view**

On April 16, 2014, Lycoming Construction Services, LLC, (Lycoming) pleaded guilty to violating the Clean Air Act (42 U.S.C. §§ 7412; 7413(c)(1)).

From January 2012 through November 2013, the company was involved in the demolition of the Dahlstrom industrial complex, which involved the destruction of a cluster of condemned buildings on either side of

the Chadakoin River. Prior to commencing the project, an asbestos survey identified asbestos in some of the buildings. In February 2012, employees working on behalf of Lycoming entered one of the condemned buildings and removed regulated asbestos-containing material without adequately wetting it, in violation of the CAA.

Sentencing is scheduled for August 13, 2014. This case was investigated by the U.S. EPA Criminal Investigation Division, the U.S. Coast Guard Investigative Service, the N.Y. State Department of Environmental Conservation Police, BECI, with assistance provided by the N.Y. State Department of Labor, Asbestos Control Bureau.

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**United States v. Evan Harnden et al., No. 1:11-CR-00241 (W.D.N.Y.), AUSA Aaron Mango.**

On April 14, 2014, Evan Harnden pleaded guilty to aiding and abetting a violation of the Clean Air Act (42 U.S.C. § 7413(c)). On April 4, 2014, Brian Scott pleaded guilty to being an accessory after-the-fact to a false statement under the CAA (18 U.S.C. § 3).

Harnden and Scott were both employed by JMD Environmental, Inc. (JMD) as air sampling technicians and project monitors. They were certified to conduct asbestos project monitor and air sampling duties. From June 2009 to January 2010, Johnson Contracting of WNY, Inc. (Johnson Contracting), Ernest Johnson, and Rai Johnson, conducted asbestos abatement activities at six buildings at the Kensington Towers Apartment Complex in Buffalo.

Harnden admitted that during the abatement for building A-1, Ernest Johnson, Rai Johnson, and workers employed by them violated several Clean Air Act asbestos work practice standards, including failing to adequately wet the RACM as it was removed. During the abatement process, the defendant aided and abetted these violations by conducting visual inspections and final clearance air sampling that indicated no violations of the asbestos work practice standards had occurred.

During the abatement for this building, Rai Johnson wrote in his daily project log that all floor tiles containing asbestos had been removed from the building, which was untrue. Scott thereafter conducted a visual inspection and issued a satisfactory report despite knowing that all the floor tiles had not been removed.

Scott and Harnden are the third and fourth defendants to plead guilty in this case. JMD project monitors Chris Coseglia and Henry Hawkins previously pleaded guilty, and Ernest and Rai Johnson

recently pleaded guilty to a CAA violation. Donald Grzebielucha, William Manuszewski, and Theodore Lehmann remain scheduled for trial to begin on May 13, 2014.

This case was investigated by the U.S. EPA Criminal Investigation Division, the FBI, the U.S. Department of Housing and Urban Development Office of Inspector General, and the N.Y. State Department of Environmental Conservation Police Bureau of Environmental Crimes Investigations, with assistance from the N.Y. State Department of Labor Asbestos Control Bureau.

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**United States v. Scott W. Farmer, No. 8:13-CR-00938 (D.S.C.), AUSA Jamie Lee Schoen.**

On March 25, 2014, Scott Farmer pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(5)) for the illegal removal of asbestos from a textile mill between October 2012 and April 2013. The defendant was already serving a sentence in state court for burglary and malicious damage for destroying and stealing metal from the building he was tearing down that was filled with asbestos. Farmer had ignored cease and desist orders from local regulators on five separate occasions, including an Emergency Order to stop all activities.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Department of Health and Environmental Control of South Carolina.

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**United States v. Hardrock Excavating LLC, et al., No. 4:13-CR-00113 (N.D. Ohio), SAUSA Brad Beeson.**

On March 24, 2014, Benedict Lupo pleaded guilty to a Clean Water Act violation (33 U.S.C. § 1319(c)(2)(A)) for his role in the discharge of brine and oil-based drilling mud that eventually flowed into the Mahoning River, a water of the United States.

