



# Monthly Bulletin

## Environmental Crimes Section

May 2015

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Broken Narhal tusk. See [United States v. Dunn et al.](#), inside, for details on this case.

Send your federal case updates to: [redacted]

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*"This wide ranging criminal conspiracy sought to undermine the biofuels program and its positive benefits to our nation's economy and environment," said Assistant Attorney General Cruden. "This case should send a strong message that we are watching this market very closely and we won't allow lawbreakers to pursue profits at the expense of our nation's interests."*

*From press release issued on April 29, 2015, for guilty pleas taken in U.S. v. Chad Ducey, et al.*

District	Case Name	Case Type/Statutes
District of Alaska	<a href="#">United States v. Eddie Dunn</a>	Narwhal Tusk Trafficking/Conspiracy, Lacey Act
Central District of California	<a href="#">Federal Criminal Investigation of Exide Technologies, Inc.</a> <a href="#">United States v. Milad Sepehrnia</a>	Non Prosecution Agreement/Lead Smelting Facility Smog Check Facility/CAA, Conspiracy
Eastern District of California	<a href="#">United States v. Toribio Cruz-Galvan</a> <a href="#">United States v. David Arreola</a>	Marijuana Grow and Damage to Resources/Drug Charges Marijuana Grow and Damage to Resources/Drug and Firearm Charges
Southern District of California	<a href="#">United States v. Southern California Plating</a> <a href="#">United States v. Glamis Dunes Storage Inc.</a>	Metal Finishing Company/CWA, RCRA Sewage Disposal/SDWA
Southern District of Indiana	<a href="#">United States v. Chad Ducey</a>	Biodiesel Fuel Fraud/Conspiracy, False Claims, Wire Fraud, False Statement
Eastern District of Louisiana	<a href="#">United States v. Lawrence Treigle</a>	Turtle Exports/Lacey Act, Conspiracy
District of Maine	<a href="#">United States v. Robert Thompson</a>	Seafood Purchases/Lacey Act, Tax
	<hr/>	
District of Nevada	<a href="#">United States v. James Jariv</a>	Biodiesel Fuel Fraud/Conspiracy, Wire Fraud, CAA False Statement
Eastern District of New York	<a href="#">United States v. Jones Inlet Seafood Co., Inc.</a>	Flounder Overharvesting/Lacey Act, Falsifying Federal Records
Northern District of New York	<a href="#">United States v. Dominick Mazza</a>	Asbestos Dumping in Wetlands/Conspiracy, CERCLA, Obstruction
Western District of North Carolina	<a href="#">United States v. William Franklin Johnston</a>	CAFO/CWA
District of Oregon	<a href="#">United States v. Nicolas Sassin</a>	Vessel/APPS, CWA
Eastern District of Pennsylvania	<a href="#">United States v. Anthony Biello</a>	Asbestos Removal/CAA, Falsification of Records, Wire Fraud
Eastern District of Texas	<a href="#">United States v. Carlos Delgado Rodriguez</a>	Hummingbird Sales/MBTA
Northern District of West Virginia	<a href="#">United States v. Trans Energy Inc.</a>	Oil and Gas Drilling/CWA
Eastern District of Wisconsin	<a href="#">United States v. Randy Jones</a>	Jet Fuel Spill/Pipeline Safety Act, False Statement

## Guilty Pleas

***United States v. Chad Ducey*, No. 1:13-CR-00189 (S.D. Ind.), ECS Assistant Chief Tom Ballantine, Senior Litigation Counsel Steven DeBrotta of the United States Attorney's Office, SEC SAUSA Jake Schmidt, and ECS Paralegal Casey Layman.**

On April 28, 2015, Chad Ducey pleaded guilty for his role in a multi-state scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel incentives. His two brothers, Chris Ducey and Craig Ducey, recently pleaded guilty for their roles in the same scheme. The Ducey brothers operated E-biofuels LLC, from a facility in Middletown, Indiana. As part of the scheme, they sold over 35 million gallons of biodiesel to customers for more than \$145 million by falsely claiming that the fuel was eligible for federal renewable energy incentives, when they knew it was not. In addition, Craig Ducey pleaded guilty to a related \$58.9 million securities fraud, which victimized over 625 investors and shareholders of Imperial Petroleum, a publicly-traded company and the parent company of E-biofuels. E-biofuels entered its guilty plea on May 11, 2015 to similar charges.

