

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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IN THE MATTER OF THE SEARCH OF:

CASE NUMBER: 16-MJ-18

The premises, residence, vehicle,  
outbuildings, surrounding curtilage, and  
all electronic storage devices located at  
333 Saint Andrew Street, Rapid City,  
South Dakota 57701

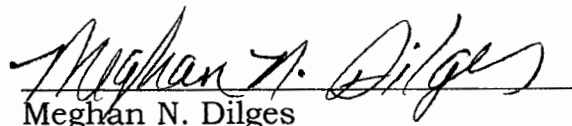
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**MOTION TO SEAL**

The United States hereby moves this Court for an order sealing this entire matter until further order of the Court, in that this search was conducted as a part of an ongoing investigation. Disclosure of information contained in the documents filed with the Court could jeopardize this ongoing investigation.

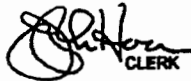
Dated this 10<sup>th</sup> day of February, 2016.

RANDOLPH J. SEILER  
United States Attorney

  
Meghan N. Dilges  
Assistant United States Attorney

**FILED**

FEB 10 2016

  
CLERK

**FILED**

**FEB 10 2016**

*[Signature]*  
CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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IN THE MATTER OF THE SEARCH OF:

CASE NUMBER: *16-mj-18*

The premises, residence, vehicle,  
outbuildings, surrounding curtilage, and  
all electronic storage devices located at  
333 Saint Andrew Street, Rapid City,  
South Dakota 57701

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**ORDER**

The United States having moved this Court for an order sealing this matter, and good cause having been shown therefor, it is hereby

ORDERED that this matter be sealed for 180 days to be automatically unsealed by the Clerk of Courts thereafter unless otherwise ordered by the Court.

Dated this *10<sup>th</sup>* day of ~~January~~ <sup>*February*</sup>, 2016.

BY THE COURT:

*[Signature]*

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DANETA L. WOLLMANN  
United States Magistrate Judge

UNITED STATES DISTRICT COURT

for the District of South Dakota

FILED

FEB 10 2016

*[Signature]*  
CLERK

In the Matter of the Search of

*(Briefly describe the property to be searched or identify the person by name and address)*

The premises, residence, vehicle, outbuildings, surrounding curtilage, and all electronic storage devices located at 333 Saint Andrew Street, Rapid City, SD

Case No. 16-MJ-18

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

The premises, residence, vehicle, outbuildings, surrounding curtilage, and all electronic storage devices located at 333 Saint Andrew Street, Rapid City, South Dakota 57701, as described in Attachment A.

located in the \_\_\_\_\_ District of \_\_\_\_\_ South Dakota \_\_\_\_\_, there is now concealed *(identify the person or describe the property to be seized)*:

See attached Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
16 U.S.C. §§ 668(a), 703, 1538, 3372; & 18 U.S.C. § 922	Bald and Golden Eagle Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Lacey Act, and Unlawful Acts Firearms

The application is based on these facts:  
See attached Affidavit.

- Continued on the attached sheet.
- Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

*[Signature]*

Applicant's signature

Brad C. Merrill, Special Agent USFWS

Printed name and title

Sworn to before me and signed in my presence.

