
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

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*Road leading to campsite where 200 pounds of copper wire were illegally burned. See *U.S. v. Hurlbut*, [inside](#), for more details.*

AT A GLANCE:

- [United States v. Roger Charles Day, Jr.](#), ___ F.3d ___ 2012 WL 5954690 (4th Cir. Nov. 29, 2012).

DISTRICT	CASES	CASE TYPE/STATUTES
D. Alaska	<u>United States v. Nimmrich und Prahm Bereederung GmbH & Co. KG et al.</u>	<i>Vessel/ APPS, Obstruction</i>
S.D. Fla.	<u>United States v. Jason Cardinale</u> <u>United States v. James Cheung et al.</u> <u>United States v. Manuel Ravelo, Jr., et al.</u> <u>United States v. Culinary Specialties, Inc., et al.</u>	<i>Charter Fishing/ False Statement</i> <i>Turtle Farm/ Lacey Act</i> <i>Spiny Lobster/ Lacey Act, Conspiracy</i> <i>Shrimp Mislabeling/ Lacey Act; Food, Drug, and Cosmetics Act; Conspiracy,</i>
D. Idaho	<u>United States v. William Allen Hurlbut, Jr.</u>	<i>Wire Burning/ Depredation of Government Property</i>
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E.D. Mich.	<u>United States v. William R. Colston</u>	<i>Wild Bird Habitat Destruction/ National Wildlife Refuge Act</i>
W.D. Mich.	<u>United States v. Anthony M. Davis</u> <u>United States v. Timothy Clinton-Paul Oleniczak</u>	<i>Asbestos Abatement/ CAA</i> <i>Sale of Eagle Feathers/ BGEPA</i>
D. Minn.	<u>United States v. Vernon L. Hoff et al.</u>	<i>Wolf Killing/ ESA, False Statement</i>
S.D. Miss.	<u>United States v. Tennie White</u> <u>United States v. William R. Miller</u>	<i>Lab Fraud/ Obstruction, False Statement</i> <i>Wetlands Destruction/ CWA</i>
D. Mont.	<u>United States v. CHS, Inc.</u> <u>United States v. Matthew Black Eagle</u>	<i>Agricultural Chemicals/ CERCLA</i> <i>Electroplating Waste/ RCRA</i>
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S.D. Ohio	<u>United States v. Cardington Yutaka Technologies, Inc., et al.</u>	<i>Auto Parts Manufacturer/ CWA, False Statement</i>
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Significant Non-Environmental Decisions

United States v. Roger Charles Day, Jr., ___ F.3d ___ 2012 WL 5954690 (4th Cir. Nov. 29, 2012).

In a unanimous opinion, the Fourth Circuit held that Southern Union does not abrogate earlier circuit precedent holding that the Apprendi rule does not apply to restitution or forfeiture. The court “note[d] that Southern Union does not discuss restitution, let alone hold that Apprendi should apply to it.” Slip op. 30. Instead, the court reasoned, Southern Union “reinforces the essential requirement that a statute must prescribe a maximum punishment in order to implicate Apprendi concerns.” Id. at 31. Because the restitution and forfeiture statutes are indeterminate and do not prescribe such a maximum, the court concluded that “the rule of Apprendi is simply not implicated to begin with” by a trial court’s award of restitution or order of forfeiture. Id. at 30-31.

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Trials

United States v. United Water Environmental Services, Inc., et al., No. 2:10-CR-00217 (N.D. Ind.), ECS Assistant Chief Kris Dighe, ECS Trial Attorney Leslie Lehnert, AUSA Toi Houston, RCEC Dave Mucha, and ECS Paralegal Courtney Smith.

On November 9, 2012, a jury acquitted all defendants on all counts in the trial against United Water Environmental Services, Inc., and two of its employees. The defendants had been charged in a 26-count indictment with conspiracy and felony violations of the Clean Water Act for manipulating

daily wastewater sampling methods by increasing disinfectant treatment levels shortly before sampling and then decreasing them shortly after sampling.

This case was investigated by the Northern District of Indiana Environmental Crimes Task Force, which includes the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, and the Indiana State Police.

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United States v. Vernon L. Hoff et al., No. 12-CR-00184 (D. Minn.), AUSA Laura M. Provinzino, with assistance from ECS Senior Trial Attorney Claire Whitney.