From 2007 through 2012, the defendants operated E-biofuels, an Indiana company that was a producer of biodiesel from "feedstocks" such as animal fat and vegetable oils. The Ducey brothers admitted that they knew that E-biofuels was fraudulently reselling biodiesel that they obtained from co-conspirators in New Jersey, which had already been used to claim biodiesel incentives. By falsely claiming to have made it themselves, the Ducey brothers and their co-conspirators created a second set of invalid incentives, which they passed on to their customers. They realized huge per gallon profits through this scheme, sometimes in excess of \$12,000 per truckload. Over the course of approximately two years, the co-conspirators fraudulently sold more than 35 million gallons of fuel for over \$145 million. The co-conspirators and their companies realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

The Ducey brothers pleaded guilty to conspiracy, false claims against the Internal Revenue Service, wire fraud, and lying to the EPA and the IRS (18 U.S.C. §§ 287, 371, 1001(a)(1), 1343, 1957; 42 U.S.C. §7413(c)(2)(A)). In particular, Chad Ducey, an engineer by training, caused a third-party engineer to submit false reports to justify the production at

*(Continued on page 5)*

## Guilty Pleas

*(Continued from page 4)*

E-biofuels. Those reports claimed that E-biofuels was using the chemical process of transesterification to produce biodiesel, when in fact, the company simply re-sold biodiesel that had been made by others and already had been used to claim biodiesel incentives. The New Jersey co-conspirators, Joseph Furando, and Katirina Pattison and the companies they operated (CIMA Green and Caravan Trading Company) previously pleaded guilty for their involvement in the scheme.

This case was investigated by the U.S. EPA Criminal Investigation Division, IRS Criminal Investigations, the FBI, and the Securities and Exchange Commission, with assistance from the U.S. Secret Service and the U.S. Department of Agriculture OIG.

***United States v. James Jariv*, No. 2:14-CR-0006 (D. Nev.), ECS Assistant Chief Wayne Hettenbach, Deputy Criminal Chief AUSA Crane Pomerantz, Asset Forfeiture and Money Laundering Section Trial Attorney Darren McCullough, and ECS Paralegals Casey Layman and Christopher Kopf.**

On April 28, 2015, James Jariv pleaded guilty to violations stemming from his role in the illegal export of biodiesel and the generation of fraudulent biodiesel credits worth over \$41 million. He pleaded guilty to conspiring to defraud the government and to launder money, two wire fraud counts, and one Clean Air Act false statement count (18 U.S.C §§ 371, 1956(h), 1343; 42 U.S.C. § 7413(c)(2)(A)). The plea agreement binds the court to impose a ten-year term of incarceration and to order Jariv to forfeit approximately \$6 million at sentencing scheduled for August 5, 2015. Co-defendant Australian national Nathan Stoliar recently was sentenced to 24 months' incarceration, ordered to pay \$1,470,006 in restitution to 11 corporations, and forfeit \$4 million, after entering a similar guilty plea.

Beginning around September of 2009, Jariv and Stoliar operated and controlled a company called City Farm Biofuel located in Vancouver, British Columbia, Canada. The company claimed to produce biodiesel made from feedstocks such as animal fat and vegetable oils. Stoliar and Jariv also formed a company called Canada Feedstock Supply that was supposed to have supplied City Farm with feedstocks. Jariv also operated and controlled a company based in Las Vegas, Nevada, called Global E Marketing (GEM).

Using these three and other closely-held companies, Stoliar and others engaged in a scheme in which they: claimed to produce biodiesel at the City Farm facility, claimed to import and sell biodiesel to GEM, and generated and sold "renewable identification numbers" or RINs based upon this alleged production, sale, and importation. In reality, no biodiesel produced at City Farm was ever imported and sold to GEM. The defendants used GEM to claim to blend the biodiesel with petroleum diesel, allowing them to sell the RINs separately from any actual biodiesel. Stoliar and co-defendants falsely claimed to import, purchase, and blend more than 4.2 million gallons of biodiesel. They sold the fraudulent RINs for more than \$7 million.

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## Guilty Pleas

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From approximately September 2009 through December 2013, Stoliar and Jariv also purchased large quantities of a biodiesel-petroleum blend, known as B-99, which is 99% biodiesel and 1% or less petroleum diesel. Stoliar knew that this B-99 was RIN-less and already had been used to generate RINs by another party, and also had been used to allow someone else to claim a tax credit available to those who blend B-100 into B-99. Because RIN-less B-99 cannot be used to lawfully generate a RIN, and cannot be used to claim the tax credit, it sells at a substantially lower price than B-100.

Stoliar and his co-defendants also exported to Canada significant amounts of the RIN-less B-99 they bought in the United States. Stoliar then sold the biodiesel in Canada, and conspired with his co-defendants to not acquire and provide RINs for these exports as required. In doing so, Stoliar and Jariv failed to give to the United States RINs worth in excess of \$34 million, keeping this money for themselves.

Finally, Stoliar and Jariv conspired to launder the proceeds of their crimes, utilizing foreign banks and complex financial transactions to promote their illegal schemes and distribute the proceeds of their crimes. Accounts were utilized in Canada, Nevada, and Australia, and transactions between the defendants' closely held companies were falsely described as other legitimate transactions involving biodiesel.

