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# ENVIRONMENTAL CRIMES SECTION

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## MONTHLY BULLETIN

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*June 2013*

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### EDITOR'S NOTES:

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

REMINDER: We are now producing a *separate* public version of the Environmental Crimes Section 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 publically available. If a press release was not generated, then please only provide facts that are appropriate to disclose to the public.

NOTICE: The United States Fish and Wildlife Service and the Environmental Crimes Section collaborated with West Services on the publication of an updated book of federal fish and wildlife statutes. To obtain a free copy please contact[REDACTED].

The Environmental Crimes Intranet Site is available to those who have access to United States Department of Justice operated sites: [Environmental Crimes Section webpage](#).



**Photo of dried swim bladders taken from the endangered *Totoaba macdonaldi*. See [United States versus Song Shen Zhen](#), inside, and click on [press release regarding totoaba investigation and prosecutions](#) for details on the discovery of a massive black market trade in this species.**

**AT A GLANCE:**

[United States versus Dov Shellef et al.](#), \_\_\_ F.3d \_\_\_ 2013 WL 2249127 (2<sup>nd</sup> Cir. May 23, 2013).

**Table 1 Cases Included in this Month's Bulletin**

DISTRICT	CASES	CASE TYPE/STATUTES
Central District of California	<a href="#">United States versus Wal-Mart Stores, Inc.</a> <a href="#">United States versus Vinh Chuing "Jimmy" Kha et al.</a>	<i>Wastewater Disposal/ CWA</i> <i>Rhino Horn Imports/ Smuggling, Conspiracy, Lacey Act, Money Laundering, Tax Fraud</i>
Northern District of California	<a href="#">United States versus Wal-Mart Stores, Inc.</a>	<i>Wastewater Disposal/ CWA</i>
Southern District of California	<a href="#">United States versus Song Shen Zhen et al.</a> <a href="#">United States versus John D. Bittner</a>	<i>Fish Bladder Imports/ Smuggling, Lacey Act, Conspiracy</i> <i>Wildlife Researcher/ BGEPA</i>
Southern District of Georgia	<a href="#">United States versus Lewis Jackson, Sr.</a>	<i>Sea Turtle Egg Theft/ Lacey Act</i>
Southern District of Illinois	<a href="#">United States versus Franklin A. Bieri</a>	<i>Asbestos Demolition/ CAA</i>
Southern District of Iowa	<a href="#">United States versus Randall Todd Walker</a>	<i>Tree Destruction/ Theft of Government Property</i>
Western District of Kentucky	<a href="#">United States versus Michael D. Cartwright</a>	<i>Dove Baiting/ MBTA</i>
Eastern District of Louisiana	<a href="#">United States versus Indigo Albina et al.</a> <a href="#">United States versus Connie M. Knight</a>	<i>Vessel/ APPS, Obstruction</i> <i>Impersonating Federal Official/ Fraud</i>
Northern District of Mississippi	<a href="#">United States versus Dan Durham</a>	<i>Municipal Employee/ False Statement</i>

DISTRICT	CASES	CASE TYPE/ STATUTES
Southern District of Mississippi	<a href="#">United States versus Tennie White</a> <a href="#">United States versus Hancock County Land LLC et al.</a>	<i>Lab Fraud/ Obstruction, False Statement</i>  <i>Wetlands/ CWA</i>
Western District of Missouri	<a href="#">United States versus Wal-Mart Stores, Inc.</a>	<i>Pesticide Distribution/ FIFRA</i>
Eastern District of New York	<a href="#">United States versus Marlon Errol Hariram</a>	<i>Finch Imports/ Smuggling, Lacey Act, False Statement</i>
Northern District of New York	<a href="#">United States versus Mark Pullyblank et al.</a>	<i>Hydro-Demolition Company/ CWA</i>
Eastern District.D. Texas	<a href="#">United States versus Matthew Bowman et al.</a>	<i>Waste Transporter/ OSHA, False Statement, RCRA, HMTL, DOT</i>
Eastern District of Virginia	<a href="#">United States versus Kassian Maritime Navigation Agency, Ltd. et al.</a> <a href="#">United States versus Nolan L. Agner et al.</a>	<i>Vessel/ APPS, Falsification of Records, Obstruction, Conspiracy</i>  <i>Striped Bass Fishing/ Lacey Act</i>
Western District of Virginia	<a href="#">United States versus David T. Davis</a>	<i>Sale of Bear Gall Bladders and Bird Parts/ Lacey Act, MBTA, Drugs, Animal Fighting</i>

