



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.

March 2019—April 2019

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Defendant Summary

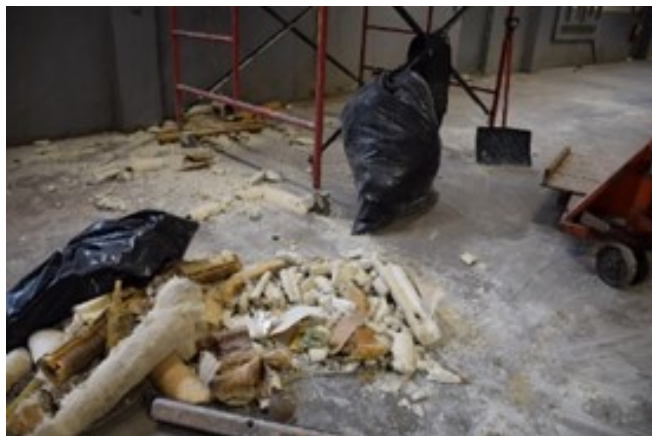
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Connecticut Property Owners Who Illegally Removed Asbestos are Sentenced

Rezart Rakaj and Kliton Rakaj were sentenced on April 1, 2019 in New Haven, Connecticut federal court for offenses related to the illegal and dangerous removal of asbestos at a New Haven property they were renovating in 2015. Rezart and Kliton were each sentenced to one year of probation, a fine of \$9,500, and 50 hours of community service.

According to court documents and statements made in court, in November 2015, Rezart and Kliton Rakaj, who are brothers, and another family member purchased a commercial property located at 206-220 Wallace Street in New Haven, Connecticut. Prior to purchasing the property, the realtor informed the purchasers that the property contained asbestos, and that a prior potential purchaser had already obtained a bid of approximately \$117,000 for the legal asbestos abatement of the property. Shortly after the purchase was completed, the defendants chose not to engage a hazardous materials firm to perform lawful asbestos abatement and instead employed workers who spent multiple days demolishing portions of the property, ripping out piping, breaking tiles, and conducting other renovation and construction activities, including the removal of significant quantities of friable asbestos.

On November 20, 2015, inspectors from the City of New Haven Health Department, acting on an anonymous complaint, discovered the illegal asbestos removal project at 206-220 Wallace Street. The inspection revealed multiple instances of illegal removal of asbestos containing “air cell” pipe wrap and asbestos-containing “mag block” tank and boiler insulation, both of which contain significant quantities of dangerous, friable asbestos. Inspectors observed workers removing asbestos-containing material and throwing it to the floor. The workers performed no wetting, used no negative air machines to create the required vacuum effect within workspaces and set up no critical barriers or protective sheeting to guard against the release of dangerous asbestos fibers into the environment. Though the workers wore dust masks and suits, the masks were not designed for use in asbestos abatement and failed to provide protection against asbestos fibers. Similarly, because the suits were worn repeatedly over the course of days and not decontaminated and disposed of after use, they did not protect the workers against exposure. Inspectors also observed and photographed 100-150 standard garbage bags filled with suspected asbestos-containing material.



“These defendants recklessly cut corners and endangered the lives of their workers,” said U.S. Attorney Durham. “The U.S. Attorney’s Office is committing to prosecuting all who deliberately harm the environment and risk public health in order to save money.”

“The illegal removal of asbestos insulation and the associated removal of scrap pipe and boilers from old buildings continues to be a problem throughout the Northeast,” said EPS-CID Special Agent in Charge Amon. “Inhalation of asbestos fibers can result in lung cancer and it therefore poses significant health risks to all exposed. EPA will continue to hold accountable those who commit such offenses.”

On November 16, 2018, Rezart and Kliton Rakaj each pleaded guilty to one count of illegal asbestos removal in violation of the Clean Air Act.

In addition to the sentence, the defendants also face a fine from the Occupational Safety and Health Administration (OSHA).

The investigation is being conducted by EPA’s Criminal Investigation Division, with the assistance of the City of New Haven Health Department and U.S. Department of Labor, Occupational Safety and Health Administration. The case is being prosecuted by a DOJ litigation team.

