

### **Environmental Crimes Section**

September 2020

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"David Dunham is a thief, dressed up in 'green energy' clothing," said U.S. Attorney William M. McSwain for the Eastern District of Pennsylvania. "He thought he could con not just one, but several federal agencies. Eventually, his lies caught up to him and now his reward is a long stint in federal prison." [From press release following the sentencing in *U.S. v. David Dunham*. See inside for more details. Aerial photo taken of Smarter Fuel facility.]

#### Environmental Crimes Section Monthly Bulletin

District/Circuit	Case Name	Case Type/Statutes
Central District of California	<u>United States v. Jordan Gerbich</u> <u>United States v. CG Roxane LLC d/b/a</u> <u>Crystal Geyser, et al.</u>	Seal Killing/MMPA Arsenic Storage and Disposal/ HMTA, RCRA
Eastern District of California	<u>United States v. Eleno Fernandez-Garcia</u> <u>United States v. Armando Vargas Garcia et</u> <u>al.</u>	Marijuana Cultivation/ Drug, Depredation of Public Lands, Firearms
Northern District of Florida	<u>United States v. Shane Sprague et al.</u>	Dog Fighting/Animal Welfare Act, Conspiracy
Southern District of Florida	<u>United States v. Alvaro Y. Cortes et al</u> .	Marine Wildlife Shipments/ Conspiracy, Lacey Act
Northern District of Georgia	<u>United States v. Stephen Matthew Shumaker</u>	Pesticide Device Sales/FIFRA
Northern District of Indiana	<u>United States v. Cai Feng Yang</u>	Pesticide Sales/FIFRA

District/Circuit	Case Name	Case Type/Statutes
District of Nebraska	<u>United States v. Duane S. Mulvaine</u>	Big Game Hunts/Conspiracy, Lacey Act
	<u>United States v. Edward Miller</u>	Chemical Dumping/RCRA
Southern District of Ohio	<u>United States v. Ryan Gibbs</u>	Tiger Skin Sale/Lacey Act
Eastern District of Pennsylvania	<u>United States v. David Dunham et al.</u>	Biodiesel Fuel Fraud/ Conspiracy, False Statements, Obstruction, Tax Fraud, Wire Fraud
Western District of Pennsylvania	<u>United States v. Joshua Springer</u>	Pipeline Testing/False Statement
District of South Carolina	<u>United States v. Maurice Avent</u>	Sewage Disposal/CWA
Eastern District of Tennessee	<u>United States v. Randall F. Henry et al.</u>	Ginseng Sales/Lacey Act
District of Wyoming	<u>United States v. Richard Cutler et al</u> .	Building Renovation/CAA

#### Indictments/Informations

## United States v. Jordan Gerbich, No. 2:20-CR-00368 (C.D. Calif.), AUSA Heather Gorman.

On August 25, 2020, prosecutors charged Jordan Gerbich with violating the Marine Mammal Protection Act for shooting a northern elephant seal near San Simeon in September 2019 (16 U.S.C. §§ 1372(a)(2)(A), 1375(b)).

Tourists gather along the Central Coast to observe the enormous seals, which can weigh more than 1,000 pounds each. In September 2019, visitors reported finding the seal that had been shot in the head. Authorities arrested Gerbich, following the posting of an award for any information.

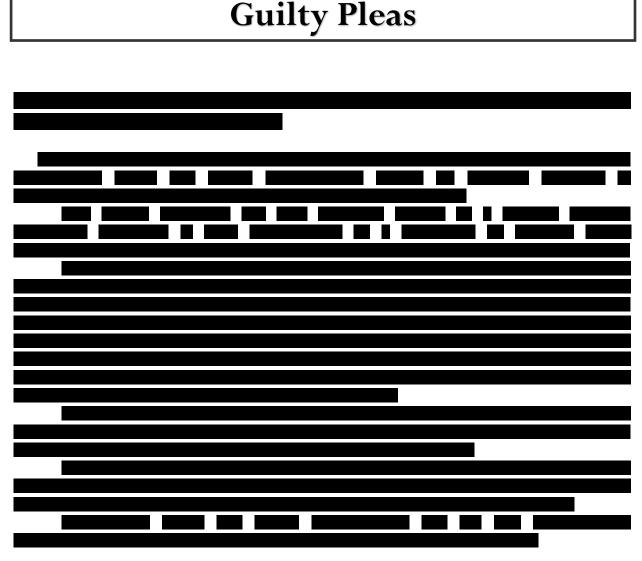
The National Oceanic and Atmospheric Administration conducted the investigation, with assistance from the California Department of Fish and Wildlife.

