

2006 REPORT

ENVIRONMENTAL CRIMES BUREAU

For more than two decades, the Environmental Crimes Bureau (ECB) has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste and solid waste laws, as well as crimes that impact on public health and safety and the environment. The ECB was one of the first units created in the nation to deal exclusively with environmental crimes. During 2006, the ECB, working closely with the Department of Environmental Protection (DEP) and local officials, focused its efforts on identifying and prosecuting those who illegally dispose of hazardous or solid waste in urban areas, or who endanger surrounding communities and workers by the way they operate, or who submit false information to the DEP.

In 2006, the ECB obtained fifteen indictments and accusations and filed one criminal complaint. Successful ECB prosecutions in 2006 secured more than \$1 million in fines and restitution and three years jail time.

The ECB also coordinates the criminal enforcement efforts of the County Prosecutors, the DEP, and the Marine Bureau of the State Police, and provides technical and legal assistance to the Prosecutors' Offices, as well as to local law enforcement. During 2006, the County Prosecutors' Offices obtained one complaint for crimes related to the environment and/or public health.

Urban Initiative

1. In State v. Cordell Nesbitt (Indictment No. 05-08-001310-S), the defendant, a supervisor for the Jersey City Incinerator Authority, pled guilty to third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6 for causing truckloads of debris to be dumped on a city owned lot. The Honorable Camille M. Kenny, J.S.C. sentenced defendant to a three year probationary sentence conditioned upon serving one year in the Hudson County jail and paying approximately

\$1,881 restitution for the cost of clean up.

2. In State v. Andrey Milner (Indictment No. 05-06-00098-S), the Court sentenced defendant to three years probation conditioned upon serving 180 days in the Passaic County Jail and upon paying \$3,041 restitution to the Paterson Department of Public Works for dumping several loads of demolition debris on a Paterson City lot.
3. In State v. John Yengo (Indictment No. SGJ491-4-10), the Court sentenced defendant to three years probation and a \$500 fine for recklessly causing a release of a toxic pollutant contrary to N.J.S.A. 2C:17-2 for causing the disposal of piles of soil contaminated with PCB's at two sites in Jersey City.
4. State v. Perez (Indictment No. 06-05-00052-S), the State Grand Jury returned a three count indictment against defendant charging him with third degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6; third degree unlawful transportation of solid waste, contrary to N.J.S.A. 13:1E-9.6b(2) and third degree uttering a forged instrument, contrary to N.J.S.A. 2C:21-1a(3). Defendant is charged with collecting six trailer loads of debris from a demolition site in Newark, transporting trailers with debris to an unlicensed location in Kearny and uttering an altered insurance document.
5. In State v. Mermelstein (Indictment No. 05-06-95-S), defendant pled guilty to fourth degree transportation of hazardous waste in Paterson without a hazardous waste manifest, contrary to N.J.S.A. 13:1E-9i. The Court sentenced defendant to one year probation and to pay \$22,347 restitution to the Spill Compensation Fund.
6. In State v. Sherwin Hargrove (Indictment No. 06-06-00075-S), the State Grand Jury charged defendant with third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6b

and fourth degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6d. Defendant is charged with unlawfully collecting and dumping demolition debris in Jersey City.

7. In State v. Coar (Indictment No. 05-06-00099-S), defendant pled guilty to fourth degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6d for collecting demolition debris in Jersey City without a DEP license. The Court sentenced defendant to probation conditioned upon serving 149 days in the county jail and restitution.
8. In State v. George Kooz (Accusation No. 807-06), the ECB filed a one count Accusation against defendant charging him with unlawful disposal of a large truckload of debris in Jersey City, contrary to N.J.S.A. 13:1E-9.6. Defendant pled guilty to the charge and the Court sentenced defendant to probation.
9. In State v. Teta (Indictment No. 06-05-00077-S), the Court sentenced defendant to probation and to pay a \$25,500 fine for unlawful release of toxic pollutants for causing soil contaminated with lead and PCBs from a clean up site in Jersey City to be dumped elsewhere in Jersey City.