Recycling Executive Sentenced to 3 Years in Prison for Scheming to Landfill and Re-Sell Potentially Hazardous Waste

Recycling executive Brian Brundage was sentenced on April 12, 2019 to three years in federal prison for illegally landfilling potentially hazardous electronic waste as part of a scheme to re-sell the materials and avoid paying income taxes.

Brundage owned Intercon Solutions Inc. and EnviroGreen Processing LLC, which purported to recycle electronic waste on behalf of corporate and governmental clients. Brundage represented to the clients that the materials would be disassembled and recycled in an environmentally sound manner. In reality, from 2005 to 2016, Brundage caused thousands of tons of e-waste and other potentially hazardous materials to be landfilled, stockpiled, or re-sold at a profit to companies who shipped the materials overseas. Brundage evaded \$743,984 in federal taxes by concealing the income he earned from re-selling the e-waste and from paying himself funds that he falsely recorded as Intercon business expenses. Brundage spent the purported expenses for his own personal benefit, including wages for a nanny and housekeeper, jewelry purchases, and payments to a casino in Hammond, Ind.

Brundage, 47, of Schererville, Ind., pleaded guilty last year to one count of wire fraud and one count of tax evasion. U.S. District Judge Joan Humphrey Lefkow imposed the three-year prison sentence and ordered Brundage to pay more than \$1.2 million in restitution to his victims.

The sentence was announced by John C. Kocoras, First Assistant United States Attorney for the Northern District of Illinois; Jennifer Lynn, Special Agent-in-Charge of the U.S. Environmental Protection Agency's Criminal Investigation Division; Gabriel L. Grchan, Special Agent-in-Charge of the Chicago office of the Internal Revenue Service Criminal Investigation Division; James M. Gibbons, Special Agent-in-Charge of the Chicago office of the U.S. Immigration and Customs Enforcement's Homeland Security Investigations; and Jeffrey Ryan, Special Agent-in-Charge of the U.S. General Services Administration's Office of Inspector General, Great Lakes Regional Investigations Office. The Hong Kong Environmental Protection Department provided valuable assistance in the investigation. The government was represented by Assistant U.S. Attorneys Sean J.B. Franzblau and Kelly Greening of the Northern District of Illinois, and Special Assistant U.S. Attorney Crissy Pellegri of the EPA.

Brundage admitted in a plea agreement that he caused employees of Chicago Heights-based Intercon and Gary, Ind.-based EnviroGreen to sell some of the e-waste and other materials to vendors who Brundage knew would ship the materials overseas. Some of the materials contained Cathode Ray Tubes, which are glass video display components of computer and television monitors, and which contain potentially hazardous amounts of lead. Brundage admitted causing multiple tons of CRT glass and other potentially hazardous materials to be destroyed in environmentally unsafe ways and later landfilled.

"Improper management of cathode ray tubes can pose risk to human health and the environment, as they contain significant quantities of lead," said Special Agent-in-Charge Lynn. "This case demonstrates that EPA and our law enforcement partners are committed to protecting the environment and ensuring that companies follow the law."

"The GSA Office of Inspector General will aggressively pursue contractors who make false representations in

order to obtain federal business,” said Special Agent-in-Charge Ryan.

“This sentence should serve as a reminder that HSI will continue to work with its federal, state and local partners to pursue offenders who endanger others by engaging in fraud and deceit,” said Special Agent-in-Charge Gibbons.

The case was investigated by EPA’s Criminal Investigation Division, IRS, ICE’s Homeland Security Investigations, and GSA’s Office of Inspector General, with assistance from the Hong Kong Environmental Protection Department. The case was prosecuted by a DOJ litigation team.

Defendants Sentenced For Fraud Scheme Involving Minnesota Environmental Company's Improper Disposal Of Toxic Chemicals

Luminaire Environmental and Technologies, Inc., and co-defendants John D. Miller Jr. and Joseph V. Miller, were sentenced for a \$1 million fraud scheme involving the improper disposal of toxic waste. Luminaire and John Miller were sentenced on March 22, 2019 and Joseph Miller was sentenced on March 5, 2019.

