



# Bulletin

## Environmental Crimes Section

September 2021

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Multiple pieces of ivory seized from defendant. See [inside](#) for more details on *U.S. v. Cooper*.



District/Circuit	Case Name	Statutes
Supreme Court	County of Maui, Hawaii v. Hawaii Wildlife Fund, et al.,	Sewage Discharges/CWA
11th Circuit Court of Appeals	United States v. Sprague	Dog Fighting/Animal Fighting Venture
Southern District of Alabama	United States v Richard Parker, et al.	Misbranded Pesticide Sales/FIFRA
District of Alaska	United States v. Walter Earl United States v. James A. Stevens	Ivory Sales/Lacey Act, Tax Evasion Fish Harvesting/Lacey Act
Central District of California	United States v. Arturo Ceja, III United States v. Jonathan Gershman	Fireworks/Explosives Transportation Pesticide Sales/FIFRA
Eastern District of California	United States v. Lester Eduardo Cardenas Flores et al. United States v. Everado Cuadro Campos United States v. Eleno Fernandez-Garcia	Marijuana Cultivation/Depredation, Drugs, Felon in Possession
Southern District of California	United States v. Jose Guadalupe Mancillas Ponce United States v. Mark Lee Morgan United States v. Jose Manuel Romero Torres	Pesticide Smuggling/Conspiracy, Smuggling
Southern District of Florida	United States v. Gary Tucker	Wildlife Investigation/False Statement
Southern District of Indiana	United States v. Jeffery Delucio	Lead Paint/TSCA, Obstruction
Eastern District of Michigan	United States v. Chandra Yarlagadda	Biofuel Sales/Tax Violations



District/Circuit	Case Name	Case Type/Statutes
District of Montana	United States v. U.S. Minerals, Inc. United States v. Jeffrey S. Wood	Chemical Manufacturer/CAA Wolf Killing/FIFRA
Eastern District of New York	United States v. Rickey Lynch	Lead Paint/TSCA
Northern District of New York	United States v. Daim Logistics, Inc., et al.	Emissions System Tampering/ CAA
Western District of New York	United States v. James S. Marshall	Asbestos Abatement/CAA
Southern District of Ohio	United States v. Brian Liming	Wildlife Officer Shooting/ Firearms
Western District of Pennsylvania	United States v. Shane M. Trout United States v. Dale A. Smith	Ginseng Harvesting/Lacey Act
District of Puerto Rico	United States v. Carlos David Flores Rios et al.	Bird Sales/MBTA
District of South Dakota	United States v. Richard M. Grohs	Bald Eagle Killing/BGEPA
District of Utah	United States v. Jean-Michel Arrigona et al.	Wildlife Sales/Lacey Act
Eastern District of Virginia	United States v. Gary L. Cooper United States v. Chester Moody et al. United States v. Kenneth L. Otey, Jr.	Ivory Sales/ESA Dog Fighting/Animal Fighting Venture, Conspiracy Dog Fighting/Animal Fighting Venture, Drugs, Firearms



## Decisions

### ***Hawai'i Wildlife Fund v. Cty. of Maui*, No. CV 12-00198 SOM/KJM, 2021 WL 3160428 (D. Haw. July 26, 2021).**

On remand from the Supreme Court, the District Court for the District of Hawaii held that the County of Maui (the County) required a Clean Water Act (CWA) permit for discharges of wastewater from its Lahaina Wastewater Reclamation Facility (Facility). After the Facility receives and treats sewage from the surrounding communities, it pumps approximately four million gallons of wastewater into groundwater via injection wells. From there, the wastewater travels through the groundwater aquifer to the Pacific Ocean.

In 2012, Hawaii Wildlife Fund and others brought a CWA citizen suit against the County, maintaining that the wastewater discharges violated the CWA because they were unpermitted. Under the CWA's National Pollutant Discharge Elimination System (NPDES) program, a permit is required if a pollutant is discharged from a point source into navigable water. The County argued that because the discharges traveled through groundwater on their way from the point source (the County's wells) to the navigable water (the Pacific Ocean), the discharges did not require a permit.

The district court and Ninth Circuit both held that the discharges required a permit, but applied different standards in doing so. The County appealed the Ninth Circuit's decision to the Supreme Court. On April 23, 2020, in a 6-3 decision, the Supreme Court held that the correct standard for determining whether a permit is required is whether there has been the "functional equivalent" of a direct discharge from a point source to a navigable water. *County of Maui, Hawaii v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020).

In determining whether a discharge is the "functional equivalent" of a direct discharge, the Court enumerated seven factors that may be relevant: "(1) transit time, (2) distance traveled, (3) the nature of the material through which the pollutant travels, (4) the extent to which the pollutant is diluted or chemically changed as it travels, (5) the amount of pollutant entering the navigable waters relative to the amount of the pollutant that leaves the point source, (6) the manner by or area in which the pollutant enters the navigable waters, (7) the degree to which the pollution (at that point) has maintained its specific identity." *County of Maui*, 140 S.Ct. at 1476-77., No. CV 12-00198 SOM/KJM, 2021 WL 3160428, at \*11 (D. Haw. July 26, 2021). The Court placed the greatest significance on time and distance.

On remand from the Supreme Court, the district court examined each of the seven factors against the facts and circumstances of the County's discharge. Discussing the "transit time" and "distance traveled" factors, the district court opined that the approximately 300 days to 16 months of transit time and 0.5 to 1.5 miles of distance the pollutants travelled from the injection wells to the ocean both weighed in favor of requiring a NPDES permit, noting that the Supreme Court had not categorically ruled out a NPDES permit for a hypothetical discharge with a transit time of "many years" and a distance traveled of 50 miles, from point source to navigable water.

The district court found that the "nature of the material through which the pollutant passes" factor and the "extent to which the pollutant is diluted" factor, however, weighed against requiring a NPDES permit, as there was no dispute that the pollutants were diluted as they traveled through groundwater and aquifer of porous rocks before reaching the ocean.