Lupo is the owner of Hardrock Excavating LLC. The company provides services to the oil and gas industry in Ohio and Pennsylvania, including the storage of brine and oil-based drilling mud. There are approximately 58 mobile storage tanks at the facility

and each holds approximately 20,000 gallons.

After receiving an anonymous call in January 2013, inspectors found a hose connected to a storage tank that was discharging wastewater into a stormwater drain at the facility. The stormwater drain flowed into an unnamed tributary of the Mahoning River and ultimately into the river, where an oily sheen was clearly visible. Lupo directed employee Michael Guesman on numerous occasions to discharge storage tanks at night over a several-month period. Guesman pleaded guilty to a CWA violation (33 U.S.C. § 1319(c)(2)(A)) and was sentenced on March 27<sup>th</sup> to serve a three-year term of probation and perform 300 hours of community service. A fine was not assessed. Charges against the company are pending.

This case was investigated by the Ohio Environmental Protection Agency, the Ohio Department of Natural Resources, the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Investigation, the Youngstown Department of Public Works, and the Youngstown Fire Department.



**Discolored water in unnamed tributary**

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**United States v. Taylor B. Martin et al., No. 6:13-CR-00262 (M.D. Fla.), AUSA Shawn Napier.**

On March 7, 2014, Taylor Blake Martin and Seth Andrew Stephenson pleaded guilty to an Endangered Species Act violation (16 U.S.C. § 1538) for harassing manatees.

Federal investigators were alerted to a video posted on Facebook that showed one individual luring two manatees to a dock with a water hose, and another individual jumping off of a boat dock, "cannonballing" an adult manatee and a calf. Further investigation revealed that Martin was the individual in the video in the water with the manatees. Stephenson was identified as having lured them to the dock with the hose. The video shows Martin landing on the back of the adult manatee as the manatees swim away. As the video ends, Stephenson is seen using the hose again to try and lure the manatees back.

This case was investigated by the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission.

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## Sentencings

**United States v. William R. Miller et al., No. 1:12-CR-00093 (S.D. Miss.), ECS Senior Trial Attorney Jeremy Korzenik and AUSA Gaines Cleveland.**



adjacent wetland.

**Flooding on neighboring property**

Despite being notified in 2001 that the property was approximately 80% jurisdictional wetlands, and required Army Corps of Engineers' permits to develop, the defendant and developer Hancock County Land, LLC, (HCL) created and implemented a plan to drain the site, eliminating the wetlands that would have slowed development and reduced the value of the property. HCL previously pleaded guilty to two CWA violations (33 U.S.C. §§ 1311(a), 1319 (c)(2)(A) ) and was sentenced to pay a \$1 million fine and perform community service by completing court-specified wetland restoration and preservation plans.

This case was investigated by the U.S. EPA Criminal Investigation Division.

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**United States v. Joel Rakower et al., No. 13-CR-00696 (E.D.N.Y.), ECS Trial Attorney Cassie Barnum.**

On April 17, 2014, Joel Rakower was sentenced to serve a three-year term of probation and pay a \$5,000 fine. Rakower, and his solely-owned corporation, Transship Discounts Ltd., previously pleaded guilty to mislabeling imported piranhas in violation of the Lacey Act (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(B)). The company is scheduled to be sentenced on June 12, 2014.

The defendants purchased piranhas from a Hong Kong tropical fish supplier and imported them to Queens, New York. In March 2011, shortly after New York City prohibited possession of piranhas, Rakower instructed his foreign supplier to falsely label the piranhas on packing lists as silver tetras, a common aquarium fish. In 2011 and 2012, Transship submitted packing lists to the Fish and Wildlife Service containing false identifications for 39,548 piranhas, worth approximately \$37,376, which Transship then sold to fish retailers in several states.

Due to their extremely aggressive and territorial nature, piranhas are either banned or regulated in 25 states, making them illegal to own or sell. As an injurious species, they could pose a serious risk if they escaped into native water systems, potentially damaging ecosystems through aggressive predation or injuring people or animals.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from the New York State Department of Environmental Conservation Division of Law Enforcement.

