



# Bulletin

## Environmental Crimes Section

January / February 2022

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Send your federal case updates to:

[Redacted]

“While publicly claiming to follow environmental best practices, in private the company was illegally sending thousands of gallons of caustic wastewater into the sewer system,” said U.S. Attorney Nick Brown. “The highly corrosive wastewater can damage equipment that cleans wastewater, and further pollutes our fragile Puget Sound. I commend the investigators with EPA and King County, who uncovered this conspiracy and our team who successfully held Mr. Sanft and the company accountable.” [From the [press release](#) following jury verdict.]

The photo above depicts a hidden drain that led directly to the sewer system. See inside for more information on [U.S. v. Seattle Barrel, et al.](#)



District/Circuit	Case Name	Statutes
District of Arizona	<b>United States v. Jerry Ostwinkle, et al.</b>	Owl Habitat Destruction/ MBTA
Eastern District of Arkansas	<b>United States v. Jackson Roe</b>	Reptile Sales/Lacey Act
Central District of California	<b>United States v. Byungsu Kim, et al.</b>	Succulent Plant Exports/Lacey Act
Southern District of California	<b>United States v. Felipa Oliveros, et al.</b>	Pesticide Smuggling/ Conspiracy, FIFRA, Smuggling  Parrot Smuggling/Smuggling
	<b>United States v. Conchita L. Ayala</b>	
	<b>United States v. Evangelina Amaro</b>	
District of Connecticut	<b>United States v. King Sheung Chan</b>	Eel Sales/Smuggling
Southern District of Florida	<b>United States v. Chun Ku, et al.</b>	Reptile Trafficking/ Conspiracy, Lacey Act, Smuggling
Middle District of Georgia	<b>United States v. Alcir DeSouza</b>	Worker Safety/False Statement, OSHA
District of Hawaii	<b>United States v. Monsanto Company</b>	Pesticide Application/DPA, FIFRA, RCRA
Northern District of Illinois	<b>United States v. Richard W. Stubblefield, Jr., et al.</b>	Tank Washing/Conspiracy, CWA, Tampering
Northern District of Indiana	<b>United States v. Raivo Kynapp</b>	Demolition/CAA



District/Circuit	Case Name	Case Type/Statutes
Eastern District of Missouri	United States v. Randy Gardner	Municipal Drinking Water Operator/False Statement, Safe Drinking Water Act
Western District of Missouri	United States v. Jamie Edmondson	Tree Theft/Depredation of Government Property
District of Montana	United States v. Signal Peak Energy, LLC, et al. United States v. U.S. Minerals, Inc.	Mine Operations/MSHA, OSHA Worker Endangerment/OSHA
District of Nebraska	United States v. Nebraska Railcar Cleaning Services LLC, et al.	Rail Car Explosion/Conspiracy, Obstruction, OSHA, Perjury, RCRA
District of New Jersey	United States v. Richard Gontarek United States v. Jason Ksepka	Ivory Sales/Lacey Act Reptile Sales/Lacey Act
Eastern District of New York	United States v. Christopher Winkler, et al. United States v. Bob Gosman Co., Inc., et al.	Fisheries Fraud/Conspiracy, Fraud, Lacey Act, Obstruction
Northern District of New York	United States v. Kristofer Landell, et al.	Demolition Project/CAA, Conspiracy
Western District of New York	United States v. Vanessa Rondeau	Wildlife Sales/Lacey Act
Western District of North Carolina	United States v. Jeffrey G. Brookshire	Lead Waste Disposal/RCRA
Middle District of Pennsylvania	United States v. Bruce Evans, Sr., et al.	WWTP Operation/CWA, Obstruction, Wire Fraud
District of North Dakota	United States v. Summit Midstream Partners, LLC	Pipeline Discharge/CWA, OPA



District/Circuit	Case Name	Case Type/Statutes
District of Puerto Rico	<b>United States v. Edgardo Marin Candelario, et al.</b>	Bird Sales/Lacey Act, MBTA
Northern District of Texas	<b>United States v. Dr. Richard Kazmaier</b>	Wildlife Imports/ESA, Smuggling
Eastern District of Virginia	<b>United States v. Raymond Johnson et al.</b> <b>United States v. Carlos L. Harvey, et al.</b>	Dog Fighting/Conspiracy, Felon -in-Possession  Dog Fighting/Animal Fighting Venture, Conspiracy, Taking Minor to a Fight
Western District of Washington	<b>United States v. Seattle Barrel and Cooperage Company, et al.</b>  <b>United States v. Christopher Cox</b>	Industrial Wastewater Discharge/CWA, Conspiracy, False Statement  Vehicle Imports/CAA, Smuggling





## Trials

### ***United States v. Bruce Evans, Sr., et al.***, No. 3:19-CR-00009 (M.D. Pa.), AUSA Michelle Olsheksi and SAUSAs Martin Harrell and Patricia Miller.

On December 17, 2021, a jury convicted Bruce Evans, Sr., and his son, Bruce Evans, Jr., on 29 of 36 counts involving Clean Water Act (CWA), wire fraud, and obstruction of correspondence offenses occurring at the Greenfield Township, Pennsylvania, wastewater treatment plant (WWTP) between 2013 and 2017 (33 U.S.C. §§ 1319(c)(2)(A), 1311, 1342; 18 U.S.C. §§ 1343, 1702). The jury convicted Evans, Jr., on all five CWA counts for failure to operate and maintain in violation of the CWA permit, discharge in violation of a permit, and making a CWA false statement for lying on a WWTP job application (33 U.S.C. §§ 1319(c)(2)(A), 1319(c)(4), 1311, 1342).



*Sequential Batch Reactor*

In addition to serving on the Greenfield Township Sewer Authority Board and managing the plant for more than 20 years, Evans, Sr., spent more than 30 years as the Township Supervisor in this small rural town of 2,100 residents. He continued to hold the Township Supervisor position during trial, after refusing to resign following his indictment. He supervised his son at both the WWTP and the township, controlled all correspondence and payroll for each, and operated a small public drinking water system at a real estate development. Evans, Jr., worked as an “assistant” WWTP operator beginning in late 2017, a scheme orchestrated by his father in defiance of the four other board members. The obstruction of correspondence charges stemmed from his failure to deliver Notices of Violation to board members sent in late 2015 by the Pennsylvania Department of Environmental Protection (PADEP).

Evans, Sr., testified to some financial wrongdoings, but blamed them on oversights, and/or his desire to help his son. Regarding the environmental charges, he blamed the contract operators, stating that overseeing the plant’s environmental operations was “not my job.” Despite the Authority paying him \$25,000 a year as a part-time plant manager, Evans, Sr., testified he never bothered to read the National Pollution Discharge Elimination System (NPDES) permit during his entire tenure as plant manager.

The CWA counts involved violations of the Authority’s CWA permit, including both numerical limits and several different narrative permit conditions, bypassing a pump station that resulted in the routing of raw sewage into a marshy area adjacent to a stream, and failing to notify PADEP about bypasses, sanitary sewer overflows, and hauled wastes.

Following years of noncompliance at the WWTP, federal environmental authorities

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## Trials

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initiated an investigation in 2013, using covert cameras positioned to surveil activity at the facility and a nearby pump station. Additional investigation revealed PADEP issued repeated warnings to Evans, Sr., (as the facility's responsible corporate officer) regarding deficient facility inspections, permit non-compliance, community complaints about foul odors, and visible raw sewage routinely overflowing from a pump station.

