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OFFICE OF THE STATE
ENVIRONMENTAL PROSECUTOR

THIRD
ANNUAL REPORT
TO
GOVERNOR JIM FLORIO
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DEPARTMENT OF LAW AND PUBLIC SAFETY

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Logo design courtesy of the Morris County Sheriff's Office

FOREWORD

On January 24, 1990, the new era of environmental enforcement was instituted in New Jersey. On that date, Governor Jim Florio signed Executive Order No. 2 establishing the Office of the State Environmental Prosecutor. Now completing its third year, the successes of the office have demonstrated quite clearly that smarter enforcement is better enforcement.

The establishment of a single centralized management core for the supervision of civil, criminal and administrative enforcement actions in major priority cases, enables State Government to coordinate its enforcement actions in a way that sends a clear message to polluters that New Jersey has a commitment to diligent and effective environmental enforcement. Operating through, and in coordination with, the numerous State, county and local agencies which the State Environmental Prosecutor has integrated into a comprehensive Statewide enforcement program, the Office has been able to direct appropriate enforcement responses in individual situations. The accomplishments set forth in this report unequivocally demonstrate that coordinated enforcement efforts make a difference.

By prosecuting priority cases and working to create New Jersey's comprehensive environmental enforcement program, the New Jersey Environmental Prosecutor stands as a shining example to the rest of the country of what can be done, within the confines of existing budget restraints, to improve government and simultaneously protect our environment.

Robert J. Del Tufo
Attorney General of New Jersey

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EXECUTIVE SUMMARY

The State Environmental Prosecutor's Office recently marked its third anniversary. This Annual Report to the Governor covers a year filled with outstanding achievements on behalf of New Jersey's two most important resources—its citizens and its environment.

Executive Order #2 imposed two primary and distinct areas of responsibility on the Environmental Prosecutor—the management and oversight of priority* environmental enforcement cases and the establishment of a Statewide environmental enforcement program. Early efforts to lay a strong foundation ensuring the Environmental Prosecutor's ability to carry out these mandates were detailed in the first and second annual reports. Building on these previously reported initiatives and successes, the Environmental Prosecutor's Office has moved steadily forward in this third year in its diligent and innovative handling of matters which threatened our environment.

The handling of priority cases detailed in this report have not only brought an end to long-standing pollution activities and conditions which posed environmental threats, but produced landmark enforcement results. In one high profile priority case the State obtained sentences of 20 years and 15 years incarceration for two defendants. Operating under the guise of a "recycling company", the defendants were responsible for the widespread, devastating, and costly fire which closed a major interstate highway in the northern metropolitan area of our State for several months. In another matter designated a priority, the Environmental Prosecutor's Office was the impetus for State and Federal responses which diffused a potential timebomb at a site in Newark where conditions were so dangerous that the EPA issued a public health advisory. Federal officials noted that the site, with more than 11,000 leaking or deteriorating drums of hazardous materials, was one of the most dangerous in the country. The largest penalty ever collected under the State's Water Pollution Control Act was attained in a priority case against a large chemical manufacturer; with the ability to manage multi-faceted enforcement actions, the Environmental Prosecutor's Office was successful in coordinating a resolution which included the \$10 million penalty and a \$15 million commitment by the company to cleanup PCBs which have contaminated the lands and the sewers since the mid-1970's. The Environmental Prosecutor's Office continued its oversight in a priority case resolved during its second year. Over the course of this reporting year, the State has been reimbursed its more than \$2 million in cleanup costs and been paid approximately \$9 million in civil and criminal fines. Additionally, remediation of the pollution on site is ongoing by the company which also established a cleanup fund of \$50 million. Several priority cases are reported which involve long-term polluters illegally operating "businesses". Through coordinated enforcement efforts, these persistent offenders have been undermined in their efforts to degrade our environment and ignore the State's environmental laws and regulations.

Beyond its priority case role, the Prosecutor has initiated numerous improvements and innovative programs at all levels of government to improve environmental enforcement. These have included the continued development of environmental units within each County Prosecutor's office, thus providing environmental investigations and prosecutions capabilities at the county level. Most recently, the Environmental Prosecutor has forged the final link between the county environmental units and the local citizens, crime scenes and the courts. In cooperation with the New Jersey Chiefs of Police Association, Local Environmental Liaison Officers are being designated in each of the State's local police departments. Additionally, with the recent approval of an environmental crimes curriculum by the New Jersey Police Training Commission, every police recruit henceforth entering police academy classes in New Jersey will receive a block of instruction on environmental crimes prosecution. The Prosecutor also moved forward with the Clean Harbors and Rivers Task Force providing highly experienced investigations and prosecutions capabilities needed to respond to incidents on the waterways

*criminal, civil, and/or administrative enforcement matters involving either a chronic environmental offender or a situation which poses a serious threat to public health or to the environment

of New Jersey; further developed the truly innovative voluntary audit/compliance program designed to encourage companies to institute environmental auditing programs; continued to work closely with the Pinelands Commission to improve enforcement and secure passage of necessary legislation to protect this environmentally sensitive area; continued to further its initiatives in the areas of direct sewage discharges into our bays and shellfish areas, solid waste enforcement and shore protection, and spearheaded an effort to cleanup and instigate the long range improvement of Lake Hopatcong. Initiatives currently being developed include environmental community service and asbestos abatement control measures.

The County components of the Statewide environmental enforcement program have acted as the focal point for county level enforcement actions and have demonstrated efficient and successful results. With over 1,300 environmental incidents reported in the counties, the County Prosecutor's environmental units, the County Health Officers and various local agencies have cooperatively worked to achieve the results highlighted in this report. In addition to the 8 matters designated as priorities and developed in coordination with the Environmental Prosecutor's Office, more than 150 formal actions were filed by the various County Prosecutors' offices. A chart setting forth the activities in each of the counties is included in this report.

