



Monthly

Bulletin

Environmental Crimes Section

August 2017

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Acting U.S. Attorney Featherston made the following statement, “Trey Frederick was given the opportunity of probation when he was first convicted of killing two federally protected whooping cranes. Apparently, Mr. Frederick did not appreciate the leniency he was given, and today, he learned the consequences. Mr. Frederick will now have 11 months to contemplate his actions.” [From [Press Release](#) for sentencing of Trey Frederick. SEE inside, for more [details](#) on this case.]

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District/Circuit	Case Name	Case Type/Statutes
Northern District of Ohio	<u>United States v. Christopher Gattarello et al.</u>	Demolition Project/CAA, Conspiracy, Money Laundering, Wire Fraud
District of Puerto Rico	<u>United States v. Fraticelli Trucking Company, Inc.</u>	Radioactive Waste/HMTA
District of South Carolina	<u>United States v. Harry Wertan, Jr., et al.</u>	Eel Trafficking/Lacey Act
Eastern District of Tennessee	<u>United States v. Berthold Technologies U.S.A.</u>	Fracking Equipment Shipments/HMTA
Eastern District of Texas	<u>United States v. Trey Joseph Frederick</u>	Whooping Crane Killing/ Probation Violation
District of Utah	<u>United States v. Stone Castle Recycling, LLC, et al.</u>	E-waste/RCRA
Eastern District of Virginia	<u>United States v. Allen H. Thacker</u>	Eagle Killing/BGEPA
Western District of Virginia	<u>United States v. Mill Branch Coal LLC</u>	Mine Investigations/MSHA
Western District of Washington	<u>United States v. Tim Davis</u> <u>United States v. Bingham Fox</u>	Ivory Products/Lacey Act Vessel/APPS, Conspiracy, CWA

Indictments/Informations

***United States v. Matthew P. Gumz*, No. 5:17-mj-00028 (E.D. Calif.), AUSA Laurel Jackson Montoya.**

On July 31, 2017, a two-count criminal complaint was filed against Matthew P. Gumz, charging him with taking a California condor in violation of the Endangered Species Act and the Migratory Bird Treaty Act (16 §§ U.S.C. 703(a), 1538(a)(1)(B)).

According to the complaint, the California Department of Fish and Wildlife received an anonymous tip about the death of a male juvenile California condor. A U.S. Fish and Wildlife Service biologist located the dead condor, designated as Condor 780, on federal land in Kern County. Condor 780 had a large distinctive green tag on its left wing with “80”



Condor 780

printed on it in large white numbers. On September 30, 2016, Gumz was deer hunting in the Bean Canyon area, which is managed by the Bureau of Land Management. Gumz field dressed a deer and hung it in a tree, and left. When he returned to the area, he saw condors and other birds near the carcass and allegedly shot and killed Condor 780 with a rifle.

Condor 780 came from an egg laid at the World Center Birds of Prey in Boise, Idaho, and was fostered in the wild by condors in a monitored nest in Southern California. The nest was managed by the Hopper Mountain National Wildlife Refuge as part of the California Condor Recovery Program.

This case was investigated by the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the California Department of Fish and Wildlife.

Indictments/Informations

***United States v. Guan Zong Chen*, No. 1:15-CR-10348 (D. Mass.), ECS Senior Litigation Counsel Richard Udell, ECS Trial Attorney Gary Donner, and ECS Contract Law Clerk Chris Kopf.**

On July 24, 2017, Chinese national Guan Zong Chen was arraigned on charges that he led a conspiracy to illegally export (smuggle) \$700,000 worth of wildlife items made from rhinoceros horn, elephant ivory, and coral from the United States to Hong Kong. Chen was arrested in 2016 when he traveled from China to Australia and was only recently extradited to face charges in an eight-count indictment returned in 2015, charging him with conspiracy, smuggling, and Lacey Act violations (18 U.S.C. §§ 371, 545; 16 U.S.C. §§ 3372 (d), 3373(d)(3)(A)).

According to the indictment, Chen, a citizen of China and Australia, and owner of antique businesses in both countries, was the ringleader in a wildlife trafficking conspiracy involving ivory and rhinoceros horn carvings smuggled out of the United States to China. He purchased wildlife artifacts at U.S. auction houses located in California, Florida, Ohio, Pennsylvania, New York, and Texas. Chen allegedly conspired with Jin Jie Yang, another Chinese national, to travel to the United States to pick up the items and either hand carry or arrange for them to be mailed to another co-conspirator (Carla Marsh) who owned a shipping business in Concord, Massachusetts. Marsh repacked the wildlife items and exported (smuggled) them to Hong Kong with documents that falsely stated their contents and value and without obtaining required declarations and permits. In April 2014, Chen visited Marsh in Massachusetts. During the visit, Chen allegedly instructed her to illegally export a sculpture made from elephant ivory to Hong Kong on his behalf that was falsely declared to be made of wood, and worth \$50.

Marsh was previously sentenced to complete a one-year term of probation and perform 120 hours' community service. Yang was sentenced to time served, followed by four months' home confinement, and two years' supervised release.

This case is part of Operation Crash, an ongoing effort by the Department of the Interior's Fish and Wildlife Service, in coordination with the Department of Justice, to deter and prosecute those involved in the illegal killing of and trafficking in protected species including rhinoceros and elephants.