With regard to jury instructions, the government obtained "Willful Blindness and Responsible Corporate Officer" instructions and refuted the defendants' attempts to insert a good faith defense instruction and to require the government prove knowledge of the specific permit provisions charged in the indictment. The "knowing" instruction followed Third Circuit CWA case law in *U.S. v. West Indies Transport, Inc.*, and the Ninth Circuit's CWA decision in *U.S. v. Lucero*. The court gave a "hybrid" expert instruction taken from the Ninth Circuit's model jury instructions because a fact witness also qualified as an expert in the field of wastewater treatment. On each CWA count, the court gave modified versions of the government's proposed jury instructions which incorporated those from the ECS manual and model jury instructions from the Eighth and Eleventh Circuits. Adding charges involving narrative permit provisions required including relevant permit language, which at times, especially for bypassing, became quite lengthy and required adjustments in proof during trial. The government had to prove a discharge into a water of the United States for numerical permit counts and any others involving actual discharges.

The government filed a motion shortly before trial began to correct permit citation errors found in the superseding indictment. The defendants opposed, claiming the change in citations affected the substance of the charges. The court issued a written ruling in favor of the government, relying on Federal Rule of Criminal Procedure Rule 7(c)(2) concerning citation errors.

Additionally, the court issued a lengthy mid-trial ruling concerning a witness' assertion of a Fifth Amendment claim. In September 2018, the government obtained a guilty plea from professional engineer David Klepadlo. Klepadlo designed the WWTP facility in the late 1980s and worked there as the chief contract operator until management fired him in 2018. Klepadlo tampered with witnesses and submitted false discharge monitoring reports.

After receiving a subpoena to testify at trial, Klepadlo claimed his testimony could expose him to new criminal liability. After a multi-hour hearing, the court compelled Klepadlo to testify concerning matters that occurred prior to his indictment in September 2016. The court ruled that Klepadlo had valid Fifth Amendment concerns for matters not charged in his indictment or addressed in his plea agreement that took place after his indictment. Moreover, the court rejected the defendants' claim that the government's refusal to provide immunity to Klepadlo violated their due process rights to Klepadlo's testimony. Klepadlo ultimately testified, providing evidence supporting the government's case.

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



## Trials

***United States v. Seattle Barrel and Cooperage Company, et al.***, No. 2:19-CR-00258 (W.D. Wash.), AUSAs Seth Wilkinson and Jim Oesterle, SAUSAs Karla Perrin and Gwendolyn Russell.

On December 22, 2021, following a three-week trial, a jury convicted Seattle Barrel and Cooperage Company (Seattle Barrel) and owner Louie Sanft on conspiracy, making false statements, and 33 Clean Water Act violations for illegally disposing of caustic pollutants into the King County sewer system for more than a decade (18 U.S.C. §§ 371, 1001(a)(2); 33 U.S.C. §§ 1319(c)(4), (c)(2)(A), 1317.) Sentencing is scheduled for April 25, 2022. Plant manager John Sanft pleaded guilty to conspiracy and making a false statement, and is scheduled for sentencing on April 22, 2022.



*Tank containing caustic solution used for barrel wash*

Seattle Barrel reconditions and resells used industrial and commercial drums. The reconditioning process includes submerging the barrels in a 300-gallon wash tank filled with a high pH caustic solution.

After observing John Sanft dumping oily material into the sewer in October 2012, King County officials conducted covert discharge monitoring between February and August 2013. Investigators determined that the company regularly discharged wastewater with pH levels greater than 12, in violation of its permit.

King County fined the company \$55,250, but later agreed to reduce the fine when the company agreed to install a pretreatment system. The county also issued an amplified discharge permit in 2014 to include, among other things, submitting monthly self-monitoring reports.

Following the pretreatment system installation in 2016, Louie Sanft submitted monthly reports claiming the facility re-used all its wastewater on site (claiming to be a “zero discharge” facility.) After a state inspector found problems during a plant inspection in November 2017, the U.S. Environmental Protection Agency conducted additional covert monitoring in 2018 and 2019 (including obtaining a search warrant for real-time monitoring).

The monitoring revealed ample evidence that Seattle Barrel continued to violate its permit by discharging high pH wastewater. The defendants used a portable pump to discharge solution from the wash tank to a hidden drain that led directly to the sewer system.

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



## Indictments

***United States v. Dr. Richard Kazmaier*, No. 2:22-CR-00005 (N.D. Tex.), ECS Trial Attorney Ryan Connors, AUSA Anna Bell, and ECS Paralegal Chloe Harris.**

On January 27, 2022, prosecutors charged Dr. Richard Kazmaier with violating the Endangered Species Act and smuggling for illegally importing wildlife into the United States (18 U.S.C § 545; 16 U.S.C. §§ 1538(e), 1540(b)(1)). Trial is scheduled to begin on March 28, 2022.

Kazmaier worked as a biology professor at West Texas A&M University. Between March 2017 and February 2020, Kazmaier purchased wildlife items from around the world for his personal collection. He imported the wildlife without declaring it to customs or the U.S. Fish and Wildlife Service. The wildlife included species protected under the Convention on International Trade in Endangered Species, including the Eurasian otter, lynx, caracal, vervet monkey, greater naked-tailed armadillo, and king bird-of-paradise.

The U.S. Fish and Wildlife Service conducted the investigation as part of Operation Global Reach. The operation focused on the trafficking of wildlife from Indonesia to the United States.

***United States v. Chun Ku, et al.*, No. 22-CR-20025 (S.D. Fla.), ECS Trial Attorney Banu Rangarajan, AUSA Tom Watts-FitzGerald and ECS Paralegal Claudia Garin.**

On January 27, 2022, prosecutors filed an information charging Chun Ku with conspiracy, smuggling, and violating the Lacey Act for smuggling protected reptiles (18 U.S.C. §§ 371, 554; 16 U.S.C. §§ 3372 (d)(1), 3373(d)(3)(A)(i)). Co-conspirator Daisuke Miyauchi pleaded guilty to the same charges.

Miyauchi owns and operates Maniac Reptiles, located in Yokohama, Japan. Miyauchi conspired with Ku, owner and operator of Dynasty Reptiles in Miami, Florida, to use Ku's "Master File" Convention on International Trade in Endangered Species (CITES) permit to smuggle various CITES II-protected reptiles out of the United States, including ball pythons, blood pythons, and Mexican Burrowing/New World pythons. Miyauchi frequently travelled to the United States to attend reptile shows and purchase reptiles. He contacted Ku and provided details in advance regarding his purchase plans to allow Ku time to complete the fraudulent paperwork. After purchasing the reptiles, Miyauchi transported them to Miami to prepare for shipment to Japan. Upon arriving in Miami, Miyauchi obtained



*Australian Gecko*

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## Indictments

(Continued from page 8)

the fraudulent paperwork from Ku and submitted it to the U.S. Fish and Wildlife Service using a customs broker. Between October 2014, and August 2021, Ku illegally exported 39 shipments to Miyauchi under his Master File permit. The total retail value of CITES II-protected species smuggled by Miyauchi is approximately \$3,442,700.

Further investigation revealed that Ku made a similar arrangement with at least one other co-conspirator for whom Ku fraudulently exported at least 20 shipments of reptiles under his Master File permit. The total retail value of CITES II-protected species smuggled by Ku is approximately \$5,134,170.

