

2008 REPORT

ENVIRONMENTAL CRIMES

For over two decades, the Division of Criminal Justice has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste and solid waste laws, as well as traditional crimes that have an impact on public health and safety and the environment. During 2008, in addition to responding to pollution incidents statewide, the Division, working closely with the Department of Environmental Protection (DEP) and local officials, focused its efforts on identifying and prosecuting those who endanger surrounding communities and workers by the way they operate, those who submit false information to the DEP and those who illegally dispose of hazardous or solid waste in vulnerable urban areas.

In 2008, the Division, for Environmental Crimes, obtained twenty-six (26) indictments and accusations, filed one (1) warrant complaint, and secured four prison sentences. Successful Division environmental prosecutions in 2008 also resulted in over \$140,000 in fines and restitution. In addition to its investigative/prosecutorial work, the Division also coordinates the criminal enforcement efforts of the County Prosecutors and 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.

Public Health

1. In State v. Tyrone Maple (Accusation No. 08-070679-A), the EC filed an accusation against defendant, an unlicensed asbestos abatement contractor, charging him with second degree unlawful release of toxic pollutants, contrary to N.J.S.A. 2C:17-2. Defendant pled guilty to the Accusation which charged him with unlawfully and improperly releasing asbestos into the air in the basement of a church building in Paterson. The Court sentenced defendant to a three year State Prison sentence.

2. In State v. McFadden (Indictment No. 08-09-002225), the State Grand Jury charged defendant with a third degree Unlawful Release of a Toxic Pollutant, contrary to N.J.S.A. 2C:17-2 and a third degree violation of the Asbestos Control and Licensing Act, contrary to N.J.S.A. 34:5A-36 and 34:5A-41 for using an unlicensed asbestos removal contractor who unsafely removed asbestos at Friendship Baptist Church in Paterson. Defendant pled guilty to hiring an unlicensed asbestos abatement contractor.
3. In State v. Jacklyn Biddle (Accusation No. 08-06-00517), the State filed an Accusation against defendant for creating the risk of widespread injury or damage, fourth degree, contrary to N.J.S.A. 2C:17-2, for operating a day care center in a manner that risked exposing children to levels of lead that could have caused serious bodily injury. Defendant pled guilty to the charge and the Court sentenced defendant to probation and to pay a \$5,000 fine.
4. In State v. Peter Dominski and State v. Accurate Analytical Laboratories, Inc. (Accusation No. 08-12-00534 and Accusation No. 08-12-00535), the State filed Accusations charging defendants with falsifying records, fourth degree, contrary to N.J.S.A. 2C:21-4 for submitting false laboratory report information to the DEP, as well as to community water systems and private well owners for Safe Drinking Water Act water quality testing.
5. In State v. Anneliese Tartell (Accusation Number 08-08-00297 A), the State filed an accusation against defendant charging her with third degree tampering with public records, contrary to N.J.S.A. 2C:28-7, for obtaining a water cooler sample, instead of a tap water sample, for Safe Drinking Water Act analysis from the day care center she operated in Sussex County. Defendant pled guilty and was admitted into PTI conditioned upon completing all DEP and County Health Department required water treatment upgrades.
6. In State v. Curdgele (Accusation No. 294-08), the State filed a one count accusation and

defendant pled guilty to a third degree violation of the Asbestos Control and Licensing Act, contrary to N.J.S.A. 34:5A-41 and N.J.S.A. 34:5A-36. Defendant was charged with performing an asbestos abatement project at a Jersey City housing project without the required New Jersey Department of Labor license. The Court sentenced defendant to a probationary term and a \$5,000 fine.

7. In State v. Kwiatkowski (Indictment No. 08-04-00059-s), the State Grand Jury returned a one count indictment against defendant charging him with fourth degree criminal contempt, contrary to N.J.S.A. 2C:29-9 for operating a commercial pesticides business in violation of a court order barring him from doing so for prior pesticides violations.

