



Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff. To subscribe to this monthly bulletin you may [sign up for email alerts](#) on our publications page. Unless otherwise noted, all photos are provided by EPA-CID.

July—August 2021

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Spanish Fort Alabama Couple Sentenced for the Production and Packaging of Misbranded Drugs and Pesticides

On July 2, 2021, the United States Attorney for the Southern District of Alabama announced that Richard and Monique Parker of Spanish Fort, Alabama, doing business as FB McGuinness were sentenced in federal court on four counts of an information. The Parkers pled guilty to introducing misbranded animal drugs into interstate commerce with the intent to defraud or mislead, operating an unregistered drug establishment, and the sale of unregistered, adulterated, and misbranded pesticides.

According to documents filed as part of the defendant's guilty plea, the Parkers operated a business, F.B. McGuinness, from their residence in Spanish Fort. F.B. McGuinness sold products from a catalogue, including drugs and pesticides mainly focused on the cockfighting industry. The facility was unregistered with the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA). These products included items that were repackaged and labeled to include false FDA and NADA numbers on F.B. McGuinness products. Through a series of anonymous purchases, products were obtained from the F.B. McGuinness catalogue. An analysis of the products purchased indicated that these items were mislabeled or not as they were advertised.

In October 2020, a search warrant was executed at the Parker's residence and location of their catalogue business. The Parkers admitted to producing and packaging drugs and pesticides at their residence for several years. The Parkers went on to admit that many of the products were repackaged and relabeled for F.B. McGuinness. The Parkers stated that the false FDA and NADA numbers on the F.B. McGuinness products gave a perception of legitimacy for their customers.

The F.B. McGuinness catalogue included products the FDA no longer approved for sale in the United States because they contained suspected carcinogens. Additionally, the EPA determined the Parker's facility contained pesticides that were inactive or no longer allowed to be marketed in the United States.

At sentencing, the Parkers were sentenced to a three year term of probation, a \$5,000 fine and the forfeiture of \$100,000.



“Since 2014, the defendants sold to customers across the country over \$3 million of products, which included unregistered pesticides without instructions on how to use the product safely,” said Special Agent-in-Charge Chuck Carfagno of EPA’s Criminal Investigation Division in Atlanta. “The sentencing shows that EPA and our law enforcement partners will hold responsible those who violate our pesticide laws and put the public at risk.”

“The FDA regulates animal drugs as part of its mission to protect the public health, which includes ensuring that prescription animal drugs are lawfully distributed and dispensed pursuant to a valid prescription,” said Special Agent in Charge Justin C. Fielder, Ph.D., FDA Office of Criminal Investigations Miami Field Office. “These laws are in place not only for the well-being of the animals, but also to protect consumers from ani-

mals that may be used for food that may contain unsafe drug residues. We will continue to pursue and bring to justice those who attempt to evade the law.”

The case was investigated by the FDA, EPA’s Criminal Investigation Division and the FBI. Prosecution was handled by a DOJ litigation team.

Michigan Man Sentenced to Prison for Tax Fraud Related to Biofuels Scheme

On August 6, 2021, Bloomfield, Michigan businessman, Chandra Yarlagadda, who operated a biodiesel fuel company, was sentenced to 30 months in prison for filing a false income tax return.

Yarlagadda owned and operated Alpha Bioenergy LLC, formerly known as Naturol Bioenergy LLC, which purchased and sold biodiesel fuel. Under the Clean Air Act and related federal regulations, companies such as Alpha that exported biodiesel fuel were required to purchase and retire Renewable Identification Numbers (RINs) for any volume of renewable fuel they exported. The RINs are used by the Environmental Protection Agency to track compliance with its annual Clean Air Act standards.

According to court documents, Yarlagadda reported income and expenses associated with Alpha on Schedules C attached to his personal income tax returns. Yarlagadda admitted as part of his plea that on the Schedules C attached to his 2009, 2010, and 2011 tax returns, he substantially overstated expenses associated with the purchase of RINs. For these three years, Yarlagadda reported RIN expenses totaling more than \$14.2 million, when, in fact, he was only entitled to claim approximately \$80,000 in RIN expenses for those years. Yarlagadda admitted that if he had not claimed these false deductions, he would have owed an addition \$2.3 million in federal income taxes.

In addition to the term of imprisonment, U.S. District Judge Gershwin A. Drain ordered Yarlagadda to serve one year of supervised release and pay restitution to the IRS in the amount of \$3,285,303.

Acting Deputy Assistant Attorney General Stuart M. Goldberg of the Justice Department's Tax Division and Acting U.S. Attorney Saima S. Mohsin for the Eastern District of Michigan made the announcement.

EPA's Criminal Investigation Division, IRS Criminal Investigation, and U.S. Immigration and Customs Enforcement – Homeland Security Investigations, conducted the investigation. Prosecution was handled by a DOJ litigation team.

Border Pesticide Initiative Results in Prosecution of 50 Defendants for Smuggling Dangerous Chemicals

A July 9, 2021 news release detailed the results of a San Diego-based effort to block the smuggling of dangerous Mexican pesticides into the United States which resulted in the prosecution of more than 50 defendants for environmental crimes and the seizure of nearly 1,000 containers of illegal Mexican pesticides so far.

The Border Pesticide Initiative group was formed at the end of 2019 and includes the U.S. Attorney's Office; the U.S. Department of Justice, Environmental Crimes Section; the U.S. Environmental Protection Agency (EPA); Homeland Security Investigations; the California Department of Toxic Substances Control; and the San Diego City Attorney's Office.