## Additional Quick Links:

- ◇ [Significant Environmental Decisions](#) p. 5
- ◇ [Trials](#) p. 6
- ◇ [Informations/Indictments](#) pp. 6 - 8
- ◇ [Plea Agreements](#) pp. 8 - 10
- ◇ [Sentencings](#) pp. 10 – 16

## Significant Environmental Decisions

### *Second Circuit*

#### **United States versus Dov Shellef et al., \_\_\_ F.3d \_\_\_ 2013 WL 2249127 (2<sup>nd</sup> Cir. May 23, 2013).**

On May 23, 2013, the Second Circuit Court of Appeals affirmed Dov Shellef's conviction on 53 counts, which included conspiracy to defeat the excise taxes on ozone-depleting chemicals, money laundering, wire fraud, and a variety of tax violations. Shellef had challenged his conviction on grounds that the government had violated his Speedy Trial Act rights on retrial. The Second Circuit's opinion expanded that Circuit's Speedy Trial Act jurisprudence, holding that the Speedy Trial Act does not place a limitation on the time within which a district court may grant an extension for retrial pursuant to 18 U.S.C. § 3161(e). United States versus Shellef, No. 11-876, *slip. opinion* (May 23, 2013).

A jury convicted Shellef in January 2010 in a retrial on 86 counts, which included conspiracy to defeat the excise taxes on ozone-depleting chemicals, money laundering, wire fraud, and a variety of tax violations. In August 2010, the court granted a partial judgment of acquittal, finding that the jury had properly convicted on 53 of the 86 counts charged in the indictment. It concluded, however, that the evidence was insufficient to support the 33 money laundering convictions, stating that they were duplicative of several wire fraud counts. It further found that the evidence was insufficient to show that those transactions involved the proceeds of unlawful activity. Shellef was sentenced to serve 60 months' imprisonment, followed by three years' supervised release, and to forfeit \$1,102,540, which was derived from the value of the funds that he laundered. He was granted bail pending appeal, but the government has moved for an order revoking his bail and ordering Shellef to surrender to the Bureau of Prisons.

Shellef and his co-conspirator William Rubenstein, operating as Dunbar Sales, Inc., and Steven Industries, Inc., originally were convicted by a jury in July 2005 on 130 counts, stemming from their failure to pay approximately \$1.9 million in taxes due on domestic sales of trichlorotrifluoroethane, an ozone-depleting chemical commonly referred to as CFC-113. Once widely used as an industrial solvent and as a refrigerant in centrifugal chillers for large buildings, CFC-113 now has a limited domestic market and is used in relatively small quantities for laboratory and analytical purposes. The original convictions, however, were reversed on misjoinder grounds in March 2008, and a superseding indictment was filed. Shellef was retried in a five-week trial that began in December 2009. Shellef and Rubenstein had represented to manufacturers that they were purchasing CFC-113 for export, causing the manufacturers to sell it to them tax-free. They then sold the product in the domestic market without notifying the manufacturers or paying the excise tax. In addition to conspiracy to defeat the excise tax, Shellef also was convicted of personal income tax evasion, subscribing to false corporate tax returns, wire fraud, and money laundering.

Rubenstein was sentenced in August 2011 to time-served (four months) followed by two years of supervised release. He was ordered to pay \$940,230 in restitution to the U.S. Treasury in excise taxes and an additional \$10,000 fine. Rubenstein pleaded guilty in February 2009 to conspiracy to defraud the U.S. by interfering with the IRS's collection of excise taxes.

[Back to Top](#)

## Trials

**United States versus Tennie White, No. 3:12-CR-00126 (S.D. Miss.), ECS Trial Attorney Richard Powers, AUSA Gaines Cleveland, and ECS Paralegal Lisa Brooks.**



**Defendant's laboratory** On May 22, 2013, after deliberating one hour, a jury convicted Tennie White on all counts. White, the owner, operator, and manager of Mississippi Environmental Analytical Laboratories, Inc., was convicted of two false statement violations and an obstruction of justice count (18 U.S.C. §§ 1001, 1505).