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

On August 20, 2020, prosecutors charged Eleno Fernandez-Garcia with conspiring to manufacture, distribute, and possess with intent to distribute marijuana, manufacturing marijuana, and damaging public lands and natural resources (18 U.S.C. § 1361; 21 U.S.C. §§ 841, 846).

Between March and August 2020, Fernandez-Garcia helped cultivate a marijuana grow consisting of more than 1,000 plants, located in the Stanislaus National Forest. Authorities found the defendant with pruning shears and two cellphones covered with marijuana debris at the site. The cultivation site (located near a natural spring used for bottled water) caused significant damage to natural resources.

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.



## *United States v. Cai Feng Yang,* No. 20-CR-00040 (N.D. Ind.), ECS Trial Attorney Rich Powers and AUSA Toi Houston.

On August 20, 2020, Chinese national Cai Feng Yang pleaded guilty to violating the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136j(a)(1)(A), 136l(b)(1) (B)). Sentencing is scheduled for October 27, 2020.

During two trips to China (in September 2015 and January 2016) Yang purchased a number of items, including: 15 boxes containing vials of a granular pesticide labeled "cockroach killer bait"; five or six boxes containing syringes of gelatinous pesticide labeled "cockroach gum bait"; and two or three small unlabeled bottles of liquid pesticide later found to contain the active ingredient dichlorvos. Yang transported the pesticides to the United States in his checked luggage intending to use them to exterminate cockroaches and bed bugs from apartment buildings he owned in Indiana. None of these pesticides were registered with the U.S. Environmental Protection Agency.

After returning to the United States, Yang distributed the bait to his tenants. He also gave his building manager some of the pesticide containing dichlorvos to kill bedbugs in the apartments, and used it to exterminate pests himself.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation, with assistance from the Office of Indiana State Chemist.

## **Guilty Pleas**

# United States v. Ryan J. Gibbs, No. 2:20-CR-00097 (S.D. Ohio), SAUSA Mike Marous and ECS Trial Attorney Adam Cullman.

On August 12, 2020, Ryan J. Gibbs pleaded guilty to violating the Endangered Species Act for purchasing a tiger skin rug (16 U.S.C. §§ 1538(a)(1)(E), 1540(b)(1)).

In August 2018, Gibbs (a resident of Ohio) contacted an individual in the United Kingdom about buying a tiger skin rug. The man told Gibbs he could not legally ship a tiger skin to the United States, but knew someone in Minnesota who sold them.

Through a series of emails and calls, Gibbs discussed with this person (an undercover Fish and Wildlife Service agent) that he wanted to purchase a tiger skin and a mounted flamingo. Gibbs and the agent discussed the illegality of buying and selling tiger parts across state lines; the agent told Gibbs he lived in Wisconsin. In December 2018, Gibbs bought three mounted birds from the agent (a tufted puffin, a horned puffin, and a flamingo) for a total of \$1,200.



Over the next several months, Gibbs and the agent communicated intermittently about the tiger skin. In August 2019, they met again, where Gibbs paid the agent \$3,000 for the skin.

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

# *United States v. Randall F. Henry et al.,* Nos. 2:19-CR-00158, 3:20-CR-00059 (E. D. Tenn.), ECS Senior Trial Attorney Todd Gleason and AUSA Matt Morris.

On August 11, 2020, Randall F. Henry pleaded guilty to falsifying records under the Lacey Act for illegally harvesting and selling ginseng (16 U.S.C. 3372(d)(2), 3373(d)(3)(A)). Sentencing is scheduled for December 8, 2020. In a similar case originating from the same investigation, Michael Turner pleaded guilty to violating the Lacey Act. He is scheduled for sentencing on November 24, 2020.