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## Decisions

*(Continued from page 4)*

The district court found the “manner by or area in which the pollutant enters the navigable waters” factor weighed neither in favor of nor against requiring a permit, and found the “amount of pollutant entering the navigable waters relative to the amount of the pollutant that leaves the point source” and “degree to which the pollution maintains its specific identity” factors both weighed in favor of requiring a permit.

The district court then proposed two additional factors to examine. First, the district court proposed a “total volume of wastewater reaching navigable waters” factor, finding the Supreme Court’s “amount of pollutant entering the navigable waters relative to the amount of the pollutant that leaves the point source” factor to be insufficient, where, as here, the volume of wastewater discharged was so immense, that even if only a very small amount ultimately reached the ocean – relative to the amount that was initially discharged – the volume of pollutants reaching the navigable waters would still be significant. The district court found this factor weighed in favor of requiring a NPDES permit.

Second, the district court proposed an “impact on the ecosystem” factor, noting that the CWA was designed to prevent – or at least minimize – the harm of pollutants to navigable waters. Ultimately, the district court did not weigh that factor in either side’s favor, but noted it may be important in other proceedings.

Finally, the district court examined a factor not set forth by the Supreme Court, or either of the parties, but instead set forth by EPA in a guidance document<sup>[FN1]</sup> that proposed adding an eighth factor to the Supreme Court’s seven: the design and performance of the pollution-producing system. The district court held that this factor “does not add anything to the analysis in this case,” and that instead the design and performance of the facility had already been taken into account by several of the seven factors enumerated by the Supreme Court.

Balancing all of these factors, the district court concluded that the discharge was the “functional equivalent” of a direct discharge, and therefore required a NPDES permit.

*[FN 1] On September 15, 2021, EPA rescinded the January 2021 guidance document.*

### ***United States v. Shane Patrick Sprague (11th Cir. No. 20-13275).***

On September 10, 2021, the 11<sup>th</sup> Circuit Court of Appeals, on its own motion and without argument, issued an unpublished opinion affirming the district court’s judgment.

A jury convicted Sprague of conspiracy to violate the animal fighting prohibitions of the Animal Welfare Act through dog fighting. On appeal, Sprague first challenged the sufficiency of the evidence. The Court of Appeals rejected this challenge, holding that the jury could properly have convicted him based on a variety of evidence, including recorded conversations in which Sprague graphically described dog fights and talked about his partners as well as Sprague’s own testimony that demonstrated his knowledge of dog fighting. Sprague also argued that the trial judge denied him due process by improperly coercing the jury into reaching a verdict late at night because the judge noted that courtroom space might be more limited if they came back the next available day. The Court of Appeals also rejected this argument, noting that the judge told the jurors multiple times that it was their decision whether or not to stay, and it was the jurors’ choice to stay, especially when they requested more time to finish after the judge told them to break for the evening.



## Indictments

### ***United States v. Shane M. Trout*, No. 1:21-CR-00032 (W.D. Pa.), AUSA Paul Sellers.**

On August 18, 2021, prosecutors charged Shane M. Trout with violating the Lacey Act for illegally purchasing and transporting American ginseng (16 U.S.C. §§ 3372(a)(2)(B), 3373(d)(l)(B)).

In January 2021, Trout submitted Ginseng Dealer Quarterly Reports claiming he purchased legally harvested ginseng from Pennsylvania when it actually came from Ohio without the required import certificates.

The United States Fish and Wildlife Service Office of Law Enforcement conducted the investigation.

### ***United States v. Dale A. Smith*, No. 1:21-CR-00031 (W.D. Pa.), AUSA Paul Sellers.**

On August 18, 2021, prosecutors charged Dale A. Smith with conspiracy and violating the Lacey Act for illegally purchasing American ginseng (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(B), 3373(d)(l)(B)).

As the owner and operator of Alleghany Mountain Ginseng, Smith possessed licenses to deal wild American ginseng in Pennsylvania and New York. Between September 2018 and January 2020, he purchased wild ginseng in Pennsylvania from buyers who informed him that they harvested it from New York without required certifications. Smith then submitted falsified Ginseng Dealer Quarterly Reports stating he purchased legally harvested ginseng from Pennsylvania that actually came from New York.

The United States Fish and Wildlife Service Office of Law Enforcement conducted the investigation.

### ***United States v. Jeffery Delucio*, No. 1:21-CR-00237 (S.D. Ind.), AUSA Kate Olivier.**

On August 11, 2021, prosecutors charged Jeffery Delucio with violating the Toxic Substances Control Act and obstruction of justice (15 U.S.C. §§ 2615(b), 2689; 18 U.S.C. § 1519). Trial is scheduled to begin on November 1, 2021.

Delucio co-operated Aluminum Brothers Home Improvements LLC, a painting and renovation business. The company possessed lead-based paint renovation, repair, and painting certification.

In 2017, Aluminum Brothers contracted with the City of Richmond, Indiana, to renovate and remove lead paint from two apartment buildings. During the renovations, Delucio failed to follow several work practice standards, including not scattering paint

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# Indictments

*(Continued from page 6)*

chips throughout the properties. A child who inhabited one of the residences already had elevated levels of lead in his blood. Delucio also failed to train his workers on lead-safe work practices and then falsified documents to conceal his conduct. Specifically, after receiving a grand jury subpoena for records in May 2018, Delucio manufactured records purporting to show workers received proper training on lead-safe work practices prior to working on these renovation projects.

The U.S. Environmental Protection Agency Criminal Investigation Division, the U.S. Department of Housing and Urban Development, and the Indiana Department of Environmental Management conducted the investigation.

