
ENVIRONMENTAL CRIMES SECTION



MONTHLY BULLETIN

October 2011

EDITOR'S NOTE:

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



Reptiles wrapped in pantyhose and concealed in defendant's clothing; see [U.S. v. Borges](#), inside, for details.

AT A GLANCE:

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
D. Alaska	<u>United States v. Arne Fuglvog</u>	<i>Fisheries Advisor/ Lacey Act</i>
E.D. Ark.	<u>United States v. Hawk Field Services, LLC</u>	<i>Angelfish Import/ Lacey Act</i>
N.D. Calif.	<u>United States v. Kie-Con, Inc.</u>	<i>Concrete Manufacturer/ CWA misdemeanor</i>
D. Colo.	<u>United States v. Executive Recycling, Inc., et al.</u>	<i>Electronic Waste Exports/ RCRA, Mail Fraud, Wire Fraud, Smuggling, Obstruction</i>
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S.D. Fla.	<u>United States v. Elias Garcia Garcia et al.</u>	<i>Jaguar Skin Sales/ ESA, Conspiracy</i>
	<u>United States v. Sea Food Center, LLC, et al.</u>	<i>Mislabeled Shrimp/ Lacey Act; Food, Drug, and Cosmetic Act</i>
	<u>United States v. David P. Horan, Jr.</u>	<i>Fish Sales/ Lacey Act</i>
	<u>United States v. Simon Turola Borges</u>	<i>Reptile Imports/ Smuggling</i>
S.D. Fla.	<u>United States v. Van Boddenn-Martinez</u>	<i>Fish Imports/ Lacey Act</i>
N.D. Ga.	<u>United States v. David Adams</u>	<i>Panther Killing/ ESA</i>
C.D. Ill.	<u>United States v. Duane O'Malley et al.</u>	<i>Asbestos Abatement/ CAA</i>
	<u>United States v. Jeffrey G. Foiles, et al.</u>	<i>Duck Hunter/ MBTA, Lacey Act, False Writings</i>

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
W.D. Ky.	<u>United States v. Daniel Evanoff</u> <u>United States v. Roger Cherry</u>	<i>Aluminum Manufacturer/ CAA, Conspiracy</i> <i>Bird Baiting/ MBTA</i>
E.D. La.	<u>United States v. Oakmont Environmental, Inc.</u> <div style="background-color: black; width: 150px; height: 15px; margin: 5px 0;"></div> <div style="background-color: black; width: 60px; height: 15px; margin: 5px 0;"></div> <u>United States v. DRD Towing Company, LLC, et al.</u>	<i>Waste Treatment/ CWA</i> <div style="background-color: black; width: 150px; height: 15px; margin: 5px 0;"></div> <i>Oil Spill/ PWSA, CWA, Obstruction</i>
M.D. La.	<u>United States v. Clint Martinez et al.</u>	<i>Alligator Hunts/Lacey Act</i>
W.D. La.	<u>United States v. Pelican Refining Company, LLC</u>	<i>Oil Refinery/ CAA, Obstruction</i>
D. Mass.	<u>United States v. Josimar Ferreira</u> <u>United States v. Stephen C. Delaney, Jr.</u> <u>United States v. Albania DeLeon</u>	<i>Pest Exterminator/ FIFRA</i> <i>Fish False Labeling/ Lacey Act; Food, Drug and Cosmetic Act</i> <i>Asbestos Certification School/ Conspiracy, False Statement, Mail Fraud, Tax</i>
E.D. Mich.	<u>United States v. GLO Wrecking Company et al.</u> <u>United States v. Anthony Sharpe et al.</u> <u>United States v. Joseph Terranova et al.</u>	<i>Demolition Project/ CAA</i> <i>Lead Inspector/ Mail Fraud</i> <i>Asbestos Abatement/ CAA, False Statement</i>
W.D. Mich.	<u>United States v. Rodger Dale DeVries</u>	<i>Polar Bear Trophy/ MMPA</i>
E.D.N.Y.	<u>United States v. Lin Feng Xu</u>	<i>Elephant Ivory/ Smuggling</i>
N.D.N.Y.	<u>United States v. Leonard J. Pugh, Jr.</u>	<i>Asbestos Removal/ CAA</i>

DISTRICTS	ACTIVE CASES	CASE TYPE/ STATUTES
S.D.N.Y.	<u>United States v. Cheng Yan Huang et al.</u>	<i>Pesticide Packaging/ FIFRA, Conspiracy</i>
W.D.N.Y.	<u>United States v. Keith Gordon-Smith et al.</u>	<i>Demolition Project/ CAA, False Statement</i>
W.D.N.C.	<u>United States v. Brian K. Smith et al.</u>	<i>Abandoned Hazardous Waste/ RCRA</i>
	<u>United States v. Tanveer Anwar et al.</u>	<i>Emissions Testing/ CAA, Conspiracy</i>
D.N.D.	<u>United States v. Slawson Exploration Company, Inc. et al.</u>	<i>Oil Companies/ MBTA</i>
D.N.M.I.	<u>United States v. Adrian Mendiola et al.</u>	<i>Bat Poaching/ ESA</i>
S.D. Ohio	<u>United States v. John A. Anderson</u>	<i>Municipal Employee/ CWA False Statement</i>
D. Oregon	<u>United States v. Robert H. Block, Jr., et al.</u>	<i>Stream Diversion/ CWA, ESA</i>
D.P.R.	<u>United States v. Uniteam Marine Shipping GmbH</u>	<i>Vessel/ APPS, False Statement</i>
D.S.C.	<u>United States v. John A. Mabus</u>	<i>Direct Discharge/ CWA Misdemeanor</i>
D.S.D.	<u>United States v. Michael Solberg</u>	<i>Hunting Lodge/ BGEPA</i>
E.D. Tex.	<u>United States v. Billy Powell</u>	<i>Deer Breeder/ Lacey Act</i>
E.D. Va.	<u>United States v. Marine Environmental Services, et al.</u>	<i>Ship Dismantler/ CWA, Refuse Act</i>

DISTRICTS	ACTIVE CASES	CASE TYPE/STATUTES
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D.V.I.	<u>United States v. Ashu Bhandari</u>	<i>Black Coral Imports/ False Statement</i>

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Trials

United States v. Duane O’Malley et al., No. 2:10-CR-00242 (C.D. Ill.), AUSA Eugene Miller.



Abandoned bags with asbestos

On September 26, 2011, Duane O’Malley was convicted by a jury on all five Clean Air Act (42 U.S.C. § 7413(c)(1)) counts stemming from his involvement in an illegal asbestos abatement of a five-story building. Co-defendant James Mikrut recently pleaded guilty to five CAA violations and Michael Pinski pleaded guilty to one CAA violation.

In August 2009, Pinski hired O’Malley, owner and operator of Origin Fire Protection, to remove asbestos-containing insulation from pipes in the building. Neither O’Malley nor his company

was trained to perform asbestos removal work.

O’Malley agreed to remove the asbestos insulation for an amount that was substantially less than a trained asbestos abatement contractor would have

charged to remove the material. O'Malley arranged for Mikrut to recruit five individuals to remove the asbestos insulation from the pipes inside the building during a five-day period in August 2009.

The asbestos insulation was placed in approximately 120 unlabeled plastic garbage bags that later were emptied onto an open field in a residential area resulting in asbestos contamination of the soil.

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

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Informations and Indictments

United States v. Lin Feng Xu, No. 1:11-mj-00940 (E.D.N.Y), ECS Senior Trial Attorney Richard Udell and AUSA William Sarratt.

On September 20, 2011, a complaint was filed charging Lin Feng Xu with smuggling (18 U.S.C. § 545) for the export of elephant ivory. The complaint alleges that Xu was apprehended at J.F.K. Airport in New York on September 17, 2011, before boarding a flight to China. His luggage was found to contain several objects made from carved ivory. Also found was an invoice from an auction house for more than \$19,000, noting the purchase of items made from elephant ivory.

The demand for antiques and art made of or containing elephant ivory has resulted in a significant adverse impact on the species and a thriving black market.

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

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United States v. Cheng Yan Huang et al., Nos. 1:11-mj-02417 and 02418 (S.D.N.Y.), AUSA Janis Echenberg.

On September 19, 2011, after 12 arrests and the seizure of thousands of packages containing illegal pesticides, two people have been charged in federal complaints with conspiracy and FIFRA violations (18 U.S.C. § 371; 7 U.S.C. § 136) for their roles in the illegal distribution and sale of unregistered and misbranded pesticides.

Chen Yan Huang and Jai Ping Chen (along with ten other people charged in state court) were arrested after pesticides were seized from dozens of locations throughout Manhattan. These pesticides were particularly dangerous because the packaging could lead people to mistake them to contain cookies or cough medicine. The pesticides were not registered with the EPA and were missing required label warnings, thus providing consumers no way of knowing how dangerous the products were or how best to protect themselves from harmful exposure. A woman accidentally ingested one of the pesticides, believing it to be medicine, and was hospitalized as a result.