Henry owned and operated a business known as "Tennessee Herbs." Turner owned and operated "High Mountain Ginseng." The State of Tennessee permitted both to buy and sell American Ginseng. Between 2014 and 2016, the two submitted falsified paperwork that failed to accurately record their illegal ginseng purchases and sales to the state. The total value of 6.8 pounds of ginseng forfeited by Turner was \$1,700, and 71.88 pounds with a value of \$17,970 from Henry.

These pleas are a result of "Operation Green Gold," a multi-jurisdiction investigation conducted by the U.S. Fish and Wildlife Service into the illegal harvesting, trafficking, and smuggling of American Ginseng.

## **Guilty Pleas**

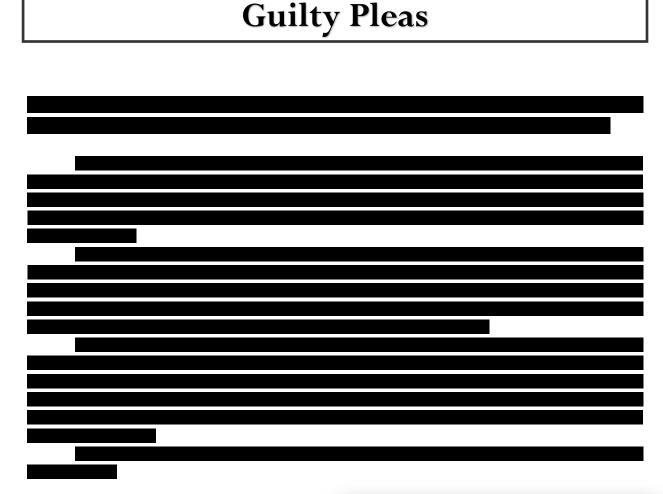
## United States v. Armando Vargas Garcia et al., No. 2:19-CR-00176 (E.D. Calif.), AUSA Adrian T. Kinsella.

On August 6, 2020 Armando Vargas Garcia and Eduardo Montero Aleman pleaded guilty to conspiracy to cultivate marijuana and depredation of federal lands and resources (21 U.S.C. §§ 841, 846; 18 U.S.C. § 1361). Sentencing is scheduled for November 5, 2020.

Between August 29, 2019 and September 5, 2019, the defendants grew approximately 9,000 marijuana plants in the Big Mountain area of Shasta-Trinity National Forest. Agents discovered two compound archery bows, nine arrows, and 42 rounds of hollow-point .22-caliber ammunition on the site. They also located bottles of carbofuran, a toxic pesticide, which is banned in the United States.

The U.S. Forest Service, the Trinity County Sheriff's Department, and the California Department of Fish and Wildlife conducted the investigation.





United States v. Richard Cutler, et al., Nos. 2:19-CR-00201, 2:20-CR-00027 (D. Wy.), AUSA Thomas A. Szott.

On August 26, 2020, a court sentenced Richard Cutler to pay a \$25,000 fine, complete a three-year term of probation, perform 120 hours of community service, and pay \$2,225 in restitution.

Cutler purchased a property (known as the Pioneer Building) in 2013. In February 2014, Cutler's contractor, Jacob Davis, arranged for an asbestos survey of



the building that confirmed the presence of regulated asbestos-containing material (RACM). In March 2015, Davis and a crew initiated renovation work on the Pioneer Building without removing any RACM identified in the survey. Cutler and Davis violated the Clean Air Act by, among other things: failing to provide authorities with written notice prior to disturbing RACM at the facility; failing to keep the material wet during removal; and

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improperly putting it into dumpsters behind the building (42 U.S.C. § 7413(c)(1)). The City of Cheyenne unknowingly disposed of three 30-yard dumpsters and one 20-yard dumpster of construction waste mixed with asbestos as a result. Local investigators shut down the renovation after confirming the presence of asbestos left on site.

Davis was ordered to pay a \$9,000 fine, complete a three-year term of probation, perform 120 hours' community service, and pay \$2,225 in restitution.