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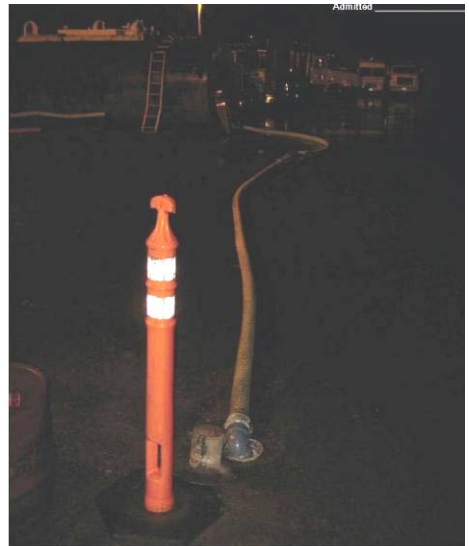
**United States v. All Out Sewer and Drain Service, Inc., et al. No. 3:13-CR-005308 (W.D. Wash.), AUSA Jim Oesterle.**

On April 14, 2014, All Out Sewer and Drain Service, Inc. (All Out) and company owner Ray Caldwell were sentenced after previously being convicted on all 33 counts charging mail fraud, Clean Water Act pretreatment, and false statement violations (33 U.S.C. §§ 1317(d), 1319(c)(2)(A), 1319(c)(4); 18 U.S.C. §§ 1001, 1341) following a five-day bench trial. The company will pay a \$250,000 fine and complete a three-year term of probation. Restitution is to be determined at a later date. Caldwell was sentenced to serve 27 months' incarceration, followed by three years' supervised release. He is jointly and severally responsible for the fine.

All Out is a septage hauling business that provided pumping, hauling and disposal services for businesses and residences. The company, through the actions of Caldwell and employees acting under his direction, discharged trucked and hauled waste to an unpermitted sewer hookup at the All Out facility on at least 25 separate occasions in 2012. EPA agents conducting surveillance in December 2012 observed Caldwell pumping waste into the unpermitted sewer hookup.

This case was investigated by the U.S. EPA Criminal Investigation Division with assistance from the Washington State Department of Ecology.

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**Hose going into storm drain at night**



**United States v. Richard Perrin et al., No. 4:13-CR-10027 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**



**Baby alligator**

On April 14, 2104, Joseph Franko was sentenced to serve five months' incarceration and five months' home confinement, followed by two years' supervised release. A fine was not assessed. Franko and co-defendant Richard Perrin pleaded guilty to conspiracy and Lacey Act charges (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1); 18 U.S.C. § 371) for the illegal transport, sale, and purchase of fish and marine wildlife. Perrin was recently sentenced to pay a \$15,000 fine, complete a three-year term of probation, and forfeit a vehicle.

From approximately December 2008 through December 2011, Perrin and Franko engaged in a conspiracy to purchase, harvest, and transport marine life and reptiles from Florida to Michigan for sale through a business known as Tropicorium, Inc. Perrin was the hands-on owner and Franko was an employee. The company was engaged in the purchase and retail sale of marine life and reptiles, including sharks, marine invertebrates, Sea Fans, ornamental tropical fish, and alligators.

The defendants did not have the required licenses to legally harvest marine life from the Keys. Additionally, the Sea Fans they took and sold in Michigan are prohibited from being harvested from state waters. They also poached juvenile alligators from the Big Cypress National Preserve, one of which they sold to an undercover agent.

This case was investigated by the NOAA Office of Law Enforcement and the U.S. Fish and Wildlife Service Office of Law Enforcement, with assistance from the Michigan Department of Natural Resources.