On November 15, 2012, a jury convicted Vernon Hoff of violating the Endangered Species Act and of making a false statement to a federal official (16 U.S.C. §1538(a)(1)(G); 18 U.S.C. §1001(a)(1), (a)(2)), stemming from the intentional killing of two gray wolves in February 2010.

The evidence presented at the four-day trial proved that Hoff lied to United States Fish and Wildlife Service officials about speaking on the phone with co-defendant Kyle Jensen about transporting the two wolf carcasses. After the call, Jensen loaded the animals into his vehicle, traveled to Superior National Forest, and buried them with a bulldozer. At the time, the gray wolf was listed as a threatened species under the Endangered Species Act, has since been removed from the list in January 2012 in Minnesota. Jensen pleaded guilty on the eve of trial to two ESA violations.

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

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Informations/Indictments

United States v. Jason Cardinale, No. 9:12-CR-80209 (S.D. Fla.), AUSA Norman O. Hemming, III.

On November 20, 2012, Jason Cardinale, the owner of Samana Expert Fishing Charters, was charged in a 12-count indictment with making false statements (18 U.S.C. § 1001(a)(3)) to the National Oceanic and Atmospheric Administration (NOAA).

Cardinale owned two fishing vessels for which he was issued commercial fishing permits for several species of fish, including king or Spanish Mackerel, South Atlantic Snapper, and Atlantic Dolphin and Wahoo. These permits required the filing of reports indicating the number of fish taken during a specific period of time.

According to the indictment, from January 2010 through February 2012, Cardinale submitted false “No Fishing Activity Reports” to NOAA. The agency relies on such reports to properly manage the fisheries under its jurisdiction.

This case was investigated by the NOAA Fisheries Office of Law Enforcement and the Florida Fish and Wildlife Conservation Commission.

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United States v. Robroy MacInnes et al., No. 12-CR-00623 (E.D. Penn.), ECS Trial Attorney Patrick Duggan and AUSA Mary Kay Costello.

On November 13, 2012, Robroy MacInnes, Robert Keszey, and Glades Herp Farm, Inc. (Glades) were variously charged in a two-count indictment with conspiracy and a Lacey Act trafficking violation (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B)) stemming from the operation of a reptile farm.

From 2007 through 2008, MacInnes and Keszey are alleged to have collected protected snakes from the wild in Pennsylvania and New Jersey, purchased protected eastern timber rattlesnakes (which had been illegally collected from the wild in violation of New York law), and transported threatened eastern indigo snakes from Florida to Pennsylvania. The indictment also states that MacInnes and Glades violated the Lacey Act by purchasing illegal eastern timber rattlesnakes and then transporting them to Florida.

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

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United States v. William R. Miller, No. 1:12-CR-00093 (S.D. Miss.), ECS Senior Trial Attorney Jeremy Korzenik.

On November 8, 2012, developer William R. “Rusty” Miller was charged in an 11-count indictment with Clean Water Act violations (33 U.S.C. §§ 1319(c)(2)(A), 1342, 1344) for the destruction of wetlands in 2007 on a 1,700 acre site located in Hancock County, Mississippi. Miller is part owner of three companies (Hancock Land, LLC, Stennis Land, LLC, and Stennis Technology Park, Inc.), which bought the property.

Despite being notified in 2001 that the property was approximately 80% jurisdictional wetlands, and required Army Corps of Engineers (ACOE) permits to develop, the defendant allegedly created and implemented a plan to drain the site, thereby eliminating the wetlands that would have slowed development and reduced the value of property. Specifically, the indictment charges that Miller knowingly ditched, drained, and filled wetlands at ten locations on the Hancock County property without having obtained an ACOE permit. He is further charged with the unauthorized discharge of silt, sand, vegetation, debris, and other material into and from canals and ditches onto the property and into tributaries of Bayou Marone, a tributary of the Jourdan River.

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

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

On November 8, 2012, a three-count indictment was filed charging Tennie White, the owner, operator, and manager of Mississippi Environmental Analytical Laboratories, Inc., with two false statement violations and an obstruction of justice count (18 U.S.C. §§ 1001, 1505).

The indictment alleges that from February to August 2009, White created three false discharge monitoring reports (DMRs) and one fictitious laboratory report, causing the falsification of another DMR. She is further charged with making false statements to an agent during the investigation.