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

United States v. Shane Sprague et al., No. 3:19-CR-00110 (N.D. Fla.), ECS Trial Attorney Ethan Eddy, AUSA Ryan Love, ECS Law Clerk Amanda Backer, and ECS Paralegals Samantha Goins and Fred Ingram.

On August 25, 2020, a court sentenced David L. Moser to 12 months and one day of followed incarceration, by three years' supervised release. Moser is the final defendant in this multi-defendant dog fighting case. Shane Sprague was sentenced on August 13, 2020, to serve 18 months' incarceration; Haley Murph was sentenced on August 12, 2020, to eight months; and James Peek was sentenced on August 10, 2020, to 15 months.

A jury convicted Sprague in February 2020, of conspiracy to violate the dog fighting prohibitions of the Animal Welfare Act (18 U.S.C § 371). Moser pleaded guilty to conspiracy for his involvement in a dog fighting operation. Murph pleaded guilty to conspiring



with co-defendants to violate the dog fighting prohibitions of the Animal Welfare Act; traveling to Steele, Alabama, to purchase a fighting dog from a known dog fighter; and possessing the dog for purposes of using it in an animal fighting venture. Peek pleaded guilty to conspiracy, delivering a dog to Sprague to use in an animal fighting venture, and possessing a dog for purposes of having it participate in an animal fighting venture (18 U.S.C. §§ 371, 7 U.S.C §§ 2156(a)(1),(b)).

Evidence at trial established that Sprague operated "C Wood Kennels" (C Wood) a dog fighting operation that arranged fights and trafficked in fighting dogs with Moser and others outside of Florida. Moser and Sprague agreed to fight their dogs against one another, prepare them to fight, and discussed concealing evidence of one of Moser's dogs having killed another dog. Peek supplied fighting dogs to C Wood, and sold dogs to Sprague and Golson for fighting purposes. He also sold a dog to an undercover agent after making representations about the fighting "bloodlines."

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Murph acted as a makeshift "veterinarian" for C Wood. Without a veterinary license, Murph admitted to performing veterinary and surgical procedures on the dogs, including treating dogs injured in fights and surgically removing their ears. Two dogs in her "care" died from their injuries. Murph also supplied a "bait" animal to Golson to test the fighting abilities of one of his dogs. Finally, Murph travelled with Golson to Alabama on two occasions to receive dogs from a known dog fighter, keeping one for herself to use in fights.

The U.S. Department of Agriculture Office of Inspector General conducted the investigation.

## United States v. Joshua Springer, No. 2:20-CR-00065 (W.D. Pa.), AUSA Lee Karl.

On August 24, 2020, a court sentenced Joshua Springer to complete a three-year term of probation and perform 100 hours of community service. Springer pleaded guilty to making a false document in connection with an interstate pipeline project (18 U.S.C.  $\S$  1001 (a)(3)).

Springer worked as a radiographic technician whose responsibilities included testing pipeline welds via x-ray and certifying their quality and integrity. Specifically, he developed the film (exposures), interpreted the test results, and signed documents required by Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations.

In August 2017, Springer falsified a document that stated a pipeline weld had been x-rayed and the resulting exposures were acceptable. In fact, the weld had not been properly x-rayed, and the exposures were neither interpreted correctly nor acceptable.

The Department of Transportation Office of Inspector General and the Federal Bureau of Investigation conducted the investigation, with assistance from PHMSA.

## United States v. Duane S. Mulvaine, No. 8:20-CR-0001 (D. Neb.), AUSA Donald Kleine.

On August 19, 2020, a court sentenced Duane S. Mulvaine to pay a \$45,000 fine, \$50,000 in restitution, complete a five-year term of probation, and barred him from any hunting activities while on probation.

Mulvaine pleaded guilty to violating the Lacey Act for his involvement in a large illegal hunting and guiding scheme, originating with Hidden Hills Outfitters (HHO) (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)).

Between 2012 and 2017, Mulvaine traveled to HHO to conduct guided hunts for white-tailed deer, mule deer, pronghorn, and wild turkey. During a number of these hunts, Mulvaine engaged in illegal activities that



included hunting over bait, hunting from a public roadway (at night or without a permit) and hunting with prohibited weapons, all of which are in violation of Nebraska State law or regulations.