The initiative began in response to complaints that law enforcement officers were being injured during the eradication of illegal marijuana cultivation sites on public lands by exposure to powerful Mexican pesticides not permitted in the United States.



Of the more than 50 defendants who have been charged federally, 14 were convicted of felonies and 26 were convicted of misdemeanors. The defendants have been ordered to pay more than \$60,000 in restitution to cover the cost of disposing of the pesticides. Eight cases have also been filed by the San Diego City Attorney's Office under California law for possession of pesticides found at the border.

The pesticides imported by these defendants were labeled in Spanish and did not bear any registration number showing that the products were approved by the EPA, as required by law for pesticides intended for use in the United States. The lawful importation of pesticides requires a Notice

of Arrival to be filed in advance with the EPA to allow for inspection, which none of the defendants provided.

The pesticides most frequently encountered in these cases are those containing the active ingredients of carbofuran and methamidophos, which are cancelled pesticides not permitted to be sold or distributed in the United States. Carbofuran, sold in Mexico under the trade names Furadan and Qufuran, is classified by the EPA as Toxicity Category I, the highest toxicity category, based upon its lethal potency from absorption by ingestion, contact with skin, and inhalation, and has been cancelled in the United States since 2011.

Methamidophos, sold in Mexico under the trade names Metaldane 600, Tamaron or Monitor, is one of the most acutely toxic organophosphate pesticides and is similar to a class of chemicals that were originally manufactured as chemical warfare nerve agents. Methamidophos was cancelled in the United States in 2009. The application of these chemicals on public lands has been documented to pollute streams and soils and kill wildlife. Moreover, cannabis users are also at risk from exposure to pesticide residues. During the

smoking of cannabis, pesticides are transferred directly into the blood stream, increasing the potential for exposure. In one study, the pesticide transfer rate of carbofuran into cannabis smoke from glass pipes was as high as 70 percent of the initial concentration in the plant.

Two of the felony convictions noted above were the result of verdicts rendered by trial juries. On July 9, 2021, Veronica Perez of Hemet, California, was sentenced to 60 days in following a guilty verdict by a federal jury in San Diego in November 2020 related to the charge of smuggling unregistered pesticides into the United States. Perez concealed twenty containers of zinc phosphide (sold under the Mexican trade name Fosfuro de Zinc) in her purse and failed to declare the items at the border when she attempted to cross into the United States from Mexico on July 11, 2019. Consumption of a single zinc phosphide pellet can be lethal to a small bird or mammal. Ingestion of seven drops to one teaspoon of zinc phosphide would likely kill a 150-pound person. Perez also had Qufuran and Metaldane in her vehicle.

On May 26, 2021, Selene Elizabeth Barraza of Visalia, California, was convicted by a federal jury in San Diego of smuggling 25 containers of illegal Mexican pesticides and fertilizer, including Metaldane, and Furadan, into the United States from Mexico. On February 26, 2020, Barraza failed to declare the pesticide containers when she attempted to enter the United States with the pesticides concealed under the middle row seats in her vehicle. Barraza is scheduled to be sentenced on August 20, 2021.

On June 18, 2021, Felix Gutierrez Valencia was sentenced to 90 days in custody, ordered to pay a fine of \$2,500 and restitution of \$8,807 for the cost of disposal of the pesticides he smuggled, and also ordered to perform 100 hours of community service during his three years of supervised release. Gutierrez had smuggled 48 containers of various pesticides, including Furadan, Monitor and Rodentox (which contains zinc phosphide). Gutierrez had concealed some of the pesticides in cereal boxes and boxes of cookies. While his case was pending, Gutierrez offered another individual \$40/bottle to smuggle pesticides. That person was caught at the border with another 38 containers of pesticides, including Furadan.

On March 26, 2021, Beatriz Santillan was sentenced to 70 days in prison and ordered to pay \$20,079 restitution after pleading guilty to smuggling 56 containers of seven different types of illegal Mexican pesticides, including Qufuran, Metaldane and zinc phosphide (under the Mexican trade name Rodentox) into the United States from Mexico. Santillan was in possession of receipts showing three prior purchases of similar pesticides, and a search of her phone revealed chats with associates regarding the tending and cultivation of marijuana plants, including the use of the pesticides.

On April 27, 2021, Saul Flores Banuelos was sentenced to 60 days in prison and \$1,200 restitution after pleading guilty to smuggling Qufuran, alcohol and medications into the United States from Mexico.

“All of these law enforcement agencies have come together to protect people, wildlife and the environment from extremely dangerous pesticides, and the result has been an overwhelming success,” said Acting U.S. Attorney Randy Grossman. “But this effort has also been a sobering reminder that trafficking in pesticides is a prolific problem. Those who commit these crimes care about profit, not people, so this ongoing enforcement action should force them to rethink their priorities.” Grossman commended the exemplary work of prosecutor Melanie Pierson, who specializes in cases related to environmental protection, and Environment and Natural Resources Division Trial Attorney Stephen Da Ponte, as well as the federal and state agencies participating in the initiative, including the U.S. Environmental Protection Agency (EPA); Homeland Security Investi-

gations (HSI); the California Department of Toxic Substances Control; the U.S. Department of Justice, Environmental Crimes Section; and the San Diego City Attorney's Office.