From February to August 2009, White created three false discharge monitoring reports (DMRs) and one fictitious laboratory report, causing the falsification of another DMR. She also lied to an agent during the investigation. Sentencing is scheduled for August 8, 2013.

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

[Back to Top](#)

## Informations/Indictments

**United States versus Kassian Maritime Navigation Agency, Ltd. et al., No. 2:13-CR-00070 (E.D. Va.), ECS Trial Attorney Ken Nelson and AUSA Joseph Kosky.**

On May 22, 2013, an eight-count indictment was returned charging ship operator Kassian Maritime Navigation Agency, Ltd., ship owner Angelex Ltd., and chief engineer Lambros Katsipis with conspiracy, APPS, falsification of records, and obstruction of justice violations (18 U.S.C. §§ 371, 1505, 1519; 33 U.S.C. § 1908). The charges stem from illegal overboard discharges of bilge waste from the *M/V Antonis G. Pappadakis* bypassing pollution prevention equipment. These discharges were not recorded in the oil record book (ORB). The falsified ORB was presented to Coast Guard inspectors during three separate boardings between July 2012 and April 2013. The defendants are further alleged to have obstructed justice by instructing crew members not to speak to Coast Guard personnel during the April 2013 boarding.

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

[Back to Top](#)

**United States versus Mark Pullyblank et al., No. 3:13-CR-00198 (N.D.N.Y.), AUSA Craig Benedict.**

On May 9, 2013, Mark Pullyblank, William Clements, and Crane-Hogan Structural Systems, Inc., (Crane-Hogan) were variously charged in a nine-count indictment with Clean Water Act violations (33 U.S.C. §1311, 1319(c)(2)(A), 1342(a)(3)) stemming from the illegal discharge of concrete slurry.

Crane-Hogan is a company engaged in hydro-demolition and Pullyblank and Clements were project supervisors. Pressure cleaning is used to remove concrete from buildings such as parking garages prior to resurfacing. The wastewater/slurry generated from this process is high in pH levels.

Pullyblank and Crane-Hogan are charged in six counts with discharging untreated industrial wastewater, without a permit, into storm drains that led to the Susquehanna River from a hydro-demolition project conducted at the Binghamton Governmental Center Parking Garage from July 2008 through September 2009. Crane-Hogan is charged in an additional count with the same violation at a different parking garage in May 2009. Clements, Pullyblank, and the company are charged in two additional counts with discharging industrial wastewater into a local POTW without an approved industrial pretreatment permit between May and July of 2009.

This case was investigated by the New York State Department of Environmental Conservation Bureau of Environmental Crimes Investigations and the United States Environmental Protection Agency Criminal Investigation Division, with assistance from the New York State Office of General Services, the Binghamton City Engineer, and the Binghamton-Johnson City Publicly Owned Treatment Works.

[Back to Top](#)

**United States versus Song Shen Zhen et al., Nos. 13-mj-10482, 01556, and 13-CR-01311 (S.D. Calif.), AUSAs Melanie Pierson and Valerie Chu.****Fresh fish bladders**

On April 19, 2013, a complaint was filed charging Song Shen Zhen with smuggling and Lacey Act violations (18 U.S.C. § 545; 16 U.S.C. §§ 3372, 3373) after a border officer at the Mexico/California border noticed something unusual under the floor mats in the back seat of his car. A search revealed he had 27 dried swim bladders that had been removed from the endangered *Totoaba macdonaldi* fish. The *Totoaba*'s large swim bladder (an internal gas-filled organ that helps a fish control its buoyancy) is highly prized for use in Chinese soups and is considered a very expensive delicacy.

Zhen is the seventh person to be charged with Totoaba smuggling since February 2013, as border officers began to notice the rare fish was being concealed in coolers and under floor mats in cars crossing the border.