Statewide, successes in priority civil, criminal and administrative enforcement actions have resulted in over \$59 million in fines, penalties, cleanup costs or restitution to the State. Violations of New Jersey's criminal environmental laws have consistently, for the third straight year, resulted in sentencing of 10 individuals at the State and county levels to more than 53 years incarceration. This is an average of 5.3 years per sentence, up from a 2 year average in 1991 and approximately 1 year in 1990. Sentencing in these and other matters included more than 32 years probation and over 2,600 hours of community service.

The Environmental Prosecutor's Office continues to maintain its active relationship with Federal environmental officials and agencies in accordance with Executive Order #2. Through participation and membership on national level working groups and task forces, as well as cooperative efforts with other states' enforcement agencies, the office assists in cooperative efforts designed to achieve compliance with environmental statutes and regulations.

The hallmark of the success of the Environmental Prosecutor's Office is its unfettered discretion to coordinate the nature and timing of the most appropriate, efficient and effective enforcement response. Whether it be criminal, civil or administrative, or any combination thereof, whether it be State, county or local, the Prosecutor is free to exercise his judgment as to the nature and timing of the preferred response or responses. The ability to proceed in this "holistic" fashion avoids duplications of effort, contradictory theories of enforcement, and insures the full and proper utilization of our State Government resources, irrespective of the division or department in which they formally reside. This report covers activities of the office from April 1, 1992 through March 31, 1993.

INTRODUCTION

The State of New Jersey has a significant commitment of manpower and resources within the three primary components of the environmental enforcement effort. These include the administrative enforcement elements within the Departments of Environmental Protection and Energy (DEPE), Health and Labor; the civil enforcement area of the Environmental Protection Section of the Division of Law (DOL); and the criminal investigative section within the Environmental Prosecutions Bureau of the Division of Criminal Justice (DCJ). Additionally, the New Jersey State Police Marine Services Bureau and the Solid and Hazardous Waste Unit each perform responsibilities which overlap primary enforcement components.

Each of these enforcement components utilizes responses of varying degrees of intensity depending on the nature, extent and timing of the appropriate initiative or response. In an effort to maximize the benefits from the State's utilization of these resources, on January 24, 1990 Governor Jim Florio issued Executive Order #2 establishing the Office of the State Environmental Prosecutor (OSEP). The OSEP was charged with the responsibility for coordinating the use of these resources in order to maximize their efficiency and effectiveness and to create and integrate them into a comprehensive statewide environmental enforcement program. Additionally, it required the State Environmental Prosecutor (SEP) to personally prosecute those enforcement cases which involve either chronic environmental offenders, or situations which pose a serious threat to public health or the environment, and to see that these "priority cases" receive enhanced and expedited handling.

The SEP, Steven J. Madonna, and the Attorney General, Robert J. Del Tufo, organized the OSEP around a management core concept. Rather than attempt to create an additional bureaucracy in the enforcement effort, it was deemed more efficient to establish a management core and superimpose it upon the existing departments, divisions, and agencies of State Government to supervise and manage them in a more effective, coordinated fashion.

OSEP's funding for FYs '91 and '92 was provided by a \$700,000 appropriation to the Department of Law and Public Safety Office of the Attorney General which supported 12 positions. Additionally, the Executive Order provided for access to the support and resources of the Department which allowed the OSEP to operate with an additional four positions supported by the Divisions of Law and Criminal Justice. The fiscal year 1993 budget called for a fifty percent cut of OSEP's appropriation. In light of this, and in order to remain in a position to accomplish the mandates of Executive Order #2, the SEP and Attorney General reorganized the OSEP. As now structured, OSEP is comprised of a core staff of 5, a County Prosecutors Environmental Task Forces Coordination Unit of 4, and 3 legal/investigative positions supported by the Divisions of Law and Criminal Justice. Four positions were vacated and remain unfilled, resulting in a twenty-five percent cut of staff. The total of twelve remaining positions are filled by individuals who have an average of 16.5 years law enforcement/environmental and governmental experience. Funding for OSEP's County Task Forces Coordination Unit was obtained as a result of criminal fines and penalties payable to the State's Clean Water Enforcement Fund; the OSEP core staff is funded by the reduced appropriation.

The OSEP is housed in the Hughes Justice Complex.

PRIORITY CASES

One of the major responsibilities of the SEP is the identification, investigation and prosecution of civil, criminal and administrative priority cases. Whether identified on the State, county or local level, priority cases by definition are those which have an unusually great potential to impact negatively on the health and safety of our State's citizens and on the quality of our environment. For this reason, the SEP is charged with the responsibility to handle or oversee the handling of these priority matters and to insure that there is the necessary commitment of personnel and resources to exact a prompt and conclusive resolution.

Approximately 550 matters are currently carried on the OSEP's caselist. With referrals between OSEP and County Prosecutors' offices, Health Departments, the DOL, the DCJ, the State Police Marine Services Bureau and Solid and Hazardous Waste Investigations Unit, the DEPE, and the State DOH, as well as citizen referrals, the 550 matters represent a wide range of OSEP involvement and activity. Approximately 300 matters are being reviewed and handled in the County Prosecutors' offices, with two ASEPs devoted exclusively to working with the counties on these cases. The caselist includes approximately 90 cases designated as priorities in the OSEP. These priorities represent matters which, in some cases, the SEP has determined require hands-on involvement or coordination by OSEP on a day-to-day basis. Other priority cases are being handled within the DOL, the DCJ, County Prosecutors' Offices or the Harbors and Rivers Task Force with OSEP management and oversight. The OSEP monitors approximately 150 matters in which the current circumstances do not require them to be declared priority cases. These cases are being handled either within the DEPE, the DOL, the DCJ, County Prosecutors' Offices or the Harbors and Rivers Task Force. Approximately 15 matters on the list represent applications from citizens who have provided possible case-lead information under the Information Awards Program. The OSEP will develop the information, refer it to the appropriate agency for further investigation, maintain the files, and process the applications for payment to citizen-informants, if and when the State is paid a fine or penalty as a result of the reported information.