"This initiative demonstrates our commitment to protecting public lands, human health, and the environment through continued enforcement of the laws regulating the importation, sale, and distribution of dangerous pesticides," said Jean E. Williams, Acting Assistant Attorney General for the Environment and Natural Resources Division. "The Department of Justice will continue to work closely with our federal agency and state partners to ensure that those who import and use these prohibited chemicals are held fully accountable for their crimes."

"The significant number of individuals arrested throughout this multi-agency initiative highlights the pervasiveness and dangers of illegal substances being smuggled across the U.S.-Mexico border," said Cardell T. Morant, Special Agent in Charge of HSI San Diego. "The chemicals banned from importation into the U.S. are highly toxic and hazardous to humans, wildlife and the environment. These smugglers often use the banned chemicals for cultivating cannabis. What's most disturbing is that some of the chemicals can be transferred directly into the bloodstream of cannabis users, so it's important that HSI and all the partner agencies participating in this initiative continue to prevent these toxic chemicals from being smuggled into the U.S."

"The results of these recent prosecutions clearly demonstrate that individuals intentionally violating pesticide and smuggling laws will be held responsible for their crimes," said Scot Adair, Special Agent in Charge of the EPA's criminal enforcement program in California. "EPA will continue to work diligently on the Border Pesticide Initiative with our law enforcement partners. We are committed to holding responsible parties accountable for actions that put entire communities at risk."

"This is an example of what can be accomplished when multiple agencies work together for a common goal to protect human health and the environment," said Hansen Pang, Chief Investigator for the Office of Criminal Investigations of the California Department of Toxic Substances Control.

"Protecting our region from environmental toxins is an office priority," San Diego City Attorney Mara W. Elliott said. "As part of the Border Pesticide Initiative, the City Attorney's Office works closely with the U.S. Attorney and other law enforcement agencies to protect Californians from exposure to lethal chemicals and hold accountable those who illegally traffic these dangerous substances."

Investigations were handled jointly by EPA's Criminal Investigation Division, Homeland Security Investigations, and the California Department of Toxic Substances Control, Office of Criminal Investigations. Prosecution was handled by DOJ litigation teams.

Montana Rancher Admits Using Strychnine to Poison Wolf

On August 12, 2021, Jeffrey Scott Wood admitted to and was sentenced for unlawfully using strychnine in a manner inconsistent with its labeling to poison a wolf on a ranch near Ennis, Montana.

Wood pleaded guilty to an information charging him with unlawful use of a registered pesticide, a misdemeanor, and was ordered to pay a \$500 fine plus \$1,000 restitution to the Montana Department of Fish, Wildlife and Parks.

"Misusing strychnine to lace a cow carcass to kill predators is a violation of federal law that results in the indiscriminate killing of all kinds of animals, large and small, wild and domestic, common and endangered. Wood not only killed a wolf, but he also likely killed a pet dog and probably countless other smaller birds and mammals. This office will continue to prosecute this kind of unlawful and irresponsible use of registered pesticides to the fullest extent of federal law. I want to thank Assistant U.S. Attorney Ryan G. Weldon and the Environmental Protection Agency-Criminal Investigation Division, the U.S. Fish and Wildlife Service and the Montana Department of Fish, Wildlife and Parks for investigating and prosecuting this case," Acting U.S. Attorney Johnson said.

Wood called a witness and said to "play stupid" if anyone asked questions about the dead wolf.

The government alleged in court documents that in October 2019, Wood unlawfully used a registered pesticide, strychnine, in a manner inconsistent with its labeling to poison a wolf on the Sun Ranch, near Ennis. An investigation into the death of the wolf determined that the wolf had ingested strychnine oats rolled in meat, which appeared to have been placed beside a previously dead cow. A ranch employee had shot the cow because it was sick and not from it being poisoned. A necropsy of the wolf found grains containing strychnine in its stomach and

intestines and that the grains were the likely cause of death. A ranch employee's dog also was suspected of dying from ingesting the strychnine.

The government further alleged that law enforcement learned Wood had called a witness and said to "play stupid" if anyone asked questions about the dead wolf. Wood explained that he placed the poison around the cow carcass because he saw a grizzly sow and two cubs nearby. Wood initially denied to investigators that he had any involvement in the wolf's death, then admitted he put out the poison to kill wolves—not grizzly bears. Wood admitted it was wrong to use the poison to kill wolves and was aware he could not put strychnine oats in meat.

The case was investigated by the EPA's Criminal Investigation Division, the U.S. Fish and Wildlife Service-Office of Law Enforcement and the Montana Department of Fish, Wildlife and Parks law enforcement. The case was prosecuted by DOJ.

Former Company President and EPA Fugitive Sentenced for Failing to Surrender to Prison - Convictions Stem from Explosion at Montana Oil Processing Plant

On July 13, 2021, the former president of Custom Carbon Processing, Inc., convicted of Clean Air Act violations in the explosion of an oil processing plant in Wibaux, Montana, was sentenced after admitting he failed to surrender to prison to begin serving an 18-month prison term.

Peter Margiotta was sentenced to one day in prison, consecutive to his 18-month sentence, after he pleaded guilty to an indictment charging him with failure to surrender for service of sentence. Margiotta was detained immediately after his plea hearing.

Under the terms of a plea agreement filed in the case, the government and Margiotta agreed that a sentence of one day of imprisonment was appropriate and that Margiotta would voluntarily dismiss any appeal of his previous convictions or sentence in the case involving Clean Air Act violations.

