

**-FILED-**

DEC - 1 2021

At \_\_\_\_\_ M  
GARY T. BELL, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

UNITED STATES OF AMERICA, ) **INFORMATION**

v.

Cause No. *1:21CR74*  
Violations: 18 U.S.C. § 1001(a)(3)  
42 U.S.C. § 6928(d)(2)(A)

MICHELLE M. ROUSSEFF-KEMP )

**THE UNITED STATES ATTORNEY CHARGES:**

During all times relevant to this Information:

INTRODUCTION

**RESOURCE CONSERVATION AND RECOVERY ACT**

1. The Resource Conservation and Recovery Act (RCRA) was enacted by Congress to address the problem of hazardous waste transportation, treatment, storage, and disposal in the United States. 42 U.S.C. § 6901 *et seq.* The intent of RCRA is to protect human health and the environment by requiring the proper and safe management of hazardous waste from the time it is created until the time it is disposed of, and at all points between.
2. RCRA regulates the generation, treatment, storage, transportation, and disposal of hazardous wastes by establishing a system of management standards, notifications, reports, manifests, and permits. This system of

continually tracking hazardous waste is often referred to as “cradle-to-grave” management.

3. RCRA makes it a crime to knowingly treat, store, or dispose of hazardous waste without a permit issued under RCRA. 42 U.S.C. § 6928(d)(2). RCRA permits are issued by the U.S. Environmental Protection Agency (EPA) or by an EPA-authorized state. The State of Indiana, through the Indiana Department of Environmental Management (IDEM), is authorized to issue and enforce RCRA permits and regulations in the State of Indiana. 42 U.S.C. § 6926; 78 Fed. Reg. 33986.
4. RCRA requires the EPA to identify and list “hazardous wastes.” 42 U.S.C. § 6921. The term “hazardous waste” refers to substances and materials that are solid wastes and hazardous either by virtue of their characteristics, for example ignitability or toxicity, or because they are specifically listed by the EPA in published regulations. 40 C.F.R. §§ 261.3, 261.20-24, 261.30-33.
5. Hazardous waste transporters are individuals or entities engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. 40 C.F.R. § 260.10. Among other things, hazardous waste transporters may deliver hazardous waste from a hazardous waste generator’s site to a facility that can treat, store, or dispose of the waste (“TSD facility”).

See 40 C.F.R. §§ 260.10, 263.20(d). With limited exceptions, the State of Indiana has adopted the federal standards applicable to transporters of hazardous waste. 329 IAC 3.1-8-1.

6. A transfer facility is any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas, where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation. 40 C.F.R. § 260.10. A hazardous waste transporter may hold shipments of hazardous waste without a storage permit at a transfer facility for no more than 10 days, so long as the waste is manifested and kept in containers meeting applicable U.S. Department of Transportation requirements. 40 C.F.R. § 263.12. If a transporter stores waste in containers at a transfer facility for more than 10 days, the transfer facility becomes a storage facility subject to all applicable permitting requirements for a TSD facility. 40 C.F.R. §§ 263.12, 264.1(b), 264.1(g)(9), 270.1.
7. A transporter may not accept hazardous waste from a generator unless the transporter is provided a properly prepared hazardous waste manifest. 40 C.F.R. § 263.20(a)(1). Before transporting the hazardous waste, the transporter must sign and date the manifest to acknowledge receipt and return a copy to the generator before leaving the generator's

property. 40 C.F.R. § 263.20(b). The hazardous waste manifest, specifically EPA Form 8700-22 or EPA Form 8700-22A, is required pursuant to regulations promulgated by both the EPA and the U.S. Department of Transportation. 40 C.F.R. § 263.20 (EPA); 49 C.F.R. § 172.205 (DOT).