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**United States v. Idaho Aquarium, Inc. et al., Nos. 4:12-CR-10020, 4:13-CR-10010 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On April 14, 2014, the Idaho Aquarium, Inc. (Aquarium) was sentenced after pleading guilty to charges stemming from the illegal harvest, transport, and sale of marine wildlife. The company will pay a \$10,000 fine and complete a three-year term of probation. It will implement an environmental compliance plan and hire an independent auditor to conduct annual audits of its records. The Aquarium also will make a \$50,000 community service payment to the National Fish & Wildlife Foundation, to be used to promote research, education, conservation, and restoration of marine life and corals throughout the waters of the Florida Keys National Marine Sanctuary and the Florida Keys.

Co-defendants Ammon Covino, Christopher Conk, and the Aquarium previously pleaded guilty to conspiracy and Lacey Act violations (16 U.S.C. §§ 3372(a)(1), (a)(4), 3373(d)(1)(B); 18 U.S.C. § 371) for purchasing spotted eagle rays and lemon sharks in the Florida Keys without permits over an eight-month period in 2012, and then transporting the wildlife to the aquarium in Boise. Conk was already serving a two-year term of probation imposed in Idaho for illegally shipping protected live corals to buyers around the world. As officers of the Aquarium, Conk and Covino directed their Florida-based suppliers to ignore the law and make the illegal shipments. Unknown to them, one of the



Florida business owners was cooperating with federal authorities and the phone conversations and text messages were recorded.

Covino and Conk were sentenced in December 2013. Covino was sentenced to serve one year and one day of incarceration, followed by two years' supervised release. He is barred from employment related to wildlife during the supervised release period. As a result of his cooperation, Conk received a reduced sentence of four months' incarceration, followed by two years' supervised release. He also will be required to spend six months in home confinement and is subject to employment restrictions. Conk will forfeit a motor vehicle used in perpetrating the crime.

In a related case, Peter C. Covino, IV, was convicted by a jury of an obstruction violation (18 U.S.C. § 1512(b)(2)(B)) that was connected to the case against his uncle, Ammon Covino. Evidence at trial established that Peter Covino made two phone calls in February 2013 to a business in the Florida Keys involved in the wholesale marine life trade. He told one of the business owners "to erase all the text messages, and emails, or any other evidence" linking the Florida business to his uncle. As a result of that individual's cooperation with federal authorities, those phone calls were recorded.

These cases were investigated by the NOAA Office for Law Enforcement and the U.S. Fish and Wildlife Service Office of Law Enforcement.

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**United States v. Edna Stoner, No. 2:13-CR-200852 (C.D. Ill.), ECS Senior Trial Attorneys Jennifer Whitfield and David Kehoe, and AUSA Ronda Coleman.**

On April 4, 2014, Edna Stoner was sentenced to pay a \$5,400 fine and complete a three-year term of probation. Stoner previously pleaded guilty to a five-count information charging her with four false statement violations and one pipeline safety violation (18 U.S.C. § 1001; 49 U.S.C. § 60123(a)).

From July 2008 through January 2009 Stoner was assigned to conduct non-destructive testing of a natural gas compressor station that was under construction in Blue Mound, Illinois. She issued reports confirming that certain pipe connections had been tested and were acceptable even though she had not conducted the required tests.

This case was investigated by the U.S. Department of Transportation Office of Inspector General.

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**United States v. Conopco, Inc. d/b/a/Unilever Home and Personal Care USA, No. 3:13-CR-00223 (D. Conn.), AUSA Ray Miller and SAUSA Peter Kenyon.**

On April 3, 2014, Conopco, Inc., doing business as Unilever Home & Personal Care USA, (Unilever) was sentenced to pay a \$1 million fine and will complete a three-year term of probation for violating the Clean Water Act (33 U.S.C. §§ 1319(c)(2)(A), 1342). It will implement an environmental compliance plan that will subject its U.S. manufacturing facilities to annual audits.

The company pleaded guilty in December 2013 to two felony violations of the CWA for the illegal discharge of industrial wastewater at a manufacturing site in Clinton, Connecticut, in December 2008, and the company's failure to report the discharge in a timely manner.

On December 5, 2008, an employee noted that a hose was being used to bypass the industrial process wastewater treatment system by allowing the contents of a 4,500 gallon tank to discharge directly to a storm drain pipe that led to Hayden Creek. The hose was shut off shortly afterwards; however, Connecticut Department of Energy and Environmental Protection (DEEP) was not notified within two hours of the detection, as required.