## ***United States v. Rickey Lynch, No. 2:21-CR-00405 (E.D.N.Y.), AUSA Anthony Bagnuola.***

On August 6, 2021, prosecutors charged Rickey Lynch with a felony violation of the Toxic Substances Control Act, the first since Congress amended the statute in 2016 (15 U.S.C. §§ 2614(b)(1), 2615(b)(1), 2615(b)(2)(A), 2689). Individuals may be fined up to \$250,000 and sentenced up to 15 years imprisonment and organizations may be fined up to \$1,000,000 per violation under this new felony endangerment provision.

In January 2020, a family in Freeport, Long Island, retained Lynch's company, Bright Lights Supreme Cleaning, Inc., to remediate hazardous lead-based paint from their home after physicians found the family's two-year-old son with elevated levels of lead in his blood.

Over the course of several days, Lynch remediated the lead-based paint himself, despite lacking the proper certification to either perform or supervise such work. Lynch also failed to comply with various work practice standards and did not use a High Efficiency Particulate Air filtration system to prevent dust and debris from spreading throughout the house.

Prosecutors also charged Lynch with attempting to obstruct the U.S. Environmental Protection Agency investigation by supplying a fake subcontractor agreement, an affidavit, and other documents containing forged signatures of an individual Lynch claimed supervised his project (18 U.S.C. §§ 1001(a)(2), 1028).

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation.



## Guilty Pleas

***United States v. Carlos David Flores Rios et al., No. 3:20-CR-00424 (D.P.R.), AUSA Carmen M. Marquez Marín.***

On August 31, 2021, Edgardo Marin Candelaria pleaded guilty to violating the Lacey Act for selling short-eared owls (16 U.S.C §§ 3372(a)(1), 3373(d)(1)(B)). Co-defendant Carlos David Flores Rios pleaded guilty in July 2021 to violating the Migratory Bird Treaty Act for selling short-eared owls (16 U.S.C. §§ 703, 707(b)(1), (b)(2)). Rios is scheduled for sentencing on November 15, 2021 and Marin is scheduled for December 3, 2021.

In December 2020, prosecutors charged Rios, Candelaria and Misael Cruz Rivera for selling and bartering a variety of migratory birds in March 2019.

The defendants captured and illegally sold migratory birds, offering them for sale on private internet chat groups, as well as to local buyers as pets. They sold the birds in Puerto Rico and off the island.

The U.S. Fish and Wildlife Service conducted the investigation.



*Short-eared owl*

***United States v. Arturo Ceja, III, No. 2:21-CR-00354 (C.D. Calif.), AUSAs Amanda Bettinelli and Eric Silber.***

On August 30, 2021, Arturo Ceja, III, pleaded guilty to transporting explosives (namely flash powder) without a license (18 U.S.C. § 842(a)(3)(A)). Sentencing will be scheduled in January 2022.

Between April and late June 2021, Ceja purchased commercial-grade fireworks and homemade explosives from Nevada and other states, transporting them to California in U-Haul trucks. Ceja did not possess a license or permit to transport explosives, and knew his actions were illegal.

Ceja purchased the commercial-grade fireworks from “Area 51” and “Black Jack Fireworks” (both wholesale dealers located in Pahrump, Nevada) using the customer name “Autron.”

Responding to a tip on June 30, 2021, Los Angeles police found more than 32,000



*Explosives*

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## Guilty Pleas

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pounds of fireworks stored at Ceja's residence in a densely populated residential neighborhood in South Los Angeles. Ceja stored some of the explosives near a gas grill. The bomb squad accidentally blew up a total containment vehicle used to safely detonate explosives, causing an explosion while attempting to destroy the homemade fireworks, including M100s, M3000s, and a mortar covered in tin foil.

The Los Angeles Police Department; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; and the Department of Transportation Office of Inspector General conducted the investigation.

### ***United States v. Lester Eduardo Cardenas Flores et al., No. 1:19-CR-00186 (E.D. Calif.), AUSA Karen Escobar.***

On August 24, 2021, Lester Eduardo Cardenas Flores pleaded guilty to conspiring to manufacture, distribute, and possess with intent to distribute marijuana (21 U.S.C. §§ 841, 846.) He also agreed to pay \$48,057 in restitution to the U.S. Forest Service for the damage caused to public lands.

In August 2019, law enforcement officers located more than 2,000 marijuana plants in the Dutch Oven Creek area of the Sierra National Forest. Agents observed Flores and Luis Madrigal Reyes carrying fertilizer and bags of groceries into the grow site, later arresting them after chasing them down the mountain.

The operation caused extensive environmental damage to the area, which serves as habitat for the endangered Sierra Nevada yellow-legged frog and the California spotted owl (a species under consideration for endangered-status listing). Agents found banned pesticides, including carbofuran on site. The defendants diverted water from the creek to irrigate the plants. The creek is part of the Chiquito Creek watershed, which drains into the Fresno River before flowing into the San Joaquin River. Reyes previously pleaded guilty to similar charges and is scheduled for sentencing on October 18, 2021. Cardenas is set for November 15, 2021.

The U.S. Forest Service conducted the investigation, with assistance from the California National Guard, the California Department of Justice's Campaign against Marijuana Planting, the Madera County Sheriff's Office, and the Integral Ecology Research Center.



## Guilty Pleas

***United States v. U.S. Minerals, Inc.*, No. 2:21-CR-00025 (D. Mont.), AUSA Attorney Ryan G. Weldon and SAUSA Eric E. Nelson.**

On August 23, 2021, U.S. Minerals, Inc., pleaded guilty to violating the Clean Air Act for exposing employees to elevated levels of arsenic (42 U.S.C. § 7413(c)(4)). The company also agreed to settle a related civil case regarding violations brought by the Department of Labor's Occupational Safety and Health Administration (OSHA). Sentencing is scheduled for December 10, 2021.