STATE PRIORITY CASES



Working with and through the DCJ, the DOL, and the DEPE, the OSEP's State priority case efforts have resulted in indictments, convictions, sentences, administrative enforcement actions, civil actions, court orders, penalties, fines, assessments and debarments, highlights of which follow:

CRIMINAL SENTENCES

In December, 1992 the Honorable Thomas Brown, Superior Court, Essex County sentenced the two owners of Hub Recycling, Inc. to 20 and 15 year terms in State Prison to run consecutively with sentences they are already serving in a landmark case prosecuted by the DCJ in cooperation with the OSEP. Both men and their affiliated companies, Hub Recycling, Bay International and Harbas Trucking were convicted on nearly all counts of an 18 count indictment including conspiracy, fraud, theft, corporate misconduct, criminal mischief and creating the risk of widespread injury or damage. These sentences were the result of an investigation commenced in August, 1989 when a fire surged in some 100,000 tons of garbage and debris piled under a Route I-78 overpass. Intense heat from the flames twisted steel girders and buckled concrete on the 10-lane highway, forcing the closing of the heavily traveled road for four months and costing the State's taxpayers nearly \$15 million for cleanup of the site and repairs/rebuilding of the highway. It was proven that the defendants were responsible for storing the solid waste at this location and other adjoining properties under the guise of being a recycling company. The defendants made no effort to clean up the property and ignored any consideration of the potential for environmental damage and the widespread risk of injury to the public as a result of their blatant and illegal activities. Additionally, fines totalling \$1,186,500 were imposed upon both individuals and corporations.

In June, 1992 the Honorable Richard Newman, Superior Court, Essex County sentenced the owner of a defunct chemical company to 364 days in the county jail, 5 years probation, 2,000 hours of community service and a \$500 fine for the illegal storage of more than 11,000 drums containing hazardous chemicals, many of which were leaking onto the ground. The case was initiated by the OSEP after reviewing information concerning the deplorable conditions which existed at this urban site. Coordinating with DCJ and the DEPE, search warrants were

executed and Federal assistance was sought with regard to cleanup. Federal Environmental Protection Agency officials examined the site and considered it one of the most dangerous in the country. An EPA public health advisory was issued and the site was approved for Federal cleanup assistance. The State Grand Jury indicted the owner of the site in December, 1990 and this led to the subsequent conviction. Cleanup of the site is nearing completion.

In April, 1992 the Honorable John J. Grossi, Superior Court, Hudson County sentenced the owner of a Jersey City container repair and scrap metal business to a 3 year custodial term in State Prison and a \$500 fine for the illegal storage and release of hazardous waste and toxic pollutants. The defendant had accumulated these materials, which included toluene, methylene, arsenic, chromium, copper, lead, nickel and zinc in a company warehouse over an 18 month period. In addition to emitting odors and vapors, the chemicals were stored in such poor condition as to be leaking thereby causing the risk of widespread injury to those in the surrounding area.

In April, 1992 the Honorable Stephen Smith, Superior Court, Morris County sentenced a Monmouth County "businessman" to 3 years in State Prison, \$5,500 in restitution to two victims to whom he purported to provide professional and safe asbestos abatement services, and \$3,700 in tax restitution to the Department of Treasury, for the release of toxic pollutant (asbestos), failure to file a tax return, and deceptive business practices. The defendant, utilizing a fictitious name, operated an unlicensed asbestos removal company, presented customers with a forged State license to remove asbestos, a forged certificate of insurance and failed to pay taxes. The improper manner in which he removed the asbestos caused its release into residences from which he was hired to safely remove it.

After a two week jury trial in April, 1992 the chief operator of the Kearny Sewage Plant was found guilty of instructing his subordinates to purge sewage and sludge from holding tanks onto the ground leading to the Hackensack River. The mixture contained heavy metals and other toxic pollutants. In July, 1992 he was sentenced by Hudson County Superior Court Judge Kevin Callahan to a 5 year term in State Prison and a \$2,500 fine.

In August, 1992 Judge G. Nicola, Middlesex County Superior Court, sentenced the president of a now defunct New York

petrochemical company to 364 days in the county jail and a \$30,000 payment to the New Jersey Spill Fund for orchestrating the abandonment in Carteret of a trailer loaded with hazardous waste and toxic pollutants. This matter was brought to successful conclusion through the initiative and persistence of the OSEP in obtaining a conviction of the defendant. His 28 year old nephew, who was also indicted on similar charges, was allowed to enter the pre-trial intervention program after it was confirmed that he was a driver for the company and was following the orders of his boss/uncle to abandon the trailer load of hazardous chemicals.

Significant Ongoing Criminal Investigations

The OSEP has committed very significant time and resources working in concert with the DCJ on several in-depth criminal investigations expected to be resolved during our next year of operation.

Witco Chemical Company

In a record-breaking penalty action, the OSEP, working with the DEPE, DOL, and citizen groups, has obtained a \$10 million penalty against the Witco Chemical Company for New Jersey Pollution Discharge Elimination System (NJPDDES) permit violations at their Perth Amboy facility. Witco is a diversified chemical manufacturer who utilized PCB laden materials in their transformers. During the 1970's, the PCB's escaped into the City's sewer system and contaminated the land and waterways adjacent to the facility. This resolution was achieved in cooperation with citizen groups who filed a Federal lawsuit against WITCO. In keeping with the OSEP's charge to resolve matters in a global fashion, the settlement also resulted in the selection of remedial action alternatives which Witco has agreed to implement. Cleanup commitments in excess of \$15 million, coupled with the \$10 million penalty, provide a model for future multi-faceted enforcement actions.

National Waste Disposal

The OSEP negotiated a settlement in conjunction with the DEPE of two pending administrative enforcement actions brought by the DEPE (and former Board of Public Utilities) against National Waste Disposal Inc., one of New Jersey's largest solid waste collection firms, and its president. These enforcement actions involved allegations that National operated unlicensed solid

waste facilities, engaged in the unlawful transfer of asbestos and violated waste flow directives and the company's approved tariff. Under the settlement agreement, National's principal will be precluded from engaging in solid waste, recycling and related industries. The company will pay a monetary penalty of at least \$3 million. If the company is not sold, all DEPE permits will be terminated in 36 months.

A compliance monitor, chosen by the DEPE and paid for by the corporation, will oversee operations of National to ensure compliance with applicable environmental laws during the 36 month transition period.