On April 15<sup>th</sup>, Oi "Sean" Chung was charged in a complaint with smuggling and Lacey Act violations (18 U.S.C. § 545, 16 U.S.C. §§ 3372, 3373) for attempting to import 11 bladders into this country from Mexico in February 2013. The black market resale value of the bladders was estimated to be approximately \$55,000. On April 10<sup>th</sup>, Anthony Sanchez-Bueno and Jason Jin Shun Xie were charged in a three-count indictment with conspiracy, smuggling, and Lacey Act violations (18 U.S.C. §§ 371, 545; 16 U.S.C. §§ 3372, 3373) for engaging in a scheme to smuggle 170 Totoaba swim bladders (weighing 225 lbs) from Mexico into the U.S. They are scheduled for trial to begin on June 21, 2013.

In the Chinese culture, the fish swim bladder is referred to as "fish maw" and may also come from a variety of non-endangered fish. Totoaba fish maw is valued for its high collagen content and some people believe the Totoaba swim bladders can boost fertility and improve circulation and skin vitality. The black market value in the U.S. is approximately \$5,000 per bladder, and is \$10,000 or more in certain Asian markets.

Totoaba macdonaldi is the largest species in its genus, which includes California white sea bass and corvina. It can grow to more than six feet in length, weigh up to 220 pounds, and can live up to 25 years. Totoaba are endemic only to the Gulf of California, the narrow inlet between Baja California and Mexico's mainland (also called the Sea of Cortez).

These cases were investigated by the United States Fish and Wildlife Service, Homeland Security Investigations, and United States Customs and Border Protection.

[Back to Top](#)

## Plea Agreements

**United States versus Matthew Bowman et al., No. 1:12-CR-00042 (E.D. Tex.), ECS Senior Counsel Rocky Piaggione, AUSA Joseph Batte, and ECS Paralegal Puja Moozhikkattu.**



### **PACES Facility**

On May 9, 2013, Matthew Bowman pleaded guilty to an OSHA and a false statement violation (18 U.S.C. § 1001; 29 U.S.C. § 666) for his involvement in an incident that caused the death of an employee.

Bowman is the president of Port Arthur Chemical and Environmental Services LLC (PACES). The company recovered hydrogen sulfide from spent caustics to create a product used by paper mills



called NaSH. The production and resulting waste caused the release of highly toxic hydrogen sulfide gas. Bowman admitted to not properly safeguarding employees from exposure to this gas, resulting in the deaths of two truck drivers, Joey Sutter and Charles Sittig, at the PACES facility on December 18, 2008, and April 14, 2009. In addition, Bowman directed employees to falsify transportation documents to conceal that the wastewater was coming from PACES after a disposal facility placed a moratorium on all wastewater shipments from the company after receiving loads containing hydrogen sulfide.

The company is charged in a 13-count superseding indictment with two counts of violating OSHA standards that caused the deaths of two employees; conspiracy to violate Department of Transportation Laws (DOT); four counts of transportation of hazardous materials without placards; one count of treatment of hazardous waste without a permit; and five counts related to false transportation documents (18 U.S.C. §§ 371, 1001; 29 U.S.C. § 666; 42 U.S.C. § 4928; 49 U.S.C. §§ 5104 and 5124). The company is scheduled for trial to begin in October 2013.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the United States Department of Transportation, the Texas Commission on Environmental Quality, the Houston Police Department, the United States Department of Labor, and the United States Coast Guard.

[Back to Top](#)

**United States versus Nolan L. Agner, et al., Nos. 2:12-CR-00164 - 168 (E.D. Va.), ECS Trial Attorney Jim Nelson.**

On May 1, 2013, Nolan L. Agner, captain of the *Flat Line*, and his corporation, Agner, Inc., pleaded guilty to a single Lacey Act trafficking violation (16 U.S.C. §§ 3372(a)(1), 3373(d)(2)) for illegally harvesting Striped Bass during a charter fishing trip in January 2011. Agner is one of five charter fishing boat captains who were charged with Lacey Act and other violations stemming from the sale of illegally harvested Striped Bass from 2009 through 2011.

This case was investigated by the National Oceanic and Atmospheric Administration Fisheries, Office of Law Enforcement; and the Virginia Marine Police, with assistance from the Federal Communications Commission Enforcement Bureau.