Date: 2-10-16

*[Signature]*

Judge's signature

City and state: Rapid City SD

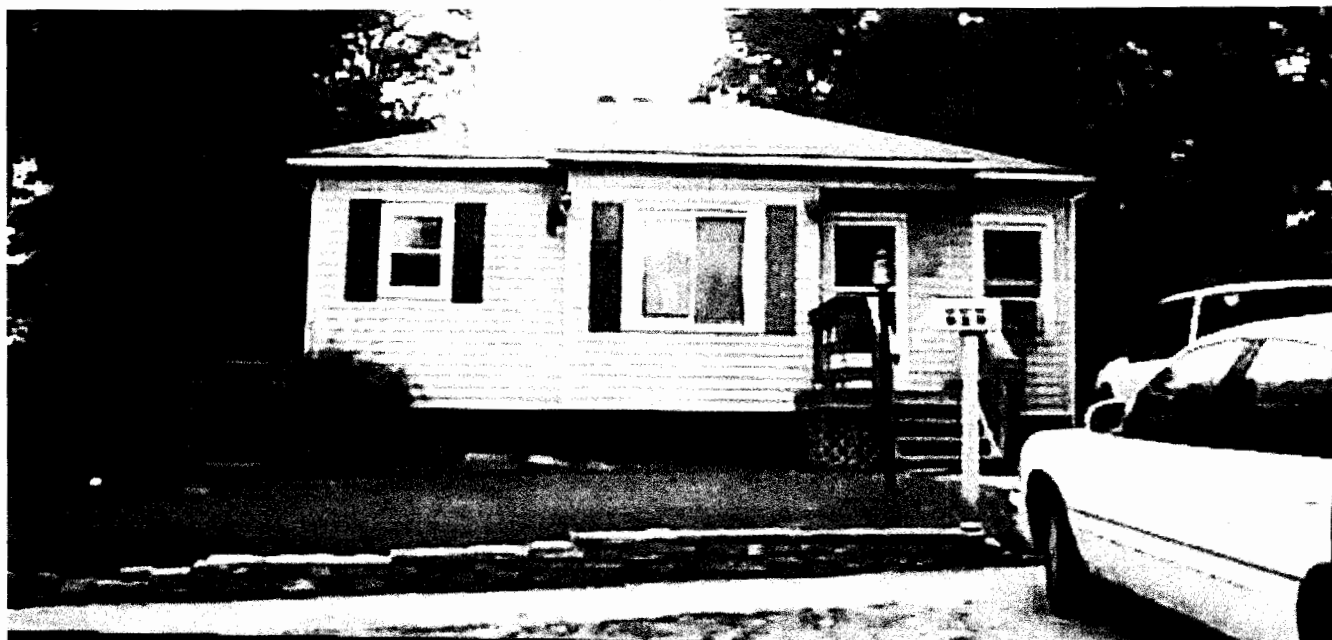
Daneta Wollmann, US Magistrate Judge

Printed name and title

## ATTACHMENT A

### LOCATION TO BE SEARCHED:

The premises, residence, vehicle, outbuildings, surrounding curtilage, and electronic storage devices located at 333 Saint Andrew Street, Rapid City, South Dakota 57701.



The premises are described as: The residence is gray with black window shutters. A small wooden deck accesses the front door. A metal mailbox with "333" written in black numerals is located in front of the house. Additional markings of "333" are attached to the structure near the front door. A gate accessing a chain link fence is on the east side of the home, while the driveway is on the west side of the residence.

Directions to the premises: From the junction of St. Patrick Street and 5<sup>th</sup> Street, Rapid City, South Dakota; Travel less than 1/10 of a mile north on 5<sup>th</sup> street, Turn right on Saint Andrew Street. The premises is the second (2<sup>nd</sup>) house on the right.

## ATTACHMENT B

### ITEMS TO BE SEARCHED FOR:

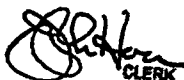
Property constituting evidence of violations of Title 16 U.S.C. §§ 668(a), 703, 1538, and 3371 et seq., and 18 U.S.C. § 922, contraband, the fruits of the crimes, property designed or intended for use and which is and has been used as the means of committing or documenting the offenses including, but not strictly limited to, the following:

1. Any bald eagle, golden eagle, or other protected bird, or any part(s) and piece(s) thereof, in whatever form;
2. All electronic storage devices to include any and all computers, tablets, Ipads, external and internal hard drives, thumb drives, flash drives, storage disks, cameras, cell phones, smart phones and phones with photo taking and/or internet access capabilities;
3. Any firearm, ammunition, or destructive device;
4. Any and all business records associated with the trafficking in wildlife to include eagles or other protected bird parts, including invoices, ledgers, receipts, employee information, customer information, customer correspondence, cancelled checks, bank records, wire transfers, safety deposit box documentation, credit card receipts, contracts, purchase orders, calendars, shipping/ mailing documentation, import/export documentation, travel records, statutes and regulations, maps, notes, e-mails, journals, and diaries;
5. Photographs, photo albums, digital images, videotape, sketches, or any other image, in whatever form, that appears to be associated with the possession, take, or trafficking in eagles or other protected bird parts;
6. Any property and/or merchandise associated with the USFWS undercover business; and
7. Any of the above items listed in 1-6, that are located on the person of Troy Fairbanks, Majestic Fairbanks, Troy Young Fairbanks or any other people present or arriving at the time the Search Warrant is executed.
8. A 1997 Ford Explorer, VIN#1FMCU24X6VUB76132. This vehicle is white, with South Dakota license plate 2VX 656.

