

2007 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 2007, 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 illegally dispose of hazardous or solid waste in vulnerable urban areas, or who endanger surrounding communities and workers by the way they operate, or who submit false information to the DEP.

In 2007, the Division, for Environmental Crimes, obtained eleven (11) indictments and accusations, filed two (2) criminal complaints and obtained three (3) civil settlements. Successful Division environmental prosecutions in 2007 secured over \$1.3 million in fines and restitution. 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.

Urban Initiative

1. In State v. Seymour Berkowitz and Berkowitz Fat Co., Inc. (Indictment No. 07-07-00097S), the State Grand Jury returned a four count indictment against Berkowitz Fat Co., Inc., a meat processing/rendering facility in Newark and its president Seymour Berkowitz charging them with a third degree violation of the Water Pollution Control Act, contrary to N.J.S.A. 58:10A-10f, (counts one) and three (3) third degree violations of the Air Pollution Control Act, contrary to N.J.S.A. 26:2C-19f (counts two, three and four). The defendants are charged with violating DEP

Air Pollution and Passaic Valley Sewerage Commission water pollution permits and releasing odors into the environment that adversely affected people in the surrounding community.

2. In State v. Ferry Industrial Park Associates (Accusation No. 07-08-1196), the State charged and defendant pled guilty to third degree release of toxic pollutants, contrary to N.J.S.A. 2C:17-2a(2) for recklessly causing asbestos to be released during the demolition of a building on Ferry Street, Newark. The Court sentenced defendant to pay a \$40,000 fine.
3. In State v. Marchitello (Indictment No. 07-09-0017-S), the State Grand Jury returned a one count indictment against defendant charging him with third degree abandonment of hazardous waste, contrary to N.J.S.A. 2C:17-2, for causing the abandonment of drums of hazardous waste on a street in Newark.
4. In State v. Sherwin Hargrove (Indictment No. 00-06-0075), the Court sentenced defendant to probation and \$4,760 restitution for unlawfully disposing of solid waste in Jersey City.
5. In State v. John Perez (Indictment No. 06-05-0052-S), defendant pled guilty to one count of third degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6 for unlawfully collecting six trailer loads of solid waste from a demolition site in Newark. The Court sentenced defendant to probation.

Hazardous/Solid Waste

1. In State v. Dominick Galluzzo and Galluzzo Equipment and Excavating (Indictment No. 06-06-00062-S), defendant Galuzzo Equipment and Excavating pled guilty and the Court sentenced defendant to pay \$27,000 restitution to the Bergen County Health Department and to pay a \$10,000 fine. The State Grand Jury had charged defendant with third degree criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant was responsible for abandoning a large volume of solid waste in Saddle Brook.

2. In State v. Arthur Fletcher (Indictment No. 07-07-00012-S), the State Grand Jury charged defendant with unlawful release of hazardous waste and toxic pollutants, third degree, contrary to N.J.S.A. 2C:17-2 and unlawful transportation of solid waste, fourth degree, contrary to N.J.S.A. 13:1E-9.6c, for allowing a pile of contaminated soil to leach onto the ground at a site in Passaic and for transporting demolition debris to the same site in Passaic.
3. In State v. Joe Goodwin (Accusation No. 07-12-1904), defendant pled guilty to a one count Accusation charging him with third degree abandonment of hazardous waste, contrary to N.J.S.A. 2C:17-2 for leaving drums of hazardous waste chemicals behind in a warehouse he leased from the Port Authority.
4. In State v. Lee Barnes and LAB Builders, Inc. (Indictment No. 07-12-00172-S), the State Grand Jury charged defendant with one count of third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6 for dumping 7 truck loads of demolition debris from Philadelphia at a site in the Winslow Wildlife Management area.
5. In State v. Peter Rallis (Accusation No. 06-10-2439-A), the Court sentenced defendant to three years probation and a \$5,000 fine for third degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6 for operating a solid waste collection business without a DEP license.
6. In State v. Brian Conover (Indictment No. 06-12-00141-S), defendant pled guilty and the Court sentenced defendant to 18 months probation for fourth degree unlawful abandonment of regulated medical waste, contrary to N.J.S.A. 13:1E-48.20 for leaving containers of sharps and blood vials in a yard near the street in Mays Landing.
7. In State v. B.B. Waste Removal (Accusation No. 07-07-575A/C), defendant, a solid waste collection company in Cumberland County, pled guilty to fourth degree falsification of records, contrary to N.J.S.A. 2C:21-4 for submitting false Origin and Destination Forms to the

Cumberland County Improvement Authority. The Court imposed a \$5,000 fine.