In court documents filed in the case, the government alleged that on July 10, 2020, Margiotta was sentenced to 18 months in federal prison and was permitted to self-surrender to the U.S. Bureau of Prisons to begin serving his sentence.



A jury in September 2019 found Margiotta guilty of all three counts in an indictment charging him with conspiracy, Clean Air Act-general duty and Clean Air Act-knowing endangerment, for his actions related to a 2012 explosion that injured three workers at the company's oil processing plant in Wibaux.

The government alleged that the court gave Margiotta three extensions of time to self-report to prison, with the third deadline for self-reporting to the Bureau of Prisons' SeaTac Facility in Seattle, Washington, on or before Jan. 15, 2021. Margiotta failed to self-surrender by Jan. 15. Margiotta turned himself into law enforcement authorities in Sweetgrass on March 25.

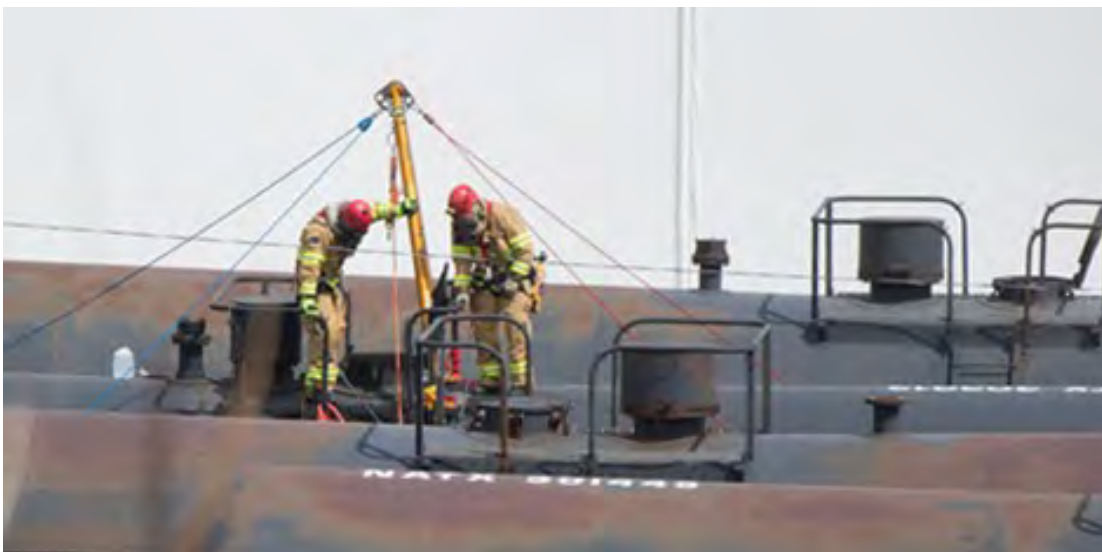
The case was investigated by the EPA's Criminal Investigation Division and the Department of Transportation. The case was prosecuted by a joint DOJ/EPA litigation team.

Nebraska Railcar Cleaning Services LLC and its Owners Plead Guilty to Violating Environmental and Worker Safety Laws Related to Workers' 2015 Deaths

Nebraska Railcar Cleaning Services LLC (NRCS), its president and owner, Steven Michael Braithwaite, and its vice president and co-owner, Adam Thomas Braithwaite, pleaded guilty on July 12, 2021 in federal court in Omaha, Nebraska, to charges stemming from an investigation into a 2015 fatal railcar explosion that killed two workers. The charges include conspiracy, violating worker safety standards resulting in worker deaths, violating the Resource Conservation and Recovery Act (RCRA), and submitting false documents to the Occupational Safety and Health Administration (OSHA).

"The Department of Justice is dedicated to protecting the health and safety of American workers and to protecting our environment," said Acting Assistant Attorney General Jean E. Williams of the Justice Department's Environment and Natural Resources Division. "The defendants in this case put their employees at risk and falsified documents to evade worker safety requirements. Tragically, two of their employees died while working with hazardous waste under unsafe conditions. Guided by its managers, NRCS failed to appropriately dispose of hazardous wastes removed during the cleaning process — wastes that are ignitable and can cause human cancer and other health effects. The guilty pleas show that the Department of Justice will prosecute those who thwart federal laws created to protect American workers and the environment."

"Worker safety standards and environmental regulations are not just meaningless rules made up by faceless bureaucrats," said Acting U.S. Attorney Jan Sharp of the District of Nebraska. "They address real-world safety issues, and failure to abide by them can cost lives. The guilty pleas emphasize the grave consequences of



cutting corners, not only for the workers who are meant to be protected, but also for the employers who fail to live up to their responsibilities."

"The Occupational Safety and Health Administration (OSHA) has regulations that companies must follow to ensure worker safety," said Special Agent-in-Charge Steven Grell of the U.S. Department of Labor, Office of Inspector General, Dallas Region. "Steven and Adam Braithwaite disregarded OSHA regulations and provided false documentation to OSHA to make it appear as if all safety requirements were being followed, when in fact, they were not. Their lack of adherence to OSHA regulations and indifference to their employees' safety resulted in tragic consequences which impacted several families. We will continue to work with our law enforcement partners and OSHA to hold accountable those who jeopardize workers' safety and obstruct DOL agencies in carrying out their important missions."

Plea Agreements

“The defendants in this case ignored health and safety protocols and knowingly put their employees and the public at risk by disregarding federal regulations,” said Acting Assistant Administrator Larry Starfield for the EPA’s Office of Enforcement and Compliance Assurance. “The guilty pleas send a clear message that individuals who intentionally violate these laws will be held accountable.”