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

***United States v. Christopher Winkler, et al.*, No. 2:21-CR-00217 (E.D.N.Y.), ECS Trial Attorney Christopher Hale, ECS Senior Trial Attorney Ken Nelson, and ECS Paralegal Samantha Goins.**

On January 26, 2022, a grand jury returned a superseding indictment charging a fisherman with conspiracy and substantive charges in connection with a scheme to illegally overharvest fluke and black sea bass. Prosecutors charged Christopher Winkler with one count of conspiracy to commit mail fraud, to obstruct the National Oceanic and Atmospheric Administration (NOAA) through the falsification of fishing logs, and to obstruct NOAA's efforts at regulating federal fisheries (18 U.S.C. §§ 371, 1341, 1519).

In April 2021, Winkler, Bryan Gosman, Asa Gosman, and Bob Gosman Co., Inc., were charged as part of this conspiracy. Winkler is also separately charged, however, in the superseding indictment.

Between May 2014 and February 2017, Winkler, as captain of the *F/V New Age*, embarked on approximately 220 fishing trips where he caught fluke or black sea bass in excess of applicable trip limits. The defendants sold the illegally harvested fish to two now-defunct companies in the New Fulton Fish Market in the Bronx and a fish dealer in Montauk. Estimated overages included at least 200,000 pounds of fluke, with a wholesale value of the total over-quota fish (of all species) at \$850,000.

Federal law requires fishing captains to accurately report their catch to NOAA on Fishing Vessel Trip Report (FVTR) forms. Similarly, the first company that buys fish directly from a fishing vessel (the fish dealer) must specify what it purchases on a Dealer Report. NOAA utilizes this information to set policies designed to ensure a sustainable fishery.

The National Oceanic and Atmospheric Administration Office of Law Enforcement investigated the case.





## Indictments

***United States v. Felipa Oliveros et al.*, No. 20-CR-03054 (S.D. Calif.), ECS Trial Attorney Stephen DaPonte and AUSA Melanie Pierson.**

On December 13, 2021, prosecutors charged Felipa Oliveros, her daughter Laura Orellana, Luis Rios Mancera, and Luis' mother Sofia Mancera, with conspiracy and smuggling (18 U.S.C. §§ 371, 545).

Between January 2020 and June 2021, the four engaged in a scheme to smuggle approximately 300 bottles of illegal Mexican pesticides, including Tactic and Bovitraz, across the border into the United States.

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.



## Guilty Pleas

### ***United States v. Vanessa Rondeau*, No. 22-CR-00005 (W.D.N.Y.), AUSA Aaron Mango.**

On January 27 2022, Vanessa Rondeau pleaded guilty to violating the Lacey Act for trafficking in wildlife (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)). Rondeau falsely labelled and trafficked polar bear skulls she sold through her business, the Old Cavern Boutique, to an undercover wildlife agent (UA). Sentencing is scheduled for June 9, 2022.

Rondau, a Canadian national, resides in Montreal, Quebec, Canada. In December 2019, she posted an advertisement offering to sell a polar bear skull for \$750. The UA purchased the skull in January 2020, and Rondau mailed it to him from a post office located in the United States near the Canadian border.

In January 2021, Rondau posted another advertisement offering to sell a polar bear skull for \$699. The UA purchased this polar bear skull from the defendant, who mailed it directly from Canada to the UA in the United States. Knowing she was breaking the law, she shipped the skull from Canada to the United States, marking the package as a “gift” rather than a “sale.”

Agents arrested Rondau in May 2021, as she attempted to cross the border from Vermont into Canada. She possessed numerous undeclared wildlife items, including crocodilian skulls and feet, a three-toed sloth, shark jaws, and a human skull.

The U.S. Fish and Wildlife Service and Homeland Services Investigations conducted the investigation.

### ***United States v. Raymond Johnson, et al.*, Nos. 3:20-CR-00137, 3:21-CR-00108 (E.D. Va.), ECS Trial Attorneys Banu Rangarajan and William Shapiro, AUSA Stephen Anthony, and ECS Law Clerk Amanda Backer.**

On January 11, 2022, Raymond Johnson pleaded guilty to a two-count information charging him with conspiracy to violate the Animal Welfare Act and felon-in-possession of a firearm (18 U.S.C. §§ 371, 922(g)). Sentencing is scheduled for March 31, 2022.

In 2019, law enforcement began investigating a criminal organization involved in drug distribution. As a result of authorized wire intercepts, agents obtained communications between Johnson and co-conspirators discussing dog fighting. Between November 2019 and August 2020, Johnson bought, sold, bred, trained, sponsored, and fought pit bull-type dogs. Johnson hosted at least two fights at his residence. On November 19, 2020, law enforcement executed a search warrant at Johnson’s home and recovered several firearms, as well as nine pit-bull type dogs, together with dog collars, chains, medications, supplies and supplements, and a treadmill used to train dogs for fighting. At the time of the warrant, Johnson was a previously convicted felon.

Johnson is one of several defendants charged with participating in an extensive animal fighting venture.

The U.S. Drug Enforcement Administration and the Federal Bureau of Investigation conducted the investigation, with assistance from the Office of the Attorney General for the State of Virginia.



## Guilty Pleas

### ***United States v. Raivo Kynapp*, No. 3:21-CR-00094 (N.D. Ind.), ECS Trial Attorney Mary Dee Carraway.**

On December 16, 2021, Raivo Kynapp pleaded guilty to violating the Clean Air Act for failing to comply with the Asbestos National Emission Standards for Hazardous Air Pollutants (42 U.S.C. § 7413(c)(1)). Sentencing is scheduled for March 21, 2022.

In 2016 and 2017, Kynapp supervised the demolition of the Wilson Shirt Factory in South Bend, Indiana. He knew there was regulated asbestos containing material (RACM) onsite. He directed workers to demolish the facility without following work practice standards for properly handling RACM, including failing to wet the material and ensuring it remained wet until properly disposed.

Demolition work ceased in February 2017 after the Indiana Department of Environmental Management performed an inspection and found the RACM on site.

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

### ***United States v. Jackson Roe*, No. 1:19-CR-00675 (E.D. AR.) AUSA Edward Walker.**

On December 16, 2021, Jackson Roe pleaded guilty to violating the Lacey Act for illegally importing reptiles from China (16 U.S.C. §§ 3372(a)(23)(A), 3373(d)(1)(A)). Sentencing is scheduled for July 8, 2022.

In August 2015, the United States Fish and Wildlife Service (USFWS) received an anonymous tip regarding a reptile hobbyist who sold and smuggled various animals into the United States. Through undercover conversations with this individual (located in China) agents learned that the individual in China was shipping rare and endangered animals to various buyers, including Roe. In January 2017, wildlife inspectors intercepted a package addressed to Roe containing two live Chinese giant salamanders, with no holes for air or documents in the package.

In August 2017, USFWS agents executed a search warrant at Roe's parents' residence, and conducted a consensual search of Roe's home. Roe admitted he illegally purchased several live amphibians and reptiles from a Chinese dealer he met on Facebook. He stated he paid \$450 for each salamander, despite knowing they were a protected species. Roe received a total of seven packages shipped from Hong Kong, which included six Chinese giant salamanders, a Vietnamese leaf turtle, an Indian roofed turtle, and a Chinese big-headed turtle. Roe also informed agents that he owned a Nile crocodile, a Morelet's crocodile, and an American alligator, all of them seized by Arkansas Game and Fish Commission agents.