The cases are being investigated by the United States Environmental Protection Agency Criminal Investigation Division, the New York State Department of Environmental Conservation, United States Immigration and Customs Enforcement's Homeland Security Investigations, and the United States Postal Inspection Service.

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United States v. Executive Recycling, Inc., et al., No. 1:11-CR-00376 (D. Colo.), AUSA Suneeta Hazra, SAUSA Lillian Alves, and ECS Trial Attorney Leslie Lehnert.

On September 16, 2011, an indictment was unsealed charging Executive Recycling (ER), its president Brandon Richter, and former vice president Tor Olson with mail and wire fraud, smuggling, obstruction of justice, and a RCRA violation (18 U.S.C. § 1341; 18 U.S.C. § 1343; 42 U.S.C. § 6928(d)(4); 18 U.S.C. § 554; 18 U.S.C. § 1519) arising out of the unlawful export of electronics waste (e-waste) to China. From February 2005 through January 2009, ER operated as a recycling company in Denver, Colorado, that specialized in environmentally friendly recycling of e-waste. Specifically, ER assured customers that it would properly and completely dispose of e-waste in the United States in order to induce them to contract with ER for the disposal of their e-waste. The e-waste collected by ER included Cathode Ray Tubes (CRTs), which are the glass video display component of electronic devices. CRTs are potentially hazardous waste due to the presence of lead.

The investigation into the company began after a *60 Minutes* segment aired in November 2008 that followed a shipping container loaded with used computer monitors from the company's Colorado facility through a port in Tacoma, Washington, to its final destination in Hong Kong in April 2008. Hong Kong customs officers rejected the shipment because used CRTs are considered hazardous waste under Chinese law. The container was returned to the United States, where it was searched by EPA and ICE agents who recovered 296 CRTs and twenty boxes of broken computer monitor parts. All monitors tested exhibited the hazardous waste characteristic toxicity for the presence of lead above the regulatory threshold of 5 mg/L.

The company appeared as the exporter of record in more than 300 exports from the United States between 2005 and 2008. Approximately 160 of these exported cargo containers contained a total of more than 100,000 CRTs. The obstruction charge stems from Richter and Olson shredding documents after the investigation had commenced.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Department of Homeland Security, Immigration and Customs Enforcement.

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

On September 7, 2011, an executive for an automotive casting company was indicted on charges of conspiracy and tampering with environmental monitors (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(C)) at their facility located in Glasgow, Kentucky. Daniel Evanoff was charged with conspiring to defraud the United States and with rendering inaccurate a monitoring device required under the Clean Air Act.

Evanoff was the North American alloy manager for J.L. French, a Wisconsin-based company that makes die-cast aluminum products for the automobile industry. The Glasgow plant makes its products by melting down scrap aluminum in furnaces and transferring the molten aluminum in ladles to the die-casting operation, where the aluminum is cast into auto parts. The indictment alleges that Evanoff engaged in a scheme with three unnamed co-conspirators at the plant from 2007 to November 2009 to deliberately underreport the number of ladles of molten aluminum the facility processed.

In addition to reporting the number of ladles produced, emissions testing required that plant officials monitor the baghouses for leaks as well as other baghouse data. The defendant and co-conspirators also are alleged to have destroyed documents that contained the actual numbers.

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

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United States v. Pelican Refining Co., LLC, No. 2:11-CR-00227 (W.D. La.), ECS Senior Trial Attorney Richard Udell, ECS Trial Attorney Christopher Hale, USA Stephanie Finley, and ECS Paralegal Ben Laste.

On September 6, 2011, a three-count information was filed against Pelican Refining Co. (PRC), charging it with two Clean Air Act violations and one obstruction charge (42 U.S.C. §§ 7661a(a), 7413(c)(1); 18 U.S.C. § 1519). The charges stem from PRC's operation of the Pelican Refinery in Lake Charles, Louisiana, from August 2005 to March 2007. PRC knowingly operated the refinery without properly functioning pollution prevention equipment, as required by its Title V permit. The company is expected to admit that due to the pollution prevention equipment not working, pollutants, including benzene, toluene, ethyl benzene, and xylene (collectively known as BTEX) and hydrogen sulfide H₂S, were illegally released into the atmosphere.



Oil on rooftop

Sources of H₂S and BTEX emissions at the Pelican Refinery included the main refinery stack, leaks at pipes and joints, the barge loading dock, and tanks with roofs that were improperly certified and fitted. The obstruction charge stems from false statements made in a 2006 report submitted to the Louisiana Department of Environmental Quality. Company Vice President Byron Hamilton previously pleaded guilty to two CAA negligent endangerment violations.

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

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United States v. Oakmont Environmental, Inc., No. 2:11-CR-00213 (E.D. La.), AUSA Dorothy Taylor.

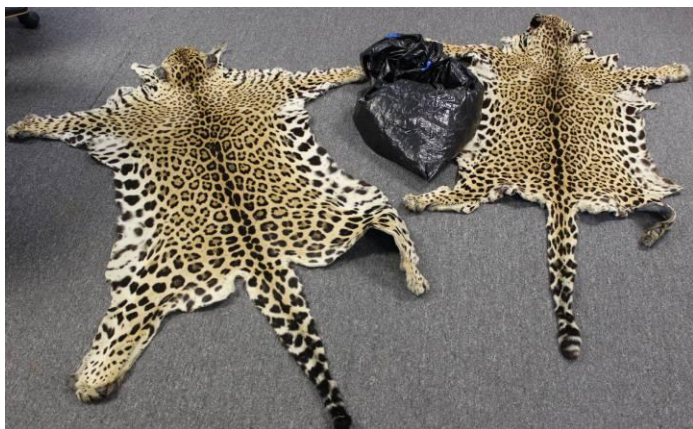
On August 31, 2011, a one-count information was filed charging Oakmont, a waste treatment facility, with knowingly violating the Clean Water Act (33 U.S.C. § 1319 (c)(2)(A)).

Oakmont was in the business of receiving waste oil from sources including tank farms, shipyards and clean up operations. After receipt, the company was responsible for separating the water from the oil, shipping the oil to a recycling plant, and discharging the treated waste water to the local POTW.

From September 2007 through May 2009, the indictment alleges that Oakmont discharged approximately 3.6 million gallons of oily waste water directly into the Harvey Canal, a navigable water.

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

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United States v. Elias Garcia Garcia et al., No. 1:11-CR-20525 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

Jaguar skins

On August 29, 2011, Elias Garcia Garcia and Maria Angela Plancarte were arrested as they crossed the border from Mexico into the United States at Brownsville, Texas. The two were transferred to Miami to face Endangered Species Act and conspiracy charges (16 U.S.C. § 1538; 18 U.S.C. § 371) related to their alleged interstate sale of jaguar skins illegally imported from Mexico into the United States in 2010.

According to the indictment, Garcia and Plancarte offered to sell jaguar skins in person to potential customers in Texas and by electronic means elsewhere. Additionally, they

made repeated trips to South Florida, carrying jaguar skins in their car to sell to Florida customers, while purporting to do business for the plant seed company that they jointly operated.

In November 2010, the defendants allegedly sold two jaguar pelts to undercover agents in Texas for a total of \$3,000 and offered the agents up to ten jaguar skins at a time for any future sale. A second sale of skins was allegedly made to undercover agents in Homestead, Florida, resulting in a payment of \$4,000, of which \$1,000 was as a deposit against the future sale of up to ten jaguar skins.

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

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United States v. Slawson Exploration Company, Inc., et al., Nos. 4:11-po-0002-0006, 0008-0009 (D.N.D.), AUSA Cameron Hayden.

On August 22, 2011, seven oil companies were charged with Migratory Bird Treaty Act violations (16 U.S.C. §§ 703,707(a)) for allegedly killing migratory birds that died after landing in oil waste pits in western North Dakota. The charges involve 28 dead birds that were discovered in pits between May 6, 2011, and June 20, 2011. Companies charged are Slawson Exploration Company, Inc.; ConocoPhillips Company; Newfield Production Company; Brigham Oil and Gas, LP; Continental Resources, Inc.; Fidelity Exploration and Production Company; and Petro Hunt, LLC. Among the migratory birds that perished were Mallard ducks, Gadwalls, Blue-Winged Teals, and Northern Shovelers.

These cases were investigated by the United States Fish and Wildlife Service.

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United States v. Ashu Bhandari, No. 3:11-CR-00028 (D.V.I.), ECS Trial Attorney Christopher Hale and AUSA Nelson Jones.