8. In State v. 1573 Banasz Hardware (Accusation No. A-1215-04-07), the State filed an Accusation against defendant corporation for third degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for allowing old paint containers from the hardware store to be disposed of at Harleigh Cemetery in Camden. Defendant pled guilty to the charge and received a \$1,000 fine.
9. In the Matter of Hair Systems Inc., the State entered into a settlement agreement with Hair Systems Inc., Englishtown, that will require it to pay \$25,000 to the Englishtown Fire Department and to take a number of specific steps to ensure that its chemical products are stored safely, in a manner that minimizes the risk of fire.

Water Pollution

1. In the Matter of Chevron, the State entered into a stipulation of settlement with Chevron to resolve its criminal investigation relating to the February 13, 2006 leak of oil into the Arthur Kill from a Chevron Perth Amboy facility pipeline. Under the agreement, Chevron will pay \$1 Million to the NY/NJ Baykeeper for programs in NY/NJ harbor.
2. In State v. Charles Evans (Accusation No. B06-12-0099A), the Court sentenced defendant to probation and a \$15,000 fine for violating the Clean Water Enforcement Act by submitting monthly Discharge Monitoring Reports in 2003 and 2004 to the DEP that falsely stated that discharge levels were in compliance with a Ferro facility DEP water pollution permit limit for Biochemical Oxygen Demand when that was not the case.
3. In State v. AMIDI, Inc. (Accusation No. 07-06-1408), defendant pled guilty to an Accusation charging it with a fourth degree violation of the Water Pollution Control Act, N.J.S.A. 58:10A-10f, for discharging restaurant wastewater into a storm sewer that leads to the Manalapan Creek. The Court imposed a \$1,000 fine payable to the Monmouth County Health Department.

4. In State v. Baez, the State filed a complaint against defendant (Summons/Complaint # S134811) in Hudson County Superior Court for third degree violation of the Water Pollution Control Act, N.J.S.A. 58:10A-6a and N.J.S.A. 58:10A-10f(2) for discharging oily water from a fuel oil tank into a storm drain in Hudson County.
5. In State v. Esposito, the State filed a summons complaint against defendant (S102852) for Criminal Mischief, contrary to N.J.S.A. 2C:17-3 for causing a discharge of oil from an oil tank containment area to reach the Passaic River in February 2006. Esposito's company, Tilcon entered into a Stipulation of Settlement under which Tilcon will make \$75,000 in payments to State, County and local officials relating to this oil spill incident.

Environmental Fraud

1. In State v. James E. Haas (Indictment No. 07-08-00112-S), the State Grand Jury charged defendant with second degree false payment claims for a government contract, contrary to N.J.S.A. 2C:21-34a and two counts of fourth degree falsifying records, contrary to N.J.S.A. 2C:21-4 for submitting false weigh tickets and bills of lading relating to the handling of soil from the NJDOT Southard Street Bridge project.
2. In State v. Frank and Maureen Selvage (Indictment No. 07-06-00075-S), the State Grand Jury charged defendants with three counts of third degree uttering a forged document, contrary to N.J.S.A. 2C:21-1 for submitting forged documents, including one from DEP, to Barnegat Township officials for a property they planned to develop.
3. In State v. Medford, Alberta and Foley (Indictment No. 03-01-00005-S), defendants, relating to third degree theft charges for misappropriating Small Business Administration loans, will be required, as a condition of PTI to pay \$50,000, \$50,000 and \$25,000 respectively in restitution to the SBA.

OTHER ACTIVITIES

1. Legislative Initiatives

During 2007, Division Environmental Crimes staff were involved in the drafting of the Criminal Provisions of the Environmental Enforcement Enhancement Bill. Under this bill, there will be criminal provisions in the following statutes, which had never previously contained criminal statutes; Waterfront Development Act, Water Supply Management Act, Pesticides Act, Coastal Wetlands Protection Act, Coastal Area Facility Review Act, Safe Drinking Water Act, and Endangered and Non-Game Species Conservation Act.