This case was investigated by the U.S. EPA Criminal Investigation Division and the FBI, with assistance from the U.S. Secret Service and the Department of Homeland Security.

### ***United States v. Toribio Cruz-Galvan, No. 1:14-CR-00225 (E.D. Calif.), AUSA Karen Escobar.***



Chamise

On April 27, 2015, Toribio Cruz-Galvan (Cruz), an undocumented Mexico national, pleaded guilty to conspiring to manufacture, distribute, and possess marijuana with intent to distribute (21 U.S.C. §§ 841, 846). Cruz also had been charged with damaging public land and natural resources.

Cruz was involved in the cultivation of more than 1,000 marijuana plants in the Yucca Mountain area of the Sequoia National Park. In addition to marijuana plants, park rangers found processed marijuana, a shotgun, ammunition for various firearms, and other equipment. The marijuana cultivation operation caused significant damage to National Park land and natural resources.

The cultivation operation negatively impacted the environment causing damage in excess of \$1,000. Native vegetation, mainly chamise, was cut for the grow and the land was terraced. Chamise plants are one of the dominant plants of the chaparral community. Fertilizer, rodenticide, propane tanks, and 300 pounds of trash were removed from the grow site. It is estimated that over one million gallons of water was diverted from a nearby spring to irrigate the plants. Sentencing is scheduled for July 20, 2015.

This case was investigated by the National Park Service.



## Guilty Pleas

### ***United States v. Southern California Plating Company, No. 15-CR-00947 (S.D. Calif.), AUSA Melanie Pierson.***

On April 14, 2015, metal finishing company Southern California Plating Company (SoCal Plating), and owner Paul Hummell pleaded guilty to violating RCRA and the Clean Water Act (33 U.S.C. §§ 1317(d), 1319(c)(2)(A); 42 U.S.C. § 6928(d)(2)(A)) for illegally storing hazardous waste and unlawfully discharging the waste into the local POTW.

SoCal Plating's metal finishing operations generated a number of wastewater streams, including spent corrosive cleaning and process baths, and rinse waters which were corrosive and contaminated with toxic heavy metals. On January 28, 2014, an inspection by the San Diego Department of Environmental Health Services revealed drums of wastewater that had been stored onsite for more than 90 days. The drums were sampled and found to contain hazardous levels of chromium waste. Hummell admitted that he knew that the industrial wastewater stored at the facility was hazardous waste and that they did not possess a permit to legally store it onsite.

SoCal Plating's wastewater discharge limits for nickel and zinc exceeded the daily maximum permitted levels on July 8, 2013 and October 8, 2013, in violation of the CWA.

Sentencing is scheduled for August 3, 2015. This case was investigated by the U.S. EPA Criminal Investigation Division and the FBI.

### ***United States v. Milad Sepehrnia, No. 14-CR-00633 (C.D. Calif.), AUSAs Heather Gorman and Mark Williams.***

On March 30, 2015, Milad Sepehrnia pleaded guilty to a Clean Air Act conspiracy violation (18 U.S.C. § 371) for falsifying vehicle smog checks in early 2014. Co-defendant Aaron Palacios was accepted into the Conviction and Sentence Alternatives Diversion Program.

The defendants were charged as a result of an investigation into allegations of dozens of fraudulent smog checks that the two conducted at a smog check facility in Lawndale, California. The method known as "clean piping" involved using a substitute vehicle to create false certificates of compliance for vehicles requiring smog checks. Often the same substitute vehicle was frequently used to generate multiple falsified certificates. Sepehrnia is scheduled to be sentenced on June 9, 2015.

This case was investigated by the U.S. EPA Criminal Investigation Division, with assistance from the FBI.



*Filter cake with hazardous waste label*

## Sentencings

***United States v. William Franklin Johnston, No. 1:13-mj-00061 (W.D.N.C.), AUSA Steven Kaufman.***

On April 30, 2015, William Franklin Johnston, the owner of one of North Carolina's largest dairy farms, was sentenced to a four-year term of probation, to include six months' home confinement, for his role in discharging manure into the French Broad River. Johnston also will pay a \$15,000 fine. Tap Root Dairy, LLC, was sentenced to a four-year term of probation, pay an \$80,000 fine, and implement a comprehensive environmental compliance plan.

Tap Root maintains several hundred cows and manages hundreds of acres of crop fields in Fletcher, North Carolina. The farm annually disposes of millions of pounds of solid and liquid animal waste. Between September 3, 2012, and December 4, 2012 (for a total of 93 days), Tap Root failed to monitor and maintain the levels of cow waste in their on-site waste containment lagoons. This resulted in the spillover and discharge of 11,000 gallons of cow feces and other waste into the French Broad River on December 4, 2012, in violation of the Clean Water Act (33 U.S.C. § 1311(a); 1319 (c)(1)(A)). Johnston also had allowed his certification as Operator in Charge of the farm's animal waste management system to lapse, despite receiving repeated notices and warnings. The French Broad River supplies drinking water to more than one million people and is frequently used for recreational water activities.