Hazardous/Solid Waste

1. State v. West Windsor Composting, Inc. (Accusation No. 06-01-0046). The company entered a guilty plea to an accusation charging it with committing a theft against the Mercer County Improvement Authority between January 1, 2002 and August 1, 2004, by creating the false impression that solid waste generated by the customers of a related company, Carnevale Disposal Inc., were passing through the M.C.I.A. solid waste system and paying the required fees to M.C.I.A. when in fact, the waste was not going through M.C.I.A. The Court imposed restitution in the amount of \$500,000 upon defendant corporation.

2. In State v. Dominick Galuzzo and Galuzzo Equipment and Excavating (Indictment No. 06-06-00062-S), the State Grand Jury charged both defendants with third degree criminal mischief, contrary to N.J.S.A. 2C:17-3 and defendant Dominick Galluzzo with fourth degree witness tampering, contrary to N.J.S.A. 2C:28-5. Defendants are charged with abandoning a large volume of solid waste in Saddle Brook.
3. In State v. Edwin Elbertson (Accusation No. 05-12-01106-A), the Court sentenced defendant to three years probation conditioned upon serving 364 days in the County jail and to pay \$4,286 restitution to the DEP Spill Compensation Fund for third degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for dumping about 40 small containers of automobile finishers and paints on a dirt road near an old drive-in movie theater in Vineland.
4. In State v. Montonaro (Accusation No. 05-12-00918A), the Court sentenced defendant to three years probation and \$7,780 restitution for third degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for burying demolition debris from a remodeling job in the backyard of the house where he was doing the work.
5. In State v. Joseph Onorato (Accusation No. 1464-04-06), the State filed an Accusation against and obtained a guilty plea from defendant for third degree abandonment of hazardous waste, contrary to N.J.S.A. 2C:17-2a(2) for paying two individuals to remove and dispose of waste Perchloroethylene from his dry cleaning business. The workers dumped the containers of waste behind an apartment complex in Gloucester Township. The Court sentenced defendant to five (5) years probation conditioned upon paying \$20,450 to the Spill Compensation Fund and serving 50 hours community service.
6. In State v. William Baily (Indictment No. 03-12-00207-S), defendant pled guilty to third degree

receiving stolen property, contrary to N.J.S.A. 2C:20-7 and fourth degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for dumping a large quantity of old used tires at a site owned by CSX Transportation in Moonachie and using a stolen vehicle to do so. The Court sentenced defendant to probation.

7. In State v. Glasshouse Village Properties Management (06-07-00-294-A-C), the State filed an Accusation against defendant charging it with third degree unlawful abandonment of hazardous waste, contrary to N.J.S.A. 2C:17-2a(2). A company handyman, in cleaning out a storage area, cleaned out and removed containers of hazardous wastes that he later dumped when the landfill would not accept them. Defendant company, which arranged for the clean up of the dumped material, pled guilty and the Court sentenced it to pay a \$5,000 fine.
8. In State v. Peter C. Rallis (Accusation No. 06-10-2439-A), the ECB filed an Accusation against defendant charging him with third degree unlawful collection of solid waste, in excess of 100 cubic yards, contrary to N.J.S.A. 13:1E-9.6d, for collecting demolition debris from a large construction site in Long Branch without the requisite DEP A-901 license. Defendant pled guilty to the charge.
9. In State v. Brian Conover (Indictment No. 06-12-00141-S), the State Grand Jury charged defendant with fourth degree unlawful abandonment of regulated medical waste contrary to N.J.S.A. 13:1E-48 for abandoning containers of used blood vials and syringes in the yard of a house he had rented.