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

**FILED**

FEB 10 2016

  
CLERK

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IN THE MATTER OF THE SEARCH OF:      CASE NUMBER: 16-mj-18

The premises, residence, vehicle,  
outbuildings, surrounding curtilage,  
and all electronic storage devices  
located at 333 Saint Andrew Street,  
Rapid City, South Dakota 57701

**AFFIDAVIT IN SUPPORT OF  
REQUEST FOR  
SEARCH WARRANT**

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STATE OF SOUTH DAKOTA    )  
  ) SS  
COUNTY OF PENNINGTON    )

I, Brad C. Merrill, Special Agent with the United States Fish and Wildlife Service, being first duly sworn upon oath, depose and state as follows:

1.     Your Affiant is a Special Agent with the Department of the Interior, U.S. Fish and Wildlife Service (USFWS), Office of Law Enforcement, stationed in Pierre, South Dakota. Your Affiant has served as a Federal law enforcement officer for twenty-one years. Your Affiant has conducted and assisted in criminal investigations that involved the service of Federal Search Warrants at businesses and private residences. Your Affiant has been trained in the investigation of wildlife criminal violations and the identification of wildlife. Through training and experience, your Affiant is familiar with Federal laws found in Titles 16 and 18 of the United States Code (U.S.C.).

2.     This Affidavit is submitted in support of a Search Warrant for the premises, residence, vehicle, outbuildings and surrounding curtilage, located at 333 Saint Andrew Street, Rapid City, South Dakota 57701, and more

particularly described in Attachment A, which is incorporated by reference herein and all electronic storage devices to include any and all computers, external and internal hard drives, thumb drives, flash drives, storage disks, cameras, cell phones, smart phones and phones with photo taking and/or internet access capabilities. Your Affiant respectfully requests to be permitted to seize all such electronic items found and further access and search the contents of said electronic devices without seeking an additional or separate warrant.

3. The facts and information contained in this Affidavit are based upon your Affiant's personal knowledge, investigation, and observations made by other law enforcement officers assisting with this investigation. Additional information was obtained from confidential sources cooperating with the investigation. All observations referenced below that were not personally made by your Affiant were related to your Affiant by the persons who made such observations. This Affidavit contains information necessary to support probable cause for this application. It is not intended to include each and every fact and matter observed by your Affiant or known to the Government. However, no information, known to your Affiant, that would tend to negate probable cause, has been withheld from this Affidavit.

4. This investigation focuses on the unlawful trafficking of wildlife, specifically bald eagles, golden eagles, and other protected migratory birds and parts thereof. Your Affiant submits there is an established black market for

this wildlife and parts thereof with the unlawful sales occurring intra-state, inter-state, and in international commerce.

5. The Bald and Golden Eagle Protection Act, Title 16 U.S.C. § 668(a) and its associated regulations as found in 50 Code of Federal Regulations, Part 22, makes it unlawful for any person within the United States or any place subject to the jurisdiction thereof, to knowingly, or with wanton disregard for the consequences of his act, take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles.

6. The Migratory Bird Treaty Act, Title 16 U.S.C. § 703 and its associated regulations as found in Title 50 Code of Federal Regulations, Parts 10, 20, and 21, make it unlawful, except as permitted, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported or imported, deliver for transportation, transport or caused to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird.

7. The Endangered Species Act, Title 16 U.S.C. § 1538(a)(1), et seq., makes it unlawful for any person subject to the jurisdiction of the United States to deliver, receive, carry, transport, or ship in interstate or foreign



commerce, by any means whatsoever, and in the course of a commercial activity, any threatened or endangered wildlife. Further, it is unlawful to sell or offer to sell in interstate or foreign commerce any threatened or endangered wildlife.

8. The Lacey Act, Title 16 U.S.C. § 3372(a)(1), makes it unlawful for any person to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife taken, possessed, transported or sold in violation of any law, treaty, or regulation of the United States or in violation of Indian tribal law.

9. Prohibited person possession with a firearm, under Title 18 U.S.C. § 922(g), makes it unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year or who has been convicted in any court of a misdemeanor crime of domestic violence to possess any firearm or ammunition.

10. Your Affiant sets forth as relevant information that in June of 2014, the USFWS, Office of Law Enforcement, established and began operation of an undercover business in an effort to identify and conduct transactions with individuals believed to be trafficking in eagles and other protected migratory birds and parts thereof. The front for the business operated by the USFWS was that of dealing in legal items such as fur, craft items, collectibles and antiques. As part of the undercover business, Special Agents and Cooperating Individuals (CI) purchased eagle parts and other protected migratory bird parts.