This case was investigated by the U.S. EPA Criminal Investigation Division, and the N.C. State Bureau of Investigation, Diversion and Environmental Crimes Unit.

***United States v. Randy Jones, No. 2:14-CR-00220 (E.D. Wis.), ECS Senior Trial Attorney Jennifer Whitfield and AUSA Tracy Johnson.***



*Oily sheen from jet fuel spill*

On April 30, 2015, Randy Jones was sentenced to five years' probation and was ordered to pay \$19,337,785 to Shell Pipeline Company in restitution for emergency response and remediation costs.

Jones was a corrosion coordinator for a pipeline owned and operated by the Shell Pipeline Co., which delivered aviation jet fuel to Mitchell Airport in Milwaukee. From January through December 2011, he failed to conduct required bi-monthly and annual safety testing to ensure that the pipeline had adequate protection against corrosion and, when advised of an upcoming audit by the Pipeline and Hazardous Materials Safety Administration (PHMSA), entered false data into a database used to submit compliance reports to PHMSA.

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# Sentencings

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In January 2012, the pipeline developed a leak. Jet fuel was found in a nearby creek and eventually reached the surface of airport property, melting asphalt and filling underground drainage pipes and culverts. Jones previously pleaded guilty to false statement and Pipeline Safety Act violations (49 U.S.C. § 60123(a); 18 U.S.C. § 1001).

This case was investigated by the Department of Transportation Office of Inspector General, the U.S. EPA Criminal Investigation Division, the U.S. Coast Guard, and the FBI.



## Sentencings

**United States v. Dominick Mazza, No. 5:11-CR-00264 (N.D.N.Y.), ECS Senior Trial Attorney Todd Gleason, Trial Attorney Gary Donner, and former AUSA Craig Benedict.**



*Aerial view of farm*

On April 29, 2015, Dominick Mazza was resentenced to time-served (21 months), one year supervised release, and pay \$250,000 restitution to the EPA. The original fine amount of \$75,000 was imposed. Mazza and Sons was resentenced to a three-year term of probation and to pay \$271,745 that will go toward the total amount of \$750,000 ordered in restitution. The company is still obligated to implement an environmental compliance plan.

From 2006 through 2011, the defendants pulverized thousands of tons of asbestos-contaminated construction and demolition debris at Eagle Recycling and Mazza & Sons Inc.'s, New Jersey-based solid waste management facilities. This debris was then transported to and dumped at Cross Nicastro's farm in Frankfort, including into federally-regulated wetlands. Nicastro, Mazza, and his company were convicted by a jury in October 2012 of conspiring to defraud the United States, and to violate the Clean Water Act and CERCLA (18 U.S.C. § 371). In addition, they were convicted of obstruction of justice and of violating the CERCLA requirement to report the release of toxic materials (18 U.S.C. § 1519; 42 U.S.C. § 9603 (b)). Mazza also was convicted of making false statements to EPA agents (18 U.S.C. § 1001).

This case was investigated by the N. Y. State Department of Environmental Conservation Division of Law Enforcement, Bureau of Environmental Crimes; the U.S. EPA Criminal Investigation Division; the Internal Revenue Service; the N. J. State Police, Office of Business Integrity Unit; the N. J. Department of Environmental Protection; and the Ohio Department of Environmental Protection.

**United States v. David Arreola et al. , No. 12-CR-00184 (E.D. Calif.), AUSA Karen Escobar.**

On April 27, 2015, Mexican national David Arreola was sentenced to seven and one-half years' incarceration for conspiring to manufacture, distribute, and possess with intent to distribute marijuana grown on public land and possessing a firearm in furtherance of the conspiracy (18 U.S.C. § 924(c)(1)(A); 21 U.S.C. §§ 841, 846)

Arreola and Mexican co-defendants Hernan Cortez-Villaseñor, Homero Pacheco-Rivera, Alfonso Cornejo, and Jose Luis García-Villa conspired in the cultivation of close to 9,000 marijuana plants in the Greenhorn Creek area of the Sequoia National Forest. Arreola also admitted that he possessed a 9-millimeter semi-automatic handgun in furtherance of the conspiracy.

Arreola was ordered to pay \$3,300 in restitution to the U.S. Forest Service for dam-

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# Sentencings

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age to the land and natural resources caused by the marijuana operation. Native oak trees and other vegetation were cut down or otherwise killed to make room for the plants. The soil was tilled, and fertilizers and pesticides, including Fosfuro de Zinc, an illegal rat poison, were spread throughout the site. This poison contains zinc phosphide, a highly toxic chemical that can sicken or kill human beings. In fact, Arreola himself was sick and had to be air-lifted from the site upon his arrest. Several other growers previously left the site due to illness.

