
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

July 2013

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 ECS 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](#).



Queen Angelfish being tagged and measured. See [*United States versus Aquatic Trading Company*](#), below, for more details on this case involving the illegal harvest of angelfish and baby sharks.

AT A GLANCE:

DISTRICT	CASES	CASE TYPE/ STATUTES
Southern District of Florida	United States versus Dean Trinh et al.	<i>Illegal Fish Sales/Lacey Act, Conspiracy</i>
	United States versus Aquatic Trading Company et al.	<i>Illegal Fish Sales/Conspiracy, Lacey Act</i>
Eastern District of Louisiana	United States versus TIN d/b/a Temple Inland	<i>Paper Mill/CWA, National Wildlife Refuge Act</i>
Middle District of Louisiana	United States versus RAM Environmental Services, Inc. et al.	<i>Wastewater Broker/Conspiracy, SDWA, False Statement</i>
Western District of Michigan	United States versus Anthony M. Davis	<i>Asbestos Removal/CAA</i>
District of Minnesota	United States versus Brent R. Feickert	<i>Metal Plating Facility/False Statement</i>
Western District of Missouri	United States versus Bruce R. Morris	<i>Waste Treatment Services/CWA</i>
District of Montana	United States versus Steven Patrick Garcia, Jr.	<i>Feather Sales/MBTA, Lacey Act</i>
Northern District of New York	United States versus Edward Palmer	<i>Asbestos Removal/CAA</i>
	United States versus Dominick Mazza et al.	<i>Wetlands/CWA, CERCLA, Mail Fraud, Obstruction, Conspiracy</i>
Southern District of New York	United States versus Qiang Wang	<i>Antiques Dealer/Smuggling, Conspiracy</i>
	United States versus Arnold Bengis et al.	<i>Seafood Smuggling/Lacey Act, Conspiracy</i>
Western District of New York	United States versus Maracle Industrial Finishing et al.	<i>Chemical Manufacturer/CWA</i>
Northern District of Ohio	United States versus John Mayer et al.	<i>Asbestos Removal/CAA</i>
	United States versus Kennedy Mint, Inc., et al.	<i>Metal Plating Facility/CWA, Obstruction</i>

DISTRICT	CASES	CASE TYPE/STATUTES
Eastern District of Pennsylvania	United States versus Clarence Cole et al.	<i>Asbestos Removal/CAA, Conspiracy</i>
District of South Carolina	United States versus Werner Transportation Services, Inc.	<i>Ammonia Leak/CAA</i>
Eastern District of Texas	United States versus William Lamar United States versus Stephen Anderson Sipes, Jr.	<i>Snake Exports/Lacey Act</i> <i>Deer Transport/Lacey Act</i>
Northern District of Texas	United States versus Califco et al.	<i>Asbestos Removal/CAA</i>
Eastern District of Virginia	United States versus Omega Protein, Inc. United States versus William W. "Duby" Lowery	<i>Fish Oil Producer/CWA</i> <i>Striped Bass Fishing/Lacey Act</i>

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Informations/Indictments

United States versus RAM Environmental Services, Inc. et al., Nos. 3:13-CR-00061, 00078, 00079 (M.D. La.), AUSA Corey R. Amundson.



FAS Injection well on Belle River

On June 17, 2013, RAM Environmental Services, Inc., a wastewater brokerage business, and company owners Raymond Marcel, Jr., and Cyril D. Robicheaux, were charged with conspiracy to defraud the EPA and to violate the Safe Drinking Water Act (18 U.S.C. § 371). They also were each charged with an additional substantive SDWA violation (42 U.S.C. § 300h).

The information alleges that, between 2011 and 2012, the defendants conspired to illegally discharge industrial wastewater at locations in Belle River, Louisiana, and Baton Rouge, Louisiana, and to obstruct justice through kickbacks, the creation and use of false documents, and other fraudulent means.

Specifically, in September 2012, the defendants and others are charged with causing the illegal disposal of industrial wastewater at a site in Baton Rouge, Louisiana, concealing their actions through the creation and use of false documents, and by lying to investigators.