On August 25, 2011, Ashu Bhandari was charged in a six-count information with six false statement charges (18 U.S.C. § 1001(a)(3)). The charges stem from Bhandari's participation in a scheme to illegally import black coral into St. Thomas during 2008 and 2009. The black coral was used in the manufacture of high-end jewelry and art objects that were sold through retail galleries operated by GEM Manufacturing LLC (GEM). Until he was terminated in January 2010, Bhandari

was the president and CEO of GEM. Black coral is internationally protected under the CITES treaty. GEM's supplier of black coral could not obtain legitimate CITES permits for the black coral it exported from China to the United States. The fundamentals of the scheme were to falsely label the coral as "plastic" or "plastic of craft work" [sic] to divert Customs officers and to conceal the fact that the CITES-regulated specimens were being illegally traded.

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

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Plea Agreements

United States v. Brian K. Smith et al., Nos. 11-CR-00146, 00280 (W.D.N.C.), AUSA Steven Kaufman.

On September 28, 2011, Brian K. Smith pleaded guilty to a RCRA storage violation (42 U.S.C. § 6928(d)(2)(A)), stemming from his involvement in the abandonment of hazardous waste in public storage units. His wife, Kaara Doolin-Smith, previously entered a similar plea.

From July to November 2010, the defendants were the owners of Dove Environmental Management (Dove), a licensed hazardous waste transporter. During that time, they illegally stored more than 90 containers of regulated hazardous waste materials in public rental storage units. The containers were discovered in October 2010 during an inspection by the rental facility after the company failed to make numerous monthly payments. The ensuing investigation prompted an emergency EPA Superfund response. Several generators listed on the containers advised that they had contracted with Dove to remove and dispose of the wastes as far back as 2007.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the North Carolina State Bureau of Investigation Diversion and Environmental Crimes Unit, and the Department of Environment and Natural Resources Hazardous Waste Section.

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United States v. Leonard J. Pugh, Jr., No. 5:11-CR-00579 (N.D.N.Y.), AUSA Craig Benedict.

On September 9, 2011, Leonard Pugh pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)) stemming from the illegal removal of asbestos.

Pugh is an owner of a business that was located in a building containing approximately 6,000 square feet of asbestos. Pugh admitted to hiring an unlicensed individual in 2006 to demolish the building and he did not provide notice to the EPA of the demolition activity. Pugh further failed to ensure that the asbestos remained wet during the removal nor did he ensure that it was properly disposed of in an authorized landfill. Sentencing is scheduled for January 10, 2012.

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 New York State Department of Labor.

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United States v. GLO Wrecking Company et al., No. 2:11-CR-20362 (E.D. Mich.), AUSA Jennifer Blackwell and RCEC James Cha.

On September 9, 2011, GLO Wrecking Company (GWC) and its owner, Ashok Badhwar, each pleaded guilty to violating the Clean Air Act (42 U.S.C. § 7413(c)(1)) stemming from their involvement in a demolition project.

Badhwar and GLO were hired by the City of Detroit to demolish the former McMillan School building, which the defendants knew contained regulated asbestos-containing materials (RACM). In December 2008, GWC began demolishing the building without wetting the RACM in the building, and without ensuring that these materials remained wet until collected for disposal. In addition, the defendants failed to have an on-site representative present who was trained in the provisions of the federal asbestos regulations.

The defendants are scheduled to be sentenced on December 15, 2011. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division.

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United States v. Robert H. Block, Jr., et al., No. 3:11-CR-00164 (D. Oregon), AUSA Stacie Beckerman and SAUSA Patrick Flanagan.

On September 9, 2011, Robert H. Block, Jr., pleaded guilty to a misdemeanor violation of the Clean Water Act and an Endangered Species Act violation (33 U.S.C. §§ 1311(a), 1319(c)(1)(A); 16 U.S.C. §§ 1538(a)(1)(G) and 1540(b)(1)).

Block owns property abutting Gales Creek in Gales Creek, Oregon. In October 2009, the defendant used an excavator to move earthen materials within the Gales Creek stream channel, to divert the flow of the stream. Their work impacted an area approximately 700 feet long and 50 to 90 feet wide.

Block hired David Dober, Sr., to move earthen materials within the creek to assist in diverting the flow of the stream. Together, they moved approximately 100,000 pounds of material in and around the creek. The alteration of the stream channel significantly modified and degraded the habitat of Upper Willamette River Steelhead. Neither the defendant nor Dober possessed a permit from the Army Corps of Engineers to perform this work. Dober is scheduled for trial to begin on November 8, 2011, and Block is scheduled to be sentenced on December 7, 2011.

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

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United States v. Sea Food Center, LLC, et al., No. 1:11-CR-20564 (S.D. Fla.), AUSA Norman O. Hemming, III.

On September 9, 2011, Sea Food Center, LLC, and company president Adrian Vela, pleaded guilty to three of the nine violations charged stemming from the sale of mislabeled shrimp. Specifically, the defendants pleaded guilty to conspiracy to violate the Lacey Act, a substantive Lacey Act violation, and a misbranding count in violation of the Food, Drug and Cosmetic Act (18 U.S.C. § 371; 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A), and 21 U.S.C §§ 331,343(a)(1)).

In 2008 and 2009, Vela and Sea Food Center conspired with Richard Stowell and United Seafood, Inc., to violate the Lacey Act by mislabeling and selling approximately 500,000 pounds of shrimp. Specifically, they oversaw the false labeling of a less marketable substituted seafood product ("Shrimp, Product of Thailand," "Shrimp, Product of Malaysia," and "Shrimp, Product of Indonesia,") which was misbranded and marketed as "Shrimp, Product of Panama", "Shrimp, Product of Ecuador",

and "Shrimp, Product of Honduras", all of which are more readily marketable seafood products. The shrimp, valued in excess of \$400,000, was ultimately sold to supermarkets in the northeastern United States. Stowell and United Seafood previously pleaded guilty and have been sentenced for their role in the conspiracy.

This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement and the Florida Department of Agriculture and Consumer Services.

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United States v. Josimar Ferreira, No. 1:10-CR-10245(D. Mass.), AUSAs Lori Halik and Anton Geidt, and RCEC Peter Kenyon.

On September 1, 2011, Josimar Ferreira, a Brazilian native, pleaded guilty to 16 FIFRA violations and one false statement count (7 U.S.C. §§ 136j(a)(2)(G), 136j(b)(2); 18 U.S.C. § 1001).

From 2007 through 2010, Ferreira operated pest extermination company TVF Pest Control, Inc. The defendant told his clients that he could eradicate bed bugs from their homes with his use of a "special" mixture, supposedly approved for indoor application. Ferreira was actually applying a pesticide containing the insecticide Malathion, which is not approved for indoor application. The defendant sprayed the Malathion on surfaces including a baby crib, mattresses, bed frames, baseboards, closets and furniture.

Ferreira is scheduled to be sentenced on November 22, 2011. This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division with assistance from the Massachusetts Department of Agricultural Resources.

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United States v. Tanveer Anwar et al., Nos. 3:11-CR-00240 and 00241 (W.D.N.C.) AUSA Stephen Kaufman.

On August 29, 2011, Tanveer Anwar and Erick Chicas each pleaded guilty to one-count informations charging them with conspiracy to violate the Clean Air Act (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(A)), for their involvement in a scheme to bypass the state of North Carolina's vehicle emissions program.

Several former service technicians who worked for Hendrick BMW were found to have been using an illegally purchased OBDII simulator that enabled them to falsify emissions test results. Approximately 50 illegal scans were conducted between June 2010 and March 2011. The illegal simulator allowed the technicians to access the state's computerized emission program and print out falsified emissions certificates without ever actually testing a car. Illegal inspections were performed on the defendants' personal vehicles and those of family and friends, often including a cash payment to the defendants.

The investigation is ongoing and is being conducted by the United States Environmental Protection Agency Criminal Investigation Division, the North Carolina State Bureau of Investigation, and the North Carolina Division of Motor Vehicles License and Theft Bureau.

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United States v. David Adams, No. 3:10-CR-00009 (N.D. Ga.), AUSA Mary Roemer.

On August 25, 2011, David Adams was sentenced after pleading guilty to a violation of the Endangered Species Act (16 U.S.C. § 1538) for the unlawful take of a Florida Panther, a subspecies of cougar. Adams was sentenced to pay a \$2,000 fine and will complete a two-year term of unsupervised probation. He is prohibited from hunting or from obtaining a hunting license during the period of probation.