In October of 2019, investigators received new information that Roe illegally possessed Chinese giant salamanders. Agents executed a new search warrant at his residence in November 2019, discovering, among other animals, two live Chinese giant salamanders and four deceased Chinese giant salamanders.

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



## Sentencings

***United States v. Signal Peak Energy, LLC, et al.*, Nos. 1:19-CR-00159, 1:21-CR-00079, 00080 (D. Mont.) AUSAs Colin M. Rubich, Zeno B. Baucus, and Timothy Tatarka.**

On January 31, 2022, a court sentenced Signal Peak Energy, LLC, (SPE) to pay a \$1 million fine, complete a three-year term of probation (to include implementing an environmental compliance plan) and pay \$400 in restitution to injured worker, Gaylen Monson. This underground coal mine operator previously pleaded guilty to four counts of willfully violating Mine Safety and Health Act (MSHA) standards (30 U.S.C. § 802(d)).

The SPE prosecution is part of a broad corruption investigation into mine management and operations that resulted in worker safety and environmental convictions, as well as embezzlement, tax evasion, bank fraud, money laundering, drugs, and firearms violations.

Convicted mine officials include: Larry Wayne Price, Jr., a former vice president of surface operations, sentenced to prison for defrauding companies out of \$20 million; and Zachary Ruble, former surface mine manager, sentenced to probation for conspiring to defraud SPE of \$2.3 million. A third mine official, Dale Lee Musgrave, former underground operations vice president, pleaded guilty to violating MSHA, and is scheduled for sentencing on May 4, 2022.

Other cases include: Stephen P. Casher, a former Rocky Mountain Bank loan officer, sentenced to prison and fined on bank fraud and money laundering charges for a loan scheme involving Price; James and Timilynn Kisling, owners of Kisling Quality Builders, sentenced to probation and fined for evading taxes in a scheme involving the construction of Price's residence; Nevada resident Mark Luciano, sentenced to prison for conviction on trafficking cocaine; and Todd Alan Irwin, Price's secretary, sentenced to probation as a felon-in-possession of firearms. Robert Wayne Ramsey, owner of Peters Equipment Company, pleaded guilty to wire fraud in November 2021, for an equipment sales' scheme, and is scheduled for sentencing on April 21, 2022.

Between 2013 and 2018, SPE routinely violated MSHA health and safety standards while operating the mine, in addition to environmental and worker safety standards. These violations also occurred with the full knowledge, direction, and participation of the mine's most senior management during that period, including the president and CEO, the vice president of surface operations, the vice president of underground operations, and the safety manager.

During the summer of 2013, SPE's senior managers directed mine employees to improperly dispose of mine waste by pumping it into abandoned sections of the mine. This waste, known as "slurry," consisted of wastewater, chemicals, and unprocessed soil containing heavy metals (including arsenic and lead.) Mine employees pumped this slurry into an abandoned section of the mine for approximately two weeks, until the section was

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## Sentencings

*(Continued from page 13)*

full. Disposing of mine waste in this manner required MSHA and EPA approval, which SPE did not obtain.

During the spring of 2015, SPE commissioned the drilling of two bore holes through the ground leading to another abandoned section of the mine. SPE obtained a permit to inject water into the ground through the bore holes, but this permit did not allow for slurry waste disposal. Senior mine managers directed employees to pump more slurry through the bore holes for approximately six weeks. They stopped pumping after the slurry breached seals between the abandoned mine works and the operating mine, causing flooding in the active mine.

In January 2018, SPE failed to report an employee injury. While moving equipment in the mine, "John Doe 1's (JD1)" crushed his finger, requiring amputation. JD1 and the safety manager were on their way to the hospital when JD1 received a phone call from the underground operations vice president (VP). The VP pressured JD1 to not report the injury as work related, saying it would be "worth his while." The safety manager dropped JD1 at the hospital (rather than accompanying him pursuant to mine policy). JD1 told hospital staff that he hurt himself at home. As a result, he received an envelope containing \$2,000 from the VP.

In May 2018, SPE failed to report another injured worker. This employee (John Doe 2-JD2), was working in the underground portion of the mine when rock fell onto his head, causing a severe laceration. The shift manager immediately called the safety manager to take JD2 to the hospital. Instead, the safety manager drove JD2 home, where he waited until the next morning to seek medical attention. JD2 told hospital staff that a shelf fell on his head in his garage. Doctors treated JD2 and he returned to work for his next scheduled shift; however, his injuries prevented him from working for several days following the accident. Management subsequently charged JD2 vacation leave.

The Internal Revenue Service, the Federal Bureau of Investigation, and the U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation.





## Sentencings

***United States v. Christopher Cox*, No. 3:21-CR-05221 (W.D. Wash.), AUSA Cecelia Gregson.**

On January 28, 2022, a court sentenced Christopher Cox to 30 days' incarceration, followed by five years' supervised release. Restitution will be determined on March 25, 2022. Cox pleaded guilty to smuggling, making false statements under the Clean Air Act, and possessing child pornography (18 U.S.C. § 545; 42 U.S.C. §§ 7413 (c)(2)(A), 7542).

Between approximately 2015 and January 2019, Cox illegally smuggled cars into the United States that failed to meet federal safety and environmental requirements. He falsified paperwork on two dozen vehicles he imported from overseas. Many of these light-weight vehicles did not meet U.S. safety standards. Cox used his mail carrier credentials to obtain a Transportation Worker Identification Credential ("TWIC") card. The TWIC card allows a person access to secure areas of the nation's maritime facilities and vessels. Cox had no legitimate reason to request this credential, and it gave him access to where vehicles that he had ordered were offloaded, in order to move them off the port before they could be inspected by CBP. COX forged paperwork including forging Department of Homeland Security ("DHS") seals, to falsely show that the vehicles had been inspected by CBP.

He sold some of the vehicles to other mail carriers. The total value of the imported vehicles exceeds \$55,000. During the course of this investigation, law enforcement executed on a search warrant on the defendant's Google account and discovered files depicting minors engaged in sexual conduct.

The Homeland Security Investigations conducted the investigation, with assistance from U.S. Customs and Border Protection.

***United States v. Alcir DeSouza*, No. 3:21-CR-00099 (M.D. Fla.), ECS Senior Trial Attorney Daniel Dooher and ECS Law Clerk Amanda Backer.**

On January 26, 2022, a court sentenced Alcir DeSouza to pay a \$50,000 fine. DeSouza previously pleaded guilty to making a false statement during an Occupational Safety and Health Administration (OSHA) investigation (18 U.S.C. § 1001).

DeSouza owned DeSouza Framing, Inc. (DFI), a residential and commercial framing contractor, located in St. John, Florida. DFI dissolved as a corporation in July 2018. On December 20, 2017, an OSHA inspector arrived at a DFI jobsite regarding allegations that the site framing contractor failed to provide fall protection for the employees.

Over the course of the investigation, DeSouza attempted to evade responsibility for potential worker safety violations. He claimed that that he subcontracted with another company to perform the framing work at the site, which he knew was completely false.

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



## Sentencings

### ***United States v. Richard Gontarek*, No. 2:21-mj-10321 (D.N.J.), AUSA Kathleen O'Leary.**

On January 26, 2022, a court sentenced Richard Gontarek to pay a \$2,800 fine, and complete a four-year term of probation, to include six months' home confinement. Gontarek pleaded guilty to violating the Lacey Act for selling carvings made from sperm whale ivory (16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)).