During 2011 and 2012, the defendants are further alleged to have paid more than \$22,000 in kickbacks to Michael J. Vaughn, the operations manager for FAS Environmental Services, a transportation and disposal company, in exchange for illegally using FAS's injection well in Belle River to dispose of over 380,000 gallons of industrial wastewater. As part of this scheme, the defendants allegedly created and used numerous false documents, including manifests and work orders, in addition to submitting false reports to regulators in Baton Rouge.

Vaughn previously pleaded guilty to conspiracy and to false statement violations (18 U.S.C. §§ 371, 1001). FAS was unaware of the scheme and cooperated fully throughout the investigation.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Louisiana Department of Environmental Quality.

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United States versus Qiang Wang a/k/a Jeffery Wang, No. 1:13-CR-00452 (S.D.N.Y.), ECS Senior Counsel Richard Udell and AUSA Janis Echenberg.

On June 14, 2013, a two-count indictment was filed charging Qiang Wang a/k/a Jeffrey Wang, with conspiracy and smuggling charges (18 U.S.C. §§ 371, 554).

Wang operated an antiques business known as Bao Qing Lou Gallery in Flushing, New York. From approximately March 2011 through February 2013, Wang is alleged to have worked with co-conspirators to smuggle objects containing rhinoceros horn and elephant ivory out of the United States and into Hong Kong and China.

This case was investigated by the United States Fish and Wildlife Service Office of Law Enforcement, with assistance from the Department of Homeland Security.

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United States versus Dean Trinh et al., No. 12-CR-10016 (S.D. Fla.), AUSA Tom Watts-FitzGerald.



Nurse shark pup

On June 11, 2013, Dean Trinh and Allan Wagner were charged with conspiracy and Lacey Act violations (18 U.S.C. § 371; 16 U.S.C. §§ 3372, 3373) stemming from the illegal harvest and sale of juvenile nurse sharks. Allan Wagner passed away prior to the unsealing of the indictment.

According to the indictment, Wagner held a Florida Saltwater Products License but lacked the necessary federal annual vessel permit for sharks. Trinh operated a business in California known as Aquatop USA, LLC, which, among other things, advertised the sale of nurse sharks on eBay and Craig's List. The indictment alleges that Wagner harvested nurse shark pups from lobster traps he placed in Florida waters, negotiated the sale to Trinh, and then shipped them to California. Between August 2009 and October 2009, the defendants are alleged to have sold and shipped approximately 74 sharks.

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

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United States versus John Mayer et al., No. 3:13-CR-00242 (N.D. Ohio), AUSA Thomas A. Karol and SAUSA James J. Cha.



Abandoned asbestos-containing material

On May 2, 2013, John Mayer and Timothy Bayes were charged with violations of the Clean Air Act (42 U.S.C. § 7413(c)(1)) for the illegal removal of asbestos-containing material.

Between September 2010 and December 2010, Mayer is alleged to have directed individuals to remove insulation-containing asbestos from boilers, duct work, and pipes in a former manufacturing facility to sell the scrap metal. The insulation was not wetted at any time during the removal process nor were regulators properly notified of the project.

Under Mayer's direction, Bayes is alleged to have dumped approximately 82 garbage bags filled with the asbestos-containing insulation at various locations throughout Toledo.

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

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Plea Agreements

United States versus William Lamar, No. 6:13-CR-00042 (E.D. Tex.), AUSA Jim Noble.



Packages used to conceal baby

On June 18, 2013, William Lamar, an eco-tourism guide, pleaded guilty to a Lacey Act violation (16 U.S.C. §§

3372(a)(2)(A), 3373(d)(1)(A)) for illegally exporting seven live baby snakes (five pit vipers and two non-venomous species) out of Peru and into the United States.

In August 2012, TSA officials in Dallas stopped Lamar from boarding a commuter plane to Tyler, Texas, when the snakes were found in small boxes in his jacket. He had purchased them at a market in Lima, Peru, flown into Miami, Florida, and taken another flight to Dallas. After he was barred from entering the commuter plane, Lamar took a ground shuttle to his home where game wardens met him and seized the snakes.

