



U.S. v. Lumber Liquidators, Inc.

Patrick Duggan

DOJ Environmental Crimes Section

April 6, 2016



Forest Trends TREE Meeting: Prague, Czech Republic

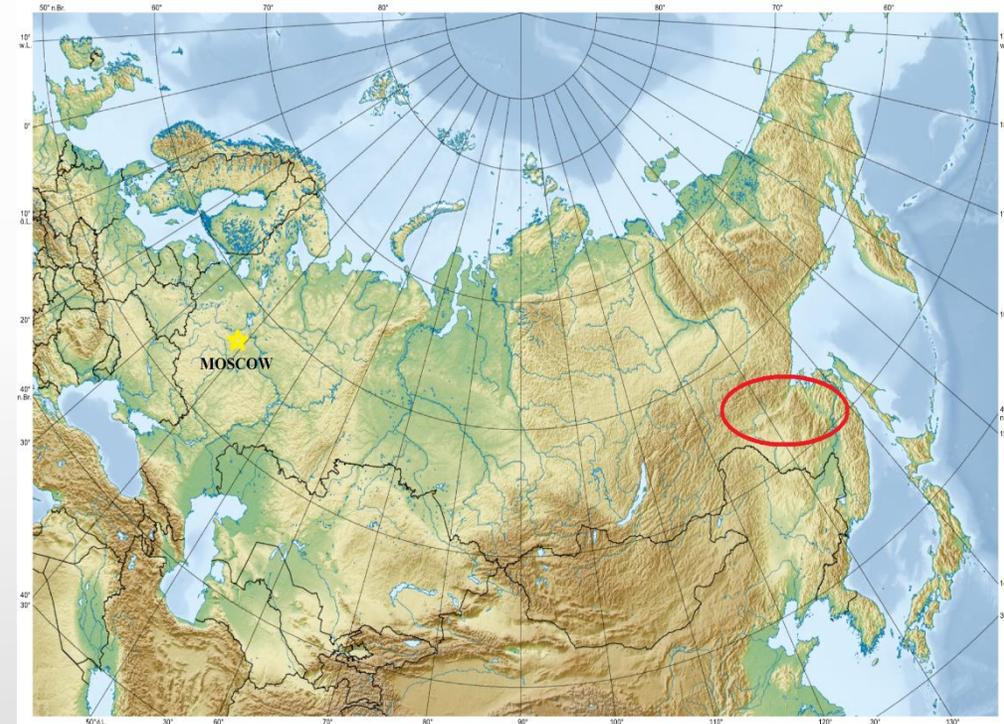
Overview

- Case summary
- Case results
- Environmental Compliance Plan
- Impact



Natural Resources

- DOJ received information from EIA that LL was bringing in timber products:
 - Illegally harvested in Russian Far East;
 - Transported to China for manufacturing;
 - Falsely declared upon import into the U.S.
- The Russian Far East is:
 - Mixed broadleaf forests of Korean pine (CITES-III) and Mongolian oak (CITES-III)
 - Extremely remote
 - Known for illegal logging