*Particulates discharging into the ambient air*

U.S. Minerals manufactures silicate abrasives in facilities throughout the United States. The company sells the product to industrial and governmental customers. The plant was located on a copper slag pile, which falls within the larger Anaconda Superfund site. The company was allowed to build and operate the site as one way to find a use for the slag pile. Employees collected the raw material, transporting it using heavy equipment to their onsite processing plant.

Between July 2015 and February 2019, U.S. Minerals exposed employees to inorganic arsenic, a hazardous air pollutant, by negligently releasing it into the air. Exposure occurred as employees transported the raw material and during the processing phase, when finer particles were released during the processing phase.

In July 2015, National Institute for Occupational Safety and Health (NIOSH) inspected the site, collecting air samples from throughout the outdoor facility and conducting personal monitoring of site employees. Test results confirmed the company exposed employees to high levels of lead and arsenic in the ambient air, exceeding both NIOSH and OSHA exposure limits.

In late 2015, OSHA inspected the facility, documenting numerous health and safety standard violations. Levels of inorganic arsenic ranged between 1.25 and 4.75 times greater than the OSHA permissible exposure limits. OSHA issued 19 serious violations with penalties totaling \$106,800.

In April 2018, the Montana Department of Public Health and Human Services learned of a U.S. Minerals employee diagnosed with arsenic poisoning at a local hospital. Over the next few days, three additional employees presented with high levels of arsenic in their urine. State officials conducted a site visit in June 2018, noted "apparent inhalation

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## Guilty Pleas

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hazards” and shared their findings with the company. A second inspection in October 2018 confirmed that the company failed to address previous violations and continued to expose its employees.

In February 2019, the state issued a Cease and Desist order, but then lifted the order a month later to allow the company to resume operations under limited conditions.

One of those conditions required U.S. Minerals to provide the state with quarterly medical monitoring reports related to employee arsenic and lead testing. Documents provided to the state from the company showed employees continued to test with high arsenic and

### ***United States v. Daim Logistics, Inc., No. 1:21-CR-00016 (N.D.N.Y.), AUSA Michael Perry.***

On August 19, 2021, Patrick Oare, and Daim Logistics, Inc., pleaded guilty to tampering with a monitoring device in violation of the Clean Air Act (42 U.S.C. § 7413(c)(2) (C)). Sentencing is scheduled for December 22, 2021.

Oare co-owned and operated two trucking companies: Diversified Agricultural and Industrial Markets, Inc.; and DAIM Logistics, Inc. Between July 2017 and March 2019, Oare directed DAIM employees to alter the emissions control systems on 13 heavy-duty diesel trucks in DAIM’s trucking fleet. Specifically, he told them to remove the trucks’ Diesel Particulate Filters (DPFs), Diesel Exhaust Fluid (DEF) units, and a portion of their Selective Catalytic Reduction (SCR) systems. Additionally, Oare hired and directed others to hire a third party to reprogram the vehicles’ on-board computers so that the emissions control systems’ sensors failed to detect these alterations.

These modifications prevented the trucks from accurately recording the pollutants they released into the atmosphere. They also ensured that DAIM’s trucks continued to travel on public roads despite operating illegally. Oare saved money by avoiding maintenance expenses on emissions control systems and by spending less money on fuel.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation with assistance from Federal Bureau of Investigation, the New York State Department of Environmental Conservation, and the New York State Department of Motor Vehicles.



## Guilty Pleas

### ***United States v. Brian Liming*, No. 1:21-CR-00032 (S.D. Ohio), ECS Trial Attorney Adam Cullman.**

On August 4, 2021, Brian Liming pleaded guilty to illegally possessing a firearm with which he unintentionally shot an Ohio wildlife officer (18 U.S.C. § 922(g)(9)). Liming is a “prohibited person” under § 922(g)(9) because of a past conviction for a crime of domestic violence.

On December 20, 2020, Ohio Department of Natural Resources Officer (ODNR) Kevin Behr was investigating deer poaching in Clinton County, Ohio. ODNR placed a decoy deer off the side of a road on private property. Officer Behr positioned himself in the woods to observe illegal activity. Liming and two other individuals drove down the road and noticed the deer. The driver let Liming and the other passenger out of the vehicle at two different points along the road. Liming entered the woods with a shotgun and a thermal scope. Liming fired a shot that struck Officer Behr and fled the scene.

Authorities apprehended Liming a short time later. He initially denied firing the shot, but then claimed it was an accident. They recovered the shotgun used in the shooting, and additional shells.

The U.S. Fish and Wildlife Service and Ohio Department of Natural Resources conducted the investigation.

### ***United States v. Gary Tucker*, No. 1:21-CR-20263 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On August 4, 2021, Gary Tucker pleaded guilty to lying to federal agents during an investigation into international primate trafficking into the United States (18 U.S.C. § 1001 (a)(2)). Sentencing is scheduled for October 13, 2021.

A long-time participant in the non-human primate (NHP) import business, Tucker worked for a number of companies, coordinating their supply lines from Asia to the United States and directing operations at quarantine facilities. After inspecting some shipments, investigators found discrepancies in the accompanying paperwork. Individuals also incinerated deceased animals and other evidence, prompting investigators to speak to Tucker.

Agents questioned Tucker in July 2019, about his involvement in the NHP business. In particular, they asked him whether he or others working for his employer, Orient BioResource Center (OBRC), and prepared or submitted to OBRC any audits or reports concerning visits to supplier sites in Cambodia. Tucker responded in the negative, stating no paperwork existed that documented supplier site visits, and he denied that any written audit reports were provided to OBRC. In fact, Tucker knew that such documentation was standard procedure.

The U.S. Fish and Wildlife Service conducted the investigation, with assistance from Homeland Security Investigations.