[Back to Top](#)

**United States versus Indigo Albina et al., Nos. 2:13-CR-00049 and 00073 (E.D. La.), AUSA Emily Greenfield.**

On May 1, 2013, chief engineer Indigo Albina pleaded guilty to an obstruction violation (18 U.S.C. § 1505) stemming from his actions after the *M/T Stolt Facto* was boarded by the Coast Guard in January 2013.

From October 2012 through January 2013, the ship made illegal overboard discharges of oily water. At the time of the Coast Guard boarding, they found equipment used to by-pass the oil water separator. When questioned, all but one crewmember claimed to have no involvement with the discharges. After inspectors left the ship, Albina met with the crew and told them to deny knowledge of the by-pass if they were questioned again. Albina is scheduled to be sentenced on August 7, 2013. Second engineer Anselmo Capillanes recently pleaded guilty to an APPS violation (33 U.S.C. § 1908) for directing crew members to bypass the oil water separator and to dump untreated bilge wastes overboard. He is scheduled to be sentenced on July 2, 2013.

This case was investigated by the United State Coast Guard.

[Back to Top](#)

**United States versus John D. Bittner, No. 13-CR-01391 (S.D. Calif.), AUSA Melanie Pierson.**



**Bittner tagging eagles**

On April 18, 2013, wildlife researcher John D. Bittner pleaded guilty to a violation of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)) for the unlawful take of a Golden Eagle.

In his studies of birds and wildlife, Bittner captured and banded eagles and other migratory birds to track their movements. His federal bird banding permit expired in January 2010. A few weeks later, he notified authorities asking that it be renewed as soon as possible. He was told that the permit would not be renewed until he submitted delinquent data for birds banded from the previous four years. The Fish and Wildlife Service relies heavily on data collected by permit holders to obtain the most complete and accurate picture of eagle populations within the United States.

Despite not having a permit, Bittner captured and banded 144 migratory birds between January and August 2010, including at least one Golden Eagle.

Bittner is scheduled to be sentenced on July 11, 2013. This case was investigated by the United States Fish and Wildlife Service.

[Back to Top](#)

## **Sentencings**

**United States versus Wal-Mart Stores, Inc., Nos. 4:13-CR-00135, 3:13-00334, 2:13-CR-00353 (W.D. Mo., C.D. Calif., N.D. Calif.), ECS Senior Trial Attorney Jennifer Whitfield and AUSAs Gene Porter, Joe Johns, and Stacey Geis.**

On May 28, 2013, Wal-Mart Stores, Inc. pleaded guilty in the Western District of Missouri to FIFRA violations (7 U.S.C. §§ 136j(a)(1)(A), 136l(b)(1)(B)) in connection with the distribution of regulated pesticides without the required registration and use information. The company also was sentenced to pay an \$11 million criminal fine and will make a \$3 million community service payment

to the Missouri Department of Natural Resources, which will go to that agency's Hazardous Waste Program.

As part of a coordinated plea, the company also pleaded guilty to six violations of the Clean Water Act (33 U.S.C. §§ 1311(a), 1319(c)(1)(A)) in the Central District of California for violations that occurred in the Central and Northern Districts of California. Wal-Mart sells a wide variety of products that contain toxic chemicals, including pesticides, detergents, paints, aerosols and refrigerants. Employees often disposed of damaged, spilled, or returned products by either discarding the products in trash cans or dumpsters on site, or by pouring products down drains. The company did not have a pretreatment permit to discharge untreated, liquid-based products that contained hazardous substances into local sewer systems. Wal-Mart was sentenced to pay a \$40 million fine and will pay \$20 million that will fund various community service projects, including the opening of a \$6 million Retail Compliance Assistance Center that will help educate retail stores across the nation on the proper handling of hazardous waste.

As part of the agreement, Wal-Mart will complete a three-year term of probation in Missouri and a two-year term of probation in California. The company also is required to implement a nationwide environmental compliance program.

These cases were investigated by the Federal Bureau of Investigation and United States Environmental Protection Agency Criminal Investigation Division, with assistance from the California Department of Substance and Toxics Control and the Missouri Department of Natural Resources.