This case was investigated by the U.S. Fish and Wildlife Service's Office of Law Enforcement, with extradition support from DOJ's Office of International Affairs and the U.S. Marshals Service.

Indictments/Informations

United States v. Rodrigo Franco, No. 2:17-mj-01832 (C.D. Calif.), AUSA Eric Silber.

On July 21, 2017, a complaint was filed charging Rodrigo Franco with smuggling for shipping live king cobras in potato chip cans (18 U.S.C. § 545).

According to the complaint, On March 2, 2017, Customs agents inspected a package sent from Hong Kong and discovered three live king cobra snakes as well as three albino Chinese soft-shelled turtles.

On the same date, Franco also mailed six protected turtles (desert box turtles, three-toed box turtles and ornate box turtles) from the United States to Hong Kong, but that shipment also was intercepted by the U.S. Fish and Wildlife Service.



King cobra found in potato chip can

Because of the danger associated with the cobras, the snakes were seized from the package that had come from Hong Kong. The United States Postal Inspection Service made a controlled delivery of the soft-shelled turtles to Franco's residence. Immediately after the package was delivered, a search warrant was executed at the residence.

During the search, agents found the package that originated in Hong Kong. They also discovered tanks containing a baby Morelet's crocodile, alligator snapping turtles, a common snapping turtle, and five diamond back terrapins, all of which are protected species

Investigators obtained additional evidence from Franco's phone that allegedly revealed messages in which he and an individual in Asia discussed shipping reptiles between the United States and Asia. According to the complaint, the messages indicate Franco had previously received live cobras from his contact in Asia

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from Homeland Security Investigations, the U.S. Postal Service, and Customs and Border Protection.

Indictments/Informations

United States v. Thomas Carrano, No. 1:17-CR-00460, (S.D.N.Y.), AUSAs Alison G. Moe and Michael C. McGinnis.

On July 20, 2017, Thomas Carrano was charged in an indictment with conspiring to raise, train, and sell roosters for cock fighting (18 U.S.C. § 371).

According to the indictment, between January 2012 and June 2017, Carrano, a member and former leader of the New York chapter of the United Gamefowl Breeders Association (NYUGBA), conspired with others to buy, sell, transport, and receive roosters for fighting. He allegedly used two social media accounts to communicate with co-conspirators, including members of the NYUGBA. In a 2014 newsletter to its members, the NYUGBA stated that “We DO NOT promote cockfighting in any way.” According to the indictment, however, Carrano sent messages discussing breeding and training roosters for fighting, the sale and purchase of metal and plastic spurs (gaffs and postizas), and his participation in cock fighting.

On May 23, 2017, a search warrant was executed at the defendant’s game fowl farm in Ontario, New York. During the search, law enforcement officers discovered, among other things, gaffs, postizas, shears for dubbing roosters, a rooster sparring dummy, a specialized ladder used to train fighting roosters, steroids, and videos of roosters being trained for cockfights. In addition, they recovered approximately 104 chickens, including 19 adult roosters and 12 adolescent roosters. More than three-quarters of the male birds had their comb, wattles, and/or earlobes removed. In addition, more than a third of the roosters had at least one of their natural spurs altered.

This case was investigated by the USDA Office of Inspector General and the NYPD’s Animal Cruelty Investigations Squad, with assistance from the American Society for the Prevention of Cruelty to Animals.

United States v. Glow Industries, Inc., et al., No. 5:17-CR-00146 (C.D. Calif.), AUSAs Amanda M. Bettinelli and Dennis Mitchell.

On July 13, 2017, Glow Industries, Inc., and Charles Kaye, a former company warehouse manager, were indicted on conspiracy and violations of the Hazardous Materials Transportation Act (18 U.S.C. § 371; 49 U.S.C. §§ 5104(b), 5107, 5124(a)).

Glow is a corporation that sells tobacco products and other accessories. The indictment alleges that on 13 occasions, between May 2012 and July 2012, Glow employees conspired to ship hazardous materials where markings that identified the shipments as hazardous were concealed. In August, 2012, Kaye allegedly sent a letter to the FAA stating that an employee had inadvertently shipped undeclared hazardous materials from Riverside, California, to Anchorage, Alaska. In fact, the employee knowingly shipped the materials undeclared.

The investigation began after the United Postal Service examined a shipment from Glow in July 2012, at its Anchorage airport facility. The exterior packaging was damaged and, upon inspection, UPS discovered six fiberboard boxes each containing 12 cans of

(Continued on page 8)

Indictments/Informations

(Continued from page 7)

Vector Butane Gas, a hazardous material. Closer examination revealed that the original packaging had been tampered with, concealing the hazmat markings. This case was investigated by the U.S. DOT Office of Inspector General.

United States v. Stone Castle Recycling, LLC, et al., No. 1:17-CR-00044 (D. Utah), AUSA Jared Bennett and SAUSA Linda Kato.

On July 12, 2017, a six-count indictment was filed against electronics recycler Stone Castle Recycling, LLC (SCR), company CEO Anthony L. Stoddard, and employee Jamen D. Wood, variously charging them with RCRA storage and disposal violations, as well as falsifying manifests (42 U.S.C. §§ 6928(d)(3), (d)(2)).

As an electronics recycling facility, SCR received numerous computer monitors and televisions with Cathode Ray Tubes (CRT), which contain high amounts of lead.