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

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United States v. Jeffrey S. Adams et al., Nos. 2:12-CR-00164 - 168 (E.D. Va.), ECS Trial Attorney Jim Nelson and AUSA Dee Sterling.

On November 8, 2012, five charter fishing boat captains were charged with Lacey Act, conspiracy and false statement violations (16 U.S.C. §§ 3372(a)(1), 3373 (d)(1)(B); 18 U.S.C. § 371, 1001) stemming from the sale of illegally harvested Striped Bass.

Jeffrey S. Adams, captain of the *F/V Providence II*, and his corporation Adams Fishing Adventures, are charged with conspiracy, trafficking in illegally harvested Striped Bass, and making false statements. Between March 2009 and February 2011, the defendants allegedly sold charter fishing trips to illegally harvest the fish from the Exclusive Economic Zone (EEZ). The indictment also alleges that, as part of the conspiracy, Adams and others tossed illegally caught fish overboard (after puncturing the air bladder) when approached by law enforcement. Adams is further charged with making a false statement concerning the location where Striped Bass had been harvested by his clients.

Raymond Carroll Webb, the captain of the *F/V Spider Webb*, and his corporation Peake Enterprises, Ltd.; David Dwayne Scott, captain of the *Stoney's Kingfisher*; and William W. "Duby" Lowery, IV, captain of the *Anna Lynn*, were all charged with trafficking in illegally harvested Striped Bass and with destruction of evidence for throwing the fish overboard when approached by law enforcement during charter fishing trips between February 2009 and February 2011.

Nolan L. Agner, captain of the *Flat Line*, and his corporation, Agner, Inc., were charged with a single Lacey Act trafficking violation for illegally harvesting the fish during a charter fishing trip in January 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 v. Juan Manglona Ayuyu et al., Nos. 1:12-CR-00033 and 00036 (D.N.M.I), AUSA Garth Backe.

On October 19, 2012, a three-count indictment was returned charging Juan Manglona Ayuyu and Ryan James Inos Manglona with conspiring to violate the Endangered Species Act and the Lacey Act, as well as substantive ESA and Lacey Act violations (18 U.S.C. § 371; 16 U.S.C. §§ 1538(a)(1)(G), 3372 (a)(1) and 3373 (d)(2)).

In October 2010, Ayuyu and Manglona allegedly conspired to conceal eight dead Mariana fruit bats (an endangered species) in a box containing 40 pounds of lemons that was to be shipped on a flight from Rota to Saipan. Manglona is charged in a separate four-count indictment with obstruction and perjury violations (18 U.S.C. §§ 1503, 1623(a)) for giving false testimony to the grand jury sitting in this matter.

This case was investigated by the United States Fish and Wildlife Service and the Commonwealth of the Northern Mariana Islands Division of Fish and Wildlife.

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



Asbestos-labeled pipes

On October 1, 2012, Anthony M. Davis (aka Mike Davis, Jr.) was charged in a five-count indictment with Clean Air Act violations (42 U.S.C. § 7413 (c)(1)) stemming from the illegal removal of asbestos from the Rock Tenn 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 allegedly carried out a plan to hire inexperienced laborers to assist him in removing the insulation without following many of the work practice standards for the proper handling of asbestos.

Among the allegations, Davis purportedly used an environmental assessment (that did not adequately

address the presence of asbestos) to falsely reassure workers who had safety concerns about asbestos on the property.

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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Arraignments

United States v. BP Exploration and Production, Inc., et al., Nos. 2:12-CR-00265, 00291-00292 (E.D. La.), Deepwater Horizon Task Force, including ECS Senior Trial Attorney Chris Costantini and ECS Trial Attorney Colin Black.

On November 27 and November 28, 2012, BP Exploration and Production Inc. (BP), employees Robert Kaluza and Donald Vidrine, and former BP executive David Rainey were arraigned. BP has filed a signed plea agreement and informed the court of its intention to enter a plea of guilty. A status conference is scheduled for December 11, 2012.