8. The transporter must ensure that the manifest accompanies the hazardous waste. 40 C.F.R. § 263.20(c). With limited exceptions, after a transporter accepts a hazardous waste, the transporter is required to deliver the entire quantity of waste to the next designated transporter or facility. 40 C.F.R. § 263.21. A transporter who delivers a hazardous waste to another transporter or to the designated facility must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest. 40 C.F.R. § 263.20(d). The transporter must keep a copy of the manifest for three years. 40 C.F.R. § 263.22.

#### THE DEFENDANT AND COMPANY A

9. MICHELLE M. ROUSSEFF-KEMP (“ROUSSEFF-KEMP”) was the President and owner of a domestic, for-profit corporation (“Company A”), located in Fort Wayne, Indiana, in the Northern District of Indiana.

10. In her role as President and owner of Company A, ROUSSEFF-KEMP, along with other Company A employees, operated the business and had access to company records. As President and owner, ROUSSEFF-KEMP also directed the actions of Company A employees.
11. Company A held itself out as an environmental services company that provided, among other things, comprehensive waste management services and specialized in characterizing, packaging, transporting, and disposing/recycling of hazardous and non-hazardous and non-regulated wastes.
12. Company A, among other things, functioned as a hazardous waste transporter and broker, with its Fort Wayne, Indiana, facility functioning, at times, as a transfer facility.
13. Neither Company A nor ROUSSEFF-KEMP possessed a permit issued by the EPA or IDEM to store hazardous waste.

HAZARDOUS WASTE MANIFEST 003525422 GBF

14. Company B was a hazardous waste generator located in Middlebury, Indiana.
15. On or about June 28, 2018, Company A, as a hazardous waste transporter, picked up Company B's hazardous waste associated with hazardous waste manifest 003525422 GBF. Company B indicated that the waste listed on hazardous waste manifest 003525422 GBF was

hazardous by including an “X” in Item 9a of the manifest and by including the waste codes “D001” and “F005” to describe the waste. Waste code “D001” indicated that the material was an ignitable hazardous waste; waste code “F005” indicated that the material was a listed hazardous waste.

16. On or about November 19, 2018, a Company A employee sent ROUSSEFF-KEMP an email showing that three shipments of Company B’s hazardous waste remained in Company A’s waste inventory, including the waste associated with hazardous waste manifest 003525422 GBF.
17. On or about November 20, 2018, Company B emailed ROUSSEFF-KEMP requesting copies of the manifests for the last three shipments of hazardous waste from Company B.
18. Between on or about June 28, 2018, and on or about November 20, 2018, ROUSSEFF-KEMP asked a Company A employee to sign the name of a representative of the TSD facility on three of Company B’s manifests, including hazardous waste manifest 003525422 GBF. The Company A employee refused. ROUSSEFF-KEMP subsequently took the unsigned manifests into her office, forged the signature of the TSD facility representative on hazardous waste manifest 003525422 GBF, and returned it to the Company A employee to be electronically scanned.

19. On or about November 20, 2018, ROUSSEFF-KEMP sent Company B an email, which included as an attachment a copy of the falsified hazardous waste manifest 003525422 GBF. Among other things, the manifest copy contained false information purporting to show that the hazardous waste was delivered to the TSD facility on July 15, 2018, and signed for by a representative of the TSD facility on that date. In truth, and as known by ROUSSEFF-KEMP, Company B's waste had not been delivered to the TSD facility and remained stored by Company A.
20. The hazardous waste associated with hazardous waste manifest 003525422 GBF was not delivered the TSD facility until on or about November 28, 2018.

HAZARDOUS WASTE ASSOCIATED WITH HAZARDOUS WASTE  
MANIFEST 003525695 GBF

21. Company C was a hazardous waste generator located in Franklin Park, Illinois.
22. On or about February 28, 2019, Company C emailed ROUSSEFF-KEMP informing her that Company C had a number of drums of waste ready for pick-up.
23. ROUSSEFF-KEMP arranged for a third-party transporter to pick up the waste from Company C, contained in 20 drums, on or about March 14, 2019. The waste was listed on hazardous waste manifest 003525695

GBF. Company C indicated that the waste listed on hazardous waste manifest 003525695 GBF was hazardous by including an “X” in Item 9a of the manifest and by including the waste codes “D001” and “F003” to describe the waste. Waste code “D001” indicated that the material was an ignitable hazardous waste; waste code “F003” indicated that the material was a listed hazardous waste.