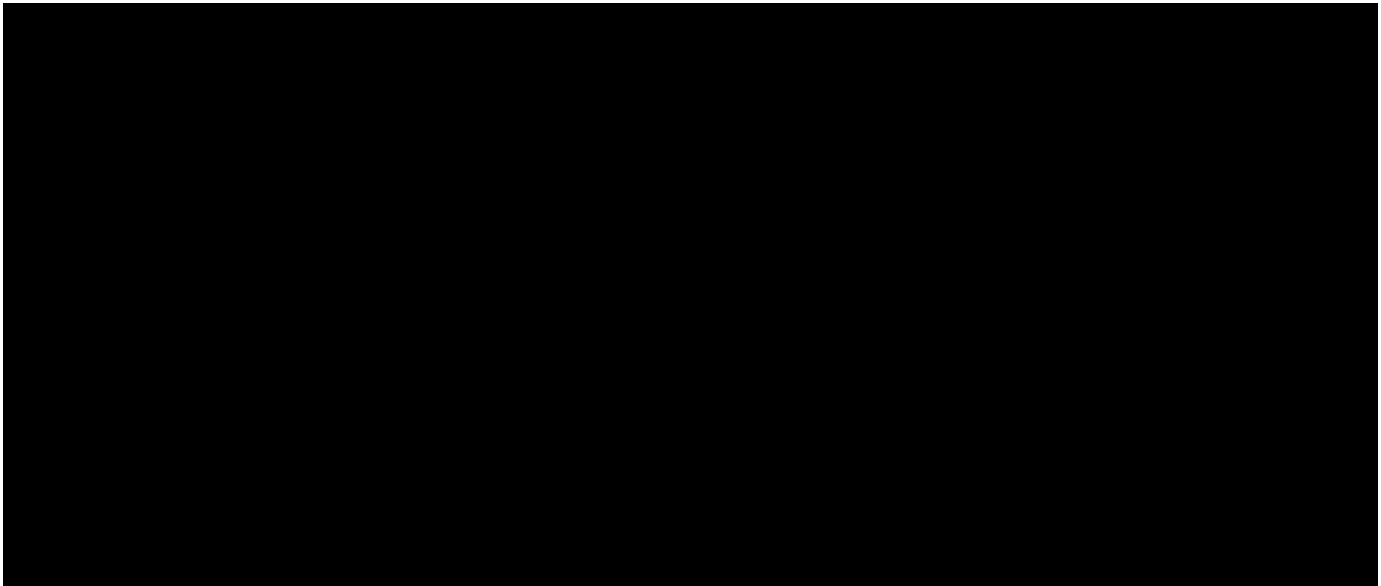
In November 2008, Adams shot and killed a Florida panther while on a deer hunt. At the time of the killing, Adams knew he was shooting at a species of cougar, for which there is no open hunting season in the State of Georgia. The Florida Panther has been listed as an endangered species since 1967.

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

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Deceased Florida Panther



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United States v. DRD Towing Company, LLC, et al., Nos. 2:10-CR-00190, 191, 333 (E.D. La.), AUSA Dorothy Taylor.



Oil spill on the Mississippi River

On August 24, 2011, John Bavaret was sentenced to serve six months' incarceration and six months' home confinement, followed by three years' supervised release. Bavaret previously pleaded guilty to a violation of the Ports and Waterways Safety Act (PWSA) and a misdemeanor violation of the Clean Water Act (33 U.S.C. § 1221; 33 U.S.C. § 1319(c)(1)(A)) stemming from his involvement in the collision of two vessels on the Mississippi River in July 2008. A total of three individuals were prosecuted in this incident that resulted in the discharge of a significant amount of fuel oil into the river.

Maritime company DRD Towing Company owned and managed tugboats that pushed barges for other companies. On July 23, 2008, the DRD-owned *M/V Mel Oliver*, which was pushing a tanker barge full of fuel oil, crossed paths with the *M/T Tintomara*, a 600-foot Liberian-flagged tanker ship, causing a collision that resulted in the negligent discharge of approximately 282,680 gallons of fuel oil from the barge into the river.

DRD admitted that it had created a hazardous condition by assigning employees without proper Coast Guard licenses to operate certain vessels and by paying licensed captains to operate vessels for 24 hours a day without a relief captain. Randall Dantin, the company owner, admitted that he had obstructed justice (18 U.S.C. § 1505) by deleting electronic payroll records from a laptop computer. These documents were material to a Coast Guard hearing that had been convened to investigate the collision.

Dantin was sentenced to serve 21 months' incarceration followed by two years' supervised release, and he will pay a \$50,000 fine. DRD was sentenced to pay a \$200,000 fine and will complete a two-year term of probation. Terry Carver, the captain of the *Mel Oliver* the day of the spill, was sentenced to serve three years' probation for violating the PWSA. The company previously pleaded guilty to a PWSA violation and to a CWA misdemeanor violation.

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

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United States v. David P. Horan, Jr., No. 4:11-CR-10011 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On August 22, 2011, David P. Horan, Jr., pleaded guilty to a Lacey Act violation (16 U.S.C. §§ 3372 (a)(2)(A), 3373 (d)(1)(A)) for unlawfully harvesting and selling 133 pounds of black grouper in interstate commerce.

From July 2007 through approximately October 2010, Horan regularly harvested spiny lobster and finfish while holding only a Florida commercial fishing license. A NOAA-issued permit is required to commercially harvest snapper and grouper in the Atlantic and Gulf waters adjacent to Florida. Additionally, Florida wholesale dealers are prohibited from purchasing lobster and finfish without first confirming that the seller possessed all required state and federal licenses.

Horan admitted that upon harvesting the fish without the proper NOAA-issued permits, he further mislabeled the actual species caught on trip reports that were filed with Florida Fish and Wildlife Conservation Commission. The grouper was then sold to Rusty Anchor Seafood of Key West, Inc., which was recently prosecuted and sentenced to pay a \$500,000 fine.

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

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United States v. Arne Fuglvog, No. 3:11-CR-00067 (D. Alaska), AUSA Aunnie Steward.

On August 11, 2011, Arne Fuglvog pleaded guilty to a Lacey Act misdemeanor charge (16 U.S.C. § 3373(d)(3)(B)) for a fisheries violation. Fuglvog had been a fisheries advisor to Alaska Senator Lisa Murkowski and was a member of the North Pacific Fishery Management Council at the time of the violation.

From 2001 to 2006, as the owner and operator of the *F/V Kamilar*, Fuglvog had permits to fish in the Gulf of Alaska for sablefish and halibut. On several occasions during this period, Fuglvog fished in one regulatory area and then falsely reported that the fish were caught in a different regulatory area. Specifically, in 2005, the defendant possessed a permit for sable fish in the area designated as "Western Yakatat." His permit allowed him to catch approximately 30,000 pounds of sablefish in the Western Yakatat area in 2005; however, he actually caught more than twice that amount of sablefish (approximately 63,000 pounds) in the Western Yakatat in 2005. Fuglvog concealed this illegal catch by submitting documents stating that he had landed this additional fish in a completely different area. The value of the illegally caught fish was approximately \$100,000.

Fuglvog is scheduled to be sentenced on November 18, 2011. This case was investigated by the National Oceanic and Atmospheric Administration Office of Law Enforcement.

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Sentencings

United States v. Adrian Mendiola et al., No. 1:10-CR-00037 (D.N.M.I.), and AUSAs Kirk Schuler and Eric O'Malley, with assistance from ECS Trial Attorney Christopher Hale.

On September 27, 2011, former police officer Adrian Mendiola was sentenced to serve 90 days' incarceration followed by six months' supervised release. Mendiola also will pay a \$1,000 fine and perform 100 hours of community service for the Division of Fish and Wildlife's community outreach education program.

The defendant was previously convicted by a jury of an Endangered Species Act violation (16 U.S.C. § 1538) for possession of a Mariana fruit bat, a threatened species. He was acquitted on a Lacey Act charge for receiving



Deceased bat with shotgun shells

wildlife. Mendiola was charged along with two co-defendants in a five-count indictment with charges stemming from the poaching of fruit bats.

The poaching occurred in 2008 on the island of Rota, in the Northern Mariana Islands, where two of the few remaining breeding colonies of the Mariana fruit bat were decimated by hunters using shotguns. There has been a moratorium on hunting fruit bats in the Mariana Islands since the 1990s and in 2005 the United States Fish and Wildlife Service listed them as threatened due to an alarming decline in their population. Biologists estimated that about ten to 14 percent of the total fruit bat population on Rota was killed during three separate poaching events over a six-month period.

This case was investigated by the Fish and Wildlife Service and the Commonwealth of the Northern Mariana Islands (C.N.M.I.) Department of Land and Natural Resources Division of Fish and Wildlife, with assistance from the C.N.M.I. Department of Public Safety; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Drug Enforcement Agency; the Federal Bureau of Investigation; the National Marine Fisheries Service; Immigration and Customs Enforcement; the Coast Guard; the Marshals Service; the Naval Criminal Investigative Service; and the National Wildlife Forensics Laboratory.

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United States v. Anthony Sharpe et al., No. 2:10-CR-20584 (E.D. Mich.), AUSAs Jennifer Blackwell and Lynn Helland.

On September 26, 2011, Anthony Sharpe and Sharpe Environmental Testing & Consulting, Inc., were sentenced after previously pleading guilty to a mail fraud violation (18 U.S.C. § 1341) stemming from fraudulent lead hazard residential assessments. Sharpe was sentenced to serve 18 months' incarceration followed by three years' supervised release. His company will pay a \$5,000 fine and complete a five-year term of probation.