As a result of the April 20, 2010 blowout on the *Deepwater Horizon* oil rig and the ensuing oil spill, the company has agreed to plead guilty to 11 counts of seamen’s manslaughter (18 U.S.C. § 1115) for negligently causing the deaths of the men killed in the disaster; one misdemeanor Clean Water Act count (33 U.S.C. §§ 1319 (c)(1)(A), 1321 (b)(3)) for negligently discharging oil; one misdemeanor Migratory Bird Treaty Act count (16 U.S.C. §§ 703, 707(a)) for the deaths of migratory birds caused by the spill; and one count of obstruction (18 U.S.C. § 1505) for misleading Congress about the size of the spill. The company has agreed to pay a total monetary penalty of \$4 billion, the largest criminal penalty in U.S. history to date, more than \$2 billion of which will go to environmental restoration projects along the Gulf Coast.

Kaluza and Vidrine are charged with 11 counts of involuntary manslaughter and 11 counts of seaman’s manslaughter for causing the blowout. Both also are charged with a negligent violation of

the Clean Water Act. Rainey is charged with obstruction and false statements (18 U.S.C. § 1001) regarding BP's estimates of the amount of oil flowing from the well after the blowout.

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Plea Agreements

United States v. William Allen Hurlbut, Jr., No. 1:12-CR-00169 (D. Idaho), AUSA George Breitsameter.



Defendant burning wire

remove the wire coating, contaminating the soil in the fire pit with elevated levels of lead. The BLM incurred costs in excess of \$3,500 to remediate the site.

On November 5, 2012, William Allen Hurlbut, Jr., pleaded guilty to one count of malicious destruction (or depredation) of government property (18 U.S.C. § 1361).

In April 2010, Hurlbut transported approximately 200 pounds of copper wire coated with a protective material to the Birch Creek Campground in Clark County, Idaho. The campground is located on property owned by the federal government and administrated by the Bureau of Land Management (BLM). Hurlbut admitted that he burned the wire in a fire pit to

Sentencing is scheduled for January 23, 2013. This case was investigated by the Bureau of Land Management and the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. James Cheung et al., Nos. 2:12-CR-14036 and 20362 (S.D. Fla.), AUSA Jaime Raiche.

On October 31, 2012, James Cheung pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(1)(B)), for his involvement in the illegal sale of freshwater turtles in interstate and foreign commerce.

The Florida Fish and Wildlife Conservation Commission instituted an aquaculture permitting system (or "turtle farms") in response to the decline of the wild freshwater turtle population in Florida, due to overharvesting. Farm owners are permitted to have a certain number of wild-caught turtles strictly for breeding purposes.

Cheung was permitted to collect more than 500 wild-caught turtles for use as brood stock from March 2011 through April 2012. In April 2012, the defendant shipped 17 Florida softshell turtles in violation of his permit. As part of the plea, Cheung will forfeit a 2006 refrigerated truck, which was used to transport the turtles. He is scheduled to be sentenced on January 14, 2013.

David Feltenberger and Chris Craig were recently sentenced in related cases, for similar violations. These cases were investigated by the United States Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission.

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United States v. CHS, Inc., No. 4:12-CR-00080 (D. Mont.), AUSA Kris McLean and SAUSA Eric Nelson.

On October 25, 2012, CHS, Inc., pleaded guilty to a CERCLA violation (42 U.S.C. § 9603(b)) for failing to notify authorities of a chemical release.

CHS was the owner of the Milk River Cooperative, a supplier of agricultural chemicals and products such as pesticides, herbicides, and fertilizer. In November 2009, a fire erupted at the Cooperative's warehouse, and substantial quantities of chemical products were burned, causing the release of heavy smoke. Significant quantities of chemicals, including 2, 4-D also were released to the ground.

Following the fire, approximately 13 calves died from exposure to the smoke, and several neighbors were treated for respiratory complications. The National Response Center was not contacted regarding the release of a reportable quantity of a hazardous substance. Sentencing is scheduled for January 22, 2013.

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

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Warehouse after fire

Sentencings

United States v. Cardington Yutaka Technologies, Inc., et al., No. 2:11-CR-00140 (S.D. Ohio), ECS Trial Attorney Richard J. Powers, AUSA Mike Marous, RCEC James Cha, and ECS Paralegal Lisa Brooks.