In 2017, an anonymous person notified law enforcement about Gontarek's sales. Further investigation led agents to his website, where they subsequently set up an undercover operation. Posing as a buyer, an undercover agent (UC) purchased several ivory items from Gontarek. On January 3, 2018, and December 6, 2018, Gontarek shipped packages containing carvings made from a sperm whale tooth to the UC in Pennsylvania. Sperm whales are listed in Appendix I of the Convention on International Trade in Endangered Species. Gontarek forfeited a number of raw and carved ivory pieces.

The U.S. Fish and Wildlife Service Office of Law Enforcement conducted the investigation.

### ***United States v. Jason Ksepka*, No. 3:21-CR-00729 (D.N.J.), AUSA Kathleen O'Leary.**

On January 25, 2022, a court sentenced Jason Ksepka to pay a \$1,000 fine and complete a three-year term of probation, to include six months' home confinement. Ksepka pleaded guilty to violating the Lacey Act for illegally shipping ten live iguanas to Hong Kong that he falsely labeled as "toys" (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)).

On November 7, 2017, Ksepka shipped the package (using the name "Luke Jacobs") from the U.S. Post Office in Lambertville, New Jersey. U.S. Fish and Wildlife inspectors intercepted the package the following day, during a routine x-ray inspection at the John F. Kennedy International Airport Mail Facility. The package contained a small cardboard box labelled "Live Harmless Reptiles." The inner box also displayed stickers reading "Ty's Lizards," and a handwritten note reading "10 Rhino Iguanas *Cyclura cornuta*." An out-of-state sender had affixed a shipping label addressed to Ksepka. Two fabric bags held five iguanas each. Investigators sent the iguanas to a non-profit zoological facility for care in North Carolina.

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



***United States v. Jerry Ostwinkle, et al.*, No. 2:21-po-05319 (D. Ariz.), ECS Trial Attorney Ethan Eddy, AUSA Jim Knapp, and ECS Paralegal Samantha Goins.**

On January 25, 2022, Jerry Ostwinkle and Jennifer Jones pleaded guilty to violating the Migratory Bird Treaty Act (MBTA)(16 U.S.C. §§ 703,707). The court sentenced each to pay \$1,500 fines. Ostwinkle also will complete a six-month term of probation and Jones will complete a three-month term.

Jones, an environmental consultant, and Ostwinkle, a hobby falconer, contracted with a large residential developer to destroy Burrowing Owl burrows and remove them from tracts under a development outside of Phoenix, Arizona.

The defendants knew about MBTA permit requirements, and lied to the developer that they had the required MBTA approvals. Jones and Ostwinkle believed that the U.S. Fish and Wildlife Service permit conditions addressing Burrowing Owl relocations were too onerous and expensive. FWS would not have approved their method, because they harmed the owls and destroyed nests without properly checking for eggs and chicks. On April 1, 2021, a homeowner videotaped Ostwinkle illegally capturing a Burrowing Owl, at Jones' direction.

Authorities rescued and rehabilitated the owl depicted above, although the defendants' actions permanently separated it from its mate.

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



*Burrowing Owl*



## Sentencings

### ***United States v. Evangelina Amaro*, No. 21-CR-01932 (S.D. Calif.), AUSA Melanie Pierson.**

On January 21, 2022, a court sentenced Evangelina Amaro to complete a five-year term of probation. Amaro pleaded guilty to smuggling 22 parrots into the United States from Mexico (18 U.S.C. § 545).

Authorities apprehended Amaro in June 2021 as she entered the United States at the San Ysidro Port of Entry in San Diego. After telling the primary inspector she had nothing to declare, a screeching sound arose from the vehicle's driver side front door. Using a flashlight, the inspector saw the birds concealed within the car door.

At the secondary inspection area, agents removed the driver's side and passenger's side front interior door panels, revealing 22 parrots inside mesh bags. An agriculture specialist identified all as Yellow Crowned Amazon parrots.

Amaro stated that she entered Mexico to visit family members. While in Mexico, an associate offered her \$500 to smuggle the parrots into the United States. Officials sent all the parrots to New York for quarantine.

The U.S. Customs and Border Patrol and the U.S. Fish and Wildlife Service conducted the investigation.

### ***United States v. Byungsu Kim, et al.*, No. 2:19-CR-00329 (C.D. Calif.), AUSAs Matthew W. O'Brien and Dennis Mitchell.**

On January 20, 2022, a court sentenced South Korean national Byungsu Kim, to 24 months' incarceration, followed by 36 months' supervised release, for attempting to illegally export live *Dudleya* succulent plants to Asia. Kim and co-defendants illegally harvested the plants (worth approximately \$150,000) from remote state parks in Northern California. Kim also will pay \$3,985 in restitution to the State of California for expenses related to caring for the stolen plants. Kim pleaded guilty to violating the Lacey Act for poaching protected wild succulent plants (16 U.S.C. §§ 3372(a)(2)(B), 3373(d)(1)).

On October 11, 2018, Kim, Youngin Back, and Bong Jun Kim, drove from Los Angeles International Airport to Crescent City, California. Between October 14 and October 16, 2018, they removed numerous *Dudleya* plants from DeMartin State Beach in Klamath, California, and Del Norte Coast Redwoods State Park. A few days later, they unloaded almost 1,400 plants at a nursery to obtain certification for shipment to South Korea. Kim told the county agriculture inspector that the certificate should note the place of origin as "San Diego County", which was false. After receiving the certification, they took the plants to a commercial exporter in Compton for shipment to South Korea. After they left, law enforcement officials executed a search warrant at the cargo shipping company finding more than 3,000 illegally harvested *Dudleya* plants in boxes labeled "Rush" and "Live Plants."

Further investigation confirmed Kim conducted internet searches for "poaching

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## Sentencings

(Continued from page 18)

succulents” and “Dudleya,” which included a press release describing other Dudleya poacher convictions.

Although California law enforcement officials confiscated Kim’s passport following his arrest, he managed to obtain a replacement in January 2019 from the South Korean Consulate by stating he lost his passport. Kim fled to Mexico with co-defendant Back in May 2019, traveling on foot through the Tijuana-San Ysidro border crossing. Using his fraudulently obtained passport, Kim flew to South Korea with Back.

In October 2019, officials arrested Kim in South Africa for illegally collecting plants from protected areas for export to South Korea. Kim pleaded guilty to the criminal charges in South Africa and officials extradited him to the United States in October 2020.

Bong Jun Kim pleaded guilty in July 2019 to violating the Lacey Act and served four months’ incarceration as time-served. Back remains a fugitive.

The California Department of Fish and Wildlife; the U.S. Fish and Wildlife Service; Homeland Security Investigations; U.S. Customs and Border Protection; San Diego County’s Department of Agriculture, Weights and Measures; the U.S. Department of Agriculture; and the California State Parks conducted the investigation.

### ***United States v. Conchita L. Ayala*, No. 3:21-CR-02191 (S.D. Calif.), ECS Trial Attorney Stephen DaPonte and AUSA Melanie Pierson.**

On January 20, 2022, a court sentenced Conchita L. Ayala to complete a two-year term of probation and pay \$2,500 in restitution. Ayala pleaded guilty to conspiracy to violate the Federal Insecticide, Rodenticide, and Fungicide Act (18 U.S.C. § 371).