In January 2013, after testing the CRT glass, the U.S. EPA informed Stoddard that the waste exhibited the RCRA hazardous waste toxicity characteristic for lead. Wood then began to negotiate ways to get rid of the facility's stockpiles of millions of pounds of CRT glass. In April 2013, Wood contacted a landfill that would accept the glass, but charged more per ton for hazardous waste. According to the indictment, Wood decided to falsify the manifests that accompanied 152,000 pounds of glass that was transported as non-hazardous waste. The glass was dumped at the landfill. Wood attempted to send an additional 76,000 pounds of glass, but local regulators stepped in. In October 2013, after a series of site inspections, local regulators issued a Notice of Violation to Stoddard and the company. SCR was evicted from the property in July 2014, and abandoned the CRT waste, after failing to obtain a RCRA permit

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



Broken CRT glass

Indictments/Informations

***United States v. Zaccheo Giovanni Pamio*, No. 2:17-mj-30330 (E.D. Mich.), ECS Senior Trial Attorney Jennifer Blackwell, ECS Trial Attorney Joel LaBissonniere, Sec. and Fin. Fraud Chief Benjamin D. Singer, Crim. Div. Fraud Section Trial Attorneys David Fuhr and Christopher Fenton, White Collar Crime Unit Chief John K. Neal, AUSA Timothy J. Wyse, and ECS Contract Law Clerk Jon DeCarlo.**

On July 6, 2017, a former Audi Manager was charged with conspiracy for his role in a long-running scheme to defraud U.S. regulators and customers by implementing software specifically designed to cheat U.S. emissions tests in thousands of Audi “clean diesel” vehicles.

Giovanni Pamio, an Italian citizen, was charged with conspiracy to defraud the U.S., to commit wire fraud, and to violate the Clean Air Act (18 U.S.C. § 371). Pamio was formerly head of Thermodynamics within Audi’s Diesel Engine Development Department in Neckarsulm, Germany. According to the complaint, from approximately 2006 until November 2015, Pamio led a team of engineers responsible for designing emissions control systems to meet emissions standards (which included nitrogen oxides (NOx)) for diesel vehicles in the U.S.

According to the complaint, after Pamio and coconspirators realized that it was impossible to calibrate a diesel engine that would meet NOx emissions standards within the design constraints imposed by other departments at the company, Pamio directed Audi employees to design and implement software functions to cheat the standard U.S. emissions tests. Pamio and co-conspirators deliberately failed to disclose the software functions, and they knowingly misrepresented that the vehicles complied with U.S. NOx emissions standards.

Audi’s parent company, Volkswagen AG, previously pleaded guilty to three felony counts connected to cheating U.S. emissions standards. The company was ordered to pay a \$2.8 billion criminal fine, complete a three-year term of probation, and implement an environmental compliance plan.

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

Guilty Pleas

[REDACTED]

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***United States v. Wayne Powell*, 2:17-CR-20374 (E.D. Mich.), ECS Senior Counsel Kris Dighe, AUSA Craig Weier, and ECS Paralegal Ashely Patterson Chandler.**

On July 14, 2017, Wayne Powell, a former employee of American Suzuki Motor Corporation, pleaded guilty to violating the Clean Air Act for submitting a false end-of-year report to the U.S. EPA (42 U.S.C. § 7413 (c)(2)(A)).

Powell, a Government Relations Analyst for Suzuki, was responsible for submitting documents to EPA regarding the company's compliance with motorcycle emission standards. Powell submitted Suzuki's 2012 application to EPA for a "certificate of conformity," which allows a vehicle manufacturer to sell vehicles in the United States. Rather than seek certification of each motorcycle engine "family," Suzuki had opted to combine multiple engine families and average their emissions based on the number of motorcycles in each group. At the end of each model year, Suzuki was required to submit to EPA an end-of-year report to show that it was in compliance with emission standards.

The average combined emissions of hydrocarbons and nitrogen oxides for the 23,528 Class III model year 2012 motorcycles Suzuki imported, distributed, and sold in the U.S., violated the emission limit. The first end-of-year report Powell submitted to EPA in 2013 purported to utilize "banked credits" to offset the excess emissions. However, because Suzuki had not participated in the banked credit program and thus had no credits to use, EPA informed Powell it could not accept that report.

Subsequently, on March 28, 2014, Powell submitted an amended end-of-year report to EPA in which he had altered the numbers of four motorcycle engine families, resulting in a falsified calculation that was within the emission limit. Powell also falsely represented to EPA in the email that accompanied the amended report that "[t]he

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Guilty Pleas

(Continued from page 10)

computer software that we use to gather this information did not count all of the units” and that he had “corrected some mistakes on the 2012 report.”

This case was investigated by the U.S. EPA Criminal Investigation Division, U.S. Immigration and Customs Enforcement, and the U.S. Postal Inspection Service.

United States v. Allen H. Thacker, No. 2:17-mj-00291 (E.D. Va.) AUSA Joe Kosky.

On July 11, 2017, Allen H. Thacker pleaded guilty to violating the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668(a), 668(c)) for shooting and wounding a bald eagle, then killing it by running it over with his all-terrain vehicle.

On March 13, 2017, Thacker shot the bald eagle because he was upset it had been hunting and taking fish from a pond located on his property. He first tried to scare the bird away with a warning shot. When that did not work, Thacker shot the bird with a Remington .22 caliber rifle. According to a necropsy, Thacker’s initial shot wounded the bird, but blunt force trauma to the bird’s skull proved fatal.