11. Your Affiant notes that the USFWS received recurring pieces of information that suggested Troy Fairbanks was involved with possessing, killing, and/or trafficking in eagles and eagle parts.

12. Troy Fairbanks is known to your Affiant as an enrolled member of a Federally Recognized Indian Tribe and the owner/operator of a business named Buffalo Dreamers, which performs Native American dance programs at public venues such as the Crazy Horse Monument and Custer State Park. It is further known that Troy Fairbanks has two adult sons, both of whom have some association with the Buffalo Dreamers dance group. Troy Fairbanks' sons are named Majestic Fairbanks and Troy Young Fairbanks.

13. Your Affiant sets forth as relevant information that Troy Fairbanks is considered a prohibited person for the purposes of possessing a firearm based on a 1997 guilty plea to a federal felony count of Possession of a Controlled Substance with the Intent to Distribute in violation of 21 U.S.C. §§ 841(a)(1) and 846. Troy Fairbanks was sentenced to two-hundred ten (210) months in custody followed by five (5) years of supervised release. Troy Fairbanks was released from custody in 2012, and subsequently his term of supervised release in 2013.

14. On July 17, 2014, a CI, whose identity is known to me, contacted Troy Fairbanks and Majestic Fairbanks at a campground resort near Rapid City, South Dakota. Troy Fairbanks provided CI with his business card identifying his email address as [buffalodreams4@gmail.com](mailto:buffalodreams4@gmail.com). CI and Troy

Fairbanks engaged in discussion about eagle parts that were possibly for sale and/or trade. Majestic Fairbanks was present for a portion of these discussions and stated to his father that there were at least seven "sets" of eagle parts at their residence. CI developed a level of rapport with Troy Fairbanks and was invited to the Fairbanks' residence located at 333 Saint Andrew Street in Rapid City, South Dakota. Once at the residence, CI and Troy Fairbanks engaged in a transaction in which CI traded approximately \$5,415.00 of legal merchandise for eagle parts, namely wing and tail feathers. Following the transaction, Troy Fairbanks and Majestic Fairbanks helped CI load the eagle parts into CI's vehicle. Subsequent USFWS laboratory testing documented the above noted eagle parts came from at least four (4) separate eagles.

15. Throughout the remainder of July, August, and into September 2014, CI and Troy Fairbanks communicated via phone calls, text messages, and voicemails.

16. On September 18, 2014, CI met with Troy Fairbanks at his residence. Majestic Fairbanks was also present at the residence. The men talked about trading in various items and CI traded Troy Fairbanks black bear claws and \$1,000.00 in cash for a "dog soldier" bonnet that was constructed from eagle and migratory bird feathers. Your Affiant notes that a dog soldier bonnet is a type of Native American headdress. During this transaction, Majestic Fairbanks held, and later handed, the dog soldier bonnet to CI once payment was provided to Troy Fairbanks. Troy Fairbanks then handed the

money to Majestic Fairbanks and asked him to count it. Subsequent USFWS laboratory testing documented the dog soldier bonnet contained feathers from at least one (1) golden eagle, as well as other feathers from geese, crow/ravens, and a macaw.

17. During the contact on September 18, 2014, Troy Fairbanks made statements about having "sets" of golden eagle feathers and offered those feathers for sale. Troy Fairbanks also cautioned CI about who he purchased eagle parts from and made reference to undercover federal agents.

18. Throughout the remainder of September 2014, and into December 2014, CI and Troy Fairbanks communicated via phone calls, text messages, and voicemails. During these communications, Troy Fairbanks talked about another dog soldier bonnet and CI understood the statements to mean the dog soldier bonnet was being offered for sale.

19. On December 18, 2014, CI received three (3) emails from [buffalodreamers4@gmail.com](mailto:buffalodreamers4@gmail.com). The emails listed the name of the sender as Troy Young Fairbanks, who, as noted above, is an adult son of Troy Fairbanks. The emails talked about and showed a picture of a dog soldier bonnet made from over 800 feathers. CI and Troy Fairbanks had additional phone communications about this bonnet, but CI did not purchase the item.

20. Throughout the remainder of December 2014, and into May 2015, CI and Troy Fairbanks communicated via phone calls, text messages, and voicemails.