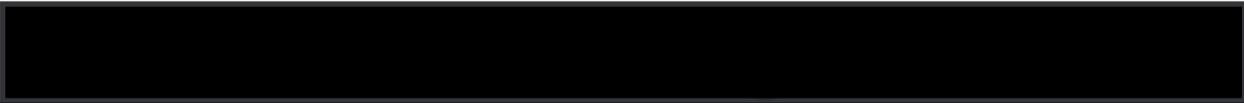
## Guilty Pleas

### ***United States v. Everado Cuadro Campos, No. 2:18-CR-00143 (E.D. Calif.), AUSA Justin Lee.***

On August 2, 2021, Everado Cuadro Campos pleaded guilty to conspiracy to manufacture marijuana, and damage to public lands and natural resources (21 U.S.C. §§ 841, 846; 18 U.S.C. § 1361). Sentencing is scheduled for October 6, 2021.

Officers apprehended Campos on July 17, 2018, as he tended marijuana plants in the Shasta-Trinity National Forest. They found chemicals, garbage, and human waste throughout the site, with water diverted from the Rock Creek drainage area. They eradicated more than 5,000 plants.

The U.S. Forest Service and the California Department of Fish and Wildlife conducted the investigation.



**United States v. Gary L. Cooper, No. 1:21-mj-00212 (E.D. Va.), SAUSAs Sara Hallmark and Alejandra Arias, with assistance from AUSA Gordon Kromberg.**

On August 31, 2021, a court sentenced Gary L. Cooper to complete a one-year term of probation and to forfeit 136 pieces of raw and carved ivory. Cooper pleaded guilty to violating the Endangered Species Act for illegally selling ivory (16 U.S.C. §§ 1538(a)(1)(F), 1540(b)(1)).

Between 2015 and 2020, Cooper operated online storefronts using eBay and Craigslist to sell elephant and whale ivory. Items included two 28-inch raw elephant tusks, several carved tusks, numerous elephant ivory carvings, and both raw and scrimshawed sperm whale teeth.

In September 2018, a Virginia Department of Wildlife Resources investigator notified the U.S. Fish and Wildlife Service (FWS) regarding a suspicious Craigslist posting offering two raw elephant tusks for \$6,500. The advertisement originated in the Manhattan, New York, Antiques section of Craigslist, but stated the items were available for sale in Fredericksburg, Virginia. The FWS subsequently initiated an undercover operation, during which Cooper sold agents \$3,300 worth of ivory and shipped those pieces from Virginia to various states. Over a sixteen-month period, Cooper offered to sell investigators approximately 50 pieces of elephant ivory, with a total market value between \$40,000 and \$95,000. In February 2020, agents executed a search warrant at Cooper's residence, resulting in the seizure of large amounts of ivory and other evidence.

The U.S. Fish and Wildlife Service conducted the investigation, with assistance from the Virginia Department of Wildlife Resources.



*Ivory figurine seized from Cooper*



## Sentencings

***United States v. Chester A. Moody, et al. Nos. 3:21-CR-00023-00025, (E.D. Va.); ECS Trial Attorney Shennie Patel, AUSA Olivia L. Norman, and ECS Paralegals Samantha Goins and John Jones.***

On August 27, 2021, a court sentenced Chester A. Moody to one year and one day of incarceration, followed by one year of supervised release. This includes a special condition barring Moody from possessing any pit bull-type dogs, or any dogs he intends to breed. Moody also will perform 120 hours of community service. Moody, Carlos L. Harvey, Emmanuel A. Powe, and Odell S. Anderson, Sr. pleaded guilty to conspiring to violate the Animal Welfare Act (7 U.S.C. § 2156; 18 U.S.C. §§ 49 and 371). Anderson also pleaded guilty to taking a minor to a dog fight (7 U.S.C. § 2156(a)(2)(B)).

The defendants participated in a dog fighting conspiracy extending across the District of Columbia, Maryland, Virginia, and New Jersey. Beginning in 2013 through July 2018, the defendants and others participated in animal fighting ventures, involving training, transporting, breeding, and dog fighting setups, including at least one "two-card" event in April 2016. Authorities executed multiple search warrants resulting in evidence supporting the multi-defendant conspiracy. Agents also rescued a number of animals.

This case is part of Operation Grand Champion. The U.S. Department of Agriculture Office of the Inspector General conducted the investigation, with assistance from the Federal Bureau of Investigation.



*Dog rescued from Moody residence*



## Sentencings

### ***United States v. Richard M. Grohs*, No. 1:20-CR-10046 (D.S.D.), AUSA Meghan Dilges.**

On August 23, 2021, a court sentenced Richard M. Grohs to complete a three-year term of probation (to include a ban on trapping) and pay \$10,000 in restitution to the National Fish and Wildlife Foundation. Grohs pleaded guilty to violating the Bald and Golden Eagle Protection Act for killing a Golden Eagle (16 U.S.C. § 668(a)).

In late April 2018, a citizen provided a tip to the South Dakota Game Fish and Parks about a suspicious trapping near White Rock Township. A game warden found various traps and trapping violations in the area. Officers subsequently spoke with Grohs who admitted he used snares to trap without a license. In May 2018, they returned to a nearby area, locating a dead golden eagle with a snare around its neck. Grohs admitted he trapped the bird and threw it aside.

The U.S. Fish and Wildlife Service conducted the investigation.

### ***United States v. Eleno Fernandez-Garcia*, No. 1:20-CR-00138 (E.D. Calif.), AUSA Karen Escobar.**

On August 19, 2021, a court sentenced Eleno Fernandez-Garcia to 54 months' incarceration for conspiring to manufacture, distribute, and possess marijuana. The court further ordered the defendant to pay \$45,688 in restitution to the U.S. Forest Service for the damage caused to public land.

Between March and August 2020, Fernandez-Garcia helped cultivate a marijuana grow consisting of close to 10,000 plants, located in the Stanislaus National Forest. Authorities found the defendant on site with pruning shears and two cellphones covered with marijuana debris. The grow area (located near a natural spring used for bottled water) caused significant damage to natural resources.

