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U.S. DISTRICT COURT

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DISTRICT OF UTAH

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IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Case No.

Plaintiff,

vs.

INDICTMENT

STONE CASTLE RECYCLING, L.L.C.;
ANTHONY L. STODDARD; and JAMEN
D. WOOD;

Count I: 42 U.S.C. § 6928(d)(2)
(knowingly disposing of hazardous waste
without a permit); **Count II:** 42 U.S.C.
§ 6928(d)(2) (knowingly storing
hazardous waste without a permit);
Counts III-VI: 42 U.S.C. § 6928(d)(3)
(knowingly omitting material information
or making false material statement on a
label, manifest, or other required
document)

Defendants.

Case: 1:17-cr-00044
Assigned To : Nuffer, David
Assign. Date : 07/12/2017
Description: USA v.

The Grand Jury charges:

1. At all times relevant to this Indictment, Defendant Stone Castle, L.L.C., (“Stone Castle”), was a Utah Limited Liability Company that was engaged in recycling electronics at Freeport West Building D-3, Clearfield, Utah (“the Clearfield facility”).
2. At all times relevant to this Indictment, Defendant Anthony L. Stoddard was the Chief Executive Officer of Stone Castle.
3. At all times relevant to this Indictment, Defendant Jamen D. Wood was an

employee of Stone Castle.

4. As an electronics recycling facility, Stone Castle received numerous computer monitors and televisions that contained Cathode Ray Tubes (“CRT”). CRTs contain high amounts of lead.

5. In 1976, the Solid Waste Disposal Act was amended by the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § § 6901 to 6992k, to create a “cradle to grave” regulatory scheme to govern and track hazardous wastes from the point of generation to final disposition.

6. On or about October 24, 1984, the EPA authorized the State of Utah to implement the RCRA program, which includes the authority to issue permits to treat and dispose of hazardous waste and to regulate the transportation of hazardous waste through manifests. The Utah Department of Waste Management and Radiation Control (“UDWMRC”), of the Utah Department of Environmental Quality (“UDEQ”), administers the RCRA program in Utah. Even though the State of Utah has permitting authority and regulates hazardous waste transportation through manifests, the United States retains enforcement authority of RCRA.

7. Under RCRA, it is unlawful to knowingly dispose of a hazardous waste without a permit. 42 U.S.C. § 6928(d)(2)(A).

8. Under RCRA, it is unlawful to knowingly store hazardous waste without a permit. 42 U.S.C. § 6928(d)(2)(A).

9. Under RCRA, when a generator of hazardous waste transports it for offsite treatment, storage, or disposal, RCRA requires that a manifest accompany each shipment. 42

U.S.C. § 6922(a)(5); 40 C.F.R. § 262.20(a)(1) (2013); Utah Admin. Code R315-5-2 (2013) (incorporating by reference 2009 appendix to 40 C.F.R. § 262.20).

10. Among other things, the generator of hazardous waste must provide information in the manifest about the nature and type of hazardous waste for every load that that generator ships. 40 C.F.R. § 262.20(a)(1), Utah Admin. Code R315-5-2 (2013) (incorporating by reference 2009 appendix to 40 C.F.R. § 262.20).

11. Under RCRA, it is unlawful to knowingly omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of complying with RCRA and its implementing regulations. 42 U.S.C. § 6928(d)(3).

12. Solid wastes are hazardous wastes if they are found to contain more than 5.0 mg/L of lead, using the Toxicity Characteristic Leaching Procedure (“TCLP”). 40 C.F.R. § 261.24(b).

13. On January 30, 2013, the United States Environmental Protection Agency (“EPA”) informed Defendant Stoddard that, according to tests of glass at his facility, the TCLP lead results were greater than 5.0 mg/L, exhibiting the RCRA hazardous waste toxicity characteristic for lead.

14. On March 7, 2013, Defendant Wood contacted the UDWMRC to inform it that Stone Castle was trying to get rid of its stockpiles of millions of pounds CRT glass. A representative from the UDWMRC informed Defendant Wood that CRT glass was generally considered a hazardous waste.

15. On or about March 7 or 8, 2013, another representative of the UDWMRC informed Defendant Wood that CRT glass is considered hazardous waste.

16. In March 2013, Defendant Wood attempted to negotiate a deal to send the broken CRT glass to the Wasatch Regional landfill as non-hazardous waste. On April 3, 2013, a representative from the Wasatch Regional landfill—which is not a hazardous waste disposal facility and cannot accept hazardous waste—told Defendant Wood that the UDEQ had stated that CRT glass was hazardous waste. The landfill representative told Defendant Wood to follow up with the UDEQ.

17. On April 9, 2013, a representative from the Salt Lake Valley Landfill told Defendant Wood that the landfill would not receive Stone Castle's CRT glass because the UDEQ had determined that the glass must be disposed of as hazardous waste at a hazardous waste disposal facility. The Salt Lake Valley Landfill is not a hazardous waste disposal facility and cannot accept hazardous waste.