NRCS was in the business of cleaning railcars, including rail tanker cars. Tanker car cleaning often involved NRCS sending workers inside the cars’ tanks to scrape and remove various commodities, including gasoline, ethanol, petroleum by-products, pesticides, herbicides and food-grade products.

According to court documents, NRCS failed to implement worker safety standards and then tried to cover that up during an inspection by OSHA. In addition, the company mishandled hazardous wastes removed from rail tanker cars during the cleaning process. On April 14, 2015, two NRCS workers who were sent into a tanker car containing severely flammable residue were killed and another injured when the contents of the railcar they were cleaning ignited and exploded.

On various occasions prior to the explosion, OSHA officials conducted regulatory inspections during which they notified the principals of NRCS that NRCS was in violation of OSHA safety regulations concerning confined space entries. Rail tanker cars are “confined spaces” under the Occupational Safety and Health Act. After an inspection of NRCS, Steven Braithwaite entered into a written agreement on Feb. 5, 2015, where he represented that NRCS had been testing for benzene since July 2014. After OSHA returned to NRCS in March 2015 to conduct a follow-up inspection and was turned away by Steven Braithwaite, Adam Braithwaite submitted falsified documents to OSHA purporting to show that NRCS had been purchasing equipment to test the contents of railcars for benzene and had taken other required safety precautions. Adam Braithwaite also falsely testified under oath in an OSHA hearing that NRCS had been purchasing the benzene testing equipment.

Meanwhile, NRCS had been engaged to clean the railcar that ultimately exploded. On or about Jan. 27, 2015, NRCS received an inquiry from one of its customers about receiving and cleaning product residue from a rail tanker car. The inquiry included a Safety Data Sheet (SDS) for the product in the railcar, describing it as “natural gasoline,” also known as “petrol, casing head gasoline, CS ’s.” The SDS also stated that the flammability rating was “severe” at class “4” (the highest rating), that the natural gasoline would ignite at zero degrees Fahrenheit, and that it contained benzene, a “cancer hazard.” NRCS responded that it could handle the material in the railcar.

The tanker car was not tested for benzene levels. Nonetheless, NRCS sent two of its employees into the tanker car. Continuous monitoring for explosive levels of gases was not conducted. The two employees sent into tanker car began removing the remaining contents, which were hazardous for toxicity (benzene) and ignitability. On April 14, 2015, approximately one hour after the two employees were sent into the tanker car, its contents ignited and exploded, killing those two employees and injuring a third.

Stephen Michael Braithwaite was the President and majority owner of NRCS and was responsible for all phases of the business, including both environmental and worker safety issues. He pleaded guilty to two counts of violating worker safety standards that resulted in the workers’ deaths, and knowingly endangering others by violating RCRA. Adam Thomas Braithwaite was the Vice President and a minority owner of NRCS and also handled both environmental and worker safety issues, among others. He also pleaded guilty to two counts of



violating worker safety standards that resulted in the workers' deaths, to two counts of falsification of records in a federal investigation, and to committing perjury. NRCS pleaded guilty to all 21 of the counts it was charged with in the indictment.

The defendants are scheduled to be sentenced on Oct.25. Steven Braithwaite faces a maximum penalty of 15 years in prison and a fine of the greater of \$750,000 or twice the gain or profit caused by the offense. Adam Braithwaite faces a maximum penalty of 20 years in prison and a fine of the greater of \$1,250,000 or twice the gain or profit caused by the offense and NRCS faces a maximum penalty of five years' probation and a fine of the greater of \$9,500,000 or twice the gain or profit caused by the offense. A federal district court judge will determine the sentences after considering the U.S. Sentencing Guidelines and other statutory factors.

The case was investigated by EPA's Criminal Investigation Division and the U.S. Department of Labor's Office of Inspector General. The case was prosecuted by a DOJ litigation team.

U.S. Minerals, Inc. Admits Clean Air Act Violation for Exposing Employees to Arsenic

On August 23, 2021, U.S. Minerals, Inc., a corporation accused of exposing employees to elevated levels of arsenic at its Anaconda facility, admitted violating the Clean Air Act. In addition, U.S. Minerals has agreed to settle a related civil case regarding violations brought by the Department of Labor's Occupational Safety and Health Administration (OSHA).

U.S. Minerals pleaded guilty to one count of negligent endangerment, a misdemeanor, under the Clean Air Act as charged in a criminal information. The corporation faces a maximum penalty of five years of probation and a fine as determined through statute.

Under the terms of a plea agreement in the criminal case, the government and U.S. Minerals will jointly recommend to the Court that the company be placed on probation for five years and pay a \$393,200 fine. The agreement recommends probationary conditions in which U.S. Minerals will implement a nationwide environmental health and safety plan that applies to all of U.S. Minerals' facilities throughout the United States and a medical monitoring program for current and former employees who have been exposed to elevated levels of arsenic during their work at the Anaconda plant, which has ceased operations.

U.S. Minerals also has agreed to resolve a related civil case brought by OSHA, alleging 19 serious health and safety violations with a total penalty of \$106,800. Under the terms of that agreement, U.S. Minerals will accept all citations as issued and pay the penalty as assessed.

U.S. Magistrate Judge Kathleen L. DeSoto presided. Sentencing in the criminal case was set for Dec. 10 in Butte before U.S. District Judge Dana L. Christensen.