Environmental Fraud

1. In State v. James Haas (Indictment No. 07-08-00112-S), defendant pled guilty to second degree government contract fraud, contrary to N.J.S.A. 2C:21-34 for submitting fraudulent bills for the removal of contaminated soil for a Department of Transportation bridge project in Trenton. The Court sentenced defendant to a three year State Prison sentence.
2. In State v. Vernon Pinkney (Accusation No. 08-01-0069), the State filed an accusation charging defendant with fourth degree uttering a forged document, contrary to N.J.S.A. 2C:21-1 for providing a forged DEP underground storage tank certification to a DEP representative. Defendant pled guilty to the charge, and was sentenced pay \$1,500 restitution to the owner of a residential tank that defendant serviced.
3. In State v. Clyde (Accusation No. 08-06-0464), the State filed an Accusation charging defendant, the owner of a solid waste company, with third degree Tampering with Public Records, contrary to N.J.S.A. 2C:28-7 for filing false Origin and Destination forms relating to solid waste collection in several South Jersey communities. The Court sentenced defendant to

pay \$50,000 restitution to customers of her solid waste company in those communities.

Urban Initiative

1. In State v. Seymour Berkowitz (Indictment No. 07-07-00097), defendant pled guilty to two third degree Air Pollution crimes, contrary to N.J.S.A. 26:2C-19f, for causing malodorous odors to be emitted from his grease rendering plant in Newark and for refusing to allow DEP inspectors to conduct a site inspection. The Court ordered defendant into PTI conditioned upon defendant paying \$15,000 to the New Jersey Spill Compensation Fund.
2. In State v. John Yannuzzi and Yannuzzi and Sons, Inc. (Indictment No. 08-09-00223-S), the State Grand Jury charged defendants with third degree Unlawful Disposal of Solid Waste, contrary to N.J.S.A. 13:1E-9.6 and third degree Criminal Mischief, contrary to N.J.S.A. 2C:17-3 for causing a 45 foot trailer filled with solid waste to be abandoned on a Newark street.
3. In State v. Shawn Coar (Indictment No. 05-06-00099), the Court found that defendant violated his probation and imposed a one year county jail sentence. He had previously been convicted of unlawfully collecting solid waste in Jersey City.
4. In State v. Lee Barnes and Lab Builders, Inc. (Indictment No. 08-02-00029-S), the State Grand Jury charged defendants with unlawfully disposing of solid waste, demolition debris, at a site in Camden County and a site in Atlantic County, contrary to N.J.S.A. 13:1E-9.6b(3). Defendant pled guilty to the charges and the Court sentenced defendant to probation and to pay \$5,000 restitution.
5. In State v. Mercado and State v. Torres (Accusation Numbers 429-08 and 430-08), the State filed Accusations against defendants, to which defendants pled guilty, for third degree unlawful disposal of solid waste in Jersey City, contrary to N.J.S.A. 13:1E-9.6. The Court sentenced defendants to probation and to pay total restitution of \$4,280.

6. In State v. Vincent Granieri and ITL Concrete Recycling (Indictment No. 08-06-00111-S), the State Grand Jury returned a one count indictment charging defendants with Criminal Mischief, third degree contrary to N.J.S.A. 2C:17-3. Defendant Granieri pled guilty to the charge and the Court ordered defendant into Pretrial Intervention conditioned upon paying \$11,000 restitution to the owner of the Jersey City site where he unlawfully brought and left fill material from a New York construction site.
7. In State v. Ricky Stith (Accusation No. 08-10-1034-A), the State filed an Accusation against defendant charging him with fourth degree Criminal Mischief, contrary to N.J.S.A. 2C:17-3, for dumping cans of paint thinner on a lot in Paterson. Defendant pled guilty to the charge.
8. In State v. Sun Tzeng (Indictment No. 08-00112-S), the State Grand Jury returned a two count indictment against defendant for unlawful storage of regulated medical waste, hundreds of used syringes, at his Jersey City medical office, contrary to N.J.S.A. 13:1E-48.20g(1).