This case was investigated by the United States Fish and Wildlife Service, the Texas Parks and Wildlife Service, the Transportation Security Administration, and the Dallas Fort Worth International Airport Department of Public Safety.

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United States versus Brent R. Feickert, No. 13-CR-00120 (D. Minn.), AUSA David M. Genrich.

On June 13, 2013, Brent R. Feickert pleaded guilty to falsifying information he submitted in quarterly discharge monitoring reports (18 U.S.C. § 1001).

Feickert was employed at Anodize, Inc., a metal-plating facility, and was responsible for receiving and reviewing wastewater test results and for submitting the required reports. On five occasions between 2009 and 2011, the defendant admitted that he submitted reports to regulators that falsely represented the levels of nickel and/or zinc in the process wastewater.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Minnesota Pollution Control Agency.

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United States versus Stephen Anderson Sipes, Jr., No. 6:13-CR00043 (E.D. Tex.), AUSA Jim Noble.

On June 10, 2013, Stephen Anderson Sipes, Jr., pleaded guilty to a Lacey Act misdemeanor violation (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)) for transporting deer.

In January 2010, Sipes transported 14 illegally transported whitetail deer from Carthage, Missouri, to his ranch in Texas. The fair market value of the illegal whitetail deer was approximately \$5,650.

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

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United States versus Califco et al., No. 3:13-CR-00131 (N.D. Tex.), AUSA Errin Martin.

On June 7, 2013, a property management company and a manager pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(2)(B)) stemming from an illegal asbestos removal project.

Califco is a property management company that owns and operates several commercial properties in the Dallas area. Jonathan Shokrian is a regional director. In October 2008, Califco, Shokrian and another individual contracted with an asbestos abatement contractor to properly remove asbestos from an old movie theater. Approximately one month later, however, Shokrian initiated a renovation of an abandoned department store, employing two day laborers to remove ceiling and floor tiles that he knew contained asbestos. The laborers were not told about the asbestos nor were they given adequate protective equipment to do the job.

In February 2009, the day laborers, under Shokrian's supervision, began using large amounts of gasoline to remove the tile mastic. After responding to a call regarding the overwhelming smell of gasoline in the shopping center, the local fire department ordered the evacuation of the shopping center and several nearby residences.

Sentencing is scheduled for September 27, 2013. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Texas Department of State Health Services.

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United States versus Edward Palmer, No. 5:13-CR-00212(N.D.N.Y.), AUSA Craig Benedict.

On June 6, 2013, Edward Palmer pleaded guilty to a Clean Air Act violation (42 U.S.C. §§ 7412, 7413 (c)(1)) for the illegal removal of asbestos.

Palmer is the owner of Carbonsted, LLC, a company that owns a former Nestlé's plant. Palmer directed individuals to remove pipes with asbestos insulation without wetting it or properly disposing of the asbestos at a state-approved landfill.

Sentencing is scheduled for October 30, 2013. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the New York State Department of Environmental Conservation, with assistance from the NYS Department of Labor.

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United States versus Maracle Industrial Finishing et al., No. 6:12-CR-06171 (W.D.N.Y.) AUSA Craig Gestring.



Process wastewater overflowing the holding tanks and draining to sewer

On June 5, 2013, Maracle Industrial Finishing (MIF), and general manager John Maltese pleaded guilty to a Clean Water Act violation (33 U.S.C. § 1319(c)(2)(A)) for discharging untreated process wastewater directly to the sewer, in violation of a pretreatment standard.

MIF produces phosphorus and chromium products used in the metal and powder production industry. A variety of chemicals are used in the production process, with tanks used to store material for later disposal. Investigation determined that between December 2011 and March 2012, the defendants discharged untreated process wastewater directly into the sewer that connected to the local POTW, in violation of a zero discharge permit. Wastewater samples tested after being taken from a manhole nearest the facility showed an explosive hazard due to a low flashpoint.