On December 8, 2008, a DEEP compliance inspector was on-site at the Clinton facility for an unrelated reason. Unilever failed to notify the on-site DEEP representative of the bypass that had occurred. Around December 10, Unilever notified the DEEP for the first time of the discharge that occurred five days earlier. This written notification occurred within the required five-day time period for the mandatory written report. Unilever also disclosed the discharge to the U.S. EPA in a written submission dated December 16, 2008.

The company conducted its own internal investigation of the December 2008 incident. In subsequent conversations and written communications with federal and state authorities throughout 2009 and 2010, Unilever claimed it was unable to conclusively determine who was responsible for the bypass, mischaracterizing the event as an isolated incident that may have been the work of unknown "vandals." The ensuing federal investigation, however, concluded that for an extended period of time, perhaps as long as two years prior to December 2008, the wastewater treatment operators routinely bypassed the system on a weekly basis, discharging approximately 1,500 gallons of partially treated wastewater at a time to the storm drain that led to the creek. These bypasses were concealed from Unilever management; however, management was aware of several key factors indicating that the operators were not properly overseeing the wastewater treatment system and that the system was not properly functioning.

Unilever ceased manufacturing operations at the Clinton facility in December 2012. This case was investigated by the U.S. EPA Criminal Investigation Division and the Connecticut Department of Energy and Environmental Protection.

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### **United States v. Pedro Salmeron, No. 3:12-CR-00261 (W.D.N.C.), AUSA Steven R. Kaufman.**

On April 3, 2014, Pedro Salmeron, a licensed vehicle emissions inspector, was sentenced to serve two months' incarceration, followed by two years' supervised release, for his role in conducting fraudulent vehicle emissions tests. Salmeron also was ordered to pay a \$5,000 fine, perform 50 hours of community service, and will spend the first four months of release under home confinement.

The defendant was employed as a technician for Carolina Inspections (also known as Carolinas Auto Inspection) and was a state-licensed vehicle emissions inspector. From February 2010 through January 2011, Salmeron conducted 200 illegal vehicle emissions tests and falsely passed vehicles that would have otherwise failed inspection. The tests were falsified by entering the information for the vehicle being tested into the state database, and then connecting the testing equipment to "surrogate" vehicles at the repair shop. This practice is known as "clean scanning." Salmeron pleaded guilty to a Clean Air Act conspiracy charge (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(A)).

This defendant is the latest to be sentenced as a result of a multi-agency investigation into clean-scanning in the Charlotte, North Carolina area. To date, 14 people have been prosecuted.

These cases were investigated by the U.S. EPA Criminal Investigation Division, the North Carolina State Bureau of Investigation, and the North Carolina Division of Motor Vehicles License and Theft Bureau.

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**United States v. Juan Manglona Ayuyu et al., Nos. 1:12-CR-00033, 00036, 00039 (D.N.M.I), AUSA Garth Backe.**

On March 31, 2014, former Senator Juan Manglona Ayuyu was sentenced to serve 41 months' incarceration, followed by three years' supervised release, after previously pleading guilty to conspiracy to violate the Endangered Species Act and to conspiracy to obstruct an official proceeding (18 U.S.C. §§ 371, 1512(k), 1512(c)(2); 16 U.S.C. §§ 1538(a)(1)(G), 1540(b)(1)). He also will perform 100 hours of community service.

Ayuyu admitted that he conspired with his legislative assistant, Ryan James Inos Manglona, to transport eight protected Mariana fruit bats (which had been hidden in a box containing 40 pounds of lemons) that were placed on board a flight from Rota to Saipan in October 2010. After the bats were discovered, the defendant attempted to obstruct the grand jury investigation by instructing his assistant to lie about their involvement. Manglona previously pleaded guilty to perjury and conspiracy violations and is scheduled to be sentenced in May 2104.