[Back to Top](#)

**United States versus Michael D. Cartwright, No. 5:13-mj-00060 (W.D. Ky.), AUSA Randy Ream.**

On May 17, 2013, Michael D. Cartwright was sentenced to pay a \$2,500 fine and will complete a two-year term of probation for baiting and hunting mourning doves, in violation of the Migratory Bird Treaty Act (16 U.S.C. §§ 704, 707). He is banned from hunting migratory birds as a condition of probation.

In August 2012, Cartwright placed millet and milo seed on a field and on adjacent land for the purpose of luring mourning doves and for hunting mourning doves over bait. Investigators confirmed that the seed had been disked into the soil in the field used for an annual dove hunt.

This case was investigated by the Kentucky Department of Fish and Wildlife Resources and the United State Fish and Wildlife Service.

[Back to Top](#)

**United States versus Dan Durham, No. 1:12-CR-00122 (N.D. Miss.), AUSA Robert Mims.**

On May 16, 2013, Dan Durham was sentenced to complete a three-year term of probation, perform 100 hours of community service, and pay \$5,909 in restitution to the North Lee County Water Association (NLCWA). Durham previously pleaded guilty to a false statement violation (18 U.S.C. § 1001(a)(2)) for falsifying water sample reports between January and August 2011.

Durham is a former manager of the NLCWA. He admitted to taking water samples from a single rural area that were used to falsely represent water quality throughout the system. Over several years, customers had complained of discolored and smelly water, low water pressure, overcharges and other problems with their water service.

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

[Back to Top](#)

**United States versus Connie M. Knight, No. 12-CR-00261 (E.D. La.), ECS Trial Attorney Patrick Duggan.**

On May 16, 2013, Connie M. Knight was sentenced to serve 57 months' incarceration, followed by three years' supervised release. Knight also will pay \$25,300 in restitution. She previously pleaded guilty to two violations of impersonating a federal training official, one count of possessing false identification, and one count of producing false identification (18 U.S.C. §§ 912, 1028).

After the Deepwater Horizon spill, BP was required to implement and fund a variety of hazardous materials safety and awareness training sessions for all individuals involved in the cleanup. During this time, acting as an official with the Occupational Safety and Health Administration, Knight began holding fraudulent hazardous waste training classes in Southeastern Louisiana. She focused on the Southeast Asian fishing communities (where little English was spoken), which were economically dependent on the then-closed gulf shrimping industry.

Knight enticed individuals to attend her class by claiming she was the highest ranking OSHA trainer in the U.S., displaying fraudulent OSHA credentials, and claiming that her training was the fast-track to lucrative BP cleanup employment. She also created false OSHA credentials for her staff. After a short class in English, Knight would provide trainees with fraudulent certification, as well as duplicated training identification cards used to enter BP cleanup worksites. Because the cards were duplicated, it is unknown whether any of Knight's victims were exposed to hazardous waste. It is estimated that over a four-month period, Knight trained thousands of individuals and made well over \$250,000.

This case was investigated by the United States Department of Labor Office of Inspector General and the United States Environmental Protection Agency Criminal Investigation Division, with assistance from the Occupational Safety and Health Administration, the Federal Bureau of Investigation, the Florida Fish and Wildlife Conservation Commission, and the Plaquemines Parish, Sheriff's Office.

[Back to Top](#)

**United States versus Hancock County Land LLC et al., No. 1:13-CR-00035 (S.D. Miss.), ECS Senior Trial Attorney Jeremy Korzenik.**

**Area cleared of wetlands**

On May 15, 2013, Hancock County Land LLC was sentenced after pleading guilty to a two-count information charging it with Clean Water Act violations (33 U.S.C. §§ 1311, 1319 (c)(2)(A)) for the destruction of wetlands in 2007 on a 1,700 acre site located in Hancock County, Mississippi.

Despite being notified in 2001 that the property was approximately 80% jurisdictional wetlands, requiring ACOE permits to develop, the defendant created and implemented a plan to drain the site, eliminating the wetlands that would have slowed development and reduced the value of property. Co-defendant William R. Miller remains charged with 11 CWA violations (33 U.S.C. §§ 1319(c)(2)(A), 1342, 1344) and is scheduled for trial to begin on August 19, 2013.