Sentencing is scheduled for September 10 and 11, 2013. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the New York State Department of Environmental Conservation Police, and the Village of Webster Department of Public Works.

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United States versus Kennedy Mint, Inc. et al., No. 1:12-CR-00480 (N.D. Ohio), SAUSA Brad Beeson.



Fish killed by cyanide discharge

On May 23, 2013, Kennedy Mint, Inc., and the company owner's wife, Teresina Montorsi, pleaded guilty to charges stemming from the dumping of a drum of liquid cyanide into a storm drain that flowed into the Rocky River, resulting in the death of more than 30,000 fish. The company pleaded guilty to violating the Clean Water Act (33 U.S.C. § 1319(c)(2)(A)) and Montorsi pleaded guilty to obstruction of justice (18 U.S.C. § 1519). Charges against company owner Renato Montorsi were dismissed after he was found incompetent to stand trial.

Kennedy Mint previously operated a metal plating and printing facility. On April 16, 2012, Renato Montorsi and an employee put two drums into a dumpster, but the waste hauling company refused to take them. Two days later, Montorsi moved the drums next to a storm drain, punched a hole in one of them and allowed the liquid cyanide to discharge. On April 22nd regulators were notified of a massive fish kill in the East Branch of the Rocky River. Nearly every fish was dead downstream for approximately three miles. Investigators subsequently determined that the Montorsis had moved the two drums to their residence in an effort to obstruct the investigation.

Sentencing is scheduled for August 29, 2013. This case was investigated by members of the Northeast Ohio Environmental Crimes Task Force, including the United States Environmental Protection Agency Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, the Northeast Ohio Regional Sewer District, the Ohio Environmental Protection Agency Office of Special Investigations, the Ohio Department of Natural Resources Division of Wildlife, and the Cleveland Metroparks Rangers.

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Sentencings

United States versus Anthony M. Davis (aka Mike Davis, Jr.), No. 1:12-CR-00235 (W.D. Mich.), AUSA Christopher M. O'Conner.

On June 20, 2013, Anthony M. Davis (aka Mike Davis, Jr.) was sentenced to serve 12 months' incarceration followed by two years' supervised release. He also will pay \$168,023 in restitution to the U.S. Environmental Protection Agency for clean-up costs. Davis previously pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413 (c)(1)) stemming from the illegal removal of asbestos from a paper mill.

Davis was the owner of Cogswell Property LLC, which purchased the closed paper mill in 2006. Despite knowing that there was a substantial amount of asbestos-containing insulation, Davis hired inexperienced laborers to assist him in removing the insulation without following many of the work practice standards for the proper handling of asbestos.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, with assistance from the Michigan Department of Environmental Quality.

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United States versus Dominick Mazza et al., No. 5:11-CR-00264 (N.D.N.Y.), ECS Trial Attorneys Todd Gleason and Gary Donner, AUSA Craig Benedict, Paralegal Puja Moozhikkattu, and OLS Lab Tech Elga Ozols.



Demolition debris at Mazza facility prior to processing/ illegal dumping in wetlands

On June 18 and 19, 2013, Cross Nicastro, Dominick Mazza, and Mazza & Sons, Inc., were sentenced. Nicastro will serve 33 months' incarceration followed by three years' supervised release. He was ordered to pay a \$25,000 fine. Dominick Mazza will serve 51 months' incarceration followed by three years' supervised release and will pay a \$75,000 fine. Mazza & Sons will complete a five-year term of probation and pay a \$100,000 fine. They were also held jointly and severally responsible for \$492,494 in restitution. The company was further ordered to implement an environmental compliance plan.

In October 2012, a jury convicted the owner of a New Jersey solid waste management company and two of his associates of charges stemming from the transportation and dumping of thousands of tons of asbestos-contaminated debris into a wetlands at an upstate New York farm.

Nicastro, owner of the property in Frankfort, New York, along with Mazza & Sons Inc., and its owner, Dominick Mazza, were found guilty of conspiracy to defraud the United States, as well as 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)). Dominick Mazza also was convicted of making false statements to EPA agents (18 U.S.C. § 1001).