During August 2015, and September 2016, for example, Mulvaine unlawfully killed two pronghorn with a suppressed .17 caliber and .223 caliber rifle during the archery season. In October 2017, while parked in his vehicle, Mulvaine killed a white-tailed deer with a crossbow that was only 15 yards from a bait site, in violation of Nebraska law.

Mulvaine loaned HHO personnel vehicles from his Wisconsin car dealership for use in the unlawful hunting operation, valued at approximately \$10,000 annually, in exchange for hunting and guiding services. He also participated in the establishment of a "Gun Trust" allowing HHO owners and guides the use of a variety of suppressed firearms, knowing they routinely used them for the unlawful take of wildlife and protected migratory birds, specifically hawks or other raptors.

Mulvaine helped to establish and maintain bait sites located in close proximity and generally within direct view, of HHO hunting locations. Mulvaine and HHO personnel placed electronic game cameras over the bait sites to identify and locate target deer, position the target deer at close range to the client, and improve the odds of hunting clients successfully killing their target deer.

This case is a result of an ongoing prosecution of HHO owners, guides, and clients for extensive hunting violations. To date, 29 defendants have pleaded guilty and been ordered to pay a total of \$343,048 in fines and restitution.

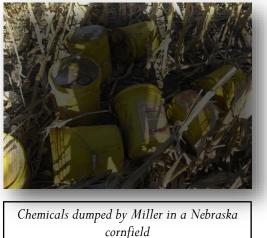
As part of his sentence, Mulvaine forfeited four scoped rifles, three suppressors, a compound bow, and a crossbow utilized in numerous unlawful hunts. He also surrendered and abandoned 13 wildlife trophy mounts including three white-tailed deer, five mule deer, three pronghorn, a wild turkey, and a badger.

The United States Fish and Wildlife Service Office of Law Enforcement and the Nebraska Game and Parks Commission Law Enforcement Division conducted the investigation.

## United States v. Edward Miller, No. 8:19-CR-00287 (D. Neb.), AUSA Donald Kleine.

On August 10, 2020, a court sentenced Edward Miller to 33 months' incarceration, followed by three years' supervised release, and to pay \$25,471 in restitution to the U.S. Environmental Protection Agency for cleanup costs.

On October 24, 2017, Miller loaded various chemicals (including pesticides) from a warehouse onto a truck and flatbed trailer. Multiple containers contained chemicals exhibiting characteristics for corrosivity and/or ignitability. Later that day, he drove the truck and trailer to three remote areas to dump the chemicals. Miller pleaded guilty to violating the Resource Conservation and Recovery Act (42 U.S.C. § 6928(d)(2)(A)) for disposing of hazardous wastes without a permit.



The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation, with assistance from the Nebraska Department of Environmental Quality.

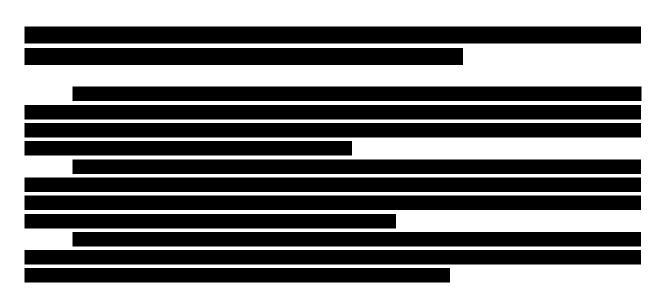
# *United States v. Alvaro Y. Cortes, et al.,* No. 1:19-CR-20214 (S.D. Fla.), AUSAs Tom Watts FitzGerald and Christopher Cheek.

On August 10, 2020, a court sentenced Alvaro Y. Cortes, Olga L. Aya Rodriguez, and Planet Express Cargo & Courier Corp., for conspiring to export fish and wildlife in violation of the Lacey Act (18 U.S.C. § 371). Cortes and Aya Rodriguez will serve six months' incarceration, followed by one year of supervised release. They each will pay \$7,500 fines. The corporation will complete a four-year term of probation, to include implementing a compliance plan and funding a court-appointed monitor.