During site cleanup, investigators recovered bottles of Weevelcide, a restricted-use pesticide containing aluminum phosphide; 837 pounds of soluble fertilizer; 46 gallons of liquid fertilizer; a dead raccoon, and more than 2,000 pounds of trash and irrigation tubing.

The U.S. Forest Service, the California Department of Fish and Wildlife, and the Campaign Against Marijuana Planting of the California Department of Justice conducted the investigation, with assistance from the Integral Ecology Research Center.



*Trash left on site*



## Sentencings

***United States v. Jose Guadalupe Mancillas Ponce*, No. 3:20-CR-02845 (S.D. Calif.), ECS Trial Attorney Stephen DaPonte and AUSA Melanie Pierson.**

On August 16, 2021, a court sentenced Jose Guadalupe Mancillas Ponce to time-served and two years' probation, plus \$3,052 in restitution. Ponce pleaded guilty to conspiring to violate the Federal Insecticide, Fungicide, and Rodenticide Act (18 U.S.C. § 371).

Authorities apprehended Ponce in September 2020 attempting to smuggle 41 one-liter bottles of illegal Mexican pesticides, including one bottle of Qufuran, ten bottles of Metaldane, 23 bottles of Biozyme, and seven bottles of Lorsban.

Those involved in clandestine marijuana grows use illegal pesticides to cultivate unregulated marijuana on both public and private land in the United States.

The U.S. Environmental Protection Agency Criminal Investigation Division and Homeland Security Investigations conducted the investigation.

***United States v. Jonathan Gershman*, No. 2:21-CR-00319 (C.D. Calif.), AUSA Mark Williams.**

On August 13, 2021, a court sentenced Jonathan Gershman to pay the \$10,000 statutory maximum fine and complete a two-year term of probation. Gershman pleaded guilty to violating the Federal Insecticide, Fungicide, and Rodenticide Act for using registered pesticides in a manner inconsistent with their labeling (7 U.S.C. §§ 136j(a)(2) (G), 136l(b)(2)).

Gershman worked as a salesman for Mountain Fog, a small company that provided COVID-19 indoor fogging services during the pandemic. Mountain Fog used two chemicals, Alpha and Omega, for the company's fogging services. Other companies previously created and registered Alpha and Omega with the U.S. Environmental Protection Agency; however, neither were approved to kill COVID-19. Gershman knew of their status, but thought the chemicals were close to obtaining approval for use to kill COVID-19. During fogging treatments, Mountain Fog employees did not follow the label instructions for the proper use of these chemicals.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation.



## Sentencings

### *United States v. Jeffrey S. Wood*, No. 2:21-mj-00006 (D. Mont.), AUSA Ryan G. Weldon.

On August 12, 2021, a court sentenced Jeffrey S. Wood for poisoning a wolf by unlawfully using strychnine in a manner inconsistent with its labeling. The court ordered Wood to pay a \$500 fine and \$1,000 in restitution to the Montana Department of Fish, Wildlife, and Parks. Wood pleaded guilty to violating the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136j(a)(2)G, 136l(b)2)).

In October 2019, a ranch hand discovered his dog had been poisoned. He tipped off local officials that Wood used strychnine to poison a wolf on the Sun Ranch, near Ennis. Investigators determined the wolf ingested strychnine oats rolled in meat, placed beside a previously dead cow.

During the investigation, Wood attempted to influence a witness by telling that person to “play stupid” if anyone asked questions about the dead wolf. Wood told investigators that he placed the poison around the cow carcass because he saw a grizzly sow and two cubs nearby. Wood initially denied any involvement in the wolf’s death, then admitted he put out the poison to kill wolves, not grizzly bears.

The U.S. Environmental Protection Agency Criminal Investigation Division, the U.S. Fish and Wildlife Service Office of Law Enforcement, and the Montana Department of Fish, Wildlife and Parks conducted the investigation.



*Dead wolf and cow*



## Sentencings

### *United States v. Walter Earl*, No. 20-CR-00034 (D. Ak.), AUSAs Aunnie Steward and Steve Skrocki.

On August 11, 2021, a court sentenced Walter Earl to complete a five-year term of probation, to include six months' home detention. Earl also will pay a \$185,000 fine and \$216,054 in restitution to the Internal Revenue Service. He will perform 200 hours of community service and forfeit 50 walrus tusks and other marine mammal parts to the government. Earl pleaded guilty to evading taxes and felony Lacey Act trafficking violations (16 U.S.C. §§ 3372 (a)(1), 3373(d)(1)(B); 26 U.S.C. § 7201).

Earl owned a shop called The Antique Gallery. For many years, Earl routinely bought and sold walrus ivory at a significant profit. On three occasions in 2017, Earl illegally purchased and sold walrus ivory head mounts (skull and ivory tusks), falsified documents, and lied to the buyers about the source of the ivory. Earl claimed the ivory was "Pre-Act" (the Marine Mammal Protection Act does not apply to marine mammal parts or products taken or created prior to the passage of the Act in 1972.) He further asserted that he could legally buy ivory since he employed Alaska Natives. Earl purchased more than 50 walrus tusks with an approximate total market value of \$30,000.

Between 2013 and 2017, Earl failed to file individual income tax returns. During this period, his store grossed \$679,245. To evade paying taxes, he used cash, structured transactions at various financial institutions to avoid reporting requirements, instructed his employees not to report the income they earned, and kept inadequate business records.

The U.S. Fish and Wildlife Service Office of Law Enforcement, and the Internal Revenue Service Criminal Investigation conducted the investigation, with assistance from the Bureau of Alcohol, Tobacco, Firearms, and Explosives.



*Ivory seized from Earl's business*



## Sentencings

***United States v. Chandra Yarlagadda*, No. 2:19-CR-20664 (E.D. Mich.), DOJ Tax Division Trial Attorneys Melissa S. Siskind and Sarah C. Ranney, with assistance from AUSA Stephen Hiyama.**

On August 6, 2021, a court sentenced a biodiesel fuel dealer to 30 months' incarceration, followed by one year of supervised release for filing a false income tax return (26 U.S.C. § 7206(1)). Chandra Yarlagadda also will pay \$3,285,303 in restitution to the Internal Revenue Service.