Noble Oil

Noble Oil Corporation, located within the Pine Barrens in Tabernacle Township, was a waste oil processor with significant illegal discharges, on-site contamination and on-going operational problems. Efforts by the State over the course of a decade had been unsuccessful in addressing this situation, owing the delaying tactics of the defendants. After designating this matter as a priority case in the OSEP, a joint State/local enforcement action was brought in New Jersey Superior Court. This has resulted in a judicial liability determination and an injunction against the use of the facility. The Superior Court has ordered Noble to cease operations unless and until the site is cleaned, all appropriate permits and operational safeguards are in place, and penalties/costs in excess of \$400,000 are paid. This case represents a clear victory by the State against a long-term, chronic environmental polluter.

Jersey Carting

In a case prosecuted by the OSEP, the DEPE Commissioner issued a Final Order revoking the Certificate of Public Convenience and Necessity of Jersey Carting, one of the State's largest solid waste collection firms. The Order also debarred the Jersey Carting principals from further participation in the solid waste industry and imposed \$186,000 in monetary penalties for tariff and waste flow and other violations committed by the company.

CPS/Madison Industries

Long-standing industrial activities by CPS Chemical Company and Madison Industries in Old Bridge Township have resulted in pollution of the Runyon Watershed, the primary source of Perth Amboy's drinking water. As we reported in the past, the SEP, within six months of his involvement,

was able to end ten years of maneuvering and technical delays and secure the implementation of the first phase of the clean up, the initiation of a groundwater recovery and decontamination system. The OSEP has continued in its leadership role in moving this cleanup forward. After 20 days of hearings, the Superior Court in Middlesex County granted the State's motion, brought by the OSEP, to remove the industries from their lead role in performing the cleanup due to non-performance. As a result, the DEPE was vested with the authority and responsibility, at the defendants' cost, to implement cleanup of this contaminated watershed. Since that time, the DEPE has moved expeditiously to design and begin the implementation of various phases of cleanup activities to protect Perth Amboy's drinking water.

Ciba-Geigy

In the second annual report the OSEP reported the successful coordination of the record-breaking global resolution of the Ciba-Geigy, Toms River, litigation. This was highlighted by criminal pleas to violations of New Jersey's Water Pollution Control Act by the corporation and two middle-level managers. During this reporting period and pursuant to the resolution package, the company has paid a \$5.5 million civil fine, \$3.5 million criminal fine, and made a \$2.5 million contribution for the purchase of wetlands in the Toms River basin. In addition, Ciba has reimbursed the State's expenses which exceeded \$2 million and established a cleanup fund for the site in an amount of \$50 million. Work to implement remediation of the site, including groundwater pumping and design of decontamination facilities, as well as new landfill caps, continued during 1992. This resolution represented a landmark coordinated civil, criminal and administrative environmental enforcement package.

Camden Transfer Station

After nearly a 2 year investigation by the DCJ and the Camden County Prosecutor's Office, working in conjunction with this office, a State Grand Jury in July returned a 54 count indictment against 7 individuals on racketeering and bribery charges. Allegedly these individuals, several of whom are employees of the City of Camden, including the Superintendent of Public Works, solicited and received bribes to allow commercial solid waste haulers access to the Camden City transfer station which is mandated only for use by Camden residents and the Department of Public Works.

Metro Park

As a result of information discovered by the OSEP, chromium contamination at a little league field in Jersey City was uncovered. This information was discovered as part of the State's efforts to address the chrome waste disposal problem throughout Hudson County. As a result of disposal activities related to chrome manufacturing in Jersey City between the 1870's and 1970's, numerous sites throughout Hudson County have been contaminated with chrome. Efforts are underway to evaluate all suspected disposal locations utilizing a combination of public and private funds. After this discovery, the park was closed to recreation and the responsible party, Allied-Signal Corporation, entered into an Administrative Consent Order negotiated by the OSEP on behalf of the State, which has resulted in the prompt removal of the contaminated material. It is expected, as a result of the OSEP's prompt action in this matter, that the facility will be available for the 1993 baseball season.

Standard Tank

Over the past several years, and as reported in previous annual reports, Standard Tank of Bayonne has gained notoriety as a persistent and recalcitrant polluter of the State's waterways. Over the past year, the OSEP along with the DOL and the DEPE, has continued litigation on numerous fronts with this company. These include the collection of fines against certain of Standard's principals, efforts to revoke their operating permits, and actions seeking injunctive relief and penalties for permit noncompliance. Standard Tank continues to be enjoined from further violations of its NJPDES permit and from illegally storing contaminated wastewater as it had done in the past. As a result of the various ongoing enforcement actions, Standard Tank is currently operating under severe restrictions, which prevent it from discharging anything into the waterways of New Jersey.

Sal Car Transfer Systems Inc.

The DEPE, in conjunction with the OSEP, issued an amended administrative order, notice of civil penalty assessment and notice of revocation to Sal Car Transfer Systems and the principals of this company. The gravamen of this action are allegations that Sal Car and/or Northeastern Recycling Co. conducted illegal solid waste facility operations at a site in Hillsdale, Bergen County. Under the Department's order Sal

Car's solid waste facility registration is revoked, each of the company's principals debarred and a monetary penalty of \$7,000,000 imposed. This matter will be the subject of hearings in the Office of Administrative Law.

A. Fiore & Sons Salvage Inc.

In a priority solid waste matter filed against three Newark based private solid waste transfer stations, the Honorable Harry Margolis granted DEPE's summary judgment motion finding that the three defendant solid waste facility operators, including A. Fiore & Sons Salvage, violated State waste flow directives and franchises held by Essex and Union County. Subsequent to Judge Margolis' ruling the Department issued an Order to Show Cause and Order of Revocation to A. Fiore and Sons Salvage, Inc. and its principals premised upon findings of violation by the Superior Court and the former Board of Public Utilities.