24. Thereafter, the hazardous waste was stored, at ROUSSEFF-KEMP’s direction, at Company A’s facility and elsewhere, as further described below, until on or about June 3, 2019, when it was delivered to a TSD facility.
25. On or about April 25, 2019, law enforcement personnel executed a federal search warrant at Company A’s facility. A copy of the search warrant was left with ROUSSEFF-KEMP. The search warrant provided for the seizure of records, including certain records relating to the illegal storage and transportation of hazardous waste.
26. On or about April 25, 2019, ROUSSEFF-KEMP also was personally served with a grand jury subpoena for records issued from the United States District Court for the Northern District of Indiana, and addressed to Company A. The grand jury subpoena required the production of records within Company A’s possession, including certain records



relating to Company A's acquisition, storage, transportation, and disposal of wastes.

27. On or about the morning of May 15, 2019, an IDEM inspector contacted ROUSSEFF-KEMP by telephone for the purpose of arranging an inspection at Company A's facility that day. ROUSSEFF-KEMP told the inspector that she was out of town, and arrangements were made to conduct the inspection on May 17, 2019.
28. On or about May 15, 2019, and shortly after the telephone call with the IDEM inspector, ROUSSEFF-KEMP directed Individual 1 to move three trailers ("the three trailers") containing drums of waste that were being stored at Company A's facility to a specific off-site location in New Haven, Indiana. ROUSSEFF-KEMP told Individual 1 that the trailers needed to be moved because IDEM or the EPA was coming out for an inspection later that week. Individual 1 moved the three trailers to the off-site location. The three trailers contained drums of waste from three different generators, including the hazardous waste associated with hazardous waste manifest 003525695 GBF generated by Company C.
29. On or about May 17, 2019, IDEM conducted the previously arranged inspection at Company A's facility. During the course of the inspection, ROUSSEFF-KEMP told inspectors that the only trailers that were

previously on-site that week, but were not present during the inspection, were empty. IDEM inspectors did not observe any hazardous waste on-site.

30. On or about May 18, 2019, ROUSSEFF-KEMP directed Individual 2 to return the three trailers to Company A's facility. ROUSSEFF-KEMP told Individual 2 she had forgotten that she left cargo in the trailers. Individual 2 moved the three trailers back to Company A's facility.
31. On or about May 19, 2019, with assistance of approximately three other individuals, ROUSSEFF-KEMP offloaded the drums of waste from the three trailers and removed and discarded yellow hazardous waste labels from some of the drums, replacing the yellow hazardous waste labels with white labels.
32. On or about May 29, 2019, law enforcement personnel searched two of the three trailers, which had been moved to off-site locations in New Haven, finding discarded yellow hazardous waste labels associated with waste in Company A's possession.
33. On or about May 29, 2019, Company A was served with copies of the search warrant for a trailer searched that day and a second grand jury subpoena for records.
34. On or about May 29, 2019, ROUSSEFF-KEMP sent a series of text messages to Individual 1, who had moved the three trailers on or about

May 15, 2019, telling Individual 1 to call her and that “[t]hey called JT and he told them we ve [sic] done nothing wrong,” “[b]ut they may call you.” Also on or about May 29, 2019, law enforcement personnel spoke, via telephone, to an individual whose initials are “JT” and who is employed by the same company as Individual 1.

35. On or about May 29 or May 30, 2019, ROUSSEFF-KEMP called Individual 2, the individual who had moved the three trailers on/about May 18, 2019, and stated that no one knew he had hauled the trailers, so he was good.