Cortes and Aya Rodriguez conducted business as Planet Express Cargo & Courier Corp. (PECC), which principally engaged in business as a freight forwarder, consolidating cargo freight for international shipment, primarily to Colombia, South America. Between May 2014 and July 2015, the defendants provided international shipping manifests to the United Parcel Service falsely identifying fish and coral shipments received by customers as "Accesorios de Acuario" ("aquarium accessories"). The defendants failed to acquire permits required for the export of certain of the species and failed to make the proper declarations to both wildlife and customs officials.

In addition to falsifying paperwork, the defendants directed PECC employees to obscure markings on boxes that identified them as containing live fish, by taping over the labels and wrapping everything in black plastic. The defendants made close to 1,000 illegal shipments to Colombia from the United States.

The U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, Homeland Security Investigations, and Customs and Border Patrol conducted the investigation.



## *United States v. David Dunham et al.,* No. 5:15-CR-00602 (E.D. Pa.), ECS Trial Attorney Adam Cullman and AUSA John Gallagher.

On August 6, 2020, a court sentenced David Dunham to 84 months' incarceration, followed by three years' supervised release. Dunham also will pay \$10,207,000 in restitution to be divided as follows: \$2,800,000 to the U.S. Department of Agriculture and \$7,407,000 to the Internal Revenue Service.

A jury convicted Dunham in May 2019, on 54 of 55 counts charged for engaging in a multi-million dollar conspiracy to defraud individuals and the United States in a green energy scam involving used cooking oil. Dunham was found guilty of conspiracy, false statements, wire fraud, tax fraud, and obstruction violations (18 U.S.C. §§ 371, 1343; 26 U.S.C. § 7206).

Between 2010 and 2012, Dunham and Ralph Tommaso operated, respectively, Smarter Fuel, Inc., and Environmental Energy Recycling Corporation, LLC, coordinating the activities of these companies, and then formally merging under the umbrella of Greenworks Holdings, LLC. According to the evidence, the defendants falsely claimed to have produced and sold renewable fuel for which they misappropriated approximately \$50 million in payments, subsidies, and other benefits. Dunham and Tommaso defrauded government programs intended to encourage the production of renewable fuel as an alternative to traditional fossil fuel. By claiming credits for renewable fuel they never produced, and that otherwise did not qualify, they stole tens of millions of dollars from the United States government. Dunham and Tommaso also stole millions more by fraudulently claiming and generating credits they sold to unsuspecting purchasers who believed these credits satisfied their legal obligation to introduce a certain quantity of renewable fuel per year.

The defendants, through their companies, collected used cooking oil from restaurants and other food service locations, sometimes processing it to remove hard

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particles, water, and other waste. They sold this cleaned cooking oil primarily to renewable fuel producers that used it as a "feedstock" ingredient in their production process. Dunham and Tommaso did not sell their cleaned used cooking oil as a final fuel, but fraudulently claimed otherwise, applying for and receiving government subsidies for every gallon of cleaned used cooking oil that they produced, plus more.

Their claims vastly exceeded actual production. In 2010, they claimed subsidies and other payments on more than 17.5 million gallons of product, when actually producing less than six million gallons. In 2011, they claimed subsidies and other payments of more than 18 million gallons, when they only produced about 7.5 million gallons. Of the cleaned used cooking oil they did produce, the vast majority did not qualify for credit or subsidy. Dunham and Tommaso's fraudulent claims included more than one million gallons of process wastewater generated from cleaning the used cooking oil, the non-fuel sales of their product as a feedstock ingredient to be used by biofuel producers in buyers' production of biofuel, and transactions that existed on paper only. The defendants provided false information and altered documents to government and private auditors in an effort to conceal their fraud. They directed employees to alter the documentation of obviously unqualified sales and change them to show sales that qualified for subsidies and other payments.

Dunham underreported his taxable income for the tax years 2009 and 2010. In his filings for these years, Dunham altered the dates on sales invoices, and delayed generating invoices on other sales, in order to avoid paying taxes on these sales until a subsequent tax year. He also obstructed an IRS audit of Smarter Fuel. Tommaso has not yet been scheduled for sentencing.