This case was investigated by the U.S. Forest Service, the U.S. DEA, the U.S. Immigration and Customs Enforcement Homeland Security Investigations, the U.S. EPA Criminal Investigation Division, and the Kern County Sheriff's Office.



*Marijuana being removed from grow site*

## ***United States v. Lawrence Treigle, No. 2:14-CR-00181 (E.D. La.), AUSA David Haller.***

On April 22, 2015, Lawrence Treigle was sentenced to 15 months' incarceration, followed by two years' supervised release, for his involvement in a group that captured North American Wood turtles (a threatened species) from the wild in Pennsylvania, shipping the turtles by mail throughout the United States, and then illegally exporting them to Hong Kong.

Treigle was a postal worker whose role in the illegal turtle trade earned him thousands of dollars from Asian buyers. He and co-defendant Hon Kit Lau received more than \$200,000 from the turtle sales, used false mailing labels to disguise his identity, and failed to declare that the packages contained turtles.

Treigle previously pleaded guilty to conspiring to violate the Lacey Act (18 U.S.C. § 371). This case was investigated by the U.S. Fish and Wildlife Service.

## Sentencings

**United States v. Trans Energy Inc., No. 5:14-CR-00043 (N.D.W.V.), AUSA David Perri and SAUSA Perry McDaniel.**



*Aerial view of illegal impoundment*

On April 22, 2015, Trans Energy, Inc., was sentenced to pay a \$600,000 fine and a two-year term of probation. Trans Energy previously pleaded guilty to three Clean Water Act misdemeanor violations (33 U.S.C. §§ 1311(a), 1319(c)(1)(A), 1344) in connection with its natural gas drilling activity in northern West Virginia.

Trans Energy transitioned from shallow gas wells to deeper, horizontally drilled wells in the Marcellus Shale in 2008. The company used more than six million gallons of water to frack each horizontal well. In order to avoid the cost of trucking water to the well site, Trans Energy constructed im-

poundments in stream channels near the well drilling pads, but did not obtain CWA section 404 permits from the Army Corps of Engineers. It admitted to discharging materials such as rock, sand, soil, and stone into streams at Wolf Run, the North Fork of Grave Creek, and the Left Fork of Maggoty Run, all perennial streams that flowed into the Ohio River.

Trans Energy admitted that it failed to properly train and supervise its employees and that it relied upon the unsubstantiated representations of a nearby property owner when determining whether a 404 permit was necessary. It also settled a \$3 million federal civil case for similar violations at 15 sites across the state.

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

**United States v. Robert Thompson, No. 2:14-CR-00142 (D. Maine) AUSA Julia Lipez.**

On April 16, 2015, Robert Thompson was sentenced to eight months' incarceration, followed by three years' supervised release, and to pay \$65,172 in restitution, after pleading guilty to violating the Lacey Act and tax evasion violations (16 U.S.C. § 3372(a)(2); 26 U.S.C. § 7201).

Thompson was the dock manager for the Spruce Head Fisherman's Co-op in South Thomaston, Maine. From 2008 to 2011, he illegally bought lobsters from Co-op members for cash, rather than buying and selling those lobsters through the Co-op system. He then resold those lobsters to J.P.'s Shellfish, a seafood distributor. Thompson was not a licensed seafood dealer. He also failed to report his profits from these side deals thus evading more than \$49,000 in federal income taxes.

This case was investigated by the IRS, the NOAA Office of Law Enforcement, and the Knox County Sheriff's Office.

# Sentencings

***United States v. Glamis Dunes Storage Inc., et al., No. 3:14-CR-01766 (S.D. Calif.), AUSA Melanie Pierson.***

On April 13, 2015, Glamis Dunes Storage, Inc. (GDS) was sentenced to pay a \$8,000 fine and a five-year term of probation. The company also will pay \$433 in restitution. GDS and its owner, Michael Mamelli, Sr., previously pleaded guilty to violating the Safe Drinking Water Act (42 U.S.C. §§ 300(h)-2(b)(2)) for injecting and disposing of millions of gallons of sewage underground at the Glamis Dunes Storage site.

GDS obtained a conditional use permit in August 2007 to install and operate a 20,000 gallon holding tank for RV waste (including sewage and grey water) at the facility. At that time, the company claimed the wastewater would be pumped out by a licensed septage hauler and disposed of at a nearby POTW. The company further represented that at

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# Sentencings

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full occupancy, it could dispose of approximately 1.25 million gallons of RV sewage and grey water annually.

In December 2009, a cease and desist order was issued to Mamelli by local authorities after it was discovered that the defendants were illegally disposing of sewage from the holding tank by discharging it into an onsite underground septic tank. The order required them to immediately stop discharging sewage to the septic tank, to remove the tank, to have a registered hauler pump out the RV holding tank, and to provide proof of disposal at a wastewater treatment plant.