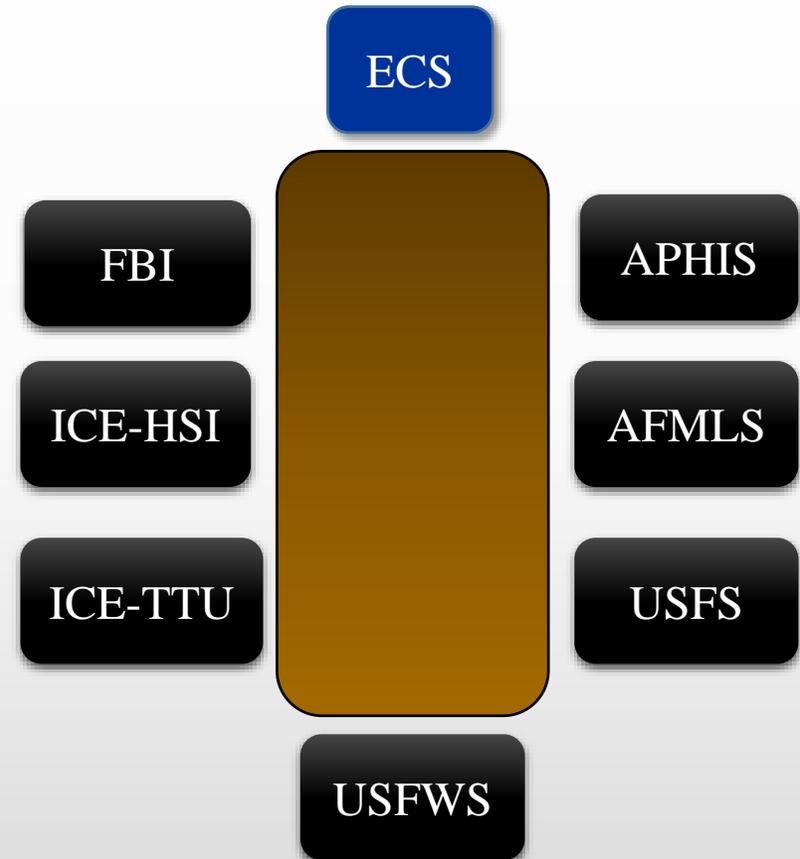
Natural Resources

- The Russian Far East is also home to:
 - The last 450 wild Siberian tigers (CITES-I), and
 - The last 47 Amur leopards (CITES-I)
 - Both cats are dependent on Mongolian oak and Korean pine forests for hunting & prey species (boar, red deer rely on pine nuts & acorns)
 - Greatest threat to the cats' survival is illegal logging



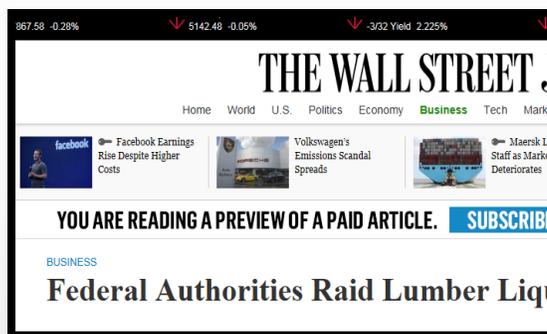
Case Initiation

- Selling the Case
 - Impact
 - Value
 - Publicity
 - Ease
 - Hand search
 - International cooperation