This case was investigated by the CNMI Division of Fish and Wildlife, and the U.S. Fish and Wildlife Service.

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**United States v. Marietta Industrial Enterprises, Inc. et al., No. 2:13-CR-00252 (S.D. Ohio), SAUSA Brad Beeson and AUSA Mike Marous.**



**MIE Facility**

On March 28, 2014, Marietta Industrial Enterprises, Inc. (MIE) was sentenced to pay a \$37,500 fine and will make a \$12,500 community service payment to the Warren Township Fire Department for failing to report violations of the company's permit in connection with its mineral processing operation. Company president William Scott Elliott was sentenced to serve 48 consecutive hours in jail, followed by five months and 28 days of home confinement. He also was ordered to pay a \$5,000 fine. Elliott pleaded guilty to a misdemeanor charge of being an accessory after the fact (18 U.S.C. § 3) for failing to notify the Ohio Environmental Protection Agency of the violations. MIE pleaded guilty to failure to report a violation under the Clean Air Act Title V program (42 U.S.C. § 7413(c)(2)(B)).

The MIE facility processes minerals, including the crushing of medium carbon ferromanganese (medium carbon). To ensure that air pollution from the facility is limited, emissions are drawn into a baghouse using a large electrically-powered fan. Sometime in 2006, company employees began a



**Dead fruit bats with box of fruit**

practice of turning off the baghouse fan when processing medium carbon. Under the facility's Title V permit, anytime the baghouse fan is turned off, this must be reported to the Ohio EPA. Between 2006 and 2009, the company never reported to regulators when the fans were turned off during the processing of medium carbon. After Elliot was informed of this practice in May 2009, the fans were turned back on; however, the reports he submitted to the Ohio EPA did not mention those times when the fans had been turned off.

This case was investigated by the Central Ohio Environmental Crimes Task Force, which includes the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, and the U.S. EPA Criminal Investigation Division.

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**United States v. Robert Lewis, No. 5:12-CR-00077 (M.D. Ga.), AUSA Paul McCommon.**

On March 20, 2014, Robert Lewis was sentenced to serve ten months' incarceration, followed by two years' supervised release. A fine was not assessed. Lewis previously pleaded guilty to a RCRA violation (42 U.S.C. § 6928) for the unlawful storage of hazardous waste.

Lewis owned and operated Simple Solutions, Inc., a waste hauling business. Between May 2007 and April 2008, the defendant lawfully transported hazardous waste, generated by a local manufacturing plant, to a licensed disposal facility. In February 2009, however, 40 55-gallon drums and 16 275-gallon totes containing hazardous waste were found to be improperly stored at a self-storage facility in Macon, Georgia. Lewis had rented the units in July and August of 2007. Other wastes, including flammable solvents and highly toxic cyanide wastes, were discovered in another location, and at his home.

This case was investigated by the U.S. EPA Criminal Investigation Division.

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**United States v. Stanley Xu et al., No. 2:13-CR- (W.D. Wash.), AUSA Katherine Frierson and SAUSA Karla Perrin.**

On March 13, 2014, the owner of an apartment complex and his company were sentenced for violating the Clean Air Act (42 U.S.C. §§ 7412 (h), 7413(c)(1)) by exposing residents and workers to airborne asbestos. Stanley Xu was sentenced to serve 15 months' incarceration. As a special condition of a three-year term of supervised release, Xu will serve 90 additional days in home confinement. Xu and the Longwell Company were held jointly and severally liable for a \$159,850 fine and a \$75,000 community service payment to be made to the National Environmental Education Foundation. The company also will complete a three-year term of probation to ensure it complies with all environmental regulations.



**Broken asbestos-containing ceiling tiles**

The defendants pleaded guilty in October 2013 for failing to protect residents of an apartment complex from asbestos exposure following a pipe rupture in December 2009. Xu knew the ceiling

material in the apartments contained asbestos, but hired a contractor who did not take precautions to protect apartment residents or workers hired to clean up and dispose of the material.

This case was investigated by the U.S. EPA Criminal Investigation Division. [Back to Top](#)