"Throughout Montana's long history with mining, operators like U.S. Minerals have sacrificed worker safety for profit. These operators need to know that there are severe consequences to this kind of callous behavior. This is an important case because it not only holds the operator criminally responsible for poisoning its own workers, but it also prevents U.S. Minerals from doing this again anywhere in the country. I want to thank Assistant U.S. Attorney Ryan G. Weldon, Special Assistant U.S. Attorney Eric E. Nelson, the Environmental Protection Agency's Criminal Investigation Division, the Department of Labor, Office of Safety and Health Administration, the National Institute for Occupational Safety and Health, and the Montana Department of Public Health and Human Services for their diligent work on investigating this case and bringing these wrongdoers to justice," Acting U.S. Attorney Johnson said.

"This case demonstrates that EPA and its federal law enforcement partners will hold companies accountable when they engage in conduct that places their employees in danger from exposure to airborne releases of hazardous air pollutants such as arsenic," said Lance Ehrig, Special Agent in Charge of EPA's criminal enforcement program in Montana. "The criminal and civil penalties serve to provide deterrence, and the 5-year national compliance plan requires U.S. Minerals to implement an inspections, training and auditing program to ensure a safer working environment at all its facilities. Finally, and importantly, health monitoring will be assured for current and former employees at the U.S Minerals Anaconda facility that were exposed to airborne arsenic."

"The employees of U.S. Minerals were finally given the justice they deserved through a joint effort between

the Environmental Protection Agency, the United States Department of Justice, and our staff at the Occupational Safety and Health Administration. Working together, we were able to leverage our resources and hold U.S. Minerals accountable for overexposing employees to inorganic arsenic and violating multiple federal laws,” said Galen Blanton, Regional Administrator for OSHA’s Denver Region 8.

The government alleged in court documents that U.S. Minerals, which has multiple facilities throughout the United States, manufactured silicate abrasive, a substance sold to industrial and governmental customers. Raw materials used in the production process were obtained from a copper slag pile located within the Anaconda Superfund site. The government further alleged that from July 2015 until February 2019, U.S. Minerals negligently released into the air inorganic arsenic, a hazardous air pollutant, and exposed employees. Exposure to arsenic is known to cause lung and skin diseases, including an increased risk of skin cancer, and may also cause cardiovascular effects and other cancers.

The government further alleged that in July 2015, National Institute for Occupational Safety and Health (NIOSH) inspected the site, collected air samples from throughout the outdoor facility and conducted personal monitoring of employees on site. An analysis determined employees were exposed to levels of arsenic and lead, which exceeded both NIOSH and OSHA exposure limits, and that there were high levels of arsenic and lead in the ambient air.

In late 2015, OSHA inspected the facility and found numerous violations of health and safety standards. The violations included employees being exposed to inorganic arsenic at levels that ranged between 1.25 and 4.75 times the OSHA permissible exposure limits. As a result of the inspection, OSHA issued 19 serious violations with penalties totaling \$106,800.

The government also alleged that in April 2018, the Montana Department of Public Health and Human Services learned of a U.S. Minerals employee diagnosed with arsenic poisoning at a local hospital. Over the next few days, the state learned of three additional U.S. Minerals employees who had high levels of arsenic in their urine. State officials conducted a site visit in June 2018, noted “apparent inhalation hazards” and shared their findings with U.S. Minerals. A second inspection in October 2018 found the previous violations had not been addressed and that employees were still exposed to hazards.

In addition, the government alleged that on Feb. 20, 2019, after the investigation discovered numerous employees with high levels of arsenic, the state issued an order for U.S. Minerals to cease and desist operations until it implemented controls and protected its workers. The state lifted the order and allowed U.S. Minerals to resume operating in March 2019 under certain conditions. One of those conditions required U.S. Minerals to provide the state with quarterly medical monitoring reports related to arsenic and lead testing results on employees. Documents provided by U.S. Minerals to the state showed there were still employees who periodically tested high for arsenic and lead.

The case was investigated by EPA’s Criminal Investigation Division, OSHA, NIOSH, and the Montana Department of Public Health and Human Services. The U.S. Department of Labor’s Office of the Solicitor is litigating the OSHA matter. Prosecution was conducted by a joint DOJ/EPA litigation team.

Pipeline Company to Pay \$35 Million in Criminal Fines and Civil Penalties for Largest-Ever Inland Spill of Produced Water from Oil Drilling

Pipeline Rupture Caused 29 Million Gallon Spill Over 143 Days Before Discovery

On August 5, 2021, the Department of Justice filed criminal charges for Clean Water Act violations against Summit Midstream Partners LLC, a North Dakota pipeline company that discharged 29 million gallons of produced water from its pipeline near Williston, North Dakota, over the course of nearly five months in 2014-2015.

The discharge of more than 700,000 barrels of “produced water” – a waste product of hydraulic fracturing – contaminated land, groundwater, and over 30 miles of tributaries of the Missouri River. The spill, believed to be the largest inland spill in history, was visible in photographs taken by satellites orbiting the earth.

In addition to the criminal charges, the United States and the State of North Dakota filed a civil complaint against Summit and a related company, Meadowlark Midstream Company LLC, alleging violations of the Clean Water Act and North Dakota water pollution control laws. Under parallel settlements resolving the criminal and civil cases, the company has agreed to pay a total of \$35 million in criminal fines and civil penalties.