On November 28, 2012, auto parts manufacturer Cardington Yutaka Technologies, Inc. (CYT), and managers Muhammed Razavi and James P. Carroll, were sentenced after the court accepted their guilty pleas. CYT was ordered to pay a \$1.2 million fine, pay restitution in the amount of \$115,000 to the Village of Cardington, and make \$400,000 in community service payments to the Village. The company also will complete a two-year term of probation and implement an environmental compliance plan. Razavi was sentenced to serve 90 days' incarceration, followed by one year of supervised release. He also will pay a \$25,000 fine and must perform 208 hours of community service. Carroll was sentenced to serve 90 days' home confinement as a condition of a two-year term of probation. He will pay a \$5,000 fine and also will perform 500 hours of community service.

Over an eight-year period, Razavi, Carroll, and the company made false statements and false records in order to conceal the existence, nature, and volume of the company's discharge of industrial

wastewater to the local POTW. These falsified records were submitted to the Ohio EPA and to the Village of Cardington. CYT pleaded guilty to four false statement violations (18 U.S.C. § 1001); Razavi pleaded guilty to two misdemeanor Clean Water Act violations, and Carroll pleaded guilty to a single misdemeanor CWA count (33 U.S.C. § 1319(c)(1)(A)). Co-defendant Carl R. Wolf will be adjudicated and sentenced at a later date.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Ohio Environmental Protection Agency Office of Special Investigations, and the Ohio Bureau of Criminal Identification and Investigation.

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United States v. Manuel Ravelo, Jr. et al., No. 4:12-CR-10006 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On November 28, 2012, Manuel Ravelo, Jr. was sentenced to serve 16 months' incarceration followed by one year of supervised release. From August 2007 through approximately September 2008, Ravelo sold and transported spiny lobster in violation of harvest requirements, licensing provisions, and bag and trip limits.

The defendant previously pleaded guilty to a Lacey Act conspiracy violation (18 U.S.C. § 371), and was required to immediately surrender his navigation equipment and location data for all of his artificial habitat sites, along with his Crawfish and Dive Endorsements. He also will forfeit a 29-foot Sea Vee vessel and all the associated equipment used for the illegal harvesting.

As part of the resolution of this case, Ravelo has already removed more than 300 artificial lobster habitats known as "casitas" that had been placed in the Florida Keys National Marine Sanctuary. Co-defendants Scott Greager, Rush C. Maltz, and Titus A. Werner were previously prosecuted for their roles in the conspiracy.

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

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United States v. Ronald E. Kinard et al., Nos. 3:11-CR-00240-00241, 00340, 00342 (W.D. N.C.), AUSA Steven Kaufman.

On November 26, 2012, Ronald E. Kinard was sentenced to serve six months' incarceration followed by six months' home confinement and one year of supervised release. Kinard also will pay a \$10,000 fine and perform 50 hours of community service. Co-conspirator Jack B. Haney was sentenced earlier this month to serve six months' incarceration and six months' home detention, followed by one year of supervised release. The two previously pleaded guilty to conspiracy to violate the Clean Air Act for conducting false vehicle emission inspections (18 U.S.C. § 371; 42 U.S.C. § 7413 (c)(2)(A)). Haney also pleaded guilty to a false statement violation (18 U.S.C. § 1001). The two are prohibited from conducting any future vehicle inspections.

Kinard is the owner and operator of Autoworks, where Haney was employed. Both were licensed by the state of North Carolina to conduct vehicle emissions inspections. From January 2010 through August 2011, Kinard conducted more than 1,180 false vehicle inspections by connecting a substitute vehicle to the onboard diagnostics system, an activity referred to as "clean scanning." Haney was responsible for conducting more than 100 false inspections. In exchange, they charged as much as \$100 per vehicle.

To date, nine individuals have been prosecuted as a result of this investigation into the falsification of vehicle emissions testing in this district.

These cases were investigated by the United States Environmental Protection Agency Criminal Investigation Division, the North Carolina State Bureau of Investigation Diversion and Environmental Crimes Unit, the North Carolina Department of Motor Vehicles License and Theft Bureau, with assistance from the North Carolina Division of Air Quality Mobile Sources Compliance Branch.

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United States v. Richard Coleman, No. 3:12-CR-30063 (D.S.D.), AUSA Meghan Dilges.