Raw sewage injected underground

Instead, between February and March 2010, the defendants hired a contractor to build a leach field in the rear of the property, place a pump in the RV holding tank, and connect a pipe directly from the tank to the leach field, concealing the power connection for the pump beneath gravel. Between August and October 2012, the defendants installed additional pumps and tanks to continue to illegally dispose of the sewage. The restitution will be divided as follows: \$243 to the Bureau of Land Management and \$180 to the Imperial County Public Health Laboratory. Mamelli is scheduled to be sentenced on May 18, 2015.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Bureau of Land Management.

**United States v. Eddie Dunn, Nos. 1:12-CR-00188, 3:11-CR-00091 (D. Maine, D. Alaska), ECS Trial Attorney Jim Nelson, AUSA Steven Skrocki, and ECS Paralegal Casey Layman.**

On April 9, 2015, Eddie Dunn was sentenced to a five-year term of probation and to pay a \$15,000 fine. Dunn previously pleaded guilty to conspiring to traffic in narwhal tusks and a substantive Lacey Act trafficking violation (18 U.S.C § 371; 16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

Beginning in 2003, Dunn and co-defendant Jay Conrad bought over 100 narwhal tusks from a Canadian resident who illegally imported the tusks from Canada into Maine. Dunn and Conrad marketed and sold the tusks using both Ebay and direct sales to known collectors across the United States. Throughout the conspiracy, the defendants paid the Canadian tusk supplier by sending money either to an address in Bangor, Maine, or directly to the supplier in Canada. Dunn sold approximately \$1.1 million worth of narwhal tusks and Conrad between \$400,000 and \$1 million. Conrad previously pleaded guilty in the District of Maine to conspiracy to smuggle narwhal tusks, conspiracy to launder monetary instru-

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# Sentencings

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ments, and one substantive count of smuggling narwhal tusks. He is scheduled to be sentenced on May 21, 2015.

Andrew J. Zaruskas was sentenced to 33 months' incarceration after being convicted by a jury on all six charges for his role in the conspiracy. Gregory R. Logan is pending extradition from Canada to Maine. Logan is appealing the district court's extradition order and the Minister of Justice's order to surrender.

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 Environment Canada Wildlife Enforcement.

## ***United States v. Carlos Delgado Rodriguez, No. 4:14-CR-00094 (E.D. Tex.), AUSA Jim Noble.***

On April 7, 2015, Carlos Delgado Rodriguez was sentenced to pay a \$4,000 fine, pay \$1,000 in restitution, and a four-year term of probation for trafficking in dried hummingbird carcasses referred to as "chuparosas" or romantic good luck charms. Delgado previously pleaded guilty to violating the Migratory Bird Treaty Act (16 U.S.C. §§ 703, 707(b)). The restitution payment of \$1,000 will go to the Neotropical Migratory Bird Conservation Fund.

In January 2014, Delgado met with an undercover United States Fish and Wildlife Service agent to sell hummingbirds that had been captured, killed, dried, and preserved as chuparosas. Delgado, who worked in a "botanica", a shop specializing in herbs and charms, sold the agent 35 birds from four different species, in exchange for \$770. Several hummingbird species are now experiencing significant population declines and are highly vulnerable to climate change.

This case was investigated by the U.S. Fish and Wildlife Service, Homeland Security Investigations, and Texas Parks and Wildlife.



*Dried hummingbirds*

## Sentencings

***United States v. Jones Inlet Seafood Co., Inc., No. 2:14-CR-00378 (E.D.N.Y.), ECS Trial Attorney Christopher Hale and ECS Paralegal Casey Layman.***

On April 2, 2015, company president Bruce Larson, Jr. and vice president Michael G. Mihale were sentenced for their roles in systematically underreporting fluke (summer flounder) that was harvested as part of the federal Research Set-Aside (RSA) Program. Mihale and Larson will pay a combined \$10,000 in fines and community service. The court ordered Larson to complete a three-year term of probation and Mihale one-year. Jones Inlet Seafood Co., Inc. (JISC) was sentenced to pay \$130,000 in fines and community service plus \$116,000 in restitution.

As a federal fish dealer, JISC possessed a NOAA permit to purchase fish directly from commercial fishing vessels without having to go through an intermediary. In June 2009, Mihale and Larson learned that Anthony Joseph, captain of the *F/V Stirs One*, was consistently overharvesting fluke through Joseph's abuse of the RSA Program. On behalf of JISC, Mihale and Larson made regular purchases of illegal fluke from Joseph at the Point Lookout, New York waterfront. Larson and Mihale directed unwitting subordinates to falsify and submit at least 65 fisheries dealer reports from June 2009 to December 2011.