Though he initially denied it when interviewed by investigators, a witness reported seeing Thacker drive over the bird with his ATV.

Thacker is scheduled for sentencing on October 23, 2017. This case was investigated by the U.S. Fish and Wildlife Service.

United States v. Daniel L. Couch, Jr., No. 4:17-CR-00003 (W.D. Ky.), AUSA Randy Ream.

On July 13, 2017, Daniel L. Couch, Jr., pleaded guilty to falsifying a safety record, in violation of the Mine Safety and Health Act (30 U.S.C. § 820(f)).

As the maintenance chief at Paradise #9 Mine, Couch was responsible for weekly equipment inspections, specifically for the belt drive for coal seam 11. On May 17, 2016, a mine inspector reviewed the record book for fire suppression checks conducted on the belt drives for coal seam 11 (which contains seven separate belt drives at seven different locations) and found that no fire suppression checks had occurred for the week of May 1 through May 7, 2016. The inspector returned two days later and re-examined the record book for inspections for the belt drives for coal seam 11, at which time the book revealed that the belt drives had been examined on May 7, 2016, by “D. Couch,” and that no hazards had been observed.

Couch is scheduled to be sentenced on October 17, 2017. This case was investigated by the U.S. Department of Labor Mine Safety and Health Administration.



Dead bald eagle

Guilty Pleas

United States v. Kurtis Law, No. 2:17-CR-00332 (C.D. Calif.), AUSA Erik Silber.

On July 11, 2017, Kurtis Law pleaded guilty to smuggling approximately 94 Asian songbirds into the United States through the Los Angeles International Airport in March 2017(18 U.S.C. § 545). Most of the birds perished, and several were CITES Appendix I or II species, namely Asian songbirds.

Sentencing is scheduled for August 23, 2017.

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



Dead songbirds found in defendant's luggage

United States v. Berthold Technologies U.S.A., No. 3:17-CR-00071 (E.D. Tenn.), AUSA Matt Morris.

On July 10, 2017, Berthold Technologies U.S.A. pleaded guilty to violating the Hazardous Materials Transportation Act (49 U.S.C. § 5124(a)) for falsely representing that devices shipped in interstate commerce had been tested and met DOT requirements for radioactive containers. These devices were primarily used by the oil and gasoline industry to measure the density of fluids used in natural gas fracking operations across the United States between March and October 2014.

This case was investigated by the DOT-OIG, with assistance from PHMSA and the Department of Energy.

Sentencings

United States v. Lonnie M. Ray, No. 1:16-CR-00094 (S.D. Miss.), AUSA Gaines Cleveland.

On July 25, 2017, Lonnie M. Ray, the president of Cowart Seafood, Inc., was sentenced to 25 months' incarceration, followed by three years' supervised release. He also will pay a \$3,000 fine. Ray previously pleaded guilty to conspiracy to violate the Lacey Act and illegal possession of a short-barreled shotgun (18 U.S.C. § 371; 26 U.S.C. § 5861 (d)).

Ray admitted to selling fish to Louisiana seafood buyers that was taken illegally. According to Mississippi law, seafood dealers are required to submit information about each seafood purchase from a commercial fisherman on a trip ticket form provided by the Mississippi Department of Marine Resources (DMR). Ray violated this requirement by failing to report seafood purchases to the DMR and by buying fish from recreational fisherman in violation of state law. Ray also admitted to owning a 12-gauge double-barrel shotgun, having a barrel of less than 18 inches in length, which was not properly registered.

This case was investigated by the NOAA Office of Law Enforcement; the U.S. Fish and Wildlife Service; the Mississippi DMR; and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

United States v. William Saiff, III, No. 1:17-CR-00100 (N.D.N.Y.), AUSA Michael F. Perry.

On July 21, 2017, William Saiff, III, was sentenced to complete a 17-month term of probation, and will make a \$10,000 donation in currency and/or in kind to a charitable organization or organizations involved in the preservation/rehabilitation of wildlife. He also will publish an apology to appear in a half-page ad in a Sunday edition of the *Watertown Daily Times* and in a half-page ad in the *New York Outdoor News* within two weeks of being sentenced.

Saiff claims to have 18 years' experience as a professional hunting guide and is the owner and operator of Bill Saiff Outdoors and Seaway Waterfowl Professionals. He previously pleaded guilty to two counts of violating the Migratory Bird Treaty Act for guiding waterfowl hunts over baited ponds on two separate occasions in 2015 (16 U.S.C. §§ 704 (b)(2), 707(c)).

On October 27, 2015, Saiff guided a hunting party over a baited pond in the Town of Cape Vincent, New York. He previously had installed an underwater trough at the pond to hold bait. Prior to the hunt, he trough was stocked with corn to attract waterfowl. Saiff's hunting party shot and killed several protected waterfowl before being stopped by investigators.

On October 31, 2015, Saiff guided a hunting party over a baited pond in the Town of Rodman. He acknowledged placing approximately 50 pounds of corn along the shoreline less than ten days prior to the hunt. The group killed several protected birds, including geese and ducks, before investigators intervened.

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

Sentencings

United States v. Arnold M. Bengis et al., No. 1:03-CR-00308 (S.D.N.Y.), AUSA Kiersten A. Fletcher.