Case Development

- Interviews (covert)
- Search Warrant

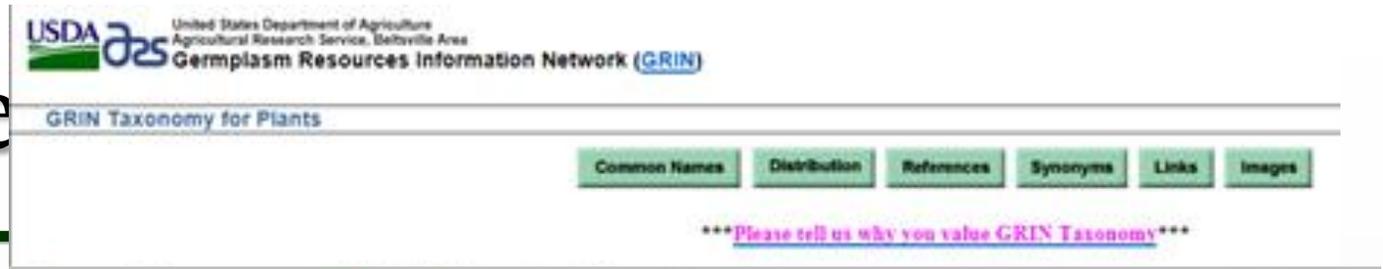


Stock tumbles after raid of Lumber Liquidators



By Gregory Wallace

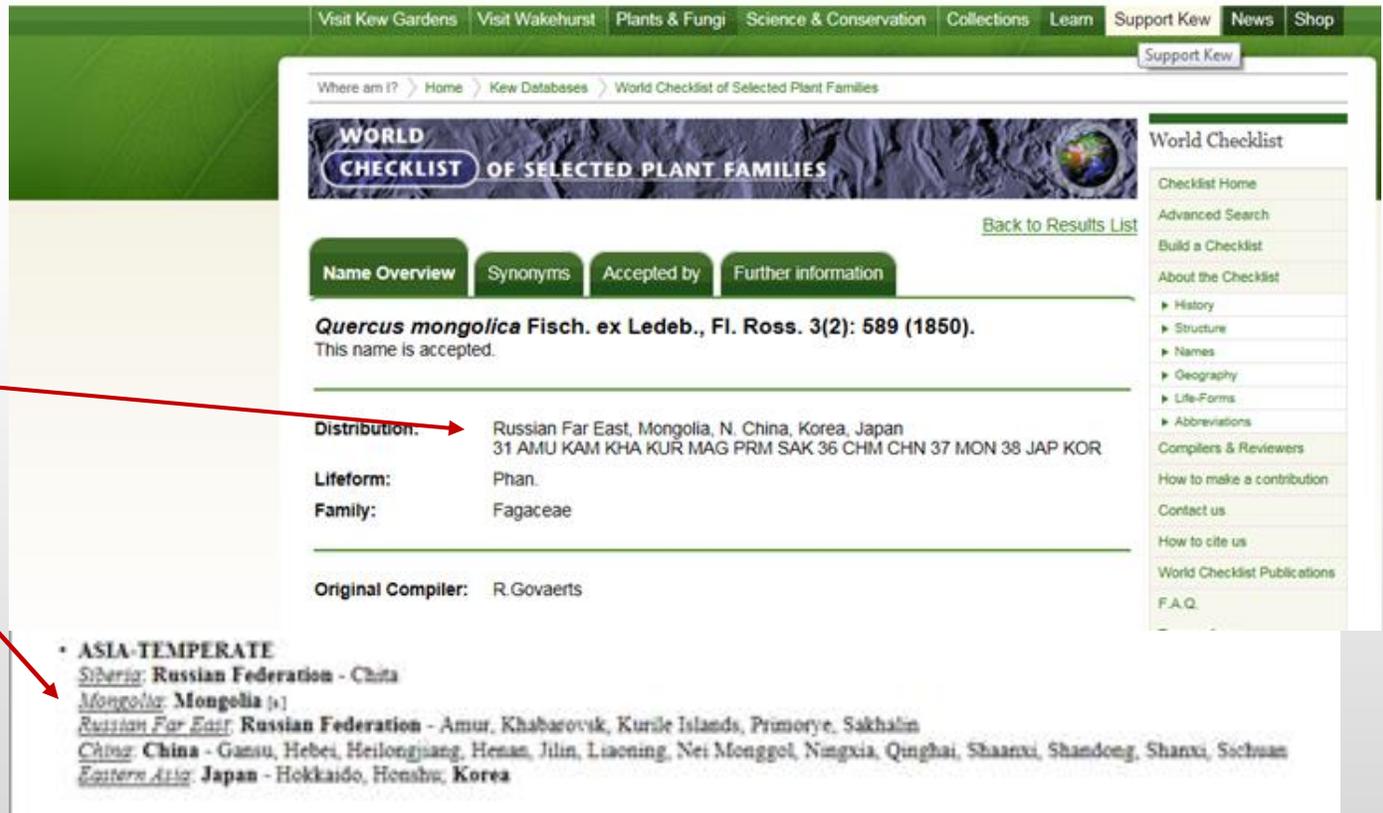
Evidence: Knowledge



LL Lacey Act 2010 Manual

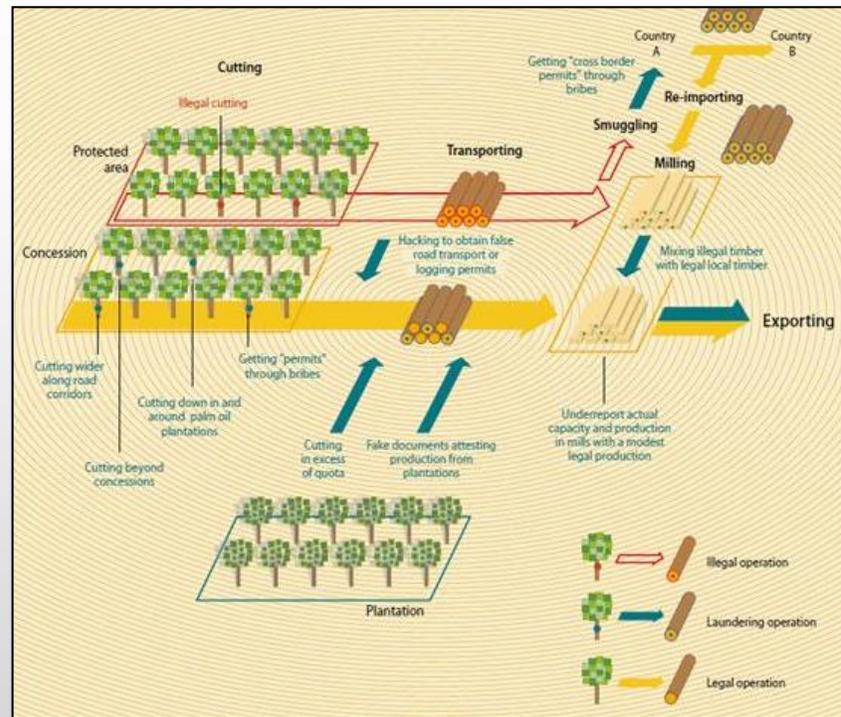
There is no *de minimis* exemption in the law; any amount of plant product triggers the declaration requirement. The following websites may be useful to look-up the scientific names of plants:

- <http://plants.usda.gov>
- http://www.ars-grin.gov/cgi-bin/npgs/html/tax_search.pl
- <http://www.itis.gov/>
- <http://www.ipni.org/>



Methods of Illegality

- The case involved two common methods of timber crimes:
 - 1) Falsely declaring species and/or harvest country to cover up true product
 - 2) Using a legitimate permit to launder illegally harvested timber



Evidence: False Declarations

name/Scientific name on PPQ	Country of harvest on PPQ
QUERCUS PETRAEA	Russian

34 Purchase Orders declared as *Quercus petraea* when known species was *Quercus mongolica*

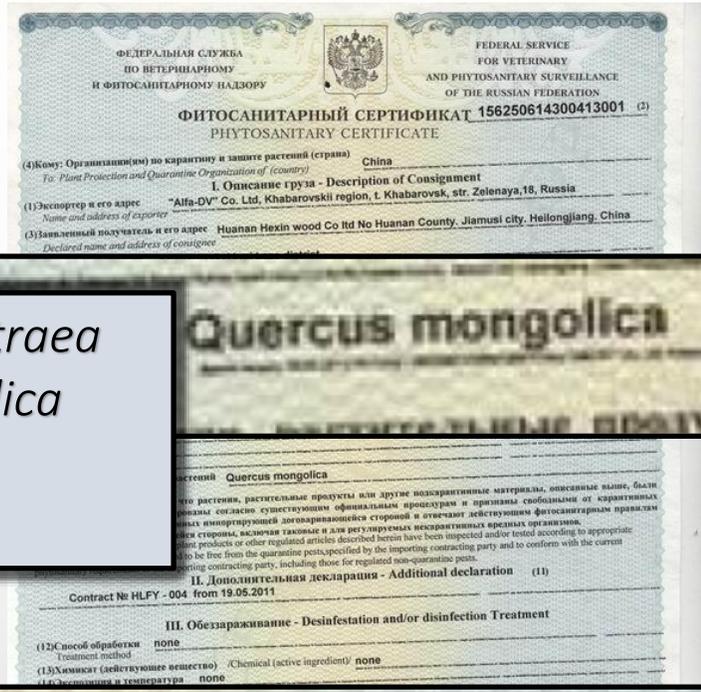
Total Value of \$ 3,417,677.28

Certificate of Origin	Place of issuance	Date of issuance
Phytosanitary certificate	LIE.V.	4/30/2013

Фитосанитарному надзору
 Authorized officer of the Federal Service for
 Veterinary and Phytosanitary Surveillance

(Date) 30 APRIL 2013 Подпись /Signature/ LIE.V.