From 2004 through 2006, Sharpe, acting through his company, engaged in the business of conducting and purporting to conduct lead inspections of residences in Southeast Michigan. During this period Sharpe also served as the City of Detroit's Childhood Lead Poisoning Prevention Program Manager. As a person who was trained in lead inspection, the defendant was aware that there existed a significant possibility that older residential properties contained lead paint and could pose a substantial health hazard to children and adults who lived there.

During this two-year period, Sharpe devised a scheme to obtain money by false representations. Specifically, he created documentation including lab test results to show he had performed lead inspections. He then submitted invoices for these inspections, including test results all of which were fraudulent. Because Sharpe supported his alleged lead inspections with false lab reports, neither the agency that engaged his services nor the property owners knew whether or not the properties in question created a risk of lead poisoning to their residents.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Department of Housing and Urban Development.

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United States v. Billy Powell, No. 6:11-CR-00059 (E.D. Tex.), AUSA Jim Noble.

On September 22, 2011, licensed deer breeder Billy Powell was sentenced to serve six months' home confinement as a condition of a three-year term of probation. Powell was also ordered to pay a \$1 million fine, to be deposited into the Fish and Wildlife Lacey Act Reward Fund, as well as pay \$500,000 in restitution to Texas Parks and Wildlife. During the term of probation, Powell will be prohibited from participating in any manner of commercial deer breeding. Additionally, Powell must

forfeit any illegally imported deer, any progeny of those deer, and any biological material derived from the deer, including antlers, mounts, semen, and cloned deer. Powell has already forfeited more than 1,300 straws of frozen semen valued at approximately \$961,500.

After a four-year investigation, Powell pleaded guilty to smuggling approximately 37 whitetail deer in violation of the Lacey Act (16 U.S.C. §§ 3372 (a)(2)(A), 3373 (d)(2)) from Indiana, Illinois, and Ohio into Texas over a three-year period. Powell also admitted that he made a false statement and submitted a false document (18 U.S.C. § 1001) to a United States Fish and Wildlife agent.

On at least four separate occasions between October 2006 and June 2008, Powell illegally imported the deer, many of which came from captive deer farms in Indiana, to his deer breeding facility in Texas. Powell was aware that Texas law prohibits any person from possessing a deer acquired from an out-of-state source. The fair market value of these deer exceeded approximately \$800,000, with the additional value of the semen and the progeny estimated to exceed \$1.25 million. The defendant also lied to a Fish and Wildlife agent regarding the actual number of deer that he had brought into the state.

As an unfortunate consequence of Powell's actions, all 334 deer at his facility had to be euthanized to facilitate testing for chronic wasting disease (CWD) and bovine tuberculosis (BT), as there currently is no live-animal test for CWD. This was necessary to ensure that neither disease was present in Powell's deer breeding facility or in any deer breeding facility that had received deer from Powell's facility since October 2004. Once these diseases become established in wild populations, they are extremely difficult, if not impossible, to eradicate.

This case was investigated by the Special Operations Unit of the Texas Parks and Wildlife and United States Fish and Wildlife Service.

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United States v. Keith Gordon-Smith et al., No. 6:08-CR-06019 (W.D.N.Y.), ECS Senior Trial Attorney Dan Dooher, AUSA Craig Gestring, and ECS Paralegal Lisa Brooks.

On September 21, 2011, Keith Gordon-Smith and his Rochester-based asbestos abatement company, Gordon-Smith Contracting, Inc., (GSCI) were sentenced, after previously being convicted by a jury on eight Clean Air Act violations and three false statement counts (42 U.S.C. §§ 7412, 7413(c)(1); 18 U.S.C. § 1001). Gordon-Smith will serve six years' incarceration followed by a three-year term of supervised release. The company is now defunct.

Evidence at trial proved that GSCI workers violated asbestos work practice standards at the Genesee Hospital complex, which was demolished in the summer of 2009. The first violations took place between January and May 2007, when Gordon-Smith ordered GSCI workers to tear out copper pipes, ceiling tiles, and scrap metal from the west wing, a six-story structure that contained over 70,000 square feet of asbestos. Gordon-Smith had a contract with the site owner that provided him with 50 percent of the salvage value of all copper pipe and scrap metal. When the workers removed the pipes and scrap metal, they were repeatedly exposed to asbestos, described to the jurors as falling on them "like snow." The workers were not wearing any protective clothing and often would wear their asbestos-contaminated clothing back to their homes and families. Large amounts of asbestos were left hidden in the west wing and were not properly disposed off-site.

Evidence further proved that Gordon-Smith and the company made false statements to an OSHA inspector who had received complaints from GSCI workers. The OSHA inspector visited the site three times in September and October 2007, and on each occasion Gordon-Smith lied and told the inspector that GSCI workers had not removed any copper pipes or other materials from the west wing.

Gordon-Smith and the company also were convicted of six counts of failing to provide required notice to EPA prior to commencing asbestos abatement projects at six different sites in the Rochester

area between 2005 and June 2008, including several schools. Francis Rowe, a former project manager for GSCI, was acquitted by the jury of the single CAA count charged against him.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the United States Department of Labor Office of the Inspector General, with assistance from the Occupational Safety and Health Administration, and the New York Department of Labor Asbestos Control Bureau.

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United States v. Stephen C. Delaney, Jr., No. 1:09-CR-10312 (D. Mass.), ECS Assistant Chief Elinor Colbourn, ECS Trial Attorney Jessica Alloway, AUSA Nadine Pellegrini, and ECS Paralegal Kathryn Loomis.

On September 21, 2011, Stephen C. Delaney, Jr., was sentenced to pay a \$5,000 fine to be paid into the Magnuson-Stevens Fund. He also will complete a one year term of probation to include three months' home detention.

Delaney was previously convicted by a jury of violations stemming from the false labeling of frozen fish fillets from China. Specifically, Delaney was convicted of a felony violation of the Lacey Act (16 U.S.C. §§ 3372(c)(2), 3373(d)(3)(A)) for falsely labeling approximately \$8,000 worth of frozen fillets of Pollock (a product of China) as cod loins (a product of Canada). Evidence at trial established that the price of cod is approximately \$1.00 per pound higher than that for Alaskan Pollock.

In addition, Delaney was convicted of one misdemeanor violation of the Food, Drug, and Cosmetic Act for misbranding seafood (21 U.S.C. §§ 331(a), 331(a)(2), 343(1)(1)). Evidence at trial proved that the defendant introduced into interstate commerce approximately \$203,000 worth of frozen fish fillets that were falsely and misleadingly labeled as products of Canada, Holland, Namibia, and the United States, when they were actually products of China. He was acquitted on the remaining two counts.

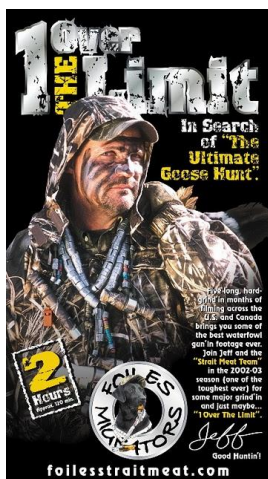
This case was investigated by the National Oceanic and Atmospheric Administration Fisheries Office of Law Enforcement and the Food and Drug Administration's Office of Criminal Investigations.

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United States v. Jeffery B. Foiles et al., No. 3:10-CR-30100 (C.D. Ill.), ECS Trial Attorney Colin Black, AUSA Gregory Gilmore, and ECS Paralegal Christina Liu.

On September 21, 2011, Jeffrey Foiles was sentenced to serve 13 months' incarceration, stemming from the illegal sale of guided waterfowl hunts. In addition to incarceration, Foiles will complete one year of supervised release during which time he may not hunt or guide hunters, and he will pay a \$100,000 fine for which his company has agreed to serve as guarantor. Additionally, Foiles has also agreed to one additional year, following completion of his term of supervised release, during which he will not hunt or guide.

Foiles, a professional duck hunter, previously pleaded guilty to a misdemeanor Lacey Act violation for the unlawful sale of wildlife, as well as one misdemeanor count of unlawfully taking migratory game birds in violation of the Migratory Bird Treaty Act (16 U.S.C. §§ 3372, 3373; 16 U.S.C. §§ 703, 707). The company that operated Foiles' hunting club, the Fallin' Skies Strait



Foiles

Meat Duck Club, LLC, also pleaded guilty to one felony count of unlawful sale of wildlife in violation of the Lacey Act and one felony count of making false writings in a matter within the jurisdiction of the U.S. Fish and Wildlife Service (18 U.S.C. § 1001).

Between 2003 and 2007, for \$250 per day, Foiles sold and guided waterfowl hunts at the club for the purpose of illegally hunting ducks and geese in excess of hunters' individual daily bag limits. Foiles and others at the club also falsified hunting records in order to conceal the excesses.

The company remains scheduled for sentencing on October 27, 2011. This case was investigated by the United States Fish and Wildlife Service, with assistance from the Illinois Department of Natural Resources, the Iowa Department of Natural Resources, and the Canadian government.