On July 19, 2017, Arnold M. Bengis was ordered to serve 57 months' incarceration, followed by two years' supervised release, and must forfeit an additional \$37.3 million, for his role in an extensive seafood poaching and smuggling scheme. Bengis, who previously pleaded guilty to conspiracy and Lacey Act violations, was resentenced after evading his obligation to pay back victims. Bengis placed money that could have been used to make restitution to the Republic of South Africa in family trusts overseen by SG Hambros on the island of Jersey. The forfeiture is in addition to \$5.9 million ordered in 2004.

A new forfeiture order consists of more than \$26 million (the value of 598 tons of lobster tails that the Bengis family poached in 1999 and 2000 alone) plus nearly \$11 million of accrued interest. Additional restitution is to be ordered at a hearing scheduled for September 7, 2017. South African officials have informed the court that the damage to their fisheries was about \$100 million.

Between 1987 and 2001, the defendants engaged in a practice of deceiving and sometimes bribing inspectors, as well as destroying documents in order to conceal the smuggling. After one of their shipments was seized in 2001 by U.S. Customs inspectors, the defendants went so far as to hire a private investigator to keep track of the government investigators. The three pleaded guilty in April 2004 to conspiracy to violate the Lacey Act and three substantive Lacey Act violations (18 U.S.C. § 371; 16 U.S.C. § 3372(a)(2)(A)).

In May 2004, Jeffrey Noll, and Arnold and David Bengis were sentenced for their involvement in a seafood poaching and smuggling scheme in which massive amounts of South African rock lobster and Patagonian toothfish (known as Chilean seabass) were over-harvested. Arnold Bengis was sentenced to 46 months' incarceration, Noll was sentenced to 30 months' incarceration, and David Bengis was sentenced to 12 months' incarceration. Arnold Bengis and Noll also were ordered to forfeit \$5.9 million and David Bengis was ordered to forfeit \$1.5 million from the proceeds of the sale of his fish processing factory. The three operated seafood companies in South Africa, New York, and Maine.

In January 2011, the Second Circuit overturned the district court's 2007 ruling denying restitution. The Second Circuit held that: (1) South Africa had a property interest in illegally harvested rock lobsters and, therefore, the defendants had committed an "offense against property," thereby entitling South Africa to restitution; and (2) South Africa was a victim within the meaning of the applicable restitution statutes. The Court of Appeals left the determination of the precise amount of restitution to the District Court on remand.

In June 2013, the government obtained a restitution order against the defendants in the amount of nearly \$29.5 million to be paid to South Africa. This is the largest known restitution order in a Lacey Act case. The restitution order follows the government's successful appeal to the Second Circuit of the district court's order that restitution was not available for crimes prosecuted under the Lacey Act. After a credit of more than \$7 million already paid to South Africa as part of a separate criminal case, the total restitution to be paid is approximately \$22.5 million. The court restrained the defendants from depleting accounts in the Channel Islands to amounts below the approximately \$22.5 million restitution to be paid.

Sentencings

***United States v. Fred Witmer et al.*, Nos. 1:16-CR-00064, 00065 (N.D. Ind.), ECS Trial Attorney Adam Cullman, ECS Senior Trial Attorney Jeremy Korzenik, and AUSA Toi Houston.**

On July 18, 2017, Fred Witmer and Gary Jury were sentenced after variously previously pleading guilty to conspiracy, wire fraud, and Clean Air Act false statement charges (18 U.S.C. §§ 371, 1343; 42 U.S.C. § 7413(c)(2)(A)). Witmer was sentenced to 57 months' incarceration, followed by three years' supervised release. He also was ordered to pay \$17.4 million in restitution. Jury was sentenced to 30 months' incarceration, followed by three years' supervised release. He will pay \$8.1 million in restitution.

The defendants admitted to participating in a scheme that generated more than \$60 million in fraudulent tax and RIN credits at Triton Energy, a company that purported to produce and sell biofuel for use as transportation fuel.

Witmer and Jury were co-owners of both Triton Energy and Gen2 Renewable Diesel LLC, both located in Waterloo, Indiana. Witmer admitted to participating in a scheme with other coconspirators to fraudulently claim tax credits and RIN credits on non-qualifying renewable fuel. Although the credits required that the fuel be used domestically for transportation, Witmer admitted selling it for uses that included the production of fire starter logs and asphalt, for power generation, and also for export. Jury admitted to participating in a scheme to claim tax credits and to providing false statements to the EPA.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Internal Revenue Service Criminal Investigation, and the Federal Bureau of Investigation.

***United States v. Mahant Singh*, No. 3:17-CR-00020 (S.D. Miss.), ECS Senior Trial Attorney Jeremy Korzenik and AUSA Gaines Cleveland.**

On July 17, 2017, Mahant Singh was sentenced to complete a five-year term of probation, to include six months' home confinement. Singh also will pay a \$2,500 fine and \$10,960 in restitution. He previously pleaded guilty to violating the Clean Water Act for dumping gasoline into a POTW (33 U.S.C. § 1319(c)(1)(B)).

Singh is the owner of a grocery store and gasoline filling station. In April 2016, he pumped a mixture of gasoline and rainwater from his underground storage tanks into the store's municipal sewer connection. The discharge caused gasoline fumes to pervade a neighboring school requiring its evacuation. POTW officials also detected gasoline at the wastewater treatment plant a few miles from Singh's store. The restitution will be paid to the Manchester Academy for interruption of classes after the evacuation.

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

Sentencings

United States v. Trey Joseph Frederik, No. 1:16-CR-00007 (E.D. Tex.), AUSA Joseph Batte.