21. On May 12, 2015, CI met with Troy Fairbanks at his residence. During this contact, CI was introduced to Troy Young Fairbanks. Troy Fairbanks and CI discussed dealing in eagle parts and Troy Fairbanks offered to sell eagle wings for \$500.00 a set, eagle tails for \$500.00, and eagle feet for \$150.00 a set. Troy Fairbanks made further statements about having eight (8) sets of golden eagle wings and showed CI multiple eagle feathers that were stored in his vehicle. As the contact continued, Troy Fairbanks told Troy Young Fairbanks to retrieve some eagle feet from the basement of the residence. Troy Young Fairbanks went downstairs, returned with eagle and hawk talons, and placed them on the kitchen floor to be inspected by Troy Fairbanks and CI. CI agreed to buy three (3) sets of eagle feet and paid Troy Fairbanks a total of \$471.00.

22. On May 12, 2015, CI and Troy Fairbanks continued their conversation about dealing in eagle parts and Troy Fairbanks stated he "went through" twenty (20) eagles over the winter months of 2014. Troy Fairbanks also told CI he was uncomfortable talking about dealing in eagle parts over the telephone. Troy Fairbanks then developed a set of code words to describe eagle parts when the men talked on the phone. Troy Fairbanks stated buffalo skull meant eagle head, otter meant eagle tail, and wolf meant eagle wings. CI agreed to use the code words in future communications and left the residence.

23. Later in the day on May 12, 2015, Troy Fairbanks repeatedly called, sent text messages, and left voicemails for CI. In response, CI called

Troy Fairbanks who, using the above defined code words, offered to sell CI a "big buffalo head." CI agreed to meet with Troy Fairbanks along the roadway in New Underwood, South Dakota. During the contact that followed, CI purchased a golden eagle head from Troy Fairbanks for \$250.00.

24. On May 19, 2015, CI met with Troy Fairbanks at his residence. The men discussed a large deal for eagle parts in which Troy Fairbanks would sell the eagle parts to CI, and CI would re-sell the items to a customer in Germany. Troy Fairbanks showed CI multiple eagle feathers/parts that were stored in both the residence and a shed located in the backyard. Troy Fairbanks talked about his ability to acquire sixty (60) eagles by the winter months of 2015, and further stated he had nineteen (19) people in the Los Angeles, California, area who wanted to buy eagle feathers/parts from him. Ultimately, CI agreed to buy three (3) complete eagle tails and six (6) sets of eagle wings. CI paid Troy Fairbanks \$5,200.00 for the eagle parts.

25. Subsequent USFWS laboratory testing documented the bird parts purchased from Troy Fairbanks between May 12-19, 2015 came from not only a minimum of five (5) separate eagles, but also included two (2) hawks, one (1) white stork, one (1) Himalayan vulture, and one (1) Andean condor. Your Affiant notes that the Andean condor is listed as endangered and protected by the Federal Endangered Species Act.

26. Throughout the remainder of May 2015, and into September 2015, CI and Troy Fairbanks communicated via phone calls, text messages and voicemails.

27. On September 25, 2015, CI met with Troy Fairbanks and a woman introduced as Troy Fairbanks' wife at a restaurant in Rapid City, South Dakota. Troy Fairbanks told CI he was interested in doing a deal with CI that involved about \$10,000.00 worth of eagle parts. CI expressed interest in the potential deal and subsequently went to Troy Fairbanks' residence. The men continued talking about dealing in eagle parts and CI bought a set of eagle wings for \$600.00. CI additionally traded Troy Fairbanks two (2) fur coats for an eagle feather dance bustle.

28. On September 25, 2015, CI and Troy Fairbanks continued talking about dealing in eagle parts. Troy Fairbanks said he currently had seven (7) sets of eagle wings for sale at \$500.00 per set. Troy Fairbanks showed CI numerous eagle feathers/parts that were stored at the residence and stated he had the ability to acquire about thirty (30) to forty (40) eagles by February of 2016.

29. On September 29, 2015, CI contacted Troy Fairbanks at his residence. CI purchased two (2) sets of eagle wings from Troy Fairbanks for \$900.00. CI additionally provided Troy Fairbanks with two (2) buffalo horn caps, one (1) elk skin dress, and one (1) otter hide and explained the items

were to serve as a down payment for the eagle feathers/parts that CI was planning to buy from him in about February 2016.

30. On October 5, 2015, CI attempted to contact Troy Fairbanks at his residence but nobody answered the door. Later in the day, Troy Fairbanks repeatedly called and texted CI. In response, CI called Troy Fairbanks and the men agreed to meet in the parking lot of K-Mart in Rapid City, South Dakota.