Hagaman

The Hagaman property in Lakewood Township, Ocean County is the site of a large volume of solid and hazardous waste materials that were illegally disposed of at the site over many years despite the efforts of local officials to address the situation. The case was declared a priority by the SEP in 1990. The OSEP has successfully obtained a series of restraining orders from the Superior Court of New Jersey, Ocean County prohibiting the owner from operating at the site, and allowing the DEPE to stabilize the site and remove materials. Most recently, the OSEP received an order from the Federal District Court in Trenton which overruled an earlier order from the United States Bankruptcy Court concerning the Hagaman site and authorized the DEPE to continue with its cleanup of the site. To date, the DEPE has removed a significant amount of hazardous substances and approximately 365 tons of solid waste materials, cleared fire paths and stabilized the remaining waste piles. The OSEP will continue to monitor the case and assist the DEPE as necessary.

Criminally, in January, 1991, the State Grand Jury returned a four count indictment against the owners and an employee charging them with conspiracy to release toxic pollutants, creating a risk of widespread injury or damage, illegally

engaging in the business of solid waste and operating an illegal landfill. In January, 1992, plea negotiations with the employee resulted in the entry of a plea in exchange for future testimony against the owner. Between January and September, 1992, while under this indictment, the owner released and abandoned asbestos at this same site. This latter activity, together with suspected illegal activities at a second site in Monmouth County, will be the object of a Grand Jury presentation scheduled for April, 1993.

Additionally, the owner faces a spring 1993 trial on an Ocean County indictment involving charges arising from similar illegal activities at still another location.

D'Angelo Tire Site

The OSEP has successfully pursued civil remedies against the owner/operator of two sites in Jersey City that have had significant piles of tires illegally accumulated on them. On one of the sites a series of five tire fires occurred between 1988 and 1990 resulting in potentially serious environmental and health impacts. The OSEP has obtained a series of orders from the Superior Court of New Jersey, Hudson County directing the cessation of all unpermitted tire storage activities at the sites. Additionally, upon petition from the OSEP, the Court ordered that the owner pay \$1.1 million in fines and cleanup costs arising from the illegal operation of one of the facilities. The OSEP continues to maintain an action against the defendant before the Court concerning the operation of a second illegal solid waste facility in Jersey City.

Roc Harbour, Inc.

The Roc Harbour Corporation is the owner of a 70 unit residential condominium project in the Township of North Bergen, Hudson County. The wastewater holding tank at the condominium consistently overflowed and discharged untreated sewage to the ground and into a storm sewer from which it discharged directly into the Hudson River. The OSEP obtained an injunction from the Superior Court of New Jersey, Hudson County ordering both the corporation and its president to cease the discharges and, correct the problems causing the discharges of untreated sewage.

B.T. Nautilus/Presidente Rivera/ Cibro Savannah Oil Spills

The OSEP continues to oversee civil litigation in the Federal District Courts con-

cerning three separate serious discharges of fuel oil affecting New Jersey's waterways that occurred in 1989 and 1990. In June of 1989, approximately 300,000 gallons of #2 fuel oil was discharged from the Presidente Rivera into the Delaware River. In March of 1990, approximately 100,000 gallons of #2 fuel oil was discharged into the Arthur Kill from the barge Cibro Savannah. In June of 1990, approximately 250,000 gallons of #6 fuel oil was discharged from the BT Nautilus into the Kill Van Kull. In separate litigation concerning each discharge event, the State is seeking to recover from the parties responsible for the discharges the State's costs in responding to the discharges, millions of dollars in natural resource damages, and civil penalties for violations of State statutes and regulations. In each case the State is working with the Federal Government as a co-plaintiff as well as with any affected neighboring state. The OSEP will continue to be involved in these cases through to settlement or trial.

Good Earth, Inc.

The OSEP is involved in a matter concerning five sites in Sussex County, and one in Morris County where chipped-up demolition debris, possibly laced with hazardous substances, has been illegally dumped. The chipped material appears to originate from transfer stations in New York City and is classified as solid (if not hazardous—depending on analysis) waste in New Jersey. The OSEP requested the DEPE to take samples of the materials at the six sites to determine the exact nature of the contaminants disposed of at those locations. The sampling has revealed the presence of hazardous wastes at one of the sites, and toxic pollutants and hazardous substances at several of the other sites. The OSEP will continue to be involved in the matter by coordinating any potential civil/criminal enforcement responses against those parties responsible for dumping the materials.

Tollgate School Asbestos Report

In September of 1992, following a lengthy investigation, the OSEP issued a report on the circumstances surrounding a demolition project involving the illegal removal of asbestos containing material undertaken at the Tollgate Elementary School in the Hopewell Valley Regional School District. In the report, the OSEP

concluded that asbestos had been improperly removed from the Tollgate School by individuals hired by the School Board who were untrained and unlicensed in asbestos removal procedures. A more formal enforcement action against those responsible for the violations at the School was precluded by the running of the statute of limitations governing such action even before the OSEP was made aware of the demolition project which occurred in the summer of 1988. The OSEP determined, however, that despite the inability to pursue a more formal enforcement action, the issuance of a report detailing the facts was necessitated due to the serious deviation from Federal and State regulations governing the handling of asbestos which occurred in this matter.

Pioneer Smelting

The OSEP, at the request of the Pinelands Commission, arranged a "multi-media" inspection by DEPE enforcement and permitting units of a site in Woodland Township, Burlington County operated by Pioneer Smelting. The Pinelands Commission had concerns about the environmental compliance record of the facility which reclaims silver and aluminum. The OSEP is working with the DEPE to take appropriate enforcement action to address violations at the site.

Cumberland County Improvement Authority

The OSEP received a matter from the Cumberland County Prosecutor involving the illegal dumping of recyclable materials

at the CCIA sanitary landfill in Deerfield Township. The OSEP concurred with the Prosecutor's determination that the matter should be handled civilly. The OSEP worked with the DEPE to ensure that appropriate civil enforcement action was taken and coordinated the resolution of the matter through a Consent Order which calls for the payment of a \$22,500 fine by the Improvement Authority.