18. Defendant Wood contacted another landfill: Clean Harbors Grassy Mountain. Defendant Wood was aware that Clean Harbors Grassy Mountain charged more per ton to dispose of hazardous waste. Despite this information, on April 15, 2013, Defendant Wood certified two manifests numbered 005626023 and 005626018 for the transportation of 72,200 and 79,800 pounds of CRT glass, respectively, to the Clean Harbors Grassy Mountain disposal facility in Tooele County, Utah. On each manifest, Defendant Wood certified the material to be transported as "NON HAZARDOUS, NON D.O.T. REGULATED MATERIAL."

19. Both loads of CRT glass were delivered to Clean Harbors Grassy Mountain on

April 15, 2013 and April 16, 2013 and were handled as non-hazardous waste.

20. On April 16, 2013, Defendant Wood certified two more manifests numbered 005626021 and 005626022 each one for the transportation of 76,000 pounds of CRT glass to Clean Harbors Grassy Mountain in Grantsville, Utah. On each manifest, Defendant Wood certified the material to be transported as “NONHAZARDOUS, NON D.O.T. REGULATED MATERIAL.”

21. After Defendant Wood sent the first load on April 16, 2013 to Grassy Mountain but before the second load arrived at Grassy Mountain, a representative from UDWMRC sent an email to Defendant Wood again telling him that CRT glass has consistently been considered as hazardous waste due to the lead content of the material. Nevertheless, Defendant Wood allowed the second shipment be disposed of at Clean Harbors Grassy Mountain as non-hazardous waste with a manifest that stated that the CRT glass was “NONHAZARDOUS, NON D.O.T. REGULATED MATERIAL.”

22. On April 16, 2013, the UDWMRC learned that the CRT glass was being sent to Grassy Mountain as non-hazardous waste. Representatives from the UDWMRC stopped the last load from being disposed of at Clean Harbors Grassy Mountain on April 17, 2013 and took four samples of the load. TCLP tests on the samples later revealed lead levels ranging between 27 and 444 mg/L, thus demonstrating that the CRT glass was hazardous waste.

23. Representatives from UDWMRC notified Defendant Stoddard that the loads that Stone Castle had delivered to Clean Harbors Grassy Mountain were hazardous waste that had been disposed of as non-hazardous waste.

24. On May 13, 2013, Defendant Wood, after notifying Defendant Stoddard, gathered samples from televisions in which the face and panel portion was separated from the funnel, neck, and frit portions of the CRT. The TCLP test that was performed on the CRT glass exceeded 5.0 mg/L of lead; thus making the CRT glass hazardous.

25. On May 28, 2013, the UDWMRC inspected the Clearfield facility and found 912 gaylord boxes, containing approximately 3,465,600 pounds of crushed CRT glass located inside and outside of the warehouse. 252 boxes were stored outdoors. The UDWMRC representative told Defendant Wood that the glass had to be stored indoors.

26. On July 9, 2013, inspectors from the UDWMRC conducted an inspection of the Clearfield facility and observed approximately 1,411 gaylord boxes being stored outdoors. Many of the boxes were open and broken glass was observed on the ground. Defendant Wood stated that more boxes of crushed CRT glass were added to the outside storage since the inspectors were at the facility on May 28, 2013.

27. On July 30, 2013, inspectors from the UDWMRC conducted an inspection of the Clearfield facility and observed approximately 1,458 gaylord boxes CRT and other types of glass being stored outdoors. Many of the boxes were open and some of the glass had spilled to the ground.

28. On October 28, 2013, the UDWMRC issued a Notice of Violation to Defendant Stoddard, finding that storage and other hazardous waste violations had occurred at the Clearfield facility, and ordered Stone Castle Recycling to, among things, immediately move the boxes of CRT glass indoors.

29. In a letter dated November 8, 2013, Defendant Stoddard, on behalf of Stone Castle stated, "Stone Castle is planning to be able to meet the needed requirements in being a Large Quantity Generator by end of January 2014." Requirements for Large Quantity Generators include obtaining a permit for storing hazardous wastes.

30. Defendants Stone Castle and Stoddard failed to comply with the Notice of Violation.

31. On July 8, 2014, the Second District Court for the State of Utah issued an order allowing Stone Castle's landlord to reclaim possession of the Clearfield facility. Stone Castle was evicted from the property on or about July 15, 2014.

32. Defendant Stoddard and Stone Castle vacated the Clearfield facility and abandoned the hundreds of boxes of CRT glass both inside and outside of the facility.

33. As of the date of this filing, Defendant Stoddard has not attempted to handle or dispose of the boxes of CRT glass that he left behind.