“Summit prioritized profits over the environment. The company’s disregard for pipeline safety resulted in pollution of the environment on a massive scale over 143 days,” said Assistant Attorney General Todd Kim of the Justice Department’s Environment and Natural Resources Division. “Summit’s conduct was criminal and its failure to immediately report the discharge a felony. This resolution holds the company financially accountable, requires enhanced compliance measures to prevent future spills, and provides compensation for North Dakota’s damaged natural resources.”



“North Dakota and its federal partners are holding Summit and Meadowlark accountable and making clear that disregard for North Dakota’s environmental laws will not be tolerated,” said North Dakota Attorney General Wayne Stenehjem. “The North Dakota Department of Environmental Quality, Game and Fish Department, and Industrial Commission staff spent countless hours investigating and responding to the spill, making this settlement possible.”

If the court accepts the plea agreement, Summit will pay \$15 million in federal criminal fines for negligently causing the continuous spill, failing to stop it and deliberately failing to make an immediate report as required.

“Summit’s negligence included the design, construction and operation of the Marmon Water Gathering System pipeline, as well as the negligent failure to find and stop the spill after learning of objective signs of a

leak,” according to a factual admission signed by the company and filed in court. Summit started pipeline operations without meters at both ends of the pipeline to conduct “line balancing” or otherwise having a reliable leak detection system in place. “Even after the company learned of major drops in pressure and volume – objective signs of a leak – the company negligently continued operations and thus caused millions of additional gallons to be discharged into U.S. waters without learning the cause or pausing operations,” according to the Joint Factual Statement.

Summit has further admitted that it knowingly did not share all relevant information regarding the volume and duration of the spill and that its reports to federal and state authorities “were incomplete and misleading,” in papers filed in court. Summit eventually reported 70,000 barrels over a 10-day period despite an internal analysis showing the discharge was more than 700,000 barrels over 143 days. Under the terms of the proposed plea agreement, Summit will serve three years of probation in which comprehensive remedial measures are required.

Under the proposed civil settlement, Summit, Meadowlark, and a third related company, Summit Operating Services Company LLC, will pay \$20 million in civil penalties, perform comprehensive injunctive relief, clean up the contamination caused by the spill and pay \$1.25 million in natural resource damages to resolve the civil case. Summit has spent over \$50 million to date to clean up the spill under state oversight; ongoing remediation efforts under the civil settlement are expected to continue over the next several years. The civil settlement further requires Summit and Meadowlark to take concrete steps to prevent future discharges, including stringent pipeline installation, operation, and testing requirements; a centralized computational pipeline monitoring system; spill response planning and countermeasures; an environmental management system; and data management and training measures. Independent third-party audits are required to ensure that certain injunctive measures are properly developed and implemented. These compliance measures were made a condition of Summit’s probation in the proposed criminal plea agreement. The companies have also agreed to enter into a related administrative settlement with the North Dakota Industrial Commission.

Summit continued pumping produced water through the pipeline in 2014 to 2015 despite multiple warning signs that the line had ruptured:

Aug. 17, 2014. Real-time pressure data collected by Summit showed a significant pressure drop, indicating a rupture had occurred.

Oct. 14, 2014: Summit’s construction manager raised a concern about “extreme low pressure on the pipeline.” The facilities engineer responded: “Not good. We may want to consider shutting it down.” Summit continued to operate the line.

Nov. 4, 2014: the third-party operator of the injection well at the end of the pipeline (Company A) informed Summit that 115,000 barrels (4,830,000 gallons) of produced water were missing for the month of October, which is approximately 3,700 barrels (155,400 gallons) per day.

Dec. 3, 10, and 16, 2014: Company A followed up with Summit about the produced water discrepancy, having received no response to its previous inquiries. During this time, Company A confirmed the accuracy of its injection well meters and informed Summit that the discrepancy had risen to 4,900 barrels per day.

Jan. 6, 2015: A Summit employee walked the line, finally identifying the rupture.

The resulting 700,000-barrel discharge of produced water contained crude oil, chloride, sodium, ammonia, aluminum, arsenic, boron, copper, nickel, selenium, zinc, barium, benzene and thallium, among other contaminants. Produced water is a waste product of oil extraction and can be toxic to plants, fish and other aquatic wildlife. It is also harmful to humans.

The designated federal trustee is the U.S. Department of the Interior's Fish and Wildlife Service, and the designated state trustees are the North Dakota Department of Environmental Quality and the North Dakota Department of Game and Fish. A Draft Restoration Plan outlining the trustees' restoration projects will be available from U.S. Fish and Wildlife Service (subject to a 30-day public comment period). The civil settlement was lodged in the U.S. District Court for the District of North Dakota and is subject to a 30-day public comment period and final court approval.

The investigation was conducted by EPA's Criminal Investigations Division with assistance from 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. The case is being prosecuted by DOJ Litigation teams.

If you believe that you may be a victim of this criminal offense and would like to be kept apprised of this matter, then please contact the Environmental Crimes Victim Coordinator at (833)-676-1816.

New York Contractor Charged with Performing Lead-Based Paint Removal in Violation of the Toxic Substances Control Act

Rickey Lynch is the First Defendant to be Charged with a TSCA Felony Violation Since the Statute's Amendment in 2016

An indictment was unsealed on August 6, 2021 in federal court in Central Islip, NY charging Rickey Lynch with violating the Toxic Substances Control Act of 1976 ("TSCA"), making false statements and aggravated identity theft. Lynch is the first person to be charged with a felony violation of TSCA since the statute was amended in 2016 to include enhanced punishments for certain conduct posing a risk of death or serious bodily injury. Lynch was arrested this morning and will be arraigned this afternoon before United States District Judge Gary R. Brown.