From 2006 through 2011, the defendants illegally dumped thousands of tons of asbestos-contaminated pulverized construction and demolition debris that was processed at Eagle Recycling's and Mazza & Sons Inc.'s, New Jersey-based solid waste management facilities. This debris then was transported to and dumped at Nicastro's farm in Frankfort, much of which contained federally-regulated wetlands.

The restitution will be divided between the EPA for cleanup costs and several third-party solid waste management facilities that were fraudulently solicited to dump at the Frankfort Site.

Co-defendant Donald Torriero pleaded guilty to conspiracy and wire fraud violations, and is scheduled to be sentenced on July 16, 2013. Julius Desimone and Jonathan Deck are scheduled for sentencing on July 18 and August 16, 2013. Deck previously pleaded guilty to conspiracy to commit wire fraud and Desimone pleaded guilty to a multi-prong conspiracy and to two false statement violations.

This case was investigated by the New York State Environmental Conservation Police, Bureau of Environmental Crimes; the United States Environmental Protection Agency Criminal Investigation Division; the Internal Revenue Service; the New Jersey State Police, Office of Business Integrity Unit; the New Jersey Department of Environmental Protection; and the Ohio Department of Environmental Protection.

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United States versus Werner Transportation Services, Inc., No. 3:13-CR-00097 (D.S.C.), AUSA T. DeWayne Pearson.

On June 19, 2013, Werner Transportation Services, Inc., (Werner) was sentenced to pay a \$100,000 fine after pleading guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)) stemming from an ammonia leak that killed a woman in 2009.

On July 15, 2009, improper equipment was used during the transfer of 7,000 pounds of ammonia gas to a Werner truck at a Tanner Industries distribution facility. At some point, a hose ruptured, causing approximately 1,800 gallons to spill. The resultant toxic cloud engulfed a car driven by the victim who was on her way to work, and subsequently perished. At least seven other people also were hospitalized.

State health officials fined Tanner \$91,000 in 2010 for the failure of a series of emergency preparedness procedures employed during the spill. Tanner also was fined \$23,625 by the state Labor Department for workplace safety violations.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the National Transportation Safety Board.

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United States versus Arnold Bengis et al., No. 1:03-CR-00308 (S.D.N.Y.), AUSA Daniel Levy.

On June 14, 2013, the government obtained a restitution order against Arnold Bengis, David Bengis, and Jeffrey Noll in the amount of nearly \$29.5 million to be paid to the Republic of 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.

In January 2011, the Second Circuit overturned the district court's 2007 ruling holding 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 May 2004, 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 serve 46 months' incarceration, Noll was sentenced to serve 30 months' incarceration, and David Bengis was sentenced to serve 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.

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.

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United States versus Aquatic Trading Company et al., No. 4:12-CR-10017 (S.D. Fla.), AUSA Tom Watts- FitzGerald.



Tagging of Nurse Shark pup during undercover operation

On June 13, 2013, Aquatic Trading Company (ATC) was sentenced to pay a \$3,000 fine and will complete a three-year term of probation. The company also was ordered to surrender all of its licenses, permits, and endorsements. The owners, Walter R. Bloecker and Lila M. Bloecker, already have been sentenced to complete one-year terms of probation that include 90 days' home detention. Fines were not assessed. All three pleaded guilty to conspiracy to violate the Lacey Act (18 U.S.C. § 371).

The defendants were involved in the illegal harvest of juvenile nurse sharks and a variety of oversized angelfish from approximately June through October 2012. The harvesting was arranged through calls between ATC's employees and an individual in the Florida Keys. Walter Bloecker advised the harvester that he could conceal the illegal source of the sharks by using false paperwork to make it appear that the sharks had been imported from Nicaragua. Neither ATC nor the harvester held the required permits for harvesting nurse shark pups for commercial purposes. The illegally acquired sharks were taken from Florida State waters and shipped to the Michigan-based buyer.