31. On October 5, 2015, CI met with Troy Fairbanks at K-Mart as previously arranged. Troy Fairbanks talked about recently returning from a trip to Montana and North Dakota to acquire eagle parts. Troy Fairbanks further made statements about possessing a nine (9) millimeter handgun during the trip and commented he always traveled with the weapon. Troy Fairbanks acknowledged he was not supposed to possess firearms, because of his past federal felony conviction(s). Troy Fairbanks showed CI eagle parts that were stored in his vehicle. CI did not purchase any of the eagle parts that were in the vehicle but agreed to later meet with Troy Fairbanks at his residence.

32. On October 5, 2015, CI met with Troy Fairbanks at his residence. The men talked about dealing in eagle parts and Troy Fairbanks offered eagle feather dance bustles for sale. Troy Fairbanks showed CI numerous eagle feathers/parts stored at the residence and said he was very happy that CI was not a cop, "...Because you would have popped me by now." Troy Fairbanks referred to himself as the "...Best feather man in the Midwest," and sold CI one (1) set of eagle wings for \$600.00.



33. Subsequent USFWS laboratory testing documented the eagle parts purchased from Troy Fairbanks between September 25 and October 5, 2015 came from at least six (6) separate eagles.

34. Throughout the remainder of October 2015, and into December 2015, CI and Troy Fairbanks communicated via voicemails and text messages. CI said he was headed south for the winter, but would get back in touch with Troy Fairbanks around the first part of 2016.

35. During January 2016, CI and Troy Fairbanks communicated via phone calls, text messages, and voicemails. The communications generally consisted of the men arranging schedules and agreeing that CI would meet with Troy Fairbanks during the first week of February 2016 to purchase eagle parts. During these communications, Troy Fairbanks made statements, through the use of code words, that he had multiple eagle parts that were available to be sold to CI.

36. On February 3, 2016, CI met with Troy Fairbanks at his residence. The men talked about dealing in eagle parts and Troy Fairbanks showed CI numerous eagle feathers/parts stored at the residence. CI observed eagle feather bustles and what Troy Fairbanks described as forty (40) sets of eagle wings. The eagle feather bustles were hanging on the walls in one (1) of the rooms of the residence. The eagle wing feathers, some of which appeared to be stained with blood, were stored in a suitcase and in wooden dresser drawers. CI further saw approximately six (6) severed eagle heads and multiple eagle feet

in the basement of the residence. CI described that the eagle heads were placed atop sticks, thought to be broom handles, and were leaning against the wall. It appeared to CI the eagle heads were in the process of being dried out.

37. On February 3, 2016, as CI and Troy Fairbanks were talking about trafficking in eagle parts, there was a knock on the front door. Troy Fairbanks answered the door and was greeted by a team of law enforcement officers from the U.S. Marshals Service and the Pennington County Sheriff's Office. The officers advised they were looking for Troy Young Fairbanks concerning a missed court date. Troy Fairbanks told the officers that Troy Young Fairbanks occasionally stayed at the residence, but was currently not there. The officers thanked Troy Fairbanks for his time and left the residence.

38. On February 3, 2016, following the contact with the law enforcement officers, CI and Troy Fairbanks both made comments about being nervous and each initially thought the law enforcement officers' presence at the home probably had something to do with the eagle trafficking violations. The men additionally made comments that each of them suspected they were turned in by the other. Following this exchange, Troy Fairbanks patted down CI in what appeared to be an attempt to find a recording device. Troy Fairbanks ran his hands over CI's stomach, chest and both sides, but did not locate the USFWS recording device that was hidden in a small pocket of CI's clothing. The men then both made comments that everything was Okay.

39. On February 3, 2016, CI and Troy Fairbanks finished talking about dealing in eagle parts and CI provided Troy Fairbanks with \$800.00 in cash to serve as a down payment for eagle parts that CI planned to purchase from Troy Fairbanks in the upcoming days. CI and Troy Fairbanks agreed to stay in communication with one another and CI left the residence.