Jacquelyn M. Kasulis, Acting United States Attorney for the Eastern District of New York, and Tyler Amon, Special Agent-in-Charge of the Environmental Protection Agency's Criminal Investigation Division, New York (EPA), announced the charges.

"As alleged, the defendant placed a very young child at serious risk of continued exposure to toxic chemical hazards by deliberately disregarding federal standards that ensure the safe remediation of lead-based paint. He then compounded the risk of harm by lying and falsifying documents in a failed effort to establish his purported compliance with those standards," stated Acting United States Attorney Kasulis. "The arrest serves as a warning that those who circumvent environmental regulations that protect the community from the well-known dangers of lead-based paint will face the consequences."

"Defendant Lynch knowingly violated the requirements of safely removing lead from a home and in so doing endangered the health of a vulnerable family," stated EPA Special Agent-in-Charge Amon. "The EPA remains focused on holding accountable companies and individuals that cut corners and fail to put public health and safety first."

As alleged in the indictment, in January 2020, Lynch's company, Bright Lights Supreme Cleaning, Inc., was retained by residents of Freeport, Long Island, to remediate hazardous lead-based paint from their home after the family's two-year-old son was found to have elevated levels of lead in his blood. Federal regulations require that lead-based paint abatement work be performed and supervised by individuals who have been certified by the EPA. The regulations also establish work practice standards to ensure that lead-based paint removal is done safely. Over the course of several days, Lynch remediated the lead-based paint himself, despite lacking the proper certification to either perform or supervise such work. Lynch also failed to comply with various work practice standards and did not use a High Efficiency Particulate Air ("HEPA") filtration system that would have contained the spread of toxic dust and debris throughout the house. As a result of Lynch's failure to comply with the regulations, lead dust exceeding legally permissible limits spread throughout the house.

In addition, Lynch faces charges of making false statements and aggravated identity theft related to his responses to an inquiry by the EPA. Specifically, Lynch took steps to obstruct the agency's investigation by supplying a fake subcontractor agreement, an affidavit and other documents that contained the forged signature of an individual Lynch falsely identified as having supervised the abatement work on the Freeport residence.



The charges in the indictment are allegations, and the defendant is presumed innocent unless and until proven guilty. Under TSCA, the maximum sentence for conviction of a violation that places one or more individuals at risk of death or serious bodily injury is 15 years' imprisonment.

The case is being investigated by EPA's Criminal Investigation Division and prosecution is being handled by a DOJ litigation team.

An Indictment is merely an accusation . All defendants are presumed innocent unless and until proven guilty in a court of law.

Former Richmond, Virginia Home Improvement Contractor Charged with Violating Federal Lead Paint Laws

On August 10, 2021, a federal grand jury in Indianapolis returned an indictment charging a Richmond, Indiana man with violating the Toxic Substance Control Act, specifically the provisions of the Act concerning lead paint, and obstruction of justice.

According to court documents, Jeffrey Delucio, 52, of Richmond, was a co-operator of Aluminum Brothers Home Improvements LLC in Richmond. Delucio failed to follow lead-safe work practices while renovating residences in the Richmond area. As a result, lead-based paint chips were scattered throughout the properties and were not cleaned up timely or properly as work was being conducted. One of the residences was inhabited by a child with elevated blood lead levels, which had prompted the renovation work at that property to begin with.

The indictment also alleges that Delucio failed to train his workers on lead-safe work practices and then falsified documents to conceal his conduct. Delucio's company received a federal grand jury subpoena for records, including records of employee training on lead-safe work practices. The indictment alleges that Delucio had not trained his employees but, in response to the subpoena, fabricated records purporting to state that he did.

"The health and safety of all Hoosiers is a responsibility that everyone plays a role in," said Acting U.S. Attorney John Childress. "Mr. Delucio failed the community, his employees, and the environment. This is another example of bringing those who violate that responsibility to justice to help protect our citizens and preserve the environment for current and future generations."

"The defendant created risks by not only failing to follow lead-safe work practices, but also falsely representing to the government that employees had received training," said Special Agent in Charge Jennifer Lynn of EPA's criminal investigation program. "The indictment demonstrates that individuals that intentionally violate environmental laws will be held responsible for their crimes."

"This indictment represents our continuing resolve to investigate instances of fraud, particularly when the programs involved protect children and families from lead and other hazardous materials," said HUD OIG Special Agent in Charge Michael Powell. "It is our continuing core mission to work with our law enforcement partners and the United States Attorney's Office to protect the integrity of our programs and to take strong action against those who seek to circumvent the laws meant to protect the most vulnerable in our communities."

"I want to thank the U.S. EPA, HUD, and DOJ for their collaboration in protecting the health and well-being of Hoosiers," said IDEM Commissioner Bruno Pigott. "Strong partnerships with our federal partners are vital to keeping our environment safe for children, vulnerable communities, and everyone throughout Indiana."

Delucio has been charged with two counts of violating the Toxic Substances Control Act, as well as one count of falsifying documents during a federal investigation. If convicted, he faces up to 20 years in prison. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.



The case was jointly investigated by EPA's Criminal Investigation Division, the United States Department of Housing and Urban Development, and the Indiana Department of Environmental Management. Prosecution is being handled by a DOJ litigation team.

An indictment is merely an allegation and all defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.