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United States v. John A. Mabus, No. 1:11-CR-00555 (D.S.C.), AUSA Winston Holliday.

On September 15, 2011, John A. Mabus was sentenced to serve eight months' home confinement as a condition of a five-year term or probation. He also will pay a \$7,500 fine, stemming from a negligent violation of the Clean Water Act (33 U.S.C. § 1319(c)(1)(A)).

During a sewer line construction project in January of 2008, Mabus and his company, Mabus Construction Co., began digging a ditch for a sewer line near the Clearwater Finishing Industrial Facility, an abandoned textile mill. The mill is located near the Little Horse Creek, a tributary of the Savannah River, and is a water of the United States.

In January 2008, as Mabus and his crew were digging, water from a lagoon that had been contaminated with heavy metals infiltrated the ditch. Mabus instructed his employees to pump water from the lagoon into the Little Horse Creek for approximately three days. The defendant and his employees pumped approximately four million gallons of industrial wastewater and sludge into the creek, draining the lagoon and contaminating the creek.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division and the South Carolina Department of Health and Environmental Control.

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United States v. Albania Deleon et al., No. 1:07-CR-10277 (D. Mass.), AUSA Lori Holik, former AUSA Jonathan Mitchell, and SAUSA Peter Kenyon.

On September 14, 2011, Albania Deleon, the former owner of one of the country's largest asbestos abatement training school, was sentenced to serve 87 months' incarceration, followed by three years' supervised release, after fleeing the United States just prior to sentencing in 2010. Deleon also will pay \$1,200,939 in restitution to the Internal Revenue Service and \$369,015 to AIM Mutual Insurance Company.

Deleon, owner of the Environmental Compliance Training School (ECTS), was convicted by a jury in November 2008, following a three-week trial on charges that she sold asbestos-removal training certificates to hundreds of undocumented workers who had not taken the mandatory training course and then sent them out to perform asbestos removal work, for which she paid them without withholding taxes. Deleon was convicted on 22 counts, including conspiracy to make false statements, to encourage undocumented workers to reside in the United States, and to hire them; five false statement violations; 16 counts of procuring false payroll tax returns; and five counts of mail fraud (18 U.S.C. § 371; 18 U.S.C. § 1001; 26 U.S.C. § 7206; 18 U.S.C. § 1341.)

ECTS was the largest certified asbestos training school in Massachusetts. Between 2001 and 2006, Deleon routinely issued asbestos certificates to people who did not attend required training

courses or pass required tests. Many of those who received fraudulent certificates were illegal immigrants who then worked for a temporary service company, Methuen Staffing, also owned by Deleon, at demolition and construction sites overseeing asbestos removal. She sent these employees to job sites throughout Massachusetts, as well as to other states, including New Hampshire, Maine, and Connecticut.

The tax violations stem from the defendant's concealing the size of her payroll from IRS to avoid paying taxes. She did this by, among other things, maintaining two payrolls where she deducted the correct amount of tax for some of her employees, but paid the majority of them using a second payroll wherein income taxes were not withheld nor were payroll taxes paid to the IRS. Finally, the mail fraud convictions stem from Deleon's mailing workers compensation insurance documentation to insurance representatives that concealed the existence of those workers who received paychecks without taxes withheld, thereby reducing the amount of worker compensation insurance that she was required to pay.

The defendant fled to the Dominican Republic three days prior to sentencing in March 2010 and was extradited to the United States in November 2010.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, Immigration and Customs Enforcement, the Internal Revenue Service Criminal Investigation Office, the Social Security Administration Office of Inspector General, the United States Department of State, the Massachusetts Insurance Fraud Bureau, and the Massachusetts Division of Occupational Safety.

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United States v. Simon Turola Borges, No. 1:11-CR-20606 (S.D. Fla.), AUSA Jaime Raich.

On September 14, 2011, Brazilian national Simon Turola Borges pleaded guilty to a smuggling violation (18 U.S.C. § 545) for attempting to import reptiles concealed in his clothes as he arrived at Miami International Airport (MIA) this summer. He was sentenced to time served (two weeks) followed by two years' supervised release and was ordered to pay a \$400 fine.

On August 25, 2011, the defendant arrived at MIA to board a flight headed for Brazil. At the security checkpoint, the defendant was scanned with Advanced Imaging Technology. The image revealed an anomaly in his groin area. In response to the image, TSA officials directed Borges into a private room for further screening. After denying that he had anything in his pants, he subsequently emptied his cargo pants pockets and removed two hatchling pythons tightly wrapped in nylon pantyhose. The TSA officials then asked him to remove any foreign objects in his groin area. The defendant removed two nylon pantyhose containing several hatchling snakes and tortoises that were separated by knots in the nylon. The objects in his pocket also proved to be pythons wrapped in nylon pantyhose.

In total, the defendant was carrying three ball pythons, three carpet python) one children's python, one Indian star tortoise, and two leopard tortoise, all of which are protected under CITES Appendix II.



Python found in defendant's clothing

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

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United States v. Clint Martinez et al., No. 3:10-CR-00038 (M.D. La.), ECS Trial Attorneys Shennie Patel and Susan Park, and ECS Paralegal Christina Liu.



American Alligator

On September 13, 2011, two Louisiana brothers pleaded guilty to, and were sentenced for, Lacey Act violations (16 U.S.C. §§ 3372, 3373) for their role in illegally killing American Alligators in violation of the Endangered Species Act (ESA) and Louisiana law. In addition to being listed as a threatened species, the American Alligator also is listed on CITES Appendix II.

In October 2005 and in September 2006, Clint Martinez, a licensed alligator hunter, and his brother, Michael Martinez, a licensed alligator helper, guided out-of-state alligator sport hunters who were clients of an outfitter to areas for which they did not have appropriate state authorization to hunt. In October 2005, sport hunter clients killed a ten-foot, two-inch trophy-sized alligator. In September 2006, hunters killed a ten-foot trophy-sized alligator and a 12-foot, six-inch trophy-sized alligator.

The Martinez brothers each were sentenced to serve a three-year term of probation during which they will be prohibited from hunting as follows: for the first year of probation they are barred from engaging worldwide in all hunting activities, including guiding, with any kind of weapon; for the remaining two years of probation they will be prohibited from engaging worldwide in all commercial alligator hunting activities, including guiding. In addition, each defendant will pay a \$5,000 fine, perform 200 hours of community service, and publish a statement in a newspaper setting forth a brief summary of the offense, the potential penalties, and an apology for their illegal conduct.

Alligator hunting has been a highly regulated activity in Louisiana since alligators were over-hunted years ago, resulting in a drastic population decline. The ESA prohibits the taking of wild American Alligators unless in compliance with Louisiana's laws and regulations. Louisiana law requires hunters and helpers to hunt only on property for which alligator tags are issued by the state. Each tag specifies an area where alligator hunting is to occur. Licensed hunters and helpers are required to hunt only in the area specified for each tag.

This case was investigated by the Louisiana Department of Wildlife and Fisheries and the United States Fish and Wildlife Service.

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United States v. Hawk Field Services, LLC, No. 4:11-CR-00060 (E.D. Ark.), ECS Trial Attorney Todd Mikolop and AUSA Edward Walker.

On September 13, 2011, Hawk Field Services, LLC (HFS), was sentenced to pay a \$350,000 fine and will make a \$150,000 community service payment to the National Fish and Wildlife Fund. The company also will complete a three-year term of probation. HFS, a wholly-owned subsidiary of Houston-based Petrohawk Energy Corporation, previously pleaded guilty to three counts of violating the Endangered Species Act (16 U.S.C. § 1538).

The company is a natural gas operator in the Fayetteville Shale in Arkansas engaged in gathering, conditioning, and treating activities related to the development of natural gas. Between October 2008 and April 2009, the defendant failed to control erosion during pipeline construction activities, leading to excessive sedimentation in three streams of the Little Red River watershed and the associated take of at least one endangered speckled pocket book mussel from each stream.

This case was investigated by the United States Fish and Wildlife Service with assistance from the Arkansas Fish and Game Commission.

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United States v. John A. Anderson, No. 2:11-CR-00145 (S.D. Ohio), AUSA Michael Marous and SAUSA Brad Beeson.

On September 9, 2011, John A. Anderson was sentenced serve a three-year term of probation, with the first 12 months to be served as home confinement. Anderson was ordered to pay a \$2,000 fine and also will perform 104 hours of community service. As a result of this conviction the defendant is barred from operating a sewage treatment plant in the future.

Anderson previously pleaded guilty to a Clean Water Act false statement violation (33 U.S.C. § 1319(c)(4)) related to the operation of the sewage treatment plant that services the Village of Pomeroy. He had been employed as the village administrator from approximately 1989 to 2009 and was responsible for the operation of Pomeroy’s wastewater treatment plant, including the filing of monthly reports with the State of Ohio.