In an effort to conceal his activities, Joseph submitted both electronic and hard copies of logs and reports containing false data. NOAA relies on these documents to set quotas and implement other management measures designed to ensure sustainable fisheries. Between June 2009 and December 2011, Mihale and Larson schemed with Joseph to file the false dealer reports with NOAA, defrauding the United States of 56,000 pounds of overharvested and underreported fluke valued at \$116,000.

JISC pleaded guilty to falsifying federal records as well as to a Lacey Act false labeling violation for its knowing use of false documents in connection with approximately \$100,000 worth of fluke that was shipped to customers in Connecticut and New Jersey (18 U.S.C. § 1519; 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)(ii)). Mihale and Larson pleaded guilty to one count of wire fraud and one count of falsification of federal records (18 U.S.C. §§ 1343, 1519).

Joseph previously pleaded guilty 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. He is scheduled to be sentenced on September 3, 2015.

This case was investigated by NOAA National Marine Fisheries Service, with assistance from the New York State Department of Environmental Conservation Police.

***United States v. Nicolas Sassin, Nos. 3:15-CR-0006, 00051, 00072 (D. Alaska, D. Ore.), AUSA Michelle Kerin.***

On April 1, 2015, Chief Engineer Nicolas Sassin was sentenced to a five-year term of probation, with a special condition of five months' home detention.

Between May 28, 2014, and September 6, 2014, Sassin was a chief engineer on board the *M/V City of Tokyo*, a vehicle carrier vessel operated by German company AML Ship Management GMBH. On August 22, 2014, the vessel departed South Korea, travelled

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## Sentencings

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through waters of the United States off the coast of Alaska, and arrived in Canada on September 2, 2014. After departing Canada, the ship arrived in Portland, Oregon, on September 5, 2014. On August 29, 2014, Sassin discharged oil into the United States' Exclusive Economic Zone off the coast of Alaska. While the vessel was approximately 165 nautical miles south of the Aleutian Islands, Sassin used an illegal pump system to discharge approximately 4,500 gallons of oily bilge water directly overboard. The discharge created a sheen in the water that was witnessed by crewmembers. Sassin dismantled the illegal pump system prior to the vessel's arrival in Portland.

The defendant pleaded guilty to an APPS violation (33 § U.S.C. 1980(a)) for failing to record this overboard discharge in the oil record book. He also pleaded guilty to violating the Clean Water Act in the District of Alaska for failing to note that the ship's oil water separator was inoperable (33 U.S.C. §§ 1319(c)(2)(A), 1321(b)(3)). The ORB was presented to Coast Guard inspectors when the ship arrived in Portland.

AML previously pleaded guilty to Clean Water Act and APPS charges and is scheduled to be sentenced on May 26, 2015.

This case was investigated by the U.S. Guard Criminal Investigative Service. ship's oil water separator was inoperable (33 U.S.C. §§ 1319(c)(2)(A), 1321(b)(3)). The ORB was presented to Coast Guard inspectors when the ship arrived in Portland.

AML previously pleaded guilty to Clean Water Act and APPS charges and is scheduled to be sentenced on May 26, 2015.

This case was investigated by the U.S. Guard Criminal Investigative Service.

### ***United States v. Anthony Biello, II, Nos. 14-CR-00456, 00158 (E.D. Pa.), SAUSAs Martin Harrell and Patricia C. Miller, and AUSA Mary E. Crawley.***

On March 9, 2015, Anthony Biello, II, was sentenced to one year and a day of incarceration, followed by two years' supervised release, after previously pleading guilty to a Clean Air Act violation (42 U.S.C § 7413(c)(1)). Biello also will pay \$12,000 in restitution to the City of Philadelphia. Co-defendant Ronan Bakshi pleaded guilty to wire fraud and falsification of records to obstruct a matter within the jurisdiction of EPA (18 U.S.C. §§ 1343, 1519).

The charges arose from an asbestos abatement project at a former church in Philadelphia. Siloam Ministries, Inc., an HIV community support non-profit, hired Bakshi in 2008 to perform an asbestos survey of the church. Bakshi was responsible for monitoring Biello, the contractor who would perform all air sampling and conduct visual inspections during the course of the asbestos project.

After the City of Philadelphia discovered that Biello had not notified it about removing asbestos and had improperly removed some material, Bakshi presented false log books and air monitoring data to City officials in late April 2009, which purported to show that he had been present during asbestos abatement work performed by Biello

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# Sentencings

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*Demo debris*

when he in fact was not. In May, 2009, Bakshi admitted to City personnel that he had not been present when Biello had taken air samples the previous month. In addition, Bakshi billed Siloam for work he later admitted he had not performed, and then billed for additional work resulting from Biello's improper abatement activities.

Bakshi is scheduled to be sentenced on July 21, 2015. This case was investigated by the U.S. EPA Criminal Investigation Division.