According to the defendants' guilty pleas and documents filed in court, Luminaire Environment and Technologies, Inc. (Luminaire) provided recycling and waste disposal services to customers. Among other services, Luminaire offered to pick up customers' fluorescent light ballasts containing polychlorinated biphenyls (PCBs), transport the PCB-containing ballasts to the Luminaire facility located in Plymouth, Minnesota, and remove and dispose of all the PCBs in accordance with the Toxic Substances Control Act (TSCA). In exchange,

after picking up loads of PCB-ballasts from customers, John Miller instructed Luminaire employees to remove warning labels from the containers holding the PCB-ballasts, and then sell the PCB-ballasts as scrap metal to scrap yards and metal recycling facilities.

Luminaire charged customers a fee of approximately \$0.35 per pound of PCB lighting ballasts plus transportation costs. Because the PCBs contained in the ballasts are considered a toxic chemical, TSCA mandates special procedures and documentation for the transportation and disposal of PCB waste.

According to the defendants' guilty pleas and documents filed in court, between 2010 until 2015, John Miller, owner of Luminaire, and other Luminaire employees falsely represented to customers that Luminaire would properly transport and dispose of customers' toxic chemicals. Instead, after picking up loads of PCB-ballasts from customers, John Miller instructed Luminaire employees to remove warning labels from the containers holding the PCB-ballasts, and then sell the PCB-ballasts as scrap metal to scrap yards and metal recycling facilities. In order to conceal the fact that the PCB-ballasts had not been received and pro-

cessed at Luminaire's facility, John Miller directed Luminaire employees, including Joseph Miller, to falsely certify on shipping manifests that the PCB-ballasts had arrived at Luminaire's facility. At John Miller's direction, Luminaire employees also sent copies of the falsified shipping documentation by mail to customers and to certain state environmental agencies. In addition, John Miller instructed Luminaire employees to prepare and deliver falsified invoices to customers who, in turn, made payments to Luminaire. As a result of the scheme, Luminaire fraudulently collected more than \$1,000,000 in fees and additional profits.

Luminaire was sentenced to five years probation with special conditions, including an Environmental Compliance Plan and fined \$10,000. John Miller was sentenced to 36 months imprisonment, fined \$15,000 and ordered to pay \$1,049,848.79 in restitution. Joseph Miller was sentenced to two years probation and fined \$3,000.

This case investigated by EPA's Criminal Investigation Division and the Hennepin County Department of Environmental Protection. The case was prosecuted by a DOJ litigation team.

Biofuel Plant Owner-Operator Sentenced for Falsifying Tax Refunds and Ordered to Pay \$531,000 in Restitution

Terry L. Zintel of Sunset Hills, Missouri, was sentenced in federal court on April 18, 2019 to 1 year and 1 day in prison for three counts of falsifying claims. Zintel was also ordered to pay restitution in the amount of \$531,947.75.

According to court documents, between 2012 and 2014, Terry L. Zintel was a 50% owner and operator of the biofuel plant, Midwest Biodiesel Products, located in Roxanna, Illinois. As co-owner and operator, Zintel presented to the Internal Revenue Service at least three claims for refund for excise taxes in 2013. As a result of these fraudulent claims and others, the IRS incurred a total tax loss of \$531,947.75.

“We will continue to be relentless in our mission to stop tax schemes and bring the criminals who run them to justice,” said Karl Stiften, Special Agent in Charge of the St. Louis Field Office of IRS, Criminal Investigation. “Tax credits are tax incentives; not an incentive to steal from the government.”

“A strong enforcement program is essential to maintaining the integrity of the RINs market,” said

Special Agent in Charge Jeffrey Martinez of EPA’s criminal enforcement program in Missouri. “Today’s sentencing shows that EPA and their law enforcement partners will continue to hold parties accountable when they defraud their customers and Renewable Fuel Standards program.”