Hazardous/Solid Waste

1. In State v. Arthur Fletcher (Accusation No. 08-02-0138A), the EC filed an Accusation against defendant charging him with third degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6d for unlawfully collecting demolition debris from sites in Passaic and Newark. The Court sentenced defendant to 180 days in the Passaic County jail for third degree unlawful discharge of hazardous waste, contrary to N.J.S.A. 2C:17-2 (2007 Indictment No. 07-12-00123-S) and third degree Unlawful Collection of Solid Waste, contrary to N.J.S.A. 13:1E-9.6.
2. In State v. Carmen Marchitello (Accusation No. 08-09-1597), the State filed an Accusation charging defendant with fourth degree permitting hazardous waste to be transported without a hazardous waste manifest, contrary to N.J.S.A. 13:1E-9i. Defendant pled guilty to the accusation which charged defendant, the owner of a Newark auto body shop, with giving

hazardous waste to someone unlicensed to take it and remove it. The Court sentenced defendant to an 18 month suspended sentence and to pay \$3696 restitution.

3. In State v. Blue Jay Enterprises (Accusation No. 08-06-0616A), the State filed a one count Accusation against defendant charging him with permitting hazardous waste to be transported without a hazardous waste manifest, fourth degree, contrary to N.J.S.A. 13:1E-9i. Defendant pled guilty and the Court imposed a \$5,000 fine.

Water Pollution

1. In State v. McFarland (Indictment No. 08-11-00260-S), the State obtained a two count indictment against defendant charging him with third degree Unlawful Discharge of a Pollutant, contrary to N.J.S.A. 58:10A-10f, and third degree Unlawful Disposal of Medical Waste, contrary to N.J.S.A. 13:1E-48.20 for dumping used dental needles and waste into Townsend Inlet that then washed up on Avalon's beaches resulting in several beach closures.
2. In State v. Keith Rose (Indictment No. 08-10-00237-S), the State Grand Jury returned a one count indictment against defendant charging him with a fourth degree negligent Unlawful Discharge of a Pollutant, contrary to N.J.S.A. 58:10A-10f(3), for causing the Susan II, a commercial fishing boat, to crash into the jetty at the Manasquan Inlet, causing a release of oil into the Atlantic Ocean.
3. In State v. James and Megen, Inc. (Indictment No. SGJ558-08-5), the State Grand Jury returned a one count indictment charging defendant with fourth degree Water Pollution, contrary to N.J.S.A. 58:10A-10f for discharging septic waste from Waterfront Café restaurant into the Hackensack River. Defendant pled guilty to the charge.
4. In State v. Jason Pugh (Accusation No. 173-05-08), the State filed an Accusation against defendant charging him with fourth degree water pollution, contrary to N.J.S.A. 58:10A-10f for

discharging wastewater from a vacuum truck into a storm sewer in East Brunswick. The owner of the trucks agreed to pay \$30,000 to the New Jersey Spill Compensation Fund.

5. In State v. Christiansen (Indictment No. 08-06-00114), the State Grand Jury returned a one count indictment against defendant charging him with third degree Water Pollution, contrary to N.J.S.A. 58:10A-10f. Defendant pled guilty to the charge and the Court ordered defendant into PTI conditioned upon defendant paying \$2,500 to the N.J. Spill Fund for the cost of cleaning out the oil he had discharged from a tanker truck into a storm drain.
6. In State v. SWO (Accusation Number 08-2867), the State filed an accusation against defendant corporation for fourth degree water pollution, contrary to N.J.S.A. 58:10A-10f, for allowing members of the organization to dump pails of waste oil from an old boiler into street sewers in Jersey City. The Court sentenced defendant to pay \$1,768 restitution to Jersey City.

OTHER ACTIVITIES

1. EC completed the 2008 Environmental Crimes Handbook for law enforcement officers. The handbook contains all of the new environmental crimes established by the 2008 Environmental Crimes Enhancement bill that the EC helped to draft.
2. EC has established a Community Environmental Policing pilot program with the New York/New Jersey Baykeeper and Hackensack Riverkeeper. Under this program, selected volunteers from these groups, will conduct regular patrols of waterways that we have identified as having potential water pollution issues.
3. EC Staff has provided environmental crimes training to law enforcement and health officers in Union County and Newark and to representatives of the New Jersey Urban Environmental Justice Institute.

4. EC Staff have been involved in drafting stronger criminal statutes to deal with workers and communities being exposed to dangerous chemicals.