On July 14, 2017, Trey Joseph Frederick was sentenced to 11 months' incarceration, followed by one year of supervised release, for violating multiple terms of his probation. Frederick had been sentenced to complete a five-year term of probation in October 2016, after pleading guilty to violating the Endangered Species Act for shooting two Whooping Cranes in January 2016 (16 U.S.C. § 1538). He was further ordered to perform 200 hours' community service and pay \$25,815 in restitution to be divided between the International Crane Foundation and Texas Parks and Wildlife.

In February 2017, Frederick and his friends went hunting at night for feral hogs. Frederick fired several shots from a public road at a hog using an AR-15 assault rifle. The terms of Frederick's probation specifically prohibited him from owning or possessing firearms, ammunition, or any other dangerous weapon. He also was banned from hunting or fishing anywhere in the United States during the term of probation. Frederick failed to pay any of the restitution and hadn't performed any community service.

There are currently only approximately 500 free-ranging Whooping Cranes in the world. The flock spends the winter along the Texas central coast.

This case was investigated by the U.S. Fish and Wildlife Service Office of Law Enforcement, and the Texas Parks and Wildlife Department.

United States v. Tim Davis, No. 3:17-CR-05131 (W.D. Wash.), AUSA Seth Wilkinson.

On July 13, 2017, Tim Davis was sentenced to complete a three-year term of probation, to include one month of home confinement. He also was ordered to pay a \$20,000 fine. Davis previously pleaded guilty to a Lacey Act violation for trafficking in ivory products made from sperm whales, elephants, and walrus (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

Davis advertised on internet sites such as Etsy, EBay, and Craigslist, offering to purchase and sell various ivory products. He sold ivory to buyers outside the U.S., particularly in Asia. To conceal his international transactions, Davis fraudulently labeled the ivory packages, stating that they contained "oxbone" products. He participated in approximately 74 transactions involving the purchase and sale of whale, elephant and walrus ivory between May 2006 and June 2015.

In May 2015, he sold an undercover agent a collection of sperm whale teeth for \$2,000, and purchased four walrus tusks from the agent in June 2015.

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



Photo of ivory products posted for sale on craigslist

Sentencings

United States v. Charles Ranslow, No. 3:15-CR-05025 (W.D. Mo.), AUSA Abram McGull, II.

On July 12, 2017, wastewater treatment plant operator Charles Ranslow was sentenced to complete a five-year term of probation and ordered to pay a \$2,500 fine. Ranslow previously pleaded guilty to a negligent Clean Water Act violation (33 U.S.C. §§ 1318 and 1319(c)(1)(A)), for falsifying discharge monitoring reports (DMRs).

Between September 2011 and October 2014, Ranslow worked for the Granby wastewater treatment facility. He was responsible for wastewater sampling and for submitting sample results to the Missouri Department of Natural Resources (MDNR). Ranslow submitted a DMR for a sample taken in March 2014 that had falsified levels of ammonia.

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

United States v. Fraticelli Trucking Company, Inc., No. 3:17-CR-00222 (D.P.R.), AUSA Seth Erbe.

On July 12, 2017, Fraticelli Trucking Company, Inc., was sentenced to pay a \$20,000 fine. FTC previously pleaded guilty to violating the Hazardous Materials Transportation Act (49 U.S.C. §§ 5105(d), 5124(a),(c)) for illegally transporting radioactive material.

On four separate occasions, between December 2011 and March 2014, the company hauled a load of Cobalt 60 (a Class 7 radioactive material) between San Juan and Vega Alta, Puerto Rico, via commercial highway without conducting the required pre-trip inspection for such material. Employee Eduardo Fraticelli Alvarado, acting on behalf of the company, completed, signed, and submitted required paperwork certifying knowledge of the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations. Despite this knowledge, pre-trip inspections were not conducted prior to trucking the radioactive material.

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

United States v. Mill Branch Coal LLC, No. 2:17-CR-00013 (W.D. Va.), AUSA Steven R. Ramseyer.

On July 11, 2017, Mill Branch Coal, LLC, was sentenced after pleading guilty to Mine Safety and Health Act violations (30 U.S.C. 820(e)). The company will complete a two-year term of probation, pay a \$10,000 fine, and pay \$15,000 in restitution to the William M. Blankenship and Adam Justice Memorial Scholarship Fund. The company also will pay \$260,538 to resolve additional civil citations, orders, and assessments.

Between January and June 2015, Mill Branch employees at the Dorchester mine in Wise County, Virginia, used an underground texting system to give employees advance notice when federal and local mine inspectors were on site. They also sent texts when

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internal auditors were on the premises.

When evidence of the activity was uncovered in June 2015, both the company and MSHA conducted investigations of the illegal activity by Mill Branch's employees. The company terminated employees and took remedial action to prevent this from occurring in the future.

The William M. Blankenship and Adam Justice Memorial Scholarship Fund was created pursuant to a 2001 plea agreement in an unrelated mine safety case. The Fund disburses educational scholarships to relatives of coal miners.

This case was investigated by the Mine Safety and Health Administration.