The U.S. Environmental Protection Agency Criminal Investigation Division, IRS Criminal Investigations, Department of Agriculture Office of Inspector General, U.S. Postal Inspector Service, and the Federal Bureau of Investigation conducted the investigation.

## United States v. Maurice Avent, No. 2:19-CR-00337 (D.S.C.), AUSAs Winston Holliday and Emily E. Limehouse.

On August 5, 2020, a court sentenced Maurice Avent to complete a one-year term of probation. Avent previously pleaded guilty to violating the Clean Water Act for negligently discharging raw sewage (33 U.S.C. § 1319(c)(1)(A)).

Avent worked as the maintenance man for the Rodeway Inn in Georgetown, South Carolina. Raw sewage accumulated in a wet well on the property, which was discharged into the City of Georgetown's sewer system.

In August 2018, the well's pumps stopped working, causing the well to overflow with raw sewage. Avent installed a sump pump and a hose that allowed him to drain the overflowing well into a marsh behind the building, which he did for more than a week time. After state officials confronted him, Avent finally redirected the hose from the sump pump into the city's sewer system.

The U.S. Environmental Protection Agency Criminal Investigation Division, the South Carolina Department of Health and Environmental Control, and the City of Georgetown investigated this case.

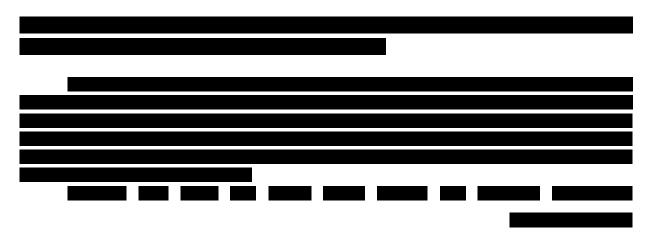
## United States v. Steven Matthew Shumaker, No. 3:20-CR-00010 (N.D. Ga.), AUSA Valerie Verduce.

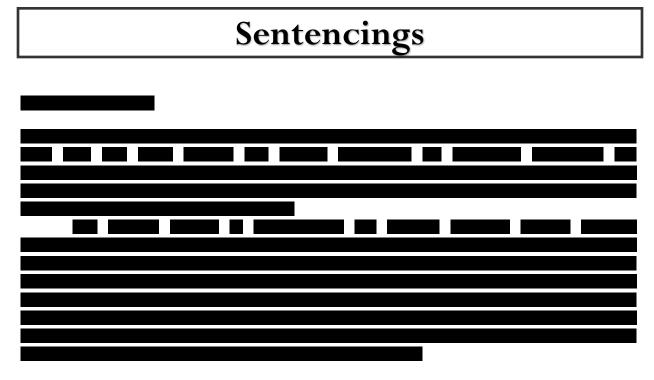
On August 4, 2020, a court sentenced Stephen Matthew Shumaker to pay a \$9,300 fine and complete a two-year term of probation, after pleading guilty to violating the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136j(a)(1)(F), 1361(b)(1)(B)).

In April 2020, postal service employees alerted federal investigators to postcards advertising a device that could kill COVID 19 in residences. "Beyond Guardian Air" purported to kill "every known viral and bacterial infection." This air purifier is not an EPA-approved pesticide device.

Using the phone number on the postcard, investigators identified Shumaker and his company, Pure Life Water. Agents initiated a series of undercover phone calls with Shumaker and his associates, culminating in Shumaker's arrest and prosecution.

The U.S. Postal Inspection Service and the U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation.

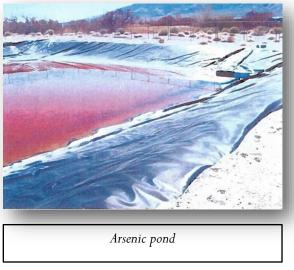




United States v. CG Roxane LLC d/b/a Crystal Geyser, et al., No. 2:18-CR-00448 (C.D. Calif.), AUSAs Dennis Mitchell, Heather C. Gorman, and Michael G. Freedman.