Snowy Owl

On November 21, 2012, Richard Coleman was sentenced to serve a year and a day of incarceration for a firearms violation (18 U.S.C. §§ 922(g)(9) and 924(a)(2)), and nine months' incarceration for a violation of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668(a)), to run concurrently. Coleman also will pay \$10,000 in restitution for the taking of a Bald Eagle and \$1,750 for the taking of a Snowy Owl.

Between December 2011, and January 2012, Coleman, who has a domestic violence conviction, used a firearm to kill the eagle, owl, and other wildlife.

This case was investigated by the United States Fish and Wildlife Services and the Lower Brule Sioux Tribal Wildlife Department.

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United States v. Culinary Specialties, Inc., et al., No. 1:12-CR-20117 (S.D. Fla.), AUSA Norman O. Hemming, III.

On November 19, 2012, Culinary Specialties, Inc., and company owners Walter Schoepf and Karl Degiacomi, were sentenced after previously pleading guilty to violations stemming from the false labeling and misbranding of shrimp. The company was sentenced to pay a \$5,000 fine and all three defendants were sentenced to complete a one-year term of probation.

From June 2008 through July 2009, the defendants conspired with Richard Stowell, United Seafood, Inc., Adrian Vela, and the Sea Food Center, to violate the Lacey Act and the Food, Drug, and Cosmetics Act (18 U.S.C. § 371; 16 U.S.C. §§ 3372(d)(1), (d)(2); 3373(d)(3)(A); 21 U.S.C. §§ 331(a), 333(a)(2), 343(a)(1), 343(b)) by mislabeling and selling approximately 500,000 pounds of shrimp. The shrimp, valued at more than \$400,000, was ultimately sold to supermarkets in the northeastern United States.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement.

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United States v. Team Industrial Services, Inc., No. 2:12-CR-00030 (N.D. Tex.), AUSA Christy L. Drake.

On November 15, 2012, Team Industrial Services, Inc., (Team) was sentenced after previously pleading guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)). The company will pay a \$200,000 fine and will complete a five-year term of probation. It also will implement an environmental compliance plan.

Between 2007 and 2009, employees of this leak detection and repair service company knowingly failed to properly conduct emissions monitoring of refinery components. They also manipulated testing data to falsely represent emissions monitoring events that were not performed. As a result, potentially harmful emissions were released into the ambient air, and falsified reports were provided to state and federal regulators.

This facility was placed on the EPA's List of Violating Facilities and will be ineligible for any federally-funded contracts, grants, or loans, until it is removed from the list.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the Texas Commission on Environmental Quality Environmental Crimes Unit.

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United States v. Daniel Evanoff, No. 1:11-CR-00022 (W.D. Ky.), AUSA Joshua Judd.

On November 7, 2012, Daniel Evanoff was sentenced to pay a \$5,000 fine and to complete a one-year term of probation. Evanoff previously pleaded guilty to conspiracy and to a Clean Air Act violation (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(C)) for tampering with a monitoring device.

The defendant was the North American alloy manager for J.L. French, a Wisconsin-based company that makes die-cast aluminum products for the automobile industry. Evanoff admitted that in February, 2010, he installed equipment to make it appear that the plant was operating in compliance with its permit, when in fact it was not.

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

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United States v. Matthew Black Eagle et al., Nos. 4:11-CR-00033, 4:12-CR-00032 (D. Mont.), AUSA Kris McLean.

On November 5, 2012, Matthew Black Eagle was sentenced to serve a two-year term of probation, perform 100 hours of community service, and was held jointly and severally liable for \$51,504 in restitution.

The defendant previously pleaded guilty to a RCRA storage violation (42 U.S.C. § 6928(d)(1)) stemming from the discovery in June 2010 of 45 drums on his property that contained hazardous waste. Co-defendant Robert Darin Fromdahl was previously sentenced after pleading guilty to a similar violation.

This case was investigated by the United



Drums of hazardous waste

States Environmental Protection Agency Criminal Investigation Division.

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United States v. William R. Colston, No. 1:12-CR-20186 (E.D. Mich.), AUSA Janet Parker.



Kirtland's Warbler Wildlife Mgmt. Area

On November 5, 2012, William Robert Colston was sentenced after pleading guilty to a National Wildlife Refuge Act violation (16 U.S.C. § 668dd(c) and (f)) for disturbing and occupying land that was part of the Kirtland's Warbler Wildlife Management Area and adjoined Colston's vacation home in Roscommon County, Michigan. The defendant was advised by officials to remove the encroachments he had installed on federal land preserved as a habitat for this endangered species.

