

Active Planet: New Yorker indicted for breaching Clean Air Act

Anyone who watched *The Sopranos* would have thought the air in New York to be permanently blue. Apparently not, and charges have been laid against David Vega and Francis Rowe alleging failures in an asbestos removing process.

Vega and Rowe were project managers for Gordon-Smith Contracting, Inc., an asbestos removal company owned by Keith Gordon-Smith.

The indictment supersedes an earlier indictment returned by the grand jury in June 2009, against Keith Gordon-Smith, charging him with numerous violations of the Clean Air Act, submitting false statements and obstruction of justice.

The superseding indictment now also charges Gordon-Smith's company with the same criminal violations. In addition, the superseding indictment charges Francis Rowe with submitting a false statement in an effort to obtain a court-appointed attorney.

The charges stem from allegations that Gordon-Smith, Gordon-Smith Contracting, Vega and Rowe directed and caused workers to illegally remove and dispose of asbestos during the demolition of the Genesee Hospital complex in Rochester, N.Y.

The 18-count indictment alleges that at different time periods between June 2007 and April 2009, Gordon-Smith, Vega and Rowe had Gordon-Smith Contracting employees remove asbestos from the Genesee Hospital complex without ensuring that the asbestos was kept adequately wet or properly disposed of.

The indictment also alleges that Gordon-Smith caused his company's employees to perform illegal asbestos removal at other sites, including schools, and that Gordon-Smith took several steps to hide the illegal asbestos removal from federal agencies. These included failing to provide prior notification to EPA before the asbestos removal projects were performed at the schools and hospital, giving false statements to an inspector from the Occupational Safety and Health Administration, and providing a false notification to the EPA.

If convicted, Gordon-Smith, Vega and Rowe could each be punished by up to five years in prison as well as a criminal fine of up to USD250,000 for each count. Gordon-Smith Contracting could be subject to a criminal fine of the greater of USD500,000 or twice the gain obtained by the company or suffered by any victims as a result of the crimes, for each count.