***United States v. Bingham Fox et al.*, No. 2:16-CR-00100 (W.D. Wash.), ECS Senior Trial Attorney Todd Gleason, ECS Trial Attorney Stephen DaPonte, and ECS Contract Law Clerk Christopher Kopf.**

On July 11, 2017, Bingham Fox was sentenced to complete a two-year term of probation and will perform 240 hours of community service, after being tried on a two-count indictment in March 2017. He was convicted on a Clean Water Act charge, but acquitted on a conspiracy count (33 U.S.C. §§ 1319(c)(2)(A), 1321(b)(3)).

Bingham Fox was the owner of the commercial fishing vessel *F/V Native Sun* and his son, Randall Fox, was the vessel's captain. Randall Fox pleaded guilty to an APPS and conspiracy charge (18 U.S.C. § 371; 33 U.S.C. § 1908(a)) just prior to trial; however, the court granted his motion to withdraw his guilty plea. Randall is now scheduled for trial to begin on December 4, 2017.

Starting in 2011 and continuing into 2013, Bingham Fox and Randall Fox illegally discharged, and caused other crewmembers to illegally discharge, oil and other pollutants into coastal waters near Blaine, Washington, and into the open ocean where the ship operated.

As the vessel's owner, Bingham Fox was responsible for its dockside maintenance. He ordered crew members to discharge oil and other bilge wastes overboard into the harbor and adjoining shorelines of Blaine. Randall Fox served both as a crewmember and later a captain aboard the *Native Sun* and ordered crewmembers to discharge oil and bilge wastes overboard while the vessel was underway on fishing trips. The vessel had neither a CWA permit to discharge wastes nor an oily water separator.

This case was investigated by the U.S. Coast Guard.

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***United States v. Harry Wertan, Jr., et al.*, Nos. 2:16-CR-00554 - 00556 (D.S.C.), ECS Trial Attorneys Cassie Barnum and Shane Waller, AUSA Rhett Dehart, and ECS Paralegal Ashley Chandler– Patterson.**

On July 10, 2017, Harry Wertan, Jr., Mark Weihe, and Jay James were sentenced after previously pleading guilty to violating the Lacey Act (16 U.S.C. §§ 3372 and 3373). Wertan and Weihe will complete three-year terms of probation, and James will complete a two-year term. All three will perform 100 hours of community service. Wertan also will spend two months in a residential re-entry center. Weihe will spend six months' on home detention and pay \$6,500 in restitution to the South Carolina Department of Natural Resources. The three admitted to trafficking more than \$740,000 worth of juvenile American eels, aka "elvers" or "glass eels," which they had harvested illegally (or knew had been harvested illegally) in South Carolina in February 2013.

The pleas were the result of "Operation Broken Glass," a multi-jurisdiction U.S. Fish and Wildlife Service investigation into the illegal trafficking of American eels. To date, the investigation has resulted in guilty pleas from ten individuals whose combined conduct resulted in the illegal trafficking of more than \$2.6 million worth of elvers. Because of the threat of overfishing, glass eel harvesting is prohibited in the United States in all but three states: Maine, South Carolina, and Florida. Maine and South Carolina heavily regulate elver fisheries, requiring that individuals be licensed and report all quantities of harvested eels to state authorities. Although Florida does not have specific elver-related regulations, the limited population of juvenile eels in Florida waters makes commercial eel fishing impossible.

***United States v. Lane T. Thibodeaux*, No. 6:17-CR-00144 (W.D. La.), AUSA T. Forrest Phillips.**

On July 7, 2017, Lane T. Thibodeaux was sentenced to 45 days' incarceration and a \$2,500 fine for shooting a whooping crane and ducks.

On November 2, 2014, Thibodeaux shot at a group of birds near a crawfish pond, crippling a whooping crane. He also admitted to shooting and killing multiple ducks from the driver's seat of a moving vehicle on a public road during the closed season in February 2015. Thibodeaux did not retrieve the ducks carcasses from the field, and he did not possess a hunting license. Thibodeaux pleaded guilty to five violations of the Migratory Bird Treaty Act (16 U.S.C. § 703).

This case was investigated by the U.S. Fish and Wildlife Service and the Louisiana Department of Wildlife and Fisheries.

Sentencings

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United States v. Christopher Gattarello et al., No. 14-CR-00353 (N.D. Ohio), AUSAs Brad Beeson and Chelsea Rice.

On July 7, 2017, Christopher Gattarello and Robert Shaw were sentenced to prison for their involvement in a sizeable illegal demolition project. Gattarello, the owner of several garbage-hauling companies, was sentenced to 57 months' incarceration, followed by three years' supervised release. He also was held jointly and severally responsible for \$7,855,755 in restitution to be divided as follows: \$5,878,690 to the City of Cleveland and \$794,732 to the U.S. EPA for clean-up costs; and \$1,182,333 to AIM Business Capital (ABC). Shaw was sentenced to 12 months and one day of incarceration, followed by three years' supervised release. He was held jointly responsible for the restitution to be paid to ABC.

In June 2011, on behalf of All Points Rubbish Disposal, Gattarello leased a 570,000 square-foot facility, representing to the lessor that paper and cardboard waste would be recycled at the facility. When Gattarello was told it cost \$1.5 million to remove 24,000 linear feet of asbestos-containing pipe insulation from the facility, he decided to leave it in the building.

In August 2011, Gattarello had paper and cardboard waste, as well as municipal garbage, delivered to the facility for recycling. Over the next several months, more garbage, paper, and cardboard were delivered than could be handled, and waste began to

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accumulate outside the facility. By April 2012, most of the building was filled with garbage.