At various times between 2006 and 2009, Anderson failed to collect and/or analyze required samples of discharge water from the plant. Instead he fabricated numbers for several pollutants, including solids and fecal coliform bacteria, and submitted those numbers to the Ohio EPA. Additionally, during site visits to the plant in 2007 and 2008, state inspectors found that large quantities of solids had been discharged into the Ohio River.

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

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United States v. Uniteam Marine Shipping GmbH, No. 3:11-CR-00195 (D.P.R.), ECS Trial Attorney Kenneth Nelson and AUSA Marshal Morgan.

On September 8, 2011, Uniteam Marine Shipping GmbH (Uniteam) was sentenced to pay a \$600,000 fine plus make a \$200,000 community service payment to the National Fish and Wildlife Foundation to fund projects aimed at the restoration of marine and aquatic resources in the District of Puerto Rico. The company also will complete a three-year term of probation and is required to implement a comprehensive advanced training and verification program to continuously monitor vessel operations and train crewmembers to prevent pollution from any ship it operates.



Overboard discharge with oily residue

The *MV CCNI Vado Ligure* is a 16,800-ton ocean-going ship operated by Uniteam. On May 10, 2010, while the vessel was in port in San Juan,

Puerto Rico, Coast Guard inspectors located evidence that the crew had been discharging oily bilge waste from January until May 2010. The crew had manipulated the vessel's oily water separation equipment so that bilge waste would be discharged from the vessel without being processed or monitored, and they did not record these discharges in the oil record book (ORB).

Uniteam previously pleaded guilty to an APPS violation and a false statement charge (33 U.S.C. § 1908(a), 18 U.S.C. § 1001) for the presentation of a false ORB to the Coast Guard.

This case was investigated by the United States Coast Guard.

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United States v. Van Bodden-Martinez, No. 9:11-CR-80056 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On September 2, 2011, Van Bodden-Martinez was sentenced to serve a three-year term of probation, to include a special condition prohibiting him from importing any fish or marine product harvested in Bahamian waters into the United States. The court also ordered forfeiture of the illegal catch of approximately 45 spiny lobster tails, 343.5 pounds of queen conch, 42 yellowtail snappers, and two insulated ice-chest coolers as a result of Bodden-Martinez' violation of U.S. and Bahamian law.

The defendant, a Bahamian national, previously pleaded guilty to a Lacey Act violation (16 U.S.C. § 3372) for attempting to import in February 2011 spiny lobster, queen conch, and yellowtail snapper, all of which had been harvested without the necessary permits and in violation of the possession limits for each of these species as specified in Bahamian regulations.

This case was investigated by the National Oceanic and Atmospheric Administration Office for Enforcement, Immigration and Customs Enforcement; United States Customs and Border Protection; the Florida Fish and Wildlife Conservation Commission; the United States Coast Guard; and the Palm Beach County Sheriff's Office.

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United States v. Joseph Terranova et al., No. 2:10-CR-20013 (E.D. Mich.), AUSA Jennifer Blackwell and SAUSA Crissy Pellegrin.

On September 1, 2011, Joseph Terranova was sentenced to pay a \$10,000 fine and will complete a two-year term of probation. Terranova is the final defendant to be sentenced in this case involving an illegal asbestos abatement project.

Peter DeFilippo contracted through his company, Excel Demo, Inc., to supervise the demolition of a fire-damaged building at Harbour Club Apartments, in Belleview, Michigan. Terranova was a supervisor for GFI Management Services, Inc. (the property management company for Harbour Club). David Olsen is a firefighter who also was employed by DeFilippo.

The defendants knew that the fire-damaged building contained regulated asbestos-containing materials (RACM), which needed to be properly removed during the demolition. Despite this knowledge, the RACM was removed without the presence of a certified professional and without complying with work practice standards. Terranova pleaded guilty to a false statement violation (18 U.S.C. § 1001), and DeFilippo pleaded guilty to a CAA violation (42 U.S.C. § 7413 (c)(1)). Olsen pleaded guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. § 7413(c)(4)).

Olsen was sentenced in July 2011 to pay a \$10,000 fine. DeFilippo was sentenced in August 2011 to serve 13 months' imprisonment, followed by two years' supervised release. He also will pay a \$5,000 fine and an additional \$5,000 in restitution to a worker for medical expenses. Charges against Excel, a sham corporation, were dismissed.

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

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United States v. Kie-Con, Inc., No. 3:10-CR-00934 (N.D. Calif.), AUSAs Stacey Geis and Jeffrey Rabkin.

On September 1, 2011, Kie-Con, Inc., pleaded guilty to, and was sentenced for, one negligent violation of the Clean Water Act (33 U.S.C. §§ 1311(a), 1391(c)(1)(A)).

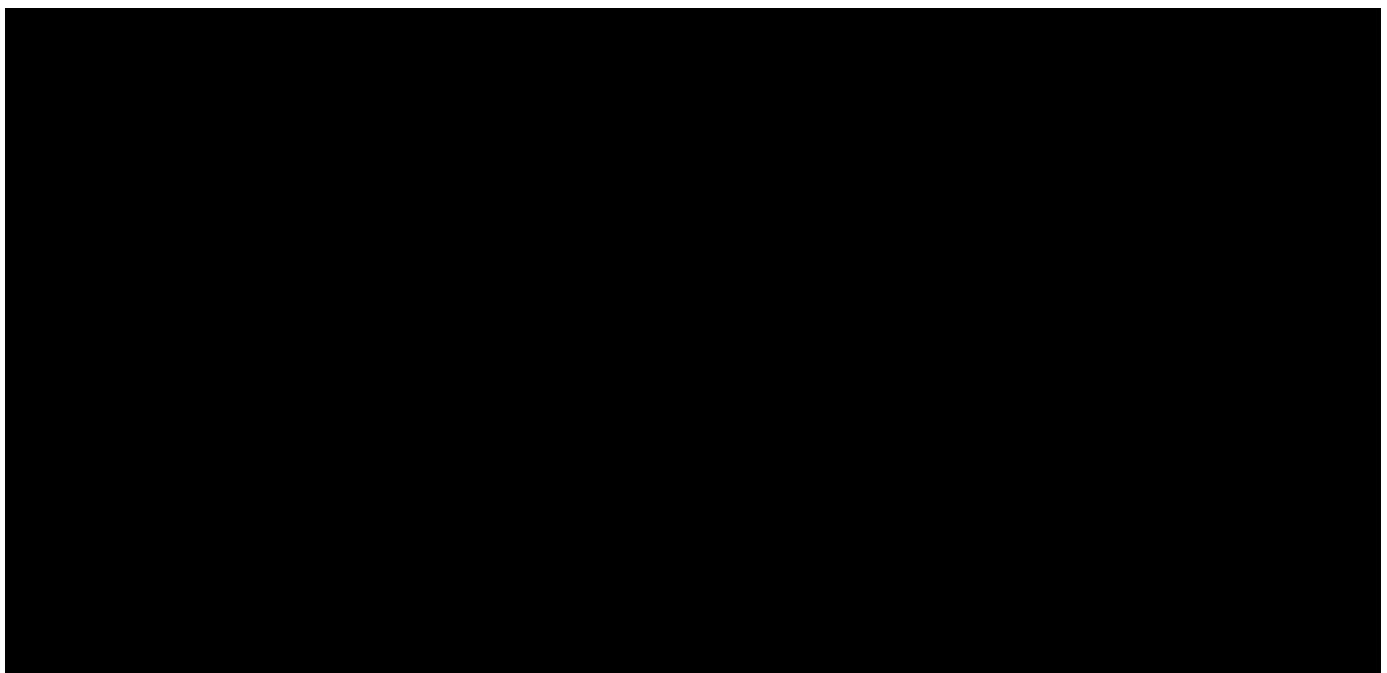
Kie-Con is a manufacturer of pre-stressed and pre-fabricated concrete products, such as beams and girders used in building and bridge construction. Kie-Con had a facility located in Antioch, California, which has been in operation since the early 1980s. As part of its operations, concrete was manufactured and poured into pile casting beds to create pilings used for building foundations and other purposes. As part of this process, concrete process water was generated with high pH levels.