не несет никаких финансовых обязательств на Федеральную службу по ветеринарному и фитосанитарному надзору



Quercus mongolica



Outcome

- One felony violation, four misdemeanor violations
 - First felony conviction under Lacey Act timber amendments
- Largest Lacey Act criminal penalty ever
 - \$7.8 million criminal fine
 - \$1.2 million community service payments
 - \$4.5 million in forfeiture
- Detailed factual statement
- Environmental Compliance Plan
 - Annual auditing and reporting to the court
- 5 years probation

BUSINESS

Lumber Liquidators pleads guilty to environmental crimes, agrees to pay more than \$13M

Everett Rosenfeld | @Ev_Rosenfeld
Thursday, 22 Oct 2015 | 1:48 PM ET





1984



50 km



Environmental Compliance Plan

- Court-enforced measures to ensure that LL knows what they import and who they are import it from.
- LL compliance decision-making process will be centralized, documented and audited.
- Keep in mind:

implement the rules set forth below. This document, therefore, represents only the minimum standards that will be met by the Company, as opposed to the specific procedures that the



ECP: Oversight

Lumber Liquidators' Chief Compliance Officer (CCO) shall be responsible for the oversight of the Company's program to address the requirements of the Lacey Act and related regulations.

product or forestry industry. The Lacey team shall coordinate with other business functions, as appropriate, to meet the requirements of the Lacey Act Compliance Program and its associated

A member of the Lacey team (or an internal employee trained in Lacey inspection protocols and reporting up to CCO, either on a full-time or project basis), third-party auditor with specialized industry expertise, or appropriate certification body, shall conduct onsite inspection visits no less than quarterly for medium and high risk suppliers, as well as low risk suppliers who are providing medium risk products. A record of the onsite visit will be maintained by a U.S.-based member of the Lacey team.

ECP: Risk

Lumber Liquidators will use a risk-based approach to the implementation of the various elements of its compliance program including the Lacey Act Compliance Program.

(if any) beyond what is set forth herein that are deemed appropriate. If the supplier is providing a product that is considered high risk per the above factors, then that supplier will automatically be considered high risk. Further, the factors enumerated in subparagraph c) above may not

If a supplier is considered medium or high risk, then the Chief Compliance Officer must give initial approval before any product is purchased or any transactions are completed that would result in a shipment to United States of product from such a supplier. The CCO must make a written record of the decision-making process.

ECP: Vendor Validation

activities may be in violation of Lacey Act requirements. A critical element for avoiding business activities with non-compliant third parties is to establish a third party due diligence process aimed at not engaging such vendors in the first place.

- a) A risk assessment as described in section 5 of this document;
- b) A sample purchase order-level evaluation as described in section 7 of this document;
- c) An in-person audit by a member of the Lacey team, appropriate third-party certification body, or third-party auditor with specialized industry experience; and
- d) The procurement of language skills and the use of those skills to assess submitted documentation of sourcing and legality.

The Lacey team will be responsible for memorializing the above steps. The CCO must provide written authorization to conduct business with a new supplier before the Company may engage in any transactions with that new supplier. The authorization must include consideration of the factors listed above.

ECP: Document Review

The Lacey team shall be responsible for creating and implementing a risk-based approach to ensure that Purchase Orders (“POs”) comply with the Lacey Act. The purpose of the PO review is not just to audit the PO documents, but to ensure that by June 1, 2016, Lumber Liquidators can establish an unbroken and verified chain of custody from itself back to the product’s source using documentation down to the forest level.

each PO for a medium or high risk product or from a medium or high risk supplier shall be reviewed and analyzed as above and requires clearance before importation into the U.S., and if cleared, such clearance must be signed off by the CCO, or the CCO’s designee. A record shall be

then the product will not be accepted until such documentation is provided. If the documentation is not provided within a reasonable time, then the product will not be imported. If a product has

Impact

- Compliance expectations are heightened
- Status quo not acceptable
- Knowledge pool
 - Modes of illegality
 - Locations of illegality
 - Complacency
- Device
- NGO cooperation



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