36. On or about May 30 and 31, 2019, law enforcement personnel executed a second federal search warrant at Company A’s facility. The execution of the search warrant revealed, among other things, the following:

- a. Drums bearing hazardous waste labels associated with hazardous waste manifest 003525695 GBF;
- b. A copy of hazardous waste manifest 003525695 GBF bearing changes in blue ink from the original version, including a pick-up date of “5/14/19” (rather than “3/14/19”) and the number of drums as “29” (rather than “20”); another copy of hazardous waste manifest 003525695 GBF was located nearby and was torn into multiple pieces and listed the actual pick-up date (“3/14/19”) and the actual number of drums (“20”);

c. Hazardous waste manifest 003525676 GBF, which was within the scope of the records to be produced pursuant to both grand jury subpoenas, torn-up and discarded in the trash can in ROUSSEFF-KEMP's office; and

d. Discarded hazardous waste labels.

37. On or about May 30 and 31, 2019, pursuant to the federal search warrant, samples were collected of the contents of three drums outwardly labeled as waste associated with hazardous waste manifest 003525695 GBF. Subsequent laboratory testing confirmed the contents of each met the RCRA hazardous waste characteristic of ignitability (*i.e.*, EPA hazardous waste code "D001").
38. On or about June 3, 2019, the drums associated with hazardous waste manifest 003525695 GBF were delivered to a TSD facility. The final version of the hazardous waste manifest listed the pick-up date as "5/14/19" and number of drums as "29."

**COUNT 1**

(18 U.S.C. § 1001(a)(3) – Making and Using a False Writing or Document)

39. The allegations of paragraphs 1 through 38 are incorporated by reference as if fully set forth herein.

40. Between on or about June 28, 2018, and on or about November 20, 2018, in the Northern District of Indiana and elsewhere,

MICHELLE M. ROUSSEFF-KEMP,

defendant herein, did knowingly and willfully make and use a false writing and document, knowing the same to contain materially false, fictitious, and fraudulent statements and entries in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit: ROUSSEFF-KEMP altered hazardous waste manifest 003525422 GBF to falsely state that the associated hazardous waste was delivered to a TSD facility on July 15, 2018, and signed for by a representative of the TSD facility, and thereafter ROUSSEFF-KEMP submitted the altered manifest to the waste's generator, well knowing and believing that the hazardous waste had not been delivered to the TSD facility and remained stored by Company A.

All in violation of 18 U.S.C. § 1001(a)(3) and 18 U.S.C. § 2.

**THE UNITED STATES ATTORNEY FURTHER CHARGES:**

**COUNT 2**

(42 U.S.C. § 6928(d)(2)(A) - Illegal Storage of Hazardous Waste)

41. The allegations of paragraphs 1 through 38 are incorporated by reference as if fully set forth herein.

42. Beginning on or about March 24, 2019, and continuing through on or about June 3, 2019, in the Northern District of Indiana and elsewhere,

MICHELLE M. ROUSSEFF-KEMP,

defendant herein, did knowingly store and cause to be stored hazardous waste, specifically ignitable hazardous waste associated with hazardous waste manifest 003525695 GBF, without a permit issued by the United States Environmental Protection Agency or the State of Indiana to store such waste.

All in violation of 42 U.S.C. § 6928(d)(2)(A) and 18 U.S.C. § 2.

CLIFFORD D. JOHNSON  
UNITED STATES ATTORNEY

TODD KIM  
ASSISTANT ATTORNEY GENERAL  
U.S. DEPARTMENT OF JUSTICE  
ENVIRONMENT AND NATURAL  
RESOURCES DIVISION

By: /s/ Toi Denise Houston  
Toi Denise Houston  
Assistant United States Attorney

By: /s/ Stephen J. Foster  
Stephen J. Foster  
Trial Attorney

David P. Mucha  
Special Assistant United States  
Attorney

Krishna S. Dighe  
Senior Counsel  
Environmental Crimes Section