Yarlagadda owned and operated Alpha Bioenergy LLC (Alpha), formerly known as Naturol Bioenergy LLC, which purchased and sold biodiesel fuel. Pursuant to the Clean Air Act (CAA), regulations require companies that purchase and sell biodiesel fuel to purchase Renewable Identification Numbers (RINs) for renewable fuel they buy or sell. RINs are credits that obligate parties to demonstrate compliance with annual standards set forth by the Environmental Protection Agency.

Between 2009 and 2011, Yarlagadda substantially overstated expenses associated with his RINs purchases. For these three years, Yarlagadda falsely reported RINs expenses totaling more than \$14.2 million, when, in fact, he was only entitled to claim approximately \$80,000 for those years. By claiming inflated deductions, Yarlagadda avoided paying an additional \$2.3 million in federal income taxes.

The Internal Revenue Service Criminal Investigations, the U.S. Environmental Protection Agency Criminal Investigation Division, and Homeland Security Investigations conducted the investigation.

***United States v. Mark Lee Morgan*, No. 3:21-CR-00495 (S.D. Calif.), ECS Trial Attorney Stephen DaPonte and AUSA Melanie Pierson.**

On August 6, 2021, a court sentenced Mark Lee Morgan to 14 days' incarceration, followed by one year of supervised release. Morgan also will pay a \$10,000 fine, \$1,360 in restitution, and perform 120 hours of community service. Morgan pleaded guilty to smuggling (18 U.S.C. § 545).

Authorities apprehended Morgan in November 2020 as he crossed into the United States from Mexico with undeclared and restricted-use pesticides (thirty-four containers of Dichlorvos).

Morgan owns a feed store in Compton, California, and intended to sell the pesticide in his store. He also said he smuggled it on other occasions, knowing it is illegal to do so.

The U.S. Environmental Protection Agency Criminal Investigation Division and Homeland Security Investigations conducted the investigation.



## Sentencings

### ***United States v. James A. Stevens*, No. 3:20-CR-00077 (D. Alaska), AUSA Adam Alexander and SAUSA Andrea Hattan.**

On August 6, 2021, a court sentenced James A. Stevens to six months' incarceration, followed by 126 days in a halfway house. Stevens will pay a \$1,000,000 fine and perform 80 hours of community service. The court further ordered Stevens to make a public service announcement acknowledging his wrongdoing for knowingly submitting false fish harvesting records. Stevens pleaded guilty to violating the Lacey Act (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)).

Stevens, an experienced commercial fisherman, owned and operated the *F/V Alaskan Star* and *F/V Southern Seas*. Between 2014 and 2017, Stevens falsely reported the areas where he harvested 903,208 pounds of halibut and sablefish. Stevens claimed to harvest fish from one "regulated area" when he actually fished in another area where he was not assigned a quota to fish. In most instances that Stevens falsely reported, he landed fish that he harvested in regulatory area(s) which were more desirable (larger sablefish meant a cheaper quota, and a much shorter trip, adding up to a significant, unfair and fraudulent competitive advantage). Therefore, quota was more valuable than in those areas where Stevens held quota (and where he falsely reported harvesting the fish at issue).

Stevens falsified numerous documents, including logbooks, individual fishing quota landing reports, and Alaska Department of Fish and Game fish tickets. The approximate total dock value of the halibut and sablefish he falsely reported was \$4,522,210 with a market value of \$13,566,630.

The National Oceanic and Atmospheric Administration Office of Law Enforcement conducted the investigation.

### ***United States v. Jean-Michel Arrigona et al.*, No. 2:20-CR-00384 (D. Utah), ECS Trial Attorney Ryan Connors and AUSA Melina Shiraldi.**

On August 4, 2021, a court sentenced Jean-Michel Arrigona to pay a \$23,100 fine and Natur, Inc., to pay a \$5,000 fine. Arrigona also will complete a two-year term of probation, perform 200 hours of community service, and forfeit wildlife items. Both pleaded guilty to a Lacey Act trafficking violation (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)).

Arrigona owns Natur, a store that sells wildlife art, taxidermy mounts, bones, and skeletons. Between 2015 and 2020, the defendants imported hundreds of wildlife items from Asia without declaring them to the proper authorities. The wildlife included bats, geckos, starfish, scorpions, and frogs, as well as protected species such as flying foxes and monitor lizards.

The defendants later resold the items to domestic customers and several international buyers. In 2015 and 2016, they sold illegally imported wildlife to undercover agents. Wildlife inspectors warned them that their actions were illegal, but the defendants continued to import wildlife as recently as November 2020.

The U.S. Fish and Wildlife Service conducted the investigation.



## Sentencings

### ***United States v. Kenneth L. Otey, Jr., No. 3:20-CR-00137 (E.D. Va.), ECS Trial Attorney Banu Rangarajan and ECS Law Clerk Amanda Backer.***

On August 3, 2021, a court sentenced Kenneth L. Otey, Jr., to 300 months (25 years) incarceration, followed by five years' supervised release. Otey pleaded guilty to conspiring to participate in an animal fighting venture, as well as drug and firearms violations (21 U.S.C. §§ 841, 846; 18 U.S.C. §§ 922, 371, 49; 7 U.S.C. § 2156).

Between June and November 2020, Otey and others planned and participated in a series of dog fights. Upon Otey's arrest, law enforcement personnel found 15 pit bull-terrier type dogs, firearms, a weighted dog collar, ten heavy dog chains, and veterinary medicine and medical equipment on the property. Otey kept the dogs in a large fenced-in area away from public view and partially concealed by trees. He chained the dogs in a manner consistent with dog fighting and many of them exhibited scarring.