Authorities apprehended Ayala in July 2021, as she drove her vehicle into the United States from Mexico at the Otay Mesa Port of Entry. Her vehicle contained 11 bottles of Metagro and 9 bottles of Metaldane, illegal Mexican pesticides.

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. Jeffrey G. Brookshire*, No. 1:21-CR-00017 (W.D.N.C.), AUSA Steven Kaufman.**

On January 20, 2022, a court sentenced Jeffrey G. Brookshire to pay a \$1,000 fine and complete a one-year term of probation. Brookshire pleaded guilty to violating the Resource Conservation and Recovery Act for illegally storing and disposing of hazardous waste without a permit (42 U.S.C. § 6928(d)(2)(A)).

Brookshire worked as the Director of the Transylvania County Landfill between 2005 until his retirement in July 2017. In April and June 2016, Brookshire accepted firing range air filters that contained lead for disposal at the landfill, without a permit to do so.

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





## Sentencings

***United States v. Nebraska Railcar Cleaning Services LLC, et al., No. 8:18-CR-00216 (D. Neb.), ECS Senior Counsel Kris Dighe, AUSA Donald J. Kleine, and ECS Law Clerk Nate Borrelli.***

On January 14, 2022, a court sentenced Nebraska Railcar Cleaning Services LLC (NRCS), its president and owner, Stephen Michael Braithwaite, and vice president and co-owner, Adam Thomas Braithwaite. Steven Braithwaite will serve 30 months' incarceration and pay \$100,000 in restitution for his role in the offenses. Adam Braithwaite will serve one year and one day incarceration and pay \$100,000 in restitution. In addition, NRCS must complete a five-year term of probation and pay a \$21,000 fine.

The defendants pleaded guilty to mishandling wastes removed from rail cars, causing the deaths of two employees and severely injuring a third. Adam Braithwaite pleaded guilty to violating the Occupational Safety and Health Act (OSHA), obstruction, and perjury (29 U.S.C. § 666(e); 18 U.S.C. § 1519, 1622). Steven Braithwaite pleaded guilty to violating OSHA and the Resource Conservation and Recovery Act's knowing endangerment provision (42 U.S.C. § 6928(e); 29 U.S.C. § 666(e)). NRCS pleaded guilty to the same charges, including conspiracy (18 U.S.C. § 371).

NRCS and Steve and Adam Braithwaite failed to implement worker safety standards and then tried to cover up their actions during the OSHA inspection. They also mishandled hazardous wastes removed from rail tanker cars during the cleaning process.

After a 2013 inspection, Steve Braithwaite entered into a Corrective Action Agreement stating that NRCS had been testing for benzene since July 2014. In March 2015, Steve Braithwaite refused to allow OSHA inspectors on-site for a follow-up inspection. Soon thereafter, Steve and Adam Braithwaite falsified documents they submitted to OSHA showing the company purchased benzene testing and other safety equipment.

On April 14, 2015, as employees cleaned out a rail car, it ignited killing two and injuring a third worker. Two days after the explosion, NRCS tested three railcars and determined two contained hazardous levels of benzene gas.

The U.S. Environmental Protection Agency Criminal Investigation Division and the U.S. Department of Labor Office of Inspector General conducted the investigation.



*Aftermath of rail car explosion*



## Sentencings

### ***United States v. Randy Gardner*, No. 4:20-CR-00633 (E.D. Mo.), AUSA Dianna Collins.**

On January 13, 2022, a court sentenced Randy Gardner to pay a \$2,400 fine and complete a three-year term of probation. Gardner pleaded guilty for his role in falsifying sampling results required under the Safe Drinking Water Act (18 U.S.C. § 1001).

From approximately 2006 until 2017, Gardner worked as a drinking water operator for several communities in southern Missouri. This included the cities of Hornersville and Arbyrd, Missouri, where Gardner collected monthly drinking water samples, and submitted test results to the Missouri Department of Natural Resources (MDNR).

In June 2017, instead of properly collecting drinking water samples from approved locations within Hornersville and Arbyrd, Gardner collected water from his home tap and submitted the “samples” to the MDNR Environmental Laboratory accompanied by falsified paperwork. Gardner’s home received drinking water from the Dunklin County Public Water District, which does not service Hornersville or Arbyrd.

Gardner’s tap water samples from his house showed E-coli present in the drinking water. As a result, Hornersville and Arbyrd believed they had an E-coli contamination problem. The MDNR subsequently conducted additional drinking water testing from all three areas and confirmed the water was safe. Officials revoked Gardner’s water licensing, prohibiting him from operating water facilities in the State of Missouri.

The U.S. Environmental Protection Agency Criminal Investigation Division and the Missouri Department of Natural Resources conducted the investigation.

### ***United States v. Monsanto Company*, No. 1:21-CR-00140 (D. Hawaii), AUSAs Mark A. Williams, Erik M. Silber, and Dennis Mitchell\*.**

On January 6, 2022, a court sentenced Monsanto Company to pay a total of \$12 million and implement a comprehensive environmental compliance program to include employing a third-party monitor as part of a three-year term of probation. Monsanto pleaded guilty to 30 violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) related to the application of a glufosinate ammonium-based pesticide, inconsistent with its labelling (7 U.S.C. §§ 136j(a)(2)(G), 136l(b)(1)(A)). The company also pleaded guilty to violating the Resource, Conservation and Recovery Act (RCRA) for illegal storing a banned pesticide (42 U.S.C. § 6928(d)(2)(A)), charges the government would have otherwise dismissed as part of a 2019 Deferred Prosecution Agreement (DPA).

In 2019, the company entered into a DPA, for unlawfully spraying Penncap-M (a banned pesticide) on corn seed and research crops at its Valley Farm facility on Maui in 2014. Monsanto admitted using Penncap-M in violation of FIFRA, despite knowing that the EPA prohibited its use following a 2013 “cancellation order.” The company further

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## Sentencings

*(Continued from page 21)*

admitted that, after the 2014 spraying, it told employees to re-enter the sprayed fields seven days later, even though Monsanto knew that workers should have been prohibited from entering the area for 31 days.

Despite entering into the DPA, during the entire month of June 2020, Monsanto engaged in the same activity as it did in 2019. The company directed workers to use a glufosinate ammonium-based product (sold under the brand name Forfeit 280) to treat cornfields on Oahu. Monsanto then allowed workers to enter the fields during a six-day "restricted-entry interval" (REI). As a result of violating the DPA, the company pleaded guilty to two felony RCRA storage charges for illegally storing 160 pounds of PennCap-M between March 2013 and August 2014, without a permit.

Monsanto already paid \$10.2 million for the DPA: a \$6 million criminal fine, a \$200,000 fine for the FIFRA offense, and \$4 million in community service payments to Hawaiian government entities. Because of the new charges, the company will pay an additional \$6 million criminal fine, as well as an additional \$6 million in community service payments, to be equally divided among the following four Hawaiian agencies: The Department of Agriculture, Pesticide Use Revolving Fund – Pesticide Disposal Program/Pesticide Safety Training; the Department of the Attorney General, Criminal Justice/Investigations Division; the Department of Health, Environmental Management Division; and the Department of Land and Natural Resources, Division of Aquatic Resources. In summary, Monsanto will pay a total of \$22.2 million for the two RCRA felonies and the 31 FIFRA misdemeanor offenses.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation. \*These prosecutors are acting as special attorneys appointed by the Attorney General pursuant to 28 U.S.C. § 515. The United States Attorney's Office for the District of Hawaii was recused from the prosecution.



