



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 11, 2009
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THREE INDIVIDUALS INDICTED FOR ROLES IN CONSPIRACY SCHEMES INVOLVING TWO U.S. ENVIRONMENTAL PROTECTION AGENCY SUPERFUND SITES IN NEW JERSEY

WASHINGTON — A Newark grand jury indicted three individuals for their participation in fraud and kickback conspiracies related to contracts at a U.S. Environmental Protection Agency (EPA)-designated Superfund site, Federal Creosote, located in Manville, N.J., the Department of Justice announced today. One individual is also charged with participating in a bid-rigging conspiracy and additional fraud and kickback conspiracies at Federal Creosote and another EPA-designated Superfund site, Diamond Alkali, located in Newark, N.J.

The 12-count indictment, originally filed under seal on Aug. 31, 2009, was unsealed today in the U.S. District Court of New Jersey. The indictment charges Gordon D. McDonald, a former project manager for a prime contractor, with engaging in separate kickback and fraud conspiracies with sub-contractors John A. Bennett and James E. Haas Jr. at Federal Creosote. McDonald was arrested on Sept. 8, 2009, in Berlin, N.J. Bennett is a former chief executive officer of sub-contractor Bennett Environmental Inc. (BEI), a Canadian-based company that treats and disposes of contaminated soil. Haas, who was arrested in Vincentown, N.J., on Sept. 10, 2009, is a former representative of a subcontractor that provides common backfill, a type of soil material used to refill an excavation. McDonald, Bennett and Haas are also charged with committing fraud against the United States.

In addition, McDonald is charged with engaging in a bid-rigging conspiracy and separate kickback and fraud conspiracies with two other sub-contractors at Federal Creosote and Diamond Alkali, the Department said. He is also charged with one count of international money laundering, two tax violations and obstruction of justice. The various charged conspiracies took place at different time periods from approximately December 2000 until approximately April 2007.

As a part of the charged conspiracies, McDonald and other co-conspirators at his company, accepted kickbacks from Bennett, Haas and another sub-contractor, the owner of J.M.J. Environmental Inc. (JMJ), in exchange for the award of sub-contracts at Federal Creosote. JMJ is a wastewater treatment and chemical supply company. Bennett, Haas and the owner of JMJ fraudulently inflated their bid prices for sub-contracts to include the amount of the kickbacks paid to McDonald and his co-conspirators. According to the indictment, McDonald also provided Bennett and his co-conspirators at BEI with the bid prices of their competitors, which allowed them to submit the highest possible bid prices and still be awarded the sub-contracts.

The indictment charges that McDonald also accepted kickbacks in exchange for the award of sub-contracts at the Diamond Alkali site from the owner of JMJ and the co-owner of National Industrial Supply LLC (NIS). NIS is a supplier of industrial pipes, valves and fittings located in Middlesex, N.J.

According to the indictment, McDonald also participated in a conspiracy with the owner of JMJ and other co-conspirators to rig bids and allocate sub-contracts for wastewater treatment supplies and services at Federal Creosote.

The clean-up at the Federal Creosote site is partly funded by the EPA. Under an interagency agreement between the EPA and the U.S. Army Corps of Engineers, prime contractors oversaw the removal, treatment and disposal of contaminated soil, as well as other operations at the Federal Creosote site.

The charges announced today resulted from an ongoing investigation that is being conducted by the Antitrust Division's New York Field Office, the EPA Office of Inspector General and the Internal Revenue Service Criminal Investigation. Seven individuals and three companies have already pleaded guilty as part of this investigation.

The fraud conspiracies that McDonald, Bennett and Haas are charged with carry a maximum penalty of five years in prison, three years of supervised release and a \$250,000 fine. The fraud charges that McDonald, Bennett and Haas are charged with carry a maximum penalty of 10 years in prison, three years of supervised release and a \$1 million fine. The kickback charge that McDonald is charged with carries a maximum penalty of 10 years in prison, three years supervised release and a \$250,000 fine. The bid-rigging charge that McDonald is charged with carries a maximum penalty of three years in prison and a \$350,000 fine for a violation occurring before June 22, 2004, and a maximum penalty of 10 years in prison and a \$1 million fine for a violation occurring after June 22, 2004. The obstruction of justice charge that McDonald is charged with carries a maximum penalty of 20 years in prison, five years supervised release and a \$250,000 fine. The maximum fines for each of these offenses may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

The international money laundering conspiracy that McDonald is charged with carries a maximum penalty of 20 years in prison, five years of supervised release and a \$500,000 fine, or twice the value of the funds involved in the transportation, transmission or transfer, whichever is greater. The tax violations that McDonald is charged with carry a maximum penalty of three years in prison, one year of supervised release and a \$100,000 fine per count.

Today's charges reflect the Department's commitment to protecting U.S. taxpayers from procurement fraud through its creation of the National Procurement Fraud Task Force. The National Procurement Fraud Initiative, announced in October 2006, is designed to promote the early detection, prosecution and prevention of procurement fraud associated with the increase in contracting activity for national security and other government programs.

Anyone with information concerning bid rigging, kickbacks, tax offenses or fraud relating to sub-contracts awarded at the Federal Creosote or Diamond Alkali sites should contact the Antitrust Division's New York Field Office at 212-264-9308.

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