HCL was sentenced to pay a \$1 million fine, and was ordered to comply with the civil consent decree. The civil consent decree requires the company to restore and preserve the damaged wetlands. Specifically, the defendant must re-grade and then re-plant, with appropriate native vegetation, the wetland area it excavated and filled. It also will donate approximately 272 acres of its property to the Land Trust for the Mississippi Coastal Plain to be preserved in perpetuity, fund its management and maintenance, pay \$100,000 toward the litigation costs of the Gulf Restoration Network, and pay a civil penalty to the U.S. Treasury in the amount of \$95,000.

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

[Back to Top](#)

**United States versus Vinh Chuong “Jimmy” Kha et al., No. 12-CR-00202 (C.D. Calif.), ECS Trial Attorney Shennie Patel, ECS Senior Trial Attorney David Kehoe, AUSAs Joseph Johns and Dennis Mitchell, and ECS Paralegal Lisa Brooks.**

On May 14, 2013, Vinh Chuong "Jimmy" Kha, Felix Kha, and Win Lee Corporation were sentenced for their involvement in a rhinoceros horn smuggling ring. Jimmy Kha will serve 42 months' incarceration followed by three years' supervised release. He will pay a \$10,000 fine and \$76,062 in restitution to the IRS. Felix Kha will serve 46 months' incarceration, followed by three years' supervised release. He will pay a \$10,000 fine and \$109,562 in restitution to the IRS. Win Lee Corporation will pay a \$100,000 fine and will complete a five-year term of probation. The Khas previously pleaded guilty to five counts charging conspiracy, smuggling, Lacey Act trafficking, money laundering, and tax fraud violations (16 U.S.C. §§ 3372(a)(1), 3373 (d)(1)(b); 18 U.S.C. §§ 371, 554, and 1956(a)(1)(A)(i)). The corporation pleaded guilty to two felony counts charging smuggling and Lacey Act trafficking.

The defendants were involved in a U.S. - based trafficking ring that operated in the black market trade of endangered Rhinoceros horn. They admitted to purchasing White and Black Rhinoceros horns, knowing that the animals were protected by federal law as endangered and threatened species. They purchased the horns to export them overseas so that they could be sold and made into libation cups or traditional medicine. The Khas each acknowledged making payments to Vietnamese customs officials to ensure clearance of horns sent to that country. They also admitted to failing to pay income taxes for 2009 and 2010. Co-defendant Nhu Mai Nguyen is scheduled for trial to begin on October 8, 2013, and Wade Steffen is scheduled to be sentenced on October 21, 2013.

Operation Crash is a continuing investigation by the United States Fish and Wildlife Service, with assistance from other federal and local law enforcement agencies, including Immigration and Customs Enforcement Homeland Security Investigations, and the Internal Revenue Service.

[Back to Top](#)

**United States versus Randall Todd Walker, No. 4:12-CR-00129 (S.D. Iowa), AUSA Cliff Wendel.**



**Remains of 40-inch diameter black walnut tree estimated to be 140 years old. Photo courtesy of Hill/USACE**

On May 9, 2013, Randall Todd Walker was sentenced to serve 15 months' imprisonment, followed by three years' supervised release, for cutting and removing 32 black walnut trees from several properties under the control of the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service.

Walker previously pleaded guilty to theft of government property (18 U.S.C. § 641) for taking the trees from a wildlife refuge and other public locations. Walker will pay restitution in the amount of \$56,225 (\$25,112 to the ACOE and \$28,112 to the Iowa DNR Investigative Unit.)

This case was investigated by the United States Fish and Wildlife Service, the State of Iowa Department of Natural Resources Law Enforcement Bureau, and the United States Army Corps of Engineers.

[Back to Top](#)

**United States versus Franklin A. Bieri, No. 3:11-CR-30174 (S.D. Ill.), AUSA Liam Coonan and AUSA Kevin Burke.**

On May 9, 2013, salvage business owner Franklin Bieri was sentenced to serve five months' incarceration followed by three months' home detention as a condition of three years' supervised release. Bieri also will pay a \$3,000 fine for violating the Clean Air Act (42 U.S.C. §7413(c)(1)).