40. As part of your Affiant's training and experience conducting wildlife investigations and investigating wildlife trafficking groups as a primary responsibility, your Affiant has developed knowledge regarding practices utilized by wildlife traffickers. These routine practices include:

- a. The concealment of wildlife and parts thereof. Those involved in wildlife trafficking will frequently conceal wildlife and parts thereof, in their residences, in vehicles, outbuildings, and on their person.
- b. The possession and use of communication devices including computers, tablets and cell phones and/or smart phones and phones with photo taking and/or internet access capabilities. These devices are used in furtherance of the wildlife trafficking business by storing: contacts with customers, contacts with co-conspirators and contacts with suppliers of the wildlife and parts thereof. Additionally, these devices are utilized to maintain contact information for co-conspirators and to store notes related to the wildlife trafficking.
- c. Cell phones and smart phones can be used to aid in criminal activity. Your Affiant's training and experience also indicates those who buy/sell wildlife and parts thereof often have cell phones and/or smart phones in their possession that contain names and phone numbers of customers and suppliers. The names of customers and suppliers are often stored in the internal memory of the phone. The phone call times and dates are also stored in the internal memory of the phones. Text messages can also be stored in the internal memory of the phone. They will also use these text messages to communicate to each other about wildlife trafficking. These same individuals will also use their phone to capture video

and pictures of themselves and/or others in the sale of wildlife and parts thereof, by use of cellular phone(s).

- d. Similarly, based upon your Affiant's training and experience, memory cards can be used to store information related to criminal activity and can contain digital files. Your Affiant's training and experience also indicates those who buy/sell wildlife and parts thereof often have cell and/or smart phones in their possession that contain names and phone numbers of customers and suppliers. The names of customers and suppliers can be saved on memory cards. The same individuals, who use cell and/or smart phones, can also use cameras or other equipment to capture video and pictures of themselves and/or others in the sale of wildlife and parts thereof, by use of phone(s) or other equipment. These materials can sometimes be stored on memory cards.
- e. The possession of documents, notes, ledgers and calendars. These items are maintained to hold wildlife trafficking information such as: contact numbers and names for co-conspirators, debt records and accounting information related to sales of wildlife and parts thereof, locations of other sites associated with the wildlife trafficking, and information related to ownership and occupancy of residences, vehicles, and assets.

41. During the course of this investigation, your Affiant notes that Troy Fairbanks has routinely and consistently used a cell phone(s) to facilitate trafficking in eagle and other protected migratory bird parts. The number associated with Troy Fairbanks' telephone, 605-415-0598, has not changed since CI made initial contact with him on July 17, 2014. Troy Fairbanks has communicated with CI using the above telephone number on hundreds of occasions, including sending and receiving text messages with photographs attached. Your Affiant additionally sets forth that Troy Fairbanks' business, Buffalo Dreamers, utilizes an active website located at the internet address of [www.buffalodreamers.com](http://www.buffalodreamers.com). This website contains video and photographs of

Troy Fairbanks and others wearing and/or displaying eagle feathers, some of which appear to be items that were previously offered for sale to CI.

42. Your Affiant submits that Troy Fairbanks routinely operates and is the registered owner of a 1997 Ford Explorer, VIN#1FMCU24X6VUB76132. This vehicle is white, with South Dakota license plate 2VX 656. Troy Fairbanks used this vehicle to facilitate trafficking in eagle and other protected migratory bird parts on at least three (3) separate occasions of July 17, 2014, May 12, 2015, and October 5, 2015. Additionally, Troy Fairbanks has shown CI eagle parts that were stored in this vehicle.

43. Your Affiant conducted record checks and saw the location of the Troy Fairbanks premises is consistently documented as 333 Saint Andrew Street, Rapid City, South Dakota 57701. Your Affiant has conducted surveillance of this residence, on numerous occasions, and saw Troy Fairbanks, Majestic Fairbanks and Troy Young Fairbanks on the premises. Additionally, as noted above, CI routinely meets with Troy Fairbanks at this address.

44. Your Affiant sets forth that the Troy Fairbanks premises consist of the private residence, vehicle, outbuildings, surrounding curtilage.

45. Based upon the information contained in this Affidavit, I have reason to believe that there is circumstantial evidence that individuals located at the Troy Fairbanks premises may have firearms, to include a 9mm handgun, which is an item with value. It is logical that the individuals who possess or

own a firearm would store such an item at their residence or in their vehicle. I am aware that vehicles or containers found on the premises or curtilage could contain a firearm or other valuables, like illegally bartered wildlife parts destined for the black market.

46. Based on the foregoing, there is probable cause to believe that the statutes and regulations described in paragraphs 5-9 above, have been violated by Troy Fairbanks and others. There is also probable cause to believe that the real property and premises of Troy Fairbanks located at 333 Saint Andrew Street, Rapid City, South Dakota 57701, contains property constituting evidence of the commission of the above-described offenses, contraband, the fruits of the crime, property designed or intended for use and which is and has been used as the means of committing or documenting the offenses and those items listed on Attachment B, which is incorporated by reference herein.

