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Criminal Environmental Enforcement: Tennessee Environmental Consulting Firm Chief Executive Officer Pleads Guilty to Submitting Fraudulent Discharge Monitoring Reports

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The United States Department of Justice (“DOJ”) issued an October 26th news release stating that DiAne Gordon pleaded guilty to fabricating Clean Water Act Discharge Monitoring Reports (“DMRs”).

The individual is described as a resident of Memphis and co-owner and Chief Executive Officer of Environmental Compliance and Testing (“ECT”).

A key federal Clean Water Act enforcement tool is the requirement that facilities prepare comprehensive self-monitoring reporting known as DMRs. Most facilities are required by their National Pollution Discharge Elimination System (“NPDES”) Permit to sample or test their effluent to determine the presence and quantity of various pollutants.

The DMRs identify the applicable facility NPDES permit limits and compare them to the actual amount of discharges. These permits are periodically submitted to the governmental environmental agency as specified in the NPDES Permit.

The information contained in the DMRs is analyzed by the receiving agency to determine if the discharges are compliant with permit limits. Therefore, they play an important role in both federal/state and citizen suit enforcement actions.

The DOJ news release states that ECT:

. . . held itself out to the public as a full-service environmental consulting firm and offered, among other things, sampling and testing of stormwater, process water and wastewater.

ECT is stated to have been hired by customers (such as concrete companies) to take samples and analyze them in a manner consistent with Clean Water Act permit requirements.

The news release further stated that Gordon:

. . . claimed to gather and send the samples to a full-service environmental testing laboratory. The alleged results were memorialized in lab reports and chain of custody forms submitted to two state agencies, Mississippi Department of Environmental Quality (MDEQ) and the Tennessee Department of Environment and Conservation (TDEC), to satisfy permit requirements. In reality, Gordon fabricated the test results and related reports.

Law enforcement and environmental regulators are stated to have determined that Gordon created and submitted, or caused to be submitted, at least 405 false lab reports and chain of custody forms from ECT.

The plea agreement requires that Gordon pay \$201,388.88 in restitution.

Gordon is stated to face a maximum penalty of five years in prison.

A copy of the news release can be downloaded [here](#).