# **Non Prosecution Agreements**

***Federal Criminal Investigation of Exide Technologies, Inc. (C.D. Calif.), AUSAs Joe Johns and Mark Williams.***

On March 12, 2015, Exide Technologies, Inc. entered into a ten-year Non-Prosecution Agreement requiring it to immediately and permanently shut down a secondary lead smelting facility that had been releasing heavy metals, including lead and arsenic, to surrounding neighborhoods for almost a century. In recent years, the facility had topped California regulatory lists as the number one cancer-causing polluter in southern California.

For more than 17 years, environmental justice and organized community-action groups had urged state regulators to close the facility, without success, despite hazardous levels of lead found in neighbors' yards. During the investigation, Exide was involved in a Chapter 11 reorganization/bankruptcy, and stated that felony charges would result in a Chapter 7 liquidation of the company that employs 10,000 workers in 80 different countries.

The NPA compliance costs and penalties range between \$225 million and \$475 million, and include closure and clean-up of the facility, assessment and remediation of the surrounding commercial and residential areas, free lead blood-level testing for nearby residents, and public dissemination of all assessment reports and environmental testing. Exide admitted that it had committed multiple federal felony violations over the past 20 years, including illegally storing and disposing of hazardous waste at the facility, illegally shipping hazardous waste in leaking containers, and illegally transporting hazardous waste to an unpermitted facility.

This case was investigated by the L.A. County Fire Department, the California Department of Toxic Substances Control, the South Coast Air Quality Management District, the U.S.DOT-OIG, and the U.S. EPA Criminal Investigation Division.



## Environmental Crimes Section Attorneys

Position	Name	Phone
Chief	Deborah Harris	
Deputy Chief	Joseph Poux	
Assistant Chief	Thomas Ballantine	
Assistant Chief	Elinor Colbourn	
Assistant Chief	Kris Dighe	
Assistant Chief	Wayne Hettenbach	
Senior Litigation Counsel	Howard P. Stewart	
Senior Litigation Counsel	Richard Udell	
Senior Counsel	Robert Anderson (Montana)	
Senior Counsel	James A. Morgulec	
Senior Counsel	Rocky Piaggione	
Senior Trial Attorney	Georgiann Cerese	
Senior Trial Attorney	Christopher Costantini	
Senior Trial Attorney	Daniel Dooher	
Senior Trial Attorney	Todd Gleason	
Senior Trial Attorney	David Kehoe	
Senior Trial Attorney	Jeremy Korzenik	
Senior Trial Attorney	Lana Pettus	
Senior Trial Attorney	Ronald Sutcliffe (Idaho)	
Senior Trial Attorney	Jennifer Whitfield	
Trial Attorney	Cassandra Barnum	
Trial Attorney	Jennifer Blackwell	
Trial Attorney	Mary Dee Carraway	
Trial Attorney	Ryan Connors	
Trial Attorney	Adam Cullman	
Trial Attorney	Gary Donner	
Trial Attorney	Patrick Duggan	
Trial Attorney	Ethan Eddy	
Trial Attorney	Thomas Franzinger	
Trial Attorney	Christopher Hale	
Trial Attorney	Joel LaBissonniere (NOAA)	
Trial Attorney	Leslie Lehnert	
Trial Attorney	James Nelson	
Trial Attorney	Ken Nelson	
Trial Attorney	Brandy Parker (USCG)	
Trial Attorney	Shennie Patel	
Trial Attorney	Richard Powers	
Trial Attorney	Mark Romley (Colorado)	
Trial Attorney	Brendan Selby	
Trial Attorney	Lauren Steele	
Trial Attorney	Shane Waller	

## Announcements

ECS is working with EOUSA on two issues of the U.S. Attorneys' Bulletin devoted to wildlife crimes. The first, coming out in May, will feature articles on current issues related to the Lacey Act; wildlife charges in oil spill cases; forensics in wildlife cases; illegal, unreported, and unregulated (IUU) fishing and seafood fraud; the use of the criminal enforcement to stop the growing threat of invasive species; restitution in wildlife cases and the use of civil and administrative alternatives to criminal enforcement. These articles reflect the contributions of prosecutors in ECS, ENRD's Appellate, Law and Policy, and Wildlife and Marine Resources Sections, Assistant U.S. Attorneys, and agents, scientists and regulators at FWS, NOAA and USDA.

ECS prosecutors participated in NOAA's annual In-Service agent and officer training at FLETC in March and April, providing legal updates for the agents. ECS will do the same for the annual FWS In-Service in May. Anyone who would like particular issues addressed, please pass them along to [redacted]

New press releases have been added to the [ECS Webpage](#). We have updated the ECS Contacts, and redesigned the Manual page.

Please send information regarding State and local cases to the [Regional Environmental Enforcement Association's Webpage](#). Updates on federal cases should be sent to [\[redacted\]](#)