47. In consideration of the foregoing, your Affiant respectfully requests that this Court issue a Search Warrant for the premises, residence, vehicle, outbuildings, surrounding curtilage, and all electronic storage devices located at 333 Saint Andrew Street, Rapid City, South Dakota 57701, more particularly described in Attachment A. Your Affiant respectfully requests to be permitted to seize all such electronic items found and further access and search the contents of said electronic devices without seeking an additional or separate warrant.

## ATTACHMENT A

### LOCATION TO BE SEARCHED:

The premises, residence, vehicle, outbuildings, surrounding curtilage, and electronic storage devices located at 333 Saint Andrew Street, Rapid City, South Dakota 57701.



The premises are described as: The residence is gray with black window shutters. A small wooden deck accesses the front door. A metal mailbox with "333" written in black numerals is located in front of the house. Additional markings of "333" are attached to the structure near the front door. A gate accessing a chain link fence is on the east side of the home, while the driveway is on the west side of the residence.

Directions to the premises: From the junction of St. Patrick Street and 5<sup>th</sup> Street, Rapid City, South Dakota; Travel less than 1/10 of a mile north on 5<sup>th</sup> street, Turn right on Saint Andrew Street. The premises is the second (2<sup>nd</sup>) house on the right.

## ATTACHMENT B

### ITEMS TO BE SEARCHED FOR:

Property constituting evidence of violations of Title 16 U.S.C. §§ 668(a), 703, 1538, and 3371 et seq., and 18 U.S.C. § 922, contraband, the fruits of the crimes, property designed or intended for use and which is and has been used as the means of committing or documenting the offenses including, but not strictly limited to, the following:

1. Any bald eagle, golden eagle, or other protected bird, or any part(s) and piece(s) thereof, in whatever form;
2. All electronic storage devices to include any and all computers, tablets, Ipads, external and internal hard drives, thumb drives, flash drives, storage disks, cameras, cell phones, smart phones and phones with photo taking and/or internet access capabilities;
3. Any firearm, ammunition, or destructive device;
4. Any and all business records associated with the trafficking in wildlife to include eagles or other protected bird parts, including invoices, ledgers, receipts, employee information, customer information, customer correspondence, cancelled checks, bank records, wire transfers, safety deposit box documentation, credit card receipts, contracts, purchase orders, calendars, shipping/mailing documentation, import/export documentation, travel records, statutes and regulations, maps, notes, e-mails, journals, and diaries;
5. Photographs, photo albums, digital images, videotape, sketches, or any other image, in whatever form, that appears to be associated with the possession, take, or trafficking in eagles or other protected bird parts;
6. Any property and/or merchandise associated with the USFWS undercover business; and
7. Any of the above items listed in 1-6, that are located on the person of Troy Fairbanks, Majestic Fairbanks, Troy Young Fairbanks or any other people present or arriving at the time the Search Warrant is executed.
8. A 1997 Ford Explorer, VIN#1FMCU24X6VUB76132. This vehicle is white, with South Dakota license plate 2VX 656.



UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
The premises, residence, vehicle, outbuildings, surrounding
curtilage, and all electronic storage devices located at 333
Saint Andrew Street, Rapid City, South Dakota 57701

Case No. 16-MJ-18

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the District of South Dakota
(identify the person or describe the property to be searched and give its location):

The premises, residence, vehicle, outbuildings, surrounding curtilage, and all electronic storage devices located at 333 Saint
Andrew Street, Rapid City, South Dakota 57701, as described in Attachment A.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal (identify the person or describe the property to be seized):

evidence of the commission of violations of the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668(a); Migratory Bird
Treaty Act, 16 U.S.C. § 703; Endangered Species Act, 16 U.S.C. § 1538; Lacey Act, 16 U.S.C. § 3372; and Unlawful Acts
Firearms, 18 U.S.C. § 922, as described in Attachment B.

YOU ARE COMMANDED to execute this warrant on or before February 20, 2016 (not to exceed 14 days)
in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to (United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized (check the appropriate box)

for days (not to exceed 30) until, the facts justifying, the later specific date of

Date and time issued: 2-10-16 1:15pm

[Handwritten Signature]

Judge's signature

City and state: Rapid City, SD

Daneta L. Wollmann, U.S. Magistrate Judge

Printed name and title

**Return**

Case No.:

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Inventory of the property taken and name of any person(s) seized:

**Certification**

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Executing officer's signature*

\_\_\_\_\_  
*Printed name and title*

## ATTACHMENT A

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