## Sentencings

***United States v. Bob Gosman Co., Inc., et al.***, No. 2:21-CR-00217 (E.D.N.Y.), ECS Trial Attorney Christopher Hale, ECS Senior Trial Attorney Ken Nelson, and ECS Paralegal Samantha Goins.

On December 16, 2021, a court sentenced The Bob Gosman Co., Inc., after pleading guilty to two misdemeanor Lacey Act trafficking charges. The company will pay a \$50,000 fine and complete a four-year term of probation. The company also must implement an environmental compliance plan with enhanced monitoring, training, and inspection requirements. Co-defendants Bryan Gosman and Asa Gosman pleaded guilty to conspiracy and violating the Lacey Act for illegally purchasing summer flounder and black sea bass from a local fisherman (18 U.S.C. § 371; 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(2)). A fourth defendant, Christopher Winkler, is charged with obstruction, and substantive fraud charges (18 U.S.C. §§ 371, 1341, 1343, 1503, 1512(c)(1), 1519) [SEE *Indictment Section for superseding indictment against Winkler.*]

Between May 2014 and July 2016, Winkler, as captain of the *New Age*, went on approximately 70 fishing trips where he caught fluke or black sea bass in excess of applicable quotas. This fish was then sold to a now-defunct company/unindicted co-conspirator in the New Fulton Fish Market in the Bronx. Both Asa Gosman and Bryan Gosman had an ownership interest in the defunct company. After the Bronx company failed, Winkler sold a smaller quantity of his illegal catch directly to Bob Gosman Co. Inc., a Montauk fish dealer in which Asa Gosman and Bryan Gosman had a management role. The overages of fish included at least 74,000 pounds of fluke, with the overall over-quota fish (of all species) valued at approximately \$250,000 wholesale.

Federal law requires a fishing captain to accurately report his catch on a form known as a Fishing Vessel Trip Report (FVTR), which is mailed to NOAA. The first company that buys fish directly from a fishing vessel (the fish dealer) must complete and submit a dealer report to NOAA. NOAA utilizes this information to set policies designed to ensure a sustainable fishery. The defendants falsified documents to conceal the amount of fish taken in excess of quotas. Through their employees, they also obstructed the investigation by withholding documents sought by a federal grand jury.

Initiated as part of Operation One-Way Chandelier, this case is part of a multi-year, ongoing investigation by NOAA into fisheries fraud on Long Island.





## Sentencings

### ***United States v. Jamie Edmondson*, No. 3:20-CR-05033 (W.D. Mo.), AUSA Casey Clark.**

On December 15, 2021, a court sentenced Jamie Edmondson to 14 months' incarceration, followed by 36 months' supervised release. Edmondson also will pay \$68,036 in restitution to the U.S. Forest Service. Edmondson pleaded guilty to depredation of government property for damaging and removing more than two dozen trees from a national forest (18 U.S.C. § 1361).

Between June 2019 and January 2020, Edmondson illegally cut and removed 27 walnut and white oak trees in the Mark Twain National Forest. He sold the timber to various sawmills in the area.

Federal agents installed surveillance cameras in the forest near areas where someone had removed numerous trees. The cameras captured images of a truck Edmondson used to remove the trees.

Authorities valued the timber at approximately \$20,269, and forest remediation costs at \$44,414.

The U.S. Forest Service and the Barry County, Missouri, Sheriff's Department conducted the investigation.

### ***United States v. King Sheung Chan*, No. 3:21-CR-00111 (D. Conn.), AUSA Hal Chen.**

On December 15, 2021, a court sentenced Hong Kong national King Sheung Chan to eight months' time-served, after he attempted to smuggle glass eels from the United States to Hong Kong and China (18 U.S.C. § 554).

Chan worked for Asia Aquatic Company, Ltd., based in Hong Kong, and a Canadian company named Laknock Trading. Chan procured large quantities of illegally harvested glass eels from fishermen in the United States, as well as from Canada and the Dominican Republic. South Carolina and Maine are the only states that permit glass eel commercial harvesting, and Maine grants a limited number permits to fishermen. Buyers pay between \$3,000 to \$5,000 per kilogram of eels.

In 2017, Chan smuggled American glass eels through New York's JFK Airport to Hong Kong at least seven times. On one occasion, he purchased elvers from undercover agents, posing as fishermen, who told Chan the glass eels were illegally harvested from the waters of Connecticut, Massachusetts, and Virginia. For these shipments, the defendant packed them with seaweed on top of plastic bags, and labelled the boxes "seaweed" to



*Felled tree*

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conceal the eels from inspectors.

In 2021, Chan arranged to purchase glass eels illegally harvested from Virginia, Maryland, and Massachusetts, and directed employees to store them at a seafood facility in Connecticut. He then drove with ten boxes containing the eels from Connecticut to a location near JFK Airport for final shipment to Hong Kong.

Shortly thereafter, agents arrested Chan and seized the glass eels from the JFK airline cargo area. Authorities later released the glass eels into the wild. Authorities valued approximately 120 kilograms Chen smuggled over four years at \$430,000.

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

***United States v. Carlos L. Harvey, et al., Nos. 3:21-CR-00023 - 00026 (E.D. Va.), ECS Trial Attorney Shennie Patel, AUSA Olivia L. Norman, and ECS Paralegal John Jones.***

On December 9, 2021, a court sentenced Carlos L. Harvey to six months' incarceration, followed by three years' supervised release. Harvey also will perform 120 hours of community service and is prohibited from possessing or breeding dogs. Harvey is the final defendant to be sentenced for his role in a dog fighting conspiracy extending across the District of Columbia, Maryland, Virginia, and New Jersey.

Beginning in 2013 through July 2018, Chester A. Moody, Emmanuel A. Powe, Sr., Odell S. Anderson, Sr., and Harvey participated in animal fighting ventures, involving training, transporting, breeding, and dog fighting setups, including at least one specific "two-card" dog fighting event on April 3, 2016. Authorities executed multiple search warrants leading them to the discovery of the conspiracy.

The court already sentenced Emmanuel A. Powe, Sr., and Odell S. Anderson, Sr., to 18 months' incarceration, followed by three years' supervised release. In August 2021, Moody was ordered to serve one year and one day of imprisonment, followed by one year supervised release, and will perform 120 hours of community service. All pleaded guilty to conspiracy and participating in an animal fight venture (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)).

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 seized from Harvey's residence*



## Sentencings

***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 December 10, 2021, a court sentenced U.S. Minerals to pay a \$393,200 fine and complete a five-year term of probation, to include implementing an environmental compliance plan. The criminal fine is in addition to civil penalties totaling \$106,800 imposed by the Occupational Safety and Health Administration (OSHA) in a related civil proceeding for a total \$500,000 penalty paid by U.S. Minerals.

The company pleaded guilty to violating the Clean Air Act for exposing employees to elevated levels of arsenic (42 U.S.C. § 7413(c)(4)). This is in addition to the OSHA civil matter.

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. Authorities permitted the company to build and operate the site as a way to use the slag pile. 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 from the slag pile and 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 employee monitoring. 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 and issued 19 serious violations with penalties totaling \$106,800. Inorganic arsenic levels ranged between 1.25 and 4.75 times greater than the OSHA permissible exposure limits. In April 2018, hospital officials notified the Montana Department of Public Health and Human Services that they treated a U.S. Minerals employee for arsenic poisoning. 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, noting “apparent inhalation hazards” and shared their findings with the company. A second inspection in October 2018 confirmed that the company continued to expose its employees.