34. On September 3 and 4, 2014, EPA collected ten representative samples of the CRT glass stored in boxes inside the abandoned Stone Castle facility. The TCLP analysis showed that the lead levels in the samples ranged between 88 mg/L and 253 mg/L, which exceeded the hazardous waste limit of 5.0 mg/L for lead.

35. On August 23, 2016, EPA collected six representative samples of the CRT glass from the boxes still being stored outside of Stone Castle's abandoned Clearfield facility. The TCLP analysis showed that the lead content in the samples ranged between 151 mg/L and 213 mg/L, which exceeded the hazardous waste limit of 5.0 mg/L for lead. Soil samples taken near

the boxes showed elevated levels of lead that were orders of magnitude greater than the lead content of background samples.

36. Neither Stone Castle nor Defendant Stoddard had a permit to dispose of or to store hazardous waste.

COUNT I

42 U.S.C. § 6928(d)(2)

(Knowingly Disposing of a Hazardous Waste Without a Permit)

37. The United States incorporates paragraphs 1-36 herein.

38. From on or about February 1, 2014 through on or about July 8, 2014, in the Northern Division of the District of Utah,

ANTHONY L. STODDARD AND STONE CASTLE RECYCLING,

knowingly disposed of a hazardous waste (to wit, CRT glass in open and leaking cardboard boxes outside of the Clearfield facility) without a permit, all in violation of 42 U.S.C.

§ 2928(d)(2) and 18 U.S.C. § 2(a).

COUNT II

42 U.S.C. § 6928(d)(2)

(Knowingly Storing Hazardous Waste Without a Permit)

39. The United States incorporates paragraphs 1-36 herein.

40. From on or about February 1, 2014 through on or about July 8, 2014, in the Northern Division of the District of Utah,

ANTHONY STODDARD & STONE CASTLE RECYCLING,

knowingly stored hazardous waste at the Clearfield facility (to wit, CRT glass inside the

Clearfield facility) without a permit in violation of 42 U.S.C. § 6928(d)(2); and 18 U.S.C. § 2(a).

COUNT III

42 U.S.C. § 6928(d)(3)

(Knowingly Omitting Material Information on a Manifest)

41. The United States incorporates paragraphs 1-36 herein.
42. On or about April 15, 2013, in the Northern Division of the District of Utah,

JAMEN D. WOOD & STONE CASTLE,

knowingly omitted material information and knowingly made a false statement on manifest 005626018 maintained or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) by stating that the CRT glass accompanying the manifest was “NON HAZARDOUS” when they had been told on several occasions that CRT glass was hazardous and knowing that they had not tested the CRT glass using a representative sample, all in violation of 42 U.S.C. § 6928(d)(3) and 18 U.S.C. § 2(a).

COUNT IV

42 U.S.C. § 6928(d)(3)

(Knowingly Omitting Material Information on a Manifest)

43. The United States incorporates paragraphs 1-36 herein.
44. On or about April 15, 2013, in the Northern Division of the District of Utah,

JAMEN D. WOOD & STONE CASTLE,

knowingly omitted material information and knowingly made a false statement on manifest 005626023 maintained or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) by stating that the CRT glass accompanying the manifest was “NON HAZARDOUS” when they had been told on

several occasions that CRT glass was hazardous and knowing that they had not tested the CRT glass using a representative sample, all in violation of 42 U.S.C. § 6928(d)(3) and 18 U.S.C. § 2(a).

COUNT V

42 U.S.C. § 6928(d)(3)

(Knowingly Omitting Material Information on a Manifest)

45. The United States incorporates paragraphs 1-36 herein.

46. On or about April 16, 2013, in the Northern Division of the District of Utah,

JAMEN D. WOOD & STONE CASTLE,

knowingly omitted material information and knowingly made a false statement on manifest 005626021 maintained or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) by stating that the CRT glass accompanying the manifest was “NON HAZARDOUS” when they had been told on several occasions that CRT glass was hazardous and knowing that they had not tested the CRT glass using a representative sample, all in violation of 42 U.S.C. § 6928(d)(3) and 18 U.S.C. § 2(a).

COUNT VI

42 U.S.C. § 6928(d)(3)

(Knowingly Omitting Material Information on a Manifest)

47. The United States incorporates paragraphs 1-36 herein.

48. On or about April 16, 2013, in the Northern Division of the District of Utah,

JAMEN D. WOOD & STONE CASTLE,

knowingly omitted material information and knowingly made a false statement on manifest

005626022 maintained or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) by stating that the CRT glass accompanying the manifest was "NON HAZARDOUS" when they had been told on several occasions that CRT glass was hazardous and knowing that they had not tested the CRT glass using a representative sample, all in violation of 42 U.S.C. § 6928(d)(3) and 18 U.S.C. § 2(a).

A TRUE BILL:

IS/
Foreperson of the Grand Jury

JOHN W. HUBER
United States Attorney


JARED C. BENNETT
Assistant United States Attorney