Lila and Walter Bloecker and the Michigan dealer arranged the sale of angelfish that were advertised on a weekly inventory sales guide that was mailed to potential customers. The angelfish, also harvested in the Florida Keys, were sold and shipped to Michigan.

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

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United States versus Clarence Cole et al., No. 2:11-CR-00132 (E. D. Pa.), AUSAs Thomas Moshang and Elizabeth Abrahms.

On June 3, 2013, Clarence Cole was sentenced to serve 24 months' incarceration followed by three years' supervised release. Restitution will be ordered at a later date. Cole previously pleaded guilty to conspiracy and to six Clean Air Act violations (18 U.S.C. § 371; 42 U.S.C. § 7413 (c)(1)) for his role in an illegal asbestos abatement project. Co-defendant Gene Smith was convicted by a jury of the same violations and is not yet scheduled for sentencing.

In September 2007, Smith purchased a large warehouse, which held a boiler and asbestos-insulated pipes running throughout the building. After being told the cost of properly removing the asbestos-containing material, Smith hired Cole instead, who in turn hired a group of day laborers to rip out the material. The workers were not told they were removing asbestos and were only given paper masks for their protection. The dry asbestos was left for regular trash pickup on a curb in front of a group of rowhouses. The defendants continued to direct workers during the abatement even after authorities told them to cease.

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

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United States versus Steven Patrick Garcia, Jr., No. 12-CR-00039 (D. Mont.), ECS Senior Trial Attorney Georgiann Cerese and AUSA Mark Smith.

On June 6, 2013, Steven Patrick Garcia, Jr., was sentenced to serve 24 months' incarceration followed by three years' supervised release. A fine was not assessed. Garcia previously pleaded guilty to Lacey Act and the Migratory Bird Treaty Act violations (16 U.S.C. §§ 707(a), 707(b)(2), 3372 (a)(1), 3373 (d)(1)(B)).for offering for sale golden eagle and hawk feathers in December 2008 and to selling golden eagle feathers in February 2009.

In December 2008, investigators determined that Garcia, using MySpace, sold hawk feathers to an individual in California for \$200 and a golden eagle feather for \$25. The 12 tail feathers were later forensically identified as belonging to a red-tailed hawk. Garcia also communicated via MySpace with an undercover agent who observed approximately 70 photographs of migratory bird feathers on Garcia's MySpace page. The agent purchased 12 red-tailed hawk and 12 rough-legged hawk tail feathers from the defendant in February 2009 as well as one complete set of subadult golden eagle

wings for \$400. Approximately 146 items containing feathers representing 18 different species of migratory birds were removed from his home.

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

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United States versus Omega Protein, Inc., No. 2:13-CR-00043 (E.D. Va.), AUSAs Joseph Kosky and Olivia Norman, and SAUSA David Lastra.

On June 4, 2013, Omega Protein, Inc. was sentenced for two felony violations of the Clean Water Act (33 U.S.C. §§ 1311(a), 1319(c)(2)(A), 1321 (b)(3)) stemming from its activities in the menhaden fishing industry. The company will pay a \$5.5 million fine, pay \$2 million in community service to the National Fish and Wildlife Fund, complete a three-year term of probation, and implement an Environmental Management System plan at all of its facilities.

Omega Protein (Omega) is one of the world's leading producers of fish oil and the United States' leading manufacturer of fish meal. Omega's products derive from menhaden, a small, oily, Omega-3 rich fish that live off the east coast of the United States. From May 2008 through September 2010, Omega violated the Clean Water Act through the operation of its fish processing facility in Reedsville, Virginia, and through the operation of its fishing fleet.

The company's processing facility generated a fish waste known as "Bail" water. This mixture of water and fish waste was permitted to be discharged at a point beyond three nautical miles from the shore, provided it was not mixed with any other chemicals or wastes. In violation of its permit, Omega added pollutants generated by the processing operations to the Bail water. It was then discharged into the Chesapeake Bay less than three nautical miles from the shore.

From April 2009 through September 2010, the company's fishing fleet illegally discharged oily bilge wastes directly overboard. Investigation determined that this was a common practice among the Omega vessels.