On July 29, 2020, a court sentenced CG Roxane, LLC, (d/b/a Crystal Geyser) for illegally storing and transporting hazardous waste created from filtering arsenic out of spring water at its facility in Olancha, California. The company will pay a \$5 million fine, complete a three-year term of probation, implement an environmental compliance program, and retain a third party auditor.

The company pleaded guilty to violating the Resource Conservation and Recovery Act (RCRA) for unlawfully storing hazardous waste and one count of unlawful transportation of hazardous material in violation of the Hazardous Materials Transportation Act (42 U.S.C. §§ 6928(d)(3), (d)(1); 49 U.S.C. § 5124).



Crystal Geyser drinking water company removed water from underground wells containing naturally-occurring arsenic, using sand filters to reduce the concentration of arsenic. To ensure the filters' efficiency, Crystal Geyser then used a hydroxide-and-water solution to back-flush the filters. This process generated thousands of gallons of arsenic-contaminated wastewater. Crystal Geyser discharged that wastewater into a nearby manmade pond named "Arsenic Pond" by employees. Testing by the California Department of Toxic Substances Control in the fall of 2014 confirmed the wastewater stored in the

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pond was a RCRA hazardous waste.

In May 2015, the company hired other companies to remove and transport the hazardous waste without properly identifying it as hazardous. A facility not authorized to treat hazardous waste ultimately received the shipment. As a result, employees unwittingly discharged more than 23,000 gallons of arsenic-contaminated wastewater into the sewer without appropriate treatment.

The two companies hired to transport and treat the wastewater, United Pumping Services, Inc., and United Storm Water, Inc., each pleaded guilty to violating the Clean Water Act for negligently causing a violation of a pretreatment program requirement (33 U.S.C. §§ 1317(d), 1319(c)(1)(A)). The court ordered each company to pay \$375,000 fines and complete three-year terms' of probation.

The U.S. Environmental Protection Agency Criminal Investigation Division and the U.S. Department of Transportation Office of Inspector General conducted the investigation, with assistance from the California Department of Toxic Substances Control.

#### Announcements

On September 8, 2020, the Environmental Crimes Policy Committee presented Assistant United States Attorney J. Michael Marous with the Raymond W. Mushal Award for Outstanding Contributions to Federal Criminal Law Enforcement. Mike is the 7th person to receive this prestigious award.

In over thirty-six years as a state and federal prosecutor, Mike is one of the nation's leaders in the prosecution of environmental crimes. Between 1984 and 1991, Mike served as an Assistant Ohio Attorney General where he became the Director of Environmental Prosecutions and then the Chief of the Environmental Enforcement Section. While working in the Ohio AG's office, Mike prosecuted or supervised more than 150 cases culminating in convictions for environmental violations. Mike established a record that has made Ohio preeminent among the states in pollution regulation and environmental protection.

In 1995, Mike joined the United States Attorney's Office for the Southern District of Ohio. There he prosecuted cases under a broad range of environmental and wildlife protection statutes earning the respect and appreciation of the numerous regulatory and investigative agencies with which he worked. Recognizing that environmental protection is enhanced by coordination among local, state, and federal agencies, Mike continued the work he had begun at the Ohio AG's Office to provide training, create and strengthen task forces, and to emphasize proactive efforts in developing criminal environmental investigations.

As an outspoken advocate for the enforcement of environmental laws, Mike lectured to bar associations, universities, law schools, environmental advocacy groups, industrial trade associations, and state and federal law enforcement agencies. He also published scholarly articles on environmental law.

Mike assisted the Environmental Crimes Section in successfully prosecuting a number of significant cases involving water and air pollution, pesticide hazards, regulatory evasions, bio-fuel fraud, and wildlife trafficking. Mike's commitment to the mission of environmental protection, the dispassionate review of evidence, and the principles of justice have truly made the world a better place. We are honored to be his colleagues.

If you would like to submit a brief article/announcement discussing an environmental topic (a practice tip, statute/regulation/policy issue or update) for possible publication in the Bulletin, please send it to

#### Environmental Crimes Section Attorneys: (Main # 202-305-0321)

Position	Name	Phone
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	Jennifer Blackwell	
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	Leigh Rende	
Trial Attorney		