*Fugitive dust from waste material*

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## Sentencings

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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 lead levels in their systems.

The U.S. Environmental Protection Agency Criminal Investigation Division, the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and the Montana Department of Public Health and Human Services conducted the investigation.

***United States v. Richard W. Stubblefield, Jr., et al., No. 1:19-CR-00437 (N.D. Ill.), AUSA Tim Chapman.***

On December 9, 2021, and December 3, 2021, a court sentenced two former employees of a tanker washing business for conspiring to violate the Clean Water Act, for dumping improperly treated wastewater into an Illinois city's sewage system (18 U.S.C. § 371). Roland E. Tondini will pay a \$10,000 fine and complete a two-year term of probation. Richard W. Stubblefield will pay a \$1,000 fine and complete a one-year term of probation.

A&R Logistics cleaned tanker trucks used to transport a variety of bulk products. Workers used a highly caustic substance to clean the trucks, scraping residues from previous loads before filling the trucks with new products. The company's permit allowed it to discharge wastewater into the city's sewage system with pH levels between 6.0 and 10.0. The city also required the company to regularly submit reports verifying the compliance with those standards.

A&R lacked the equipment to sufficiently treat its wastewater. As a result, Stubblefield and Tondini tampered with monitoring devices and falsified sample data to conceal the actual pollutant levels the facility discharged for close to ten years.

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



## Sentencings

### ***United States v. Edgardo Marin Candelario et al.*, No. 3:20-CR-00424 (D.P.R.), AUSA Carmen M. Marquez Marín.**

On December 7, 2021, and December 3, 2021, a court sentenced two individuals for illegally capturing and selling migratory birds. Edgardo Marin Candelario and Carlos David Flores Rios will each pay \$2,000 fines. Candelario will complete a one-year term of probation and perform 100 hours of community service. Flores will complete a four-year term of probation.

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. Candelario pleaded guilty to violating the Lacey Act for selling short-eared owls (16 U.S.C. §§ 3372(a)(1), 3373(d)(1)(B)). Rios pleaded guilty to violating the Migratory Bird Treaty Act (MBTA) for selling short-eared owls (16 U.S.C. §§ 703, 707(b)(1), (b)(2)).

On February 14, 2022, the final defendants, Miscal Cruz Rivera pleaded guilty to violating the MBTA for selling an American Kestrel (16 U.S.C. §§ 703(a), 707(b)(2)).

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



*Red Tailed Hawk*

### ***United States v. Summit Midstream Partners, LLC*, No. 1:21-CR-00152 (D. N. D.), ECS Senior Litigation Counsel Richard Udell, ECS Senior Trial Attorney Christopher Costantini, ECS Trial Attorneys Stephen Foster and Erica Pencak, AUSA Gary Delorme, and ECS Law Clerk Nate Borelli.**

On December 6, 2021, a court sentenced Summit Midstream Partners LLC to pay a \$15 million criminal fine and complete a three-year term of probation. The criminal fine is in addition to a \$20 million civil penalty imposed on Summit and a related company, Meadowlark Midstream Company LLC, to resolve civil violations of the Clean Water Act (CWA) and North Dakota water pollution control laws.

Summit pleaded guilty to violating the CWA and the Oil Pollution Act for negligently discharging oil and failing to report the discharge (33 U.S.C. §§ 1319(c)(1)(A), 1321(b)(3), (b)(5)). The North Dakota pipeline company illegally discharged 29 million gallons of produced water from its pipeline near Williston, North Dakota, between August 2014 and January 2015. The discharge contaminated land, groundwater, and more than 30 miles of tributaries of the Missouri River.

Summit's negligence included the design, construction, and operation of the pipeline, as well as failing to locate and stop the spill after learning about the leak.

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## Sentencings

*(Continued from page 28)*

Summit failed to share all relevant information with federal and state authorities regarding the volume and duration of the spill.

The civil penalties include performing comprehensive injunctive relief, clean-up costs, and paying \$1.25 million in natural resource damages.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the criminal investigation. The U.S. EPA Office of Enforcement and Compliance Assurance, the North Dakota Department of Environmental Quality, the North Dakota Industrial Commission, the U.S. Fish and Wildlife Service, the U.S. Department of Interior, and the North Dakota Department of Game and Fish, provided assistance to both the criminal and civil investigations.

***United States v. Kristofer Landell et al., Nos. 1:21-CR-00067, 72, 122, 136, 154 (N.D.N.Y.), ECS Senior Trial Attorney Todd Gleason, ECS Trial Attorney Gary Donner, and ECS Paralegal Samantha Goins.***

On December 1, 2021, a court sentenced Kristofer Landell and Stephanie Laskin for their roles in a large illegal asbestos abatement project. Landell will serve eight months' incarceration and Laskin will serve ten months. Both are subject to three years' supervised release, and will be held jointly and severally responsible for approximately \$400,000 in restitution. They are barred from any involvement in the asbestos industry.

Between May and August 2016, Gunay Yakup, Roger Osterhoudt, Madeline Alonge, Landell, and Laskin participated in demolishing numerous buildings located on a 258-acre industrial property. The buildings contained substantial amounts of regulated asbestos-containing material (RACM).

During the project, Laskin, Yakup, Landell and Alonge (all of whom possessed specialized asbestos abatement supervisor training) violated multiple National Emission Standards for Hazardous Air Pollutants, Occupational Safety and Health, and local environmental standards including: failing to operate functioning decontamination units; conducting asbestos removal operations without access to sufficient water; failing to provide handlers with adequate personal protective equipment; failing to wet RACM; dropping RACM from substantial heights causing visible emissions when the material hit the floor; and spraying water into bagged and dry RACM to mislead inspectors.

Landell used his air and project monitoring company to create "final air clearances," despite the ongoing violations. He also took the lead in concealing the illegal asbestos abatement activities by fabricating paperwork, altering existing paperwork, and running interference when inspectors arrived onsite.

Osterhoudt (the vice president of the entity that owned the site), repeatedly pressed the abatement workers to work faster despite knowing that they were already

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## Sentencings

*(Continued from page 29)*

receiving notices of violation from the New York State Department of Labor.

Landell and Alonge pleaded guilty to felony conspiracy to violate the Clean Air Act (CAA) and to defraud the government (18 U.S.C. § 371). Laskin pleaded guilty to conspiring to violate the CAA (18 U.S.C. § 371). Yakup and Osterhoudt pleaded guilty to conspiracy and CAA misdemeanor charges, respectively (18 U.S.C. § 371, 42 U.S.C. § 7413(c)(4)).

Alonge will complete a three-year term of probation. She was further ordered to surrender all asbestos licenses and dissociate herself from the industry. Yakup and Osterhoudt will complete three years' of probation. Osterhoudt also must perform 80 hours of community service.

The U.S. Environmental Protection Agency Criminal Investigation Division and the New York Departments of Labor and Environmental Conservation conducted the investigation.



*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	Christopher Costantini	
Senior Trial Attorney	Daniel Doohar	
Senior Trial Attorney	Todd Gleason	
Senior Trial Attorney	Jeremy Korzenik	
Senior Trial Attorney	Ken Nelson	
Trial Attorney	Cassandra Barnum	
Trial Attorney	Sarah Brown	
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	