In May 2012, on behalf of Reach Out Disposal, Gattarello entered into a contract to purchase the building, for the purpose of demolishing the facility and selling the scrap metal. In July 2012, co-defendant William Jackson, Jr., submitted a notice of demolition with the Cleveland Division of Air Quality, stating that there was no asbestos in this facility. About ten days later, the CDAQ rejected Jackson's notice because it was incomplete and stated demolition "may not begin" until a proper notice was submitted and approved. Gattarello ordered Jackson to begin the project anyway, causing asbestos fibers to be released into the environment. By the time the demolition was halted in August 2012, approximately 40 percent of the warehouse portion of the facility had been leveled.

Shaw was the chief financial officer for several of Gattarello's garbage hauling companies. The two of them defrauded ABC (a company in the business of purchasing accounts receivable) of approximately \$1.2 million in 2012.

Gattarello pleaded guilty to Clean Air Act, money laundering, wire fraud, and conspiracy to commit wire fraud violations (18 U.S.C. §§ 1349, 1957; 42 U.S.C. § 7413(c)(1)). Shaw pleaded guilty to conspiracy to commit wire fraud (18 U.S.C. § 1343). Jackson pleaded guilty to two counts of violating the CAA (42 U.S.C. § 7413(c)(1)). Jackson is scheduled to be sentenced on September 20, 2017.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, the Federal Bureau of Investigation, and the Internal Revenue Service.

United States v. ISF Trading Company, No. 1:16-CR-00112 (D. Maine), AUSA Halsey B. Frank.

On June 28, 2017, ISF Trading Company (ISF) was sentenced to pay a \$552,000 fine and complete a one-year term of probation. The company previously pleaded guilty to seven violations of the Lacey Act (16 U.S.C. §§ 3372(a)(2), 3372(a)(4), 3373(d)(l)).

ISF is a company engaged in the business of buying seafood, including live sea urchins, from Maine and Canadian suppliers, processing that seafood, and selling it to domestic and foreign (primarily Asian) markets. ISF bought Canadian sea urchins from a Canadian supplier, TKG Fisheries of Grand Manan (TKG), which was not authorized under Canadian law to export them to the United States. ISF brought them across the Calais Port of Entry under the false label of another Canadian supplier, Matthews Seafood (Matthews) of New Brunswick, Canada. On seven occasions between December 31, 2010 and February 1, 2011, ISF illegally imported approximately 48,000 pounds of sea urchins, with the processed roe worth at least \$172,800, from TKG under the Matthews label. The scheme was discovered in February 2011, when ISF attempted to import 8,000 pounds of sea urchins, using an invoice in Matthews' name. A customs officer became suspicious when he noticed that the totes containing the sea urchins did not have the correct labels.

This case was investigated by U.S. Immigration and Customs Enforcement's Homeland Security Investigations and the National Oceanic and Atmospheric Administration.

Announcements

As a reminder, ECS now tracks **worker safety and animal welfare crimes**, in addition to our pollution and wildlife docket [see [Section 5-11.101](#) of the U.S. Attorneys' Manual.] Please send us pleadings and other relevant information about your worker safety and animal welfare cases so that we can maintain a database for these cases and provide an accurate and complete description of case issues and strategies, developments in case law, and useful pleading examples.

Please send [REDACTED] any pleadings you believe would be useful for posting in the [Brief Bank](#). Older materials are still available on the [Document Bank Archives](#) page.

If you are in need of sentencing data for your wildlife or pollution cases, please contact [REDACTED] with your search requests.

A public version of the [ECS Bulletin](#) is available for non-law enforcement readers.

Please notify ECS of any appeals taken in your cases, as per [Section 5-11.118](#) of the U.S. Attorneys' Manual.

Position	Name	Phone
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Deputy Chief	Joseph Poux	████████
Assistant Chief	Thomas Ballantine	████████
Assistant Chief	Wayne Hettenbach	████████
Assistant Chief	Lana Pettus	████████
Assistant Chief	Jennifer Whitfield	████████
Senior Litigation Counsel	Howard P. Stewart	████████
Senior Litigation Counsel	Richard Udell	████████
Senior Counsel for Wildlife	Elinor Colbourn	████████
Senior Counsel	Kris Dighe	████████
Senior Trial Attorney	Jennifer Blackwell	████████
Senior Trial Attorney	Georgiann Cerese	████████
Senior Trial Attorney	Daniel Dooher	████████
Senior Trial Attorney	Todd Gleason	████████
Senior Trial Attorney	David Kehoe	████████
Senior Trial Attorney	Jeremy Korzenik	████████
Senior Trial Attorney	Ken Nelson	████████
Trial Attorney	Cassandra Barnum	████████
Trial Attorney	Mary Dee Carraway	████████
Trial Attorney	John Cashman (USCG)	████████
Trial Attorney	Ryan Connors	████████
Trial Attorney	Adam Cullman	████████
Trial Attorney	Stephen DaPonte	████████
Trial Attorney	Gary Donner	████████
Trial Attorney	Patrick Duggan	████████
Trial Attorney	Ethan Eddy	████████
Trial Attorney	Stephen Foster	████████
Trial Attorney	Thomas Franzinger	████████
Trial Attorney	Christopher Hale	████████
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Trial Attorney	Samuel (Charlie) Lord	████████
Trial Attorney	Shennie Patel	████████
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Trial Attorney	Richard Powers	████████
Trial Attorney	Mark Romley	████████
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