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

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United States versus Bruce R. Morris, No. 6:13-CR-03002 (W.D. Mo.), AUSA Steven M. Mohlhenrich.

On June 4, 2013, Bruce R. Morris was sentenced to serve a three-year term of probation with a special condition of three-months' home detention. A fine was not assessed.

Morris previously pleaded guilty to a Clean Water Act false statement violation (33 U.S.C. § 1319(c)(4)) for submitting false water samples for testing from a wastewater treatment facility that discharged untreated sewage into a local lake for the better part of a year.

The defendant was employed by Light Environmental, Inc., an environmental and waste treatment services provider. Light Environmental was hired by Landmarc Estates to operate its wastewater treatment facility and to conduct sampling. Morris was responsible for operating the facility serving Landmarc from March 2008 to January 2009. During this period, wastewater was not properly treated and untreated sewage flowed directly into a roadside ditch that emptied into Table Rock Lake.

Knowing that there were problems at the facility, Morris used test samples from a different wastewater treatment plant certifying on the monthly reports that they came from the Landmarc facility.

This case was investigated by the Missouri Department of Natural Resources and the United States Environmental Protection Agency Criminal Investigation Division.

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United States versus William W. “Duby” Lowery, IV et al., No. 2:12-CR-00164 (E.D. Va.), ECS Trial Attorney Jim Nelson.

On May 30, 2013, William W. “Duby” Lowery, IV, the captain of the *Anna Lynn*, was sentenced to serve 30 days’ incarceration, followed by one year of supervised release. Lowery also was ordered to pay a \$5,000 fine, \$1,300 in restitution to NOAA, and must surrender his captain’s license for life.

The defendant previously pleaded guilty to a Lacey Act trafficking violation (16 U.S.C. §§ 3372(a)(1), 3373 (d)(1)(B)), admitting that he took a charter fishing trip into the Exclusive Economic Zone (EEZ) to fish for Striped Bass in January 2010, knowing that it was illegal to do so. When Lowery’s boat was approached by law enforcement, he attempted to flee. When the boat was finally boarded, the officers observed a plastic trash barrel with 13 Striped Bass floating in the water near the *Anna Lynn*. The barrel had been thrown overboard during the pursuit, in an attempt to get rid of the illegally harvested fish.

The defendant is one of five charter fishing boat captains who were prosecuted for Lacey Act and other violations stemming from the sale of illegally harvested Striped Bass between 2009 and 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.

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United States versus TIN d/b/a Temple Inland, No. 2:12-CR-00323 (E.D. La.), AUSAs Dorothy Taylor and Spiro Latsis.**Dead Gulf Sturgeon**

On May 29, 2013, TIN d/b/a Temple Inland, was sentenced to pay a total of \$3.3 million in fines, restitution, and community service after causing a fish kill in the Pearl River in August 2011. TIN will pay a \$1.5 million fine and \$1.2 million in restitution to be paid as follows: \$900,000 to the Trust for Public Land, \$200,000 to the United States Fish and Wildlife Service, and \$100,000 to the Nature Conservancy. An additional \$600,000 in community service payments will be made to the following entities: \$500,000 to the Louisiana Department of Environmental Quality, \$50,000 to the Louisiana State Police, and \$50,000 to the Southern Environmental Enforcement Network. The company also will complete a two-year term of probation.

TIN previously pleaded guilty to a two-count information for charges stemming from a fish kill that occurred in the Pearl River in August 2011. TIN, the former owner of a paper mill, was charged with a Clean Water Act negligence violation (33 U.S.C. §1319 (c)(1)(A)) after a liquid produced

during pulp processing was discharged over a period of five days causing the fish kill. At the time of the spill, the biological oxygen demand limit for the wastewater was 116,000 pounds a day, exceeding the plant's permitted BOD limit of 35,610 pounds a day.

Approximately 1,000 of the fish and mussels killed were located in the 36,000-acre Bogue Chitto National Wildlife Refuge, which was a violation of the National Wildlife Refuge Act (16 U.S.C. § 668dd(c)).

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

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