Colston was sentenced to pay \$7,000 in restitution to the Fish and Wildlife Service for the cost of removing the encroachments and \$26,000 in restitution to the Seney Natural History Association for use in restoring the habitat. He was further ordered to pay a \$1,000 fine and will complete a one-year term of probation to be terminated when the fines and restitution have been paid.

Colston acknowledged that, beginning in the 1970s, he and other family members started making changes to the federal land next to their vacation property. During the summer of 2011, Colston significantly expanded and enhanced the encroachments, to include the installation of a sand volleyball court, two horseshoe pits, and a stone outdoor shower pad, complete with electricity and a sound system.

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

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United States v. Nimmrich und Prahm Bereederung GmbH & Co. KG, et al., Nos. 3:12-CR-00078, 4:12-CR-00549 (D. Alaska, S.D. Tex.), ECS Senior Trial Attorney David Kehoe, AUSAs Kevin Feldis and Gary Cobe, and ECS Paralegal Ben Laste.

On November 2, 2012, two German shipping companies pleaded guilty to two obstruction violations and one APPS violation (18 U.S.C. §§ 1519, 1505, 1908(a)) for concealing the illegal dumping of oil at sea. Nimmrich und Prahm Bereederung GmbH & Co. KG and Nimmrich und Prahm Bereederung GmbH & Co. KG MS "SONJA", the operator and owner of the *M/V Susan K*, were sentenced, jointly and severally, to pay a \$1 million fine plus an additional \$200,000 community service payment, which will go into the National Marine Sanctuaries Fund. As a condition of a five-year term of probation, all vessels owned or operated by the defendants will be prohibited from entering U.S. ports or waters.

According to the plea agreement, the chief engineer and other crew members on board the vessel repeatedly bypassed the vessel's oily water separator, discharging bilge wastewater overboard from August 2011 through March 2012. Chief Engineer Rudolf Hofer was sentenced



Overboard discharge of oily waste

to pay a \$1,000 fine and will serve a term a one-year term of probation after admitting that he falsified the oil record book (ORB) to conceal these discharges. The ORB was subsequently presented to officials as the vessel entered ports in Alaska in January 2012 and in Houston in March 2012. The three crew member whistle blowers were each awarded \$67,000 of the fine.

This case was investigated by the United States Coast Guard.

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United States v. Timothy Clinton-Paul Oleniczak, No. 1:12-CR-00032 (W.D. Mich.), AUSA Nils Kessler.

On November 1, 2012, Timothy Clinton-Paul Oleniczak was sentenced after pleading guilty to two Bald and Golden Eagle Protection Act violations (16 U.S.C. § 668(a)) for selling eagle feathers to undercover tribal police.

Oleniczak will pay a \$2,500 fine, complete a two-year term of probation, and will perform 100 hours of community service. The defendant is part Native American but did not belong to the local tribe.

The case drew wide attention from Native American communities in light of the recent change in Department of Justice policy stating that members of federally recognized tribes will not face prosecution for possessing eagle feathers. The policy also clarified the Department's practice of not charging tribal members who use or possess eagle feathers.

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

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United States v. Kent Phillips, No. 1:11-CR-00178 (W.D. La.), AUSA Earl Campbell.



Leaking Flow Line

On October 25, 2012, Kent Phillips was sentenced to pay a \$2,500 fine and will complete a one-year term of probation. Phillips, the owner of KEPCO Operating Inc. (KEPCO), previously pleaded guilty to a one-count information charging a misdemeanor Clean Water Act violation (33 U.S.C. §§ 1319 (c)(1)(A), 1321(b)(3)) for the negligent discharge of oil into waters of the U.S.

In December 2007, a landowner observed oil pooled in Long Branch, a seasonal waterway. Upon further investigation, additional oil was discovered in Devil's Creek leading toward Catahoula Lake, both of which are waters of the

U.S. Authorities determined that the spill originated from a leaking flow line located at an

oil production platform, which is leased and operated by KEPCO.

Phillips and KEPCO employees knew of the leak for almost a month, but failed to notify anyone or cleanup the problem. As a result, approximately 20 barrels of oil and 60 barrels of wastewater were discharged into Devil's Creek.

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

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