Yates Industries/Circuit Foil

Yates Industries, now known as Circuit Foil, located in Mercer County, has been in significant non-compliance with its NJPDES surface water pollutant discharge permit. The OSEP, at the request of the DEPE, arranged for the intervention by the State in a Federal action brought by the New Jersey Public Interest Research Group and other citizen plaintiffs against Circuit Foil. In the Federal District Court action, the Honorable Anne Thompson has issued preliminary and permanent injunctions against Circuit Foil in favor of the co-plaintiffs requiring the company to comply with its discharge permit. The Court also ruled that Circuit Foil had violated its discharge permit on approximately 900 occasions. The parties are now awaiting a decision by the Court on a summary judgement motion filed by the co-plaintiffs alleging over 2,000 additional permit violations by Circuit Foil. The Court must also determine Circuit Foil's penalty liability for all violations found by the Court to have been committed.

COUNTY PRIORITY CASES



Working with and through the County Prosecutors, and at times the DCJ and the DEPE, the OSEP's county priority case efforts have resulted in indictments, convictions, sentences, enforcement actions, penalties, fines and debarments, highlights of which follow:

CRIMINAL SENTENCES

In Ocean County, a property owner, convicted of operating an illegal landfill and abandoning toxic pollutants, was sentenced to 5 years in prison and fined \$25,000.

In Sussex County, an individual illegally collected and dumped solid waste and was sentenced to 5 years probation, 2 months in the county jail, a \$2,500 fine, a year suspension of driving privileges and 180 days of community service.

In Atlantic County, an asbestos contractor was sentenced to 30 days in the county jail, 18 months probation, fined \$750 and ordered to pay clean up costs as a result of unlawfully releasing or abandoning hazardous waste through the storage of 100 bags of asbestos, some uncontained, at a residence.

Roc Harbour Corp.

In a matter declared a priority case and referred to the Hudson County Prosecutor's Office, the OSEP worked with that office, arranging for technical assistance from both the DCJ and the DEPE and providing legal assistance in formulating charges. As a result of the cooperative efforts, an indictment was returned against Roc Harbour Corporation by a Hudson County Grand Jury for third and fourth degree water pollution counts. This condominium complex in North Bergen had continually allowed the overflow of raw sewage from its holding tank into the Hudson River. The corporation entered a plea of guilty to one third degree count and was sentenced to pay \$50,000.00 by the Honorable Kevin G. Callahan.

Hilltop Property

After learning of an Essex County Counsel's Office investigation into allegations of illegal dumping of contaminated soil on County-owned property in Verona, the OSEP declared the matter a priority, and promptly referred it to the DCJ and the Essex County Prosecutor's Office to be jointly investigated. Allegations of improprieties and illegal dumping were investigated, resulting in the signing of disorderly persons complaints for illegal dumping against 34 defendants including 10 corporations and



24 individuals. The OSEP arranged for technical assistance and expert witnesses from the DEPE and assisted the Prosecutor's Office with the preparation of plea offers, ensuring that pleas did not negatively impact on the regulatory considerations, i.e. A-901 licensing and cost recovery for remediation. Nine defendants have pled guilty, and 25 have outstanding motions which have been transferred from the Superior Court to Verona Municipal Court. Forfeiture actions against the vehicles utilized in the dumping are pending.

Quality Metal Finishing

Leaking drums of chemicals disposed of in a Paterson solid waste dumpster were brought to the attention of the OSEP by the Passaic County Prosecutor's Office. Declared a priority case, the OSEP reviewed a search warrant and immediately arranged for assistance in its execution by the DCJ and the DEPE. During the execution of the warrant, several other unpermitted discharges within the building were discovered. The OSEP coordinated with the DEPE and the Passaic Valley Sewage Commission to alleviate the problems and to provide technical assistance and expert witnesses for the Prosecutor's Office, finally referring the case for review to the DEPE Wastewater Facility Regulation Section prior to Grand Jury presentation.

Roxbury Auto Wreckers

Information received from an informant seeking a reward pursuant to the Information Awards Program resulted in the initiation of an investigation into allegations that a Roxbury junk yard was illegally disposing of hazardous and solid waste. The OSEP designated the case a priority, marshalled the files of the various DEPE media which have been involved in inspections and enforcement actions at that site over the years and arranged for assistance from the DCJ, the DEPE and the local health department in the execution of a search warrant by the Morris County Prosecutor's Office. The OSEP continues to coordinate the criminal investigation and assist in the formulation of criminal charges, while monitoring the DEPE's efforts to alleviate the environmental problems at the site.

AMS Transfer Station

The owners of AMS, a county solid waste transfer station located in Linden, alerted the Union County Prosecutor's Of-

fice to a possible fraud between solid waste haulers and the station's weighmasters. The OSEP, designating the case a priority, promptly met with the Prosecutor and the State Police and agreed upon an investigative plan. The OSEP arranged for the DCJ and the State Police assigned to the A-901 Unit to assist the Prosecutor's Office in conducting surveillances and monitoring wire communications. The investigation uncovered a conspiracy that involved payments to two weighmasters by seven garbage contractors, who in exchange were to be charged for less garbage than actually disposed, while the additional charges were being assessed to other innocent haulers. In September the OSEP, the Union County Prosecutor's Office and the State Police announced the arrest of the parties involved for conspiracy, theft and commercial bribery. Verified complaints for forfeiture of all business assets and the property of the carting companies were also filed. An unprecedented request by the Prosecutor resulted in the Court appointing a trustee to oversee the management of the hauling companies. The OSEP, addressing A-901 considerations, is working closely with the Prosecutor's Office in negotiating pleas with the defense.

Mangarde Trucking

Symptomatic of a new waste disposal phenomena, nine truckloads of ground up construction debris were dumped in a parking lot in Mahwah. Burdened with the increasing problem of solid waste from New York being abandoned on New Jersey streets and properties, the OSEP declared the matter a priority. The Bergen County Prosecutor's Office, after successfully defending its subpoena in New York State Court, secured records which enabled it to identify the dumper and is preparing charges against this New York company and its driver.