Water Pollution

1. In State v. Portee (Indictment No. 05-02-0006-S), the Court sentenced defendant, the former director of the UMDNJ-Newark physical plant, to a one year probationary term, fined him \$750 and permanently disqualified him from public office for third degree witness tampering contrary to N.J.S.A. 2C:28-5 relating to the ECB's investigation into the unlawful discharge of acidic wastewater from the UMDNJ physical plant into the sewer system.
2. In State v. George Flegal and Richard Ottens, Jr. (Indictment No. 06-06-00070-S), the State Grand Jury charged defendants with two counts of third degree tampering with public records, contrary to N.J.S.A. 2C:28-7a(3) and two counts of fourth degree falsifying records, contrary to N.J.S.A. 2C:21-4a for causing United Water Toms River to submit to NJDEP sample analysis of drinking water samples that did not accurately reflect the sources of water tested.
4. In State v. Charles Evans (Acusation No. B06-12-0099A), the ECB filed an accusation against Evans, a former health and environment supervisor for Ferro Corp. in Logan Township charging him with a fourth degree violation of the Water Pollution Control Act (N.J.S.A. 58:10A-10f(3)) for causing Ferro to submit false information to the DEP in monthly discharge monitoring reports. Defendant pled guilty and is awaiting sentencing.

5. In the Matter of EELC LLC, the ECB obtained a \$150,000 settlement from the company relating to the ECB's investigation into freshwater wetland violations at Linden Landfill. The \$150,000 has been paid to New Jersey Natural Lands Trust for wetlands projects.
6. In State v. Edward Linski (Accusation No. 06-03-00379A), the ECB filed a one count accusation against defendant charging him with a fourth degree negligent violation of the Freshwater Wetlands Protection Act, contrary to N.J.S.A. 13:9B-21F. Defendant's former employer EELC entered into a Stipulation of Settlement with the State under which it paid \$150,000 to the New Jersey DEP's Wetland Mitigation Fund.

Health & Safety

1. In State v. Terminex (Complaint Number S172043), the ECB filed a criminal complaint against Terminex International for assault, contrary to N.J.S.A. 2C:12-1, to which it pled guilty, charging it with negligently exposing its workers to methyl bromide gas during a fumigation of a Pennsauken warehouse, that resulted in injuries to workers. The Court sentenced defendant corporation to pay \$300,000 to the School Integrated Pest Management Program, a legislatively mandated program to train those responsible for pest management in public and private schools across New Jersey to reduce or eliminate pesticide use.
2. In State v. Griffin (Accusation No. 973-06), the ECB filed an Accusation against defendant charging him with third degree release of toxic pollutants, contrary to N.J.S.A. 2C:17-2a(2) for allowing bags of asbestos he was storing at a site he leased in Lakewood to discharge onto the ground. Defendant pled guilty to the Accusation and received a five year probationary sentence and is required to pay restitution.

3. In State v. Marlowe (Accusation No. 955-06), the ECB filed a one count Accusation against defendant charging him with unlawful abandonment of bags of asbestos in Jersey City, contrary to N.J.S.A. 2C:17-2. Defendant pled guilty to the charge and received a three year probationary term and is required to pay restitution.

OTHER ACTIVITIES

Training/Outreach/Legislature Initiatives

1. Local Police/Code Official Training

During 2006, the ECB, completed its Statewide environmental crimes training for local police officers and code officials. Started in late 2004, this training was designed to make local officials aware of the relevant laws and how to respond to pollution incidents. The ECB trained several hundred officers who will now be able to deal with smaller incidents and who will know to contact the ECB about larger incidents.

2. DEP Training

During 2006, the ECB provided environmental crimes awareness training to nearly all of the DEP's enforcement staff. Working with the DEP's Compliance and Enforcement Division, the ECB conducted the training for specific DEP groups at different DEP field offices.

3. Legislative Initiatives

During 2006, the ECB prepared draft legislation to enhance freshwater wetlands penalties and to create penalties under the Coastal Areas Facilities Review Act (CAFRA) and Waterfront Development Act. It also prepared draft legislation to create a new crime for filing false submissions under the Indictment Site Recovery Act (ISRA).