This case was investigated by the IRS Criminal Investigation Division, the FBI, and EPA’s Criminal Investigation Division. The case was prosecuted by Assistant U.S. Attorney Gwen Carroll.



Owners of Northwest's Largest Electronics Recycling Firm Sentenced to Prison for Wire Fraud Conspiracy—Secretly Exposed Foreign Workers to Mercury Waste to Increase Corporate Profits and Enrich Themselves

The owners and Chief Executive Officers of Total Reclaim, the Northwest's largest recycler of electronic waste, were sentenced on April 23, 2019 in U.S. District Court in Seattle to 28 months in prison and three years of supervised release for conspiracy to commit wire fraud. At the sentencing hearing, U.S. District Judge Richard A. Jones noted that with the men's conduct could have impacted generations with mercury poisoning. "Your conduct spanned seven years and only stopped because you were caught. You had multiple opportunities to say enough is enough," Judge Jones said.

Craig Lorch, 61, of Seattle, and Jeff Zirkle, 55, of Bonney Lake, Washington, earned millions of dollars through Total Reclaim by promising to recycle safely electronic products such as flat screen monitors. In marketing Total Reclaim's services, Lorch and Zirkle warned that the products contained hazardous materials that can cause serious health conditions if processed in unsafe conditions such as those that exist in developing countries in Asia. Lorch and Zirkle promised customers that Total Reclaim would not export electronic waste to developing countries. But, in fact, the defendants secretly caused over 8 million pounds of mercury-containing flat screen monitors to be exported to Hong Kong, where they were demolished in an environmentally unsafe manner.

"Motivated by greed, these defendants betrayed every pledge they made to be good environmental stewards," said First Assistant U.S. Attorney Tessa M. Gorman. "They protected their salaries of more than a million dollars a year, while harming the environment and risking the lives of disadvantaged Chinese workers who struggle daily just to support their families"



Photograph from a Basel Action Network's Evidentiary report regarding e-Stewards Violations that depict the final disposal site in Hong Kong of flat screen monitors that were, in part, imported from Total Reclaim

Total Reclaim was the biggest participant in "E-Cycle Washington," a program created by the Washington legislature to provide for the safe recycling of hazardous electronic products. Under E-Cycle Washington, consumers drop off used electronics at stations such as Goodwill Industries free of charge. The program then paid Total Reclaim to recycle the electronics according to Washington Department of Ecology standards. Those standards bar recyclers from sending hazardous electronics products overseas.

According to records filed in the case, Total Reclaim promoted itself as a responsible electronics recycler. Total Reclaim's website stated that "our commitment to environmental responsibility is at the core of everything Total Reclaim does." Total Reclaim signed a public pledge in which it promised not to "allow the

export of hazardous E-waste we handle to be exported” to developing countries, where workers are known to disassemble electronics, which contain dangerous materials such as mercury, without safety precautions. Total Reclaim signed agreements with customers, such as the City of Seattle, in which the customers agreed to pay Total Reclaim to recycle electronics in accordance with these standards. According to court filings, it would have cost Total Reclaim about \$2.6 million to appropriately dispose of the monitors.

In 2008, contrary to its promises to the public, Total Reclaim began secretly exporting flat screen monitors to Hong Kong to avoid the cost of safely recycling the monitors in the United States. Flat screen monitors are known to contain mercury, which can cause organ damage, mental impairment, and other serious health consequences to people exposed to the material. Lorch and Zirkle caused at least 8.3 million pounds of monitors to be shipped to Hong Kong between 2008 and 2015. To prevent customers and auditors from learning of the practice, Lorch and Zirkle falsified documents, made false statements to customers, and stored the monitors at an undisclosed facility while they awaited shipping.

The defendants’ fraud was discovered in 2014 by a non-governmental organization known as the Basel Action Network (“BAN”). BAN, which studies the export of electronic waste, placed electronic trackers on flat screen monitors and deposited them for recycling. The trackers showed that the monitors were collected by Total Reclaim and then exported to Hong Kong. When BAN representatives followed the tracking devices to Hong Kong, they discovered that the monitors were being dismantled by laborers who smashed the monitors apart without any precautions to protect the workers or the environment. After BAN notified Lorch and Zirkle of its findings, Lorch and Zirkle tried to cover up their fraud by altering hundreds of shipping records.

Lorch and Zirkle have agreed to pay \$945,663 in restitution.

As prosecutors wrote in their sentencing memorandum, this case is more than a financial fraud. “Lorch and Zirkle’s crime has all the hallmarks of a classic financial fraud. It includes lies to customers and auditors, the falsification of hundreds of documents, millions of dollars in ill-gotten gains, and a cover-up after the fraud was discovered. But this offense stands apart from the typical fraud because the greatest damage is not measured in dollars and cents. Rather, it lies in the health consequences that resulted from defendants’ calculated choice to prioritize their own economic well-being over the health of faceless foreign workers.”

The case was investigated by the EPA’s Criminal Investigation Division and is being prosecuted by Assistant United States Attorney Seth Wilkinson.

West Virginia Sewage Water Treatment Plant Owner/Operator Admits to Clean Water Act violations

On April 3, 2019, Timothy Peer admitted to violating permits and discharging untreated sewage from his sewage treatment plant into the North Branch of the Potomac River.

Peer, age 55, was the owner of Mountainaire Village Utility, LLC, a sewage water treatment plant serving the residents of Mountainaire Village near Ridgeley, West Virginia. Peer, who owned and operated the business from early 2008 to July 2016 pled guilty to one count of “Knowing Violation of Permit Conditions” and one count of “False Statements on Discharge Monitoring Reports.”

From 2014 to 2016, Peer admitted to failing to maintain the treatment plant, resulting in untreated and undertreated sewage being discharged into the North Branch of the Potomac River, violating the Clean Water Act and his permit. Peer also admitted to falsely reporting quarterly testing on the wastewater from the plant.



Mountainaire Package Plant, April 2016



Mountainaire Polishing Pond

Peer faces not more than 3 years; not less than \$5,000 (if a fine is imposed) and not more than \$50,000 per day of violation; or \$250,000; or twice the amount of gain or loss; for the permit violation count. He faces up to two years incarceration and a fine of up to \$10,000 for the discharge count. Under the Federal Sentencing Guidelines, the actual sentence imposed will be based upon the seriousness of the offenses and the prior criminal history, if any, of the defendant.

EPA’s Criminal Investigation Division and the West Virginia Department of Environment Protection investigated the case. The case is being prosecuted by a DOJ litigation team.



Mountainaire Overflow Conduit

Jury Finds Pennsylvania Biofuel Company Owners Guilty of Tax and False Statements Conspiracy

On April 23, 2019, following a 14-day jury trial in Harrisburg, Pennsylvania, Ben T. Wootton, of Enola, Pennsylvania, and Race A. Miner, of Buena Vista, Colorado, were found guilty of one count of conspiracy to make false statements to the Environmental Protection Agency (EPA), six counts of making false statements to the EPA, one count of conspiracy to defraud the Internal Revenue Service (IRS), and one count of aiding and assisting in the filing of a false claim with the IRS, announced Assistant Attorney General Jeffrey Bossert Clark of the Justice Department's Environmental and Natural Resources Division (ENRD), Principal Deputy Assistant Attorney General Richard E. Zuckerman of the Justice Department's Tax Division, U.S. Attorney David J. Freed for the Middle District of Pennsylvania, EPA Assistant Administrator for Enforcement and Compliance Assurance Susan Bodine, and IRS-CI Special Agent in Charge Kelly Jackson. The jury also found the corporation, Keystone Biofuels Inc. (Keystone), guilty of conspiring to make false statements to the EPA and six counts of making false statements to the EPA.

According to the evidence presented at trial, Wootton and Miner co-owned and operated Keystone, originally in Shiremanstown, Pennsylvania, and later in Camp Hill, Pennsylvania. Keystone purported to be a producer and seller of biodiesel, a type of renewable fuel. From August 2009 through September 2013, Wootton and Miner participated in a conspiracy to fraudulently generate renewable fuel credits, identified by renewable identification numbers (RINs) on Keystone fuel and, through January 2012, to fraudulently claim tax refunds based on the Biodiesel Mixture Tax Credit, a federal excise tax credit for persons or businesses who mix biodiesel with petroleum and use or sell the mixture as a fuel.