Polymerix

Information received from an informant seeking a reward under the Information Awards Program resulted in the initiation of an investigation into allegations that a vice president of a Morris County company, while preparing for a DEPE inspection, removed and illegally disposed of hazardous waste from the building by dumping a portion of it into a stream and the remainder into a solid waste dumpster. The OSEP, having designated the matter a priority, reviewed evidence, potential charges and proposed plea offers with the Morris

County Prosecutor's Office. The OSEP met with that office and the defense team, pre-indictment, to no avail. The Prosecutor's Office presented the matter to the Morris County Grand Jury which returned indictments against both the corporation and the individual for the Release and Abandonment of Hazardous Waste and Toxic Pollutants and Water Pollution. Post indictment meetings have been held with substituted counsel and plea negotiations have been re-initiated.

Capp Recycling

The Monmouth County Prosecutor's Office, with assistance from the OSEP and the DCJ, was successful in prosecuting an appeal in the case of *State v. Capp Recycling, et al.* In an important decision reversing a

trial court's order dismissing an indictment for unlawfully engaging in the business of solid waste collection and disposal, the Appellate Division significantly limited the application of *State v. Moscato*, 253 N.J. Super 253 (App. Div. 1992). The *Moscato* decision had presented problems for State and local law enforcement agencies seeking to prosecute certain Title 48 solid waste violations. Following the Appellate Division's decision, the Monmouth County Prosecutor's Office agreed to dismiss charges as to 2 defendants and recommend 1 for the pre-trial intervention program. The remaining 2 defendants pled guilty to engaging in the business of solid waste without a Certificate of Public Convenience and Necessity and will be sentenced in April, 1993.

COMPREHENSIVE STATEWIDE ENVIRONMENTAL ENFORCEMENT PROGRAM



New Jersey has a significant commitment of resources and personnel pursuing or potentially pursuing environmental protection activities. This reservoir can include involvement of many agencies of government at the State, county or local levels, together with citizens and citizens' groups. What had been lacking, however, was not the existence of these "resources", but the direction, sensitivity and training necessary to deploy them as part of a comprehensive plan acting under a central authority. The creation of a comprehensive Statewide environmental enforcement program, as mandated under Executive Order #2, was meant to provide just such a result. The steps taken to create and implement the program did not depend on an expansion of State Government's resources. Rather, its success depended on qualitative refinements, initiatives and developments designed to insure the fullest use of the time and talents of the many professional governmental employees and dedicated citizens able to assume their rightful role in the overall program.

STATE AGENCY COORDINATION

As one of its first priorities in 1990, the OSEP established a system of communication between the various environmental enforcement agencies, divisions and departments of State Government. Working with the basic concept that information exchange and coordination are essential to any group effort directed at a common goal, representatives within each of those enforcement areas were appointed to act as liaisons with the OSEP. Within the OSEP, Assistant State Environmental Prosecutors (ASEPs) were assigned to coordinate and manage the relevant enforcement activities whether civil, criminal, or administrative, of the various agencies, divisions and departments in furtherance of the enforcement plans and strategies of the OSEP.

In support of this comprehensive environmental enforcement program, supervision and coordination by the OSEP occurs daily in the context of the selection of the appropriate response and agency in a given case and in other non-case activities and initiatives. Some of the highlighted initiatives and non-case activities include:

Voluntary Audit and Compliance

No comprehensive statewide environmental protection program can be truly complete or effective without the involvement and participation of the State's business and



ness and industry community. The voluntary audit and compliance initiative is designed to mainstream responsible business and industry into the environmental protection program.

IMPLEMENTATION

Announced last spring as the first State program of its kind in the nation, this initiative was established in an effort to support and encourage the State's business and industry community to implement and/or maintain more responsible environmental practices. The theory behind the program is that "molding" an occasional prosecution is a small price for society to pay for receiving the environmental benefits accruing from broadbased day-to-day responsible corporate practices.

The SEP and the Attorney General worked closely with the DOL, the DCJ, the County Prosecutors, the DEPE and experienced members of the corporate, legal, and business and industry professions to develop a checklist of desirable business practices (guidelines). These guidelines dictate a course of business/industry conduct which would impact very positively on pollution prevention efforts. Comments and suggestions on the guidelines were then elicited from respected practitioners in the legal community and representatives of business and industry associations who were familiar with corporate pollution prevention programs—their strong points and shortcomings.

The program calls for diligent compliance with environmental guidelines by business and industry in their day-to-day planning, management, and operations. These guidelines require that the company audit/compliance program:

- Be in writing and address the company operations and their potential impact on the environment;
- Include procedures relating to inspection, maintenance and operation of the facility and equipment, and employee training and practices;
- Be adopted, promoted, and enforced as the institutionalized policy of the company;
- Include formal training of employees in program implementation and adherence procedures with regular update training;
- Have adequate funding, personnel, and resources to insure its effective design and operation;

- Involve qualified professionals in its design and implementation;

- Provide for frequent and thorough periodic environmental audits to discover violations and recommend corrective action;

- Have the company committed to the timely implementation of the audit recommendations;

- Include a company policy to discipline employees (including management) for failing to follow program procedures;

- Include a company policy to reward employees in a manner which encourages employee compliance and vigilance;

- Have the company committed to compliance with environmental laws and regulations;

- Have the company committed to the timely and complete disclosure of matters under investigation; and

- Have the company cooperate with the investigation, attainment of compliance, and implementation of remediation.

In the event of an environmental incident which has potential criminal ramifications, the existence and implementation of these responsible environmental practices may be viewed as positive factors by a prosecutor when exercising discretion in determining whether, how, or who should be the subject of criminal charges.

Obviously, the success of the initiative depends upon the broadbased use of these responsible practices, and this, in turn, depends upon the successful dissemination of information on its requirements and benefits. Over the past year the OSEP has reached out to the State's business/industry and legal communities to inform them of the existence of this initiative, to provide details and to informally answer questions on the program. The SEP has made presentations on the program to leaders, committees and members of Statewide business and industry associations, councils and professional organizations and members of the State Bar Association. Copies of the guidelines have been distributed to the host organizations. Additionally, guidelines are distributed as requested by phone or letter. The program was featured in an article in the November, 1992 issue of *New Jersey Business* which also included an editorial applauding this "good actor" initiative, and the October, 1992 issue of the National Association of Attorneys General *Environmental Enforcement Journal* distributed across the country.

EXPANSION—SMALL BUSINESS AND MARITIME INDUSTRY

Discussions with members of New Jersey's business and industry community suggest that use of this audit/compliance program by smaller components of the business community depends, to a great extent, on the tailoring of the guidelines to reflect the realities of the day-to-day operation of these smaller businesses. With small businesses making up a major portion of New Jersey's business community, the SEP regards the tailoring of the guidelines as important to the overall success of this pollution prevention initiative. Standards will not be lowered; rather, the approaches embodied in the guidelines will be made more relevant to the State's small businesses and industries. The OSEP will be convening the first meeting of a working group drawn from the various facets of the small business community with the goal of completing this project over the next several months.

Additionally, efforts have been ongoing over the last six months to tailor the program to the maritime industry. The SEP initiated discussions with shipping industry representatives in order to encourage and support more environmentally responsible marine practices by the international shipping industry. The voluntary audit and compliance concept was presented to them with the suggestion that its implementation and use carried with it benefits for the industry, as well as the people and the environment of the State. An international maritime working group, which includes representatives from ship operators and vessel insurance companies, was formed to pursue the drafting and adaptation of the voluntary audit and compliance concept to the international maritime industry. By year's end, a rough draft of a voluntary audit/compliance program specifically adapted to ocean-going tanker and container vessel operators was submitted to certain vessel owners and the Maritime Law Association Committee on Marine Ecology for comment and refinement. The next draft will be broadly distributed for comment with finalization of this maritime audit/compliance program anticipated over the next several months.

Floatables and Shore Protection

The SEP is committed to using his enforcement authority to initiate and pursue efforts designed to restore and maintain the New Jersey shore as the crown jewel of the State's treasury of natural resources. In

1992, the SEP initiated a number of efforts designed to reduce the sources of floatables which have historically impacted on New Jersey beaches.

WATERFRONT WASH-UPS

OSEP staff, with the cooperation and assistance of the State Police Marine Services Bureau, arranged and accompanied municipal code enforcement officials from Elizabeth, Jersey City, Weehawken, Hoboken and Edgewater on inspections of their respective waterfronts aboard a State Police Marine Bureau vessel. The purpose of the inspections was to insure compliance with uniform local ordinances requiring repair or removal of deteriorated waterfront structures before they broke apart into floatable debris. Loose and floating planks and pilings are not only an eyesore, but a hazard to boaters and bathers alike. The participating municipalities had received the benefits of an extensive cleanup of their waterfronts by the U.S. Army Corps of Engineers at various times in the 1980's. Those efforts saw the expenditure of \$33 million in Federal funds for the removal of rotten piers, loose timbers, planks and derelict vessels. As a prerequisite, the U.S. Army Corps required the enactment of municipal ordinances directing property owners to maintain their waterfront improvements once the initial cleanup was completed. Since most communities do not have their own boats, the State Police Marine Bureau in Port Newark was enlisted to take local building code officials out on the Hudson River and Newark Bay. Deteriorated bulkheads and wharfs were identified for follow-up actions pursuant to the ordinance provisions. Under the ordinances, property owners must either make necessary repairs or, upon failure to do so within a given timeframe, become financially responsible for repairs made by the municipalities on their behalf.

We now know that as of 1992 we have an across the board enforcement/repair baseline for all of the removal project communities, and that their waterfront structures will not be a source of floatable drift debris.

SAFE SYRINGE DISPOSAL

The SEP had meetings with the DCJ, the DEPE, and State Department of Health representatives to review the findings of past investigations into syringe recoveries on New Jersey beaches in order to document the extent to which home-user disposal prac-

tices may be responsible for the introduction of syringes into our waterways. These meetings confirmed that the vast majority of recovered syringes have been home-user type syringes which bear evidence of having gotten into the water via direct flushing from the home into combined sanitary-stormwater sewer systems. In light of this confirmation, the SEP reached out to a group of industry representatives who had been working with the Department of Health and the DEPE to promote safe and proper disposal of used syringes. The SEP proposed a joint working group which will explore and work to develop disposal alternatives and programs to educate home-users on the correct methods of disposal. This new partnership brings State and Federal Government representatives together with representatives of the pharmaceutical, hospital, syringe manufacturing, and plastic recycling industries, as well as the New Jersey Solid Waste Management Association and the New Jersey State Department of Health Diabetes Renal and Cardiovascular Disease Program. Among the initiatives contemplated are the expansion of a program utilizing hospitals as collection points for used syringes, and the exploration of the potential for pharmacies and large scale employers to provide used syringe collection capacities for their customers and employees respectively. Time and effort must also be expended toward the development of a "no cost/no effort" disposal alternative. Finally, public service messages and other education programs will be developed to sensitize our citizenry to the environmental and public health dangers inherent in improper disposal of home-user syringes.

COMBINED SEWER OVERFLOW

The OSEP has initiated a program to provide needed support to the DEPE in the implementation of the provisions of the Sewerage Infrastructure Improvement Act. This Act, adopted in 1988, required municipal dischargers to improve the quality of discharges from combined sewer outfalls. The OSEP has assisted in the development of a general discharge permit to regulate discharges from combined sewer overflow locations. The general permit, when issued, will require certain technological abatement measures at overflow locations intended to result in a reduction in floatable pollution from these locations. It is anticipated that the general permit will be finalized in 1993.

Clean Harbors and Rivers Task Force

In January, 1992, the SEP established a multi-agency task force dedicated solely to coordinating criminal enforcement of New Jersey's clean water statutes. The Clean Water Enforcement Act of 1990 redefined water pollution offenses and included the new concept "significant adverse environmental effect." The Task Force has, as its primary responsibility, the coordinated investigation and prosecution of alleged incidents of criminal water pollution in a manner which will insure the diligent, but reasoned and uniform, use and interpretation of the new statutory provisions.

The source of funding for the Task Force is a portion of the proceeds of the Exxon and Ciba-Geigy criminal penalties, which have been deposited with the DEPE in the Clean Water