The U.S. Department of Agriculture Office of the Inspector General conducted the investigation, with assistance from the Federal Bureau of Investigation.

### ***United States v. James S. Marshall, No. 6:20-CR-006003 (W.D.N.Y.), AUSA Aaron Mango.***

On August 2, 2021, a court sentenced James S. Marshall to complete a one-year term of probation, after pleading guilty to negligent endangerment under the Clean Air Act (42 U.S.C. §§ 7412, 7413(c)(1), (c)(4)). A restitution hearing is scheduled for November 15, 2021.

Marshall worked as a maintenance supervisor with the Finger Lakes Office for People with Developmental Disabilities (OPWDD). As part of his duties, Marshall controlled and supervised facilities under renovation or slated for demolition.

In October 2014, the defendant requested asbestos testing at the Hillcrest Building, owned by the OPWDD. Marshall directed an asbestos inspector to take four samples from just two locations within the 300,000 square-foot building. The results of the four samples came back negative for asbestos. In November 2014, the OPWDD began soliciting bids to cleanout the building based upon these sample results. In December 2014, a third-party contractor won the bid and completed the work in April 2015. OPWDD received notification from Marshall of the successful cleanout shortly thereafter.

Building inspectors subsequently located regulated asbestos-containing material (RACM) throughout the building. In addition to failing to make sure workers adequately wetted the RACM and sealed it in leak-tight containers, Marshall placed others in imminent danger of death and serious bodily injury during the cleanout.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation, with assistance from the New York State Department of Labor Asbestos Control Bureau.



## Sentencings

### ***United States v. Jose Manuel Romero Torres*, No. 3:20-CR-03383 (S.D. Calif.), ECS Trial Attorney Stephen DaPonte and AUSA Melanie Pierson.**

On August 2, 2021, a court sentenced Jose Manuel Romero Torres to complete a one-year term of probation and pay \$1,500 in restitution. Torres pleaded guilty to failing to submit notice as required by the Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2614 (3), 2615(b)(1)).

Authorities apprehended Torres in October 2020 as he entered the United States from Mexico with the following pesticides in the trunk of his car: four bottles of “Metrifos 600,” four bottles of “Rayo 50 EC,” four bottles of “Kanemite,” and one bottle of “Surfing-Ad.” Surfing-Ad contains a TSCA-regulated substance, thus requiring the certification at the time of importation.

Torres told the inspectors that he was bringing the pesticides to a friend who cultivated marijuana in Bakersfield, California.

The U.S. Environmental Protection Agency Criminal Investigation Division and Homeland Security Investigations conducted the investigation.

### ***United States v. Richard and Monique Parker*, No. 1:21-CR-00042 (S.D. Ala.), AUSA Michael Anderson.**

On July 2, 2021, a court sentenced a couple for producing and packaging misbranded drugs and pesticides. They each will pay \$5,000 fines and are jointly and severally responsible for forfeiting \$100,000 in cash.

Richard and Monique Parker, doing business as F.B. McGuinness, pleaded guilty to introducing misbranded animal drugs into interstate commerce with the intent to defraud or mislead; operating an unregistered drug establishment; and selling unregistered, adulterated, and misbranded pesticides (7 U.S.C. § 136f; 21 U.S.C. § 331).

The Parkers operated their business from their residence, primarily selling drugs and pesticides used in the illegal cockfighting industry. The defendants violated a number of Food and Drug Administration (FDA) and Environmental Protection Administration (EPA) regulations, including repackaging and relabeling products, and falsifying registration codes. Following a number of anonymous purchases, agents determined through lab analysis, that the defendants mislabeled many of their products, and/or advertised them falsely.

During the execution of a search warrant at the Parker’s residence in October 2020, they admitted to producing and packaging drugs and pesticides over several years. They repackaged and relabeled products, using “F.B. McGuinness” and falsified FDA numbers to create a perception of legitimacy for their customers. Many products offered for sale were no longer FDA-approved in the United States due to suspected carcinogens. Additionally, the EPA determined some of the pesticides they used were inactive or no longer allowed to be marketed in the United States.

The Federal Drug Administration, the U.S. Environmental Protection Agency Criminal Investigation Division, and the Federal Bureau of Investigation conducted the investigation.



Position		
Chief	Deborah Harris	
Deputy Chief	Joseph Poux	
Assistant Chief	Thomas Ballantine	
Assistant Chief	Wayne Hettenbach	
Assistant Chief	Lana Pettus	
Assistant Chief	Jennifer Whitfield	
Senior Litigation Counsel	Howard P. Stewart	
Senior Litigation Counsel	Richard Udell	
Senior Counsel for Wildlife	Elinor Colbourn	
Senior Counsel	Kris Dighe	
Senior Trial Attorney	Christopher Costantini	
Senior Trial Attorney	Daniel Dooher	
Senior Trial Attorney	Todd Gleason	
Senior Trial Attorney	Jeremy Korzenik	
Senior Trial Attorney	Ken Nelson	
Trial Attorney	Cassandra Barnum	
Trial Attorney	Mary Dee Carraway	
Trial Attorney	Ryan Connors	
Trial Attorney	Adam Cullman	
Trial Attorney	Stephen DaPonte	
Trial Attorney	Gary Donner	
Trial Attorney	Patrick Duggan	
Trial Attorney	Ethan Eddy	
Trial Attorney	Matthew Evans	
Trial Attorney	Stephen Foster	
Trial Attorney	Christopher Hale	
Trial Attorney	Joel LaBissonniere	
Trial Attorney	Samuel (Charlie) Lord	
Trial Attorney	Shennie Patel	
Trial Attorney	Erica Pencak	
Trial Attorney	Richard Powers	
Trial Attorney	Banu Rangarajan	
Trial Attorney	Leigh Rende	
Trial Attorney	William Shapiro	
Trial Attorney	Lauren Steele	