Bieri was the owner of a demolition and salvage business known as Mississippi River Construction Company. At some point prior to March, 2010, Bieri arranged to purchase the former Emerson Electric facility in Washington Park, Illinois. The facility consisted of seven buildings located on approximately seven acres. The defendant intended to salvage metal from pipes, boilers, wires, and other components in buildings at the site, after which the buildings were to be demolished.

Bieri admitted that he was aware of the presence of asbestos-containing material in the buildings. Nevertheless, he hired and directed untrained workers to remove the material without using proper removal and disposal procedures, such as wetting the asbestos, properly labeling the bagged material, or ensuring its proper disposal. Bieri further failed to provide written notification to the Illinois Environmental Protection Agency at least ten working days prior to beginning the asbestos stripping and removal work.

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

[Back to Top](#)

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

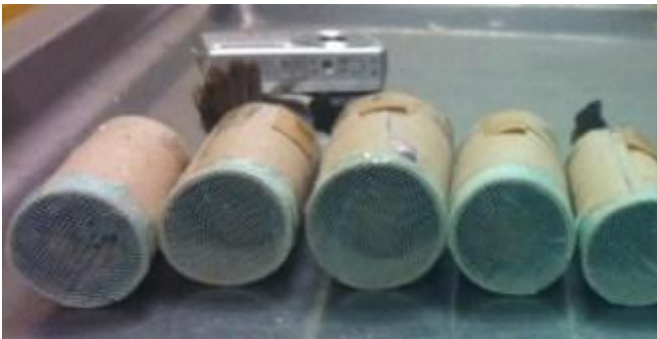
On April 29, 2013, David T. Davis was sentenced to serve four months' incarceration followed by six months' home confinement and one year of supervised release for Lacey Act, MBTA, and animal cruelty violations. He also will complete a one-year term of probation for a misdemeanor marijuana distribution violation (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 previously 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. Davis already served 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. As part of the federal sentencing Davis was ordered to forfeit a number of items including several firearms, ammunition, and bird and bear parts.

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.

[Back to Top](#)

**United States versus Marlon Errol Hariram, No. 1:12-CR-441 (E.D.N.Y.), AUSA Kevin Trowel.**

**Tubes containing live finches**

On April 16, 2013, Marlon Errol Hariram was sentenced to serve six months' incarceration, followed by two years' supervised release. Hariram also was ordered to pay a \$2,000 fine after previously pleading guilty to a three-count felony indictment charging smuggling, Lacey Act trafficking, and false statement violations (16 U.S.C. § 3372 (a)(2)(A); 18 U.S.C. §§ 554, 1001(a)(2)).

On May 20, 2012, the defendant attempted to smuggle live finches from Guyana into J.F.K. International Airport. He admitted that he had put the birds in paper tubes and concealed them in his shirt sleeves in an effort to smuggle them into the U.S. Hariram was previously caught smuggling finches into the U.S. in May 2005 and April 2011, and once while attempting to leave Guyana in September 2011.

Guyanese seed-finches, also known as "towa-towa" are traditionally used in finch singing contests where two finches are placed in adjacent cages. Male birds in close proximity will naturally start to compete for territory by singing. The contest is not based on the melody of a finch's song, but instead the speed at which it sings. Bets are placed and the first bird to reach 50 notes wins. Finches that have proven their worth in competition can fetch in excess of \$5,000 on the black market.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement, with assistance from the Department of Homeland Security and Guyana's Wildlife Division.

[Back to Top](#)

**United States versus Lewis Jackson, Sr., No. 2:13-00001 (S.D. Ga.), AUSA E. Greg Gilluly.**



**Sea turtle eggs**

On April 10, 2013, Lewis Jackson, Sr., was sentenced to serve six months' incarceration, followed by two years' supervised release. He will pay \$468 in restitution to the Georgia Department of Natural Resources and will perform 156 hours of community service at the Jekyll Island Turtle Center.

Jackson previously pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372(a)(1), 373(d)(1)(B)) for illegally acquiring more than 150 loggerhead sea turtle eggs. Jackson admitted to taking the eggs in May 2012 from nests on Georgia's Sapelo Island. After being apprehended and searched, officials found that the eggs had been packaged to be sold on the black market, where they are sold for approximately \$15 each.

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

[Back to Top](#)