"These defendants are guilty of premeditated fraud, pure and simple," said Assistant Attorney General Clark. "They directly stole money from the federal fisc and they masqueraded as benefactors of the environment. We are grateful for the cooperation of our partners in the Tax Division and U.S. Attorney's Office in putting an end to this scheme."

"Abuse of biodiesel fuel credits harms law abiding renewable fuel producers and the United States government," said Principal Deputy Assistant Attorney General Zuckerman. "The Tax Division along with its partners at United States Attorney's Offices, ENRD, IRS-CI, and EPA will vigorously prosecute those who fraudulently claim biodiesel fuel credits and violate the criminal law."

"The defendants in this case participated in a criminal scheme that struck directly at the heart of a government program that was created to benefit both honest business owners and the community at large by en-

couraging the development and use of clean bio-diesel fuel,” said U.S. Attorney David J. Freed. “Instead, the defendants defrauded their fellow citizens to the tune of more than 4 million dollars. Working with our partners, we will not rest in pursuing cases that target our shared financial resources.”

“Today’s guilty verdict is a victory for the American taxpayer,” said IRS-CI Special Agent in Charge Kelly Jackson. “IRS Criminal Investigation will pursue anyone who burns the biodiesel industry by enriching themselves through tax credits they are not entitled to.”

“Today’s guilty verdict demonstrates the severe consequences for anyone who tries to make a profit by defrauding the RINS market,” said EPA Assistant Administrator for Enforcement and Compliance Assurance Susan Bodine. “EPA and its federal partners worked together to protect the integrity of the Renewable Fuels Standard program by uncovering and prosecuting the defendants’ criminal activities.”

Miner doctored fuel samples and test results to fraudulently claim tax refunds and RINs on fuel that did not... qualify for the tax refunds

According to evidence presented at trial, as part of the conspiracy, Wootton and Miner caused inflated fuel amounts to be reported to the IRS. The inflated fuel numbers supported their fraudulent claims for tax refunds on fuel Keystone was not producing. To account for the inflated fuel amounts, Wootton and Miner created false books and records and engaged in a series of sham financial transactions intended to mirror the false books and records. In addition, Miner doctored fuel samples and test results to fraudulently claim tax refunds and RINs on fuel that did not meet the requisite quality standards to qualify for the tax refunds and RINs. It is estimated that over \$10 million was generated from the fraudulent RIN sales, and the total tax loss to the government resulting

from the defendants’ conduct is approximately \$4,149,983.41.

Wootton and Miner face a statutory maximum sentence of five years in prison on each conspiracy count, each false statement to the EPA count, and three years in prison on the count of filing a false tax claim with the IRS, as well as periods of supervised release, restitution, and monetary penalties.

Assistant Attorney General Clark, Principal Deputy Assistant Attorney General Zuckerman, and U.S. Attorney Freed thanked agents of IRS-Criminal Investigation and EPA Criminal Investigation Division, who conducted the investigation, and Senior Litigation Counsel Howard P. Stewart of the Justice Department’s Environmental and Natural Resources Division, Trial Attorneys Mark Kotila, Kimberly Ang, and Michael Vasiliadis of the Justice Department’s Tax Division, Assistant U.S. Attorney Geoffrey MacArthur, and Special Assistant U.S. Attorney David Lastra, who prosecuted the case.

The case was investigated by EPA and IRS Criminal Investigation Divisions . The case was prosecuted by a DOJ litigation team.

California Companies and Executives Charged with Tampering with Emission Control Devices on Diesel Truck Fleet

On April 11, 2019, a federal grand jury in San Diego returned a six-count indictment charging three San Marcos companies, two managers and a technician with various felonies related to tampering with emission control devices on heavy-duty diesel trucks.

Diamond Environmental Services LP, Diamond Maintenance Services, LLC and Diamond Solid Waste, Inc. (collectively “Diamond”) of San Marcos, California, plus owner and manager Arie Eric De Jong III, manager Warren Van Dam and technician Jorge Leyva Rodriguez of ECM Diesel Programming were charged with conspiring to manipulate the electronic control module (ECM) on Diamond’s fleet of heavy duty diesel trucks. The alleged manipulation was designed to disable the monitoring system that would otherwise cause the truck to effectively become non-operational if the diesel emissions filter became too dirty with diesel particulates.

Since model year 2008, EPA regulations required all heavy-duty diesel trucks to be equipped with a computerized system of electronics and sensors that monitored all emission-related engine systems and components. If a malfunction or problem occurred within the emission system - for example, the diesel particulate filter, or DPF, became dirty with soot that needed to be “regenerated” or burned off - the monitoring system would cause a Malfunction Indicator/Check Engine Light to be illuminated in the truck’s cabin. If the hardware emission system problem was not resolved, the monitoring system could limit the top speed of the truck to as low as five miles per hour (an effect commonly referred to as “limp mode” or “power reduced mode”), providing an incentive for the truck’s operator to repair the truck.

The indictment alleges that the defendants agreed to reprogram the ECMs to avoid the costs associated with the need to regenerate the diesel particulate filters (DPFs) on the heavy-duty diesel trucks in the fleets operated by defendant Diamond Environmental Services, LP and Diamond Solid Waste Services, Inc., and maintained by Diamond Maintenance Services, LLC. According to the indictment, employees removed the ECMs from trucks in their fleet and shipped them out of California to be reprogrammed, and, in addition, defendant Jorge Martin Leyva Rodriguez travelled from Mexico to Diamond locations in San Marcos and San Diego to reprogram the ECMs.

The indictment alleges that, in order to keep trucks operating with DPFs that had not been cleaned by regeneration, employees punched holes through the honeycomb cores of the DPFs on some of the heavy-duty diesel trucks to allow the free flow of air through this portion of the emission system, without filtration. It is further alleged that in order to conceal the fact that the emissions systems on some of the heavy-duty diesel trucks were not operating properly, employees prepared false opacity (smog) test results for such trucks, using an entirely different truck to achieve passing results. According to the indictment, when the co-conspirators learned that action by the authorities was imminent, defendant Rodriguez returned to the Diamond facilities to reprogram the software of the ECMs on the truck fleet in order to conceal the 2016 alterations. Defendants Diamond Environmental Services, LP, Arie Eric De Jong III and Jorge Levya Rodriguez are charged with evidence tampering, based on the later alterations to the ECMs.

“We are all the victims of environmental crime,” said U.S. Attorney Robert Brewer. “We aren’t going to allow

companies to take shortcuts and pollute the environment.” Brewer praised prosecutor Melanie Pierson and investigators from the FBI and the U.S. Environmental Protection Agency, Criminal Investigation Division, for protecting the public.

San Diego FBI Acting Special Agent in Charge Suzanne Turner noted, “Today’s indictments underscore the FBI’s continued commitment to our law enforcement partners in combatting environmental crime in San Diego County. The alleged activity impacts every citizen and visitor to San Diego by contributing to declining air quality and increasing public exposure to airborne pollutants. The FBI will continue to work diligently to protect the citizens of San Diego County from entities engaged in illegal business practices which result in environmental harm.”

“The defendants have been charged with conspiring to violate the Clean Air Act and tampering with the emissions control equipment on their commercial diesel trucks,” said Special Agent-in-Charge Jay M. Green of EPA’s criminal enforcement program in California. “The alleged crimes would increase air pollution linked to respiratory illnesses and environmental degradation. Today’s indictment serves as a reminder that EPA and our partners are steadfast in our commitment to protect human health and the environment.”

The case was investigated by EPA’s Criminal Investigation Division and the FBI. The case is being prosecuted by a DOJ litigation team.

An indictment is merely an accusation. Defendants are presumed innocent unless and until proven guilty.