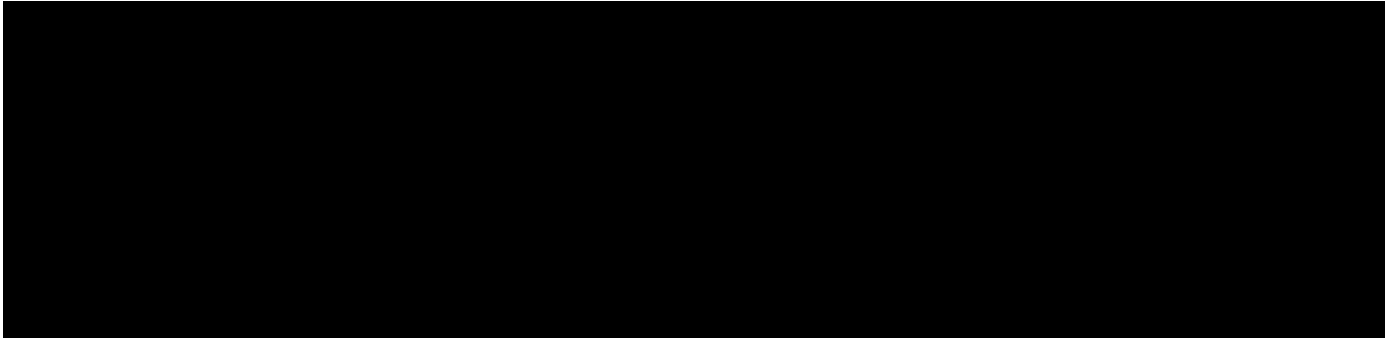
In approximately January 2004 and continuing to April 2007, company employees routinely discharged concrete process water directly into the San Joaquin River in violation of its Clean Water Act permit. The process water was a pollutant in part because it contained significantly high pH levels that fell outside the effluent limits set for the San Joaquin River. Kie-Con admitted that employees routinely discharged the process water by using a hose that pumped the process water from sedimentation basins to a nearby storm water drain that led directly to the river.

Kie-Con was sentenced to pay a \$3.5 million fine and to make a \$750,000 community service payment to the National Fish and Wildlife Foundation to fund environmental projects relating to watersheds and ecosystems in the Bay Area, with an additional \$750,000 payment to be paid to the Contra Costa District Attorney for funding environmental projects in the county where the violations occurred. Kie-Con and the Northern California District of Kiewit Infrastructure West Company also must implement a comprehensive environmental compliance plan.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Federal Bureau of Investigation, and the Contra Costa County District Attorney's Office.

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United States v. Michael Solberg, No. 3:11-CR-30074 (D.S.D.), AUSA Megan Dilges.

On August 10, 2011, Michael Solberg was sentenced to pay a \$1,250 fine plus make a \$10,000 community service payment to the National Fish and Wildlife Fund. He previously pleaded guilty to violations of the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act (16 U.S.C. § 668(a); 18 U.S.C. §§ 703, 707(a)).



Killed Golden Eagle

Solberg owns and operates The Grand Lodge, a pheasant hunting lodge. The defendant has a hunting preserve license with the State of South Dakota for the purpose of conducting guided pheasant hunts. Since the lodge's opening in 2008, Solberg has shot and/or killed Bald and Golden Eagles and multiple species of hawks, specifically Red-Tailed Hawks and Rough-Legged Hawks. He admitted to shooting and killing at least one Golden Eagle and 20 hawks as of September 2008. The defendant stated that he shot the birds in an effort to protect his pheasants for his hunting business. The Remington Model 700 rifle he used to shoot a Golden Eagle was forfeited.

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

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United States v. Rodger Dale DeVries, No. 2:11-CR-00026 (W.D. Mich.), ECS Senior Trial Attorney David Kehoe and USA Don Davis.

On September 8, 2011, Rodger Dale DeVries was sentenced to pay a \$2,000 fine and will complete a one-year term of probation. DeVries recently pleaded guilty to a violation of the Marine Mammal Protection Act (MMPA) (16 U.S.C. §§ 1372(a)(2)(b), 1375(b)), for illegally importing a polar bear trophy mount from Canada into Michigan.

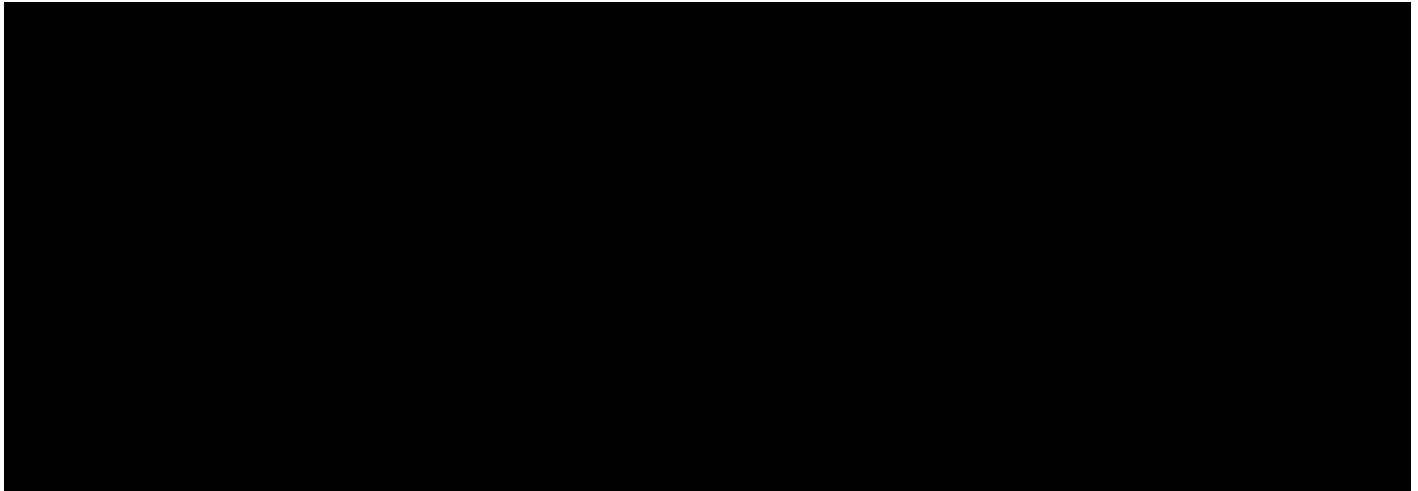
In November 2000, DeVries obtained a license from the Nunavut Territory in Canada to hunt and kill a polar bear from the Foxe Basin. Knowing that polar bears from the Foxe Basin could not be imported into the United States, the defendant had the polar bear trophy stored in Canada.

The MMPA prohibits importation of polar bear trophies or parts unless the Secretary of the Interior has made a determination that, in doing so, the region would still maintain sustainable population levels. The Secretary has not made such a determination for the Foxe River Basin.

In July 2007, DeVries travelled to Canada to retrieve the trophy. He then transported the trophy by boat from Ontario across the border to port in Raber Ray, Michigan. A few days later, the defendant moved it to his home and then sold the boat.

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

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United States v. Roger Cherry, No.1:11-mj-00031 (W.D. Ky.), AUSA Randy Ream.

On August 26, 2011, Roger Cherry, a retired city superintendent for Scottsville, Kentucky, was sentenced to pay a \$1,350 fine and to complete a two-year term of probation for violating the Migratory Bird Treaty Act (16 U.S.C. §§ 703, 707).

In 2010, Cherry placed wheat seed on a field to bait mourning doves just prior to the beginning of the dove hunting season. He dispensed approximately 100 pounds of seed over a three-week period to draw the birds into the area.

This case was investigated by the Kentucky Department of Fish and Game and the United States Fish and Wildlife Service.

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United States v. Marine Environmental Services et al., No. 4:10-CR-00112 (E.D. Va.), AUSA Brian Samuels and RCEC David Lastra.

On August 24, 2011, tank cleaning company Marine Environmental Services (MES) and manager Jerry R. Askew, Sr., were sentenced after previously pleading guilty to Clean Water Act and Refuse Act violations (33 U.S.C. §§ 1319(c)(2)(A), 407) stemming from the decommissioning of the *USS Pawcatuck*, a Navy tanker vessel. The company will pay a \$10,000 fine and will complete a five-year term of probation. MES also will pay \$60,000 toward community service projects benefiting the Elizabeth River, and will implement an environmental compliance plan. Askew will pay a \$15,000 fine and serve 30 days' home confinement followed by one year of supervised release.

In October 2005, a ship dismantling company was hired to break down and dispose of the *Pawcatuck*, which was transferred to the company's facility in Chesapeake, Virginia, adjacent to the Elizabeth River. Tanks on board the vessel held approximately two million gallons of ballast water contaminated with a variety of pollutants, including oil, grease, bacteria, and heavy metals. In order to

properly dispose of the vessel, the dismantling company hired MES to remove this ballast water and to clean the tanks. MES was required to analyze the volume and contents of the tanks to determine whether it would transport the liquids to a waste treatment facility or discharge them to the sanitary sewer, after notifying and obtaining approval from POTW officials.

Askew directed, however, that MES employees discharge a portion of the dirty ballast water overboard into the river. The overboard discharges occurred on different occasions between October of 2005, and July of 2006. The defendants pleaded guilty to the knowing discharge of 500,000 gallons of dirty ballast water from a vessel into the Elizabeth River in Chesapeake, Virginia, without a permit and to the discharge of refuse matter into navigable waters of the United States without a permit.

This case was investigated by the United States Environmental Protection Agency Criminal Investigation Division, the Defense Criminal Investigative Service, the Naval Criminal Investigative Service, the Coast Guard Investigative Service, and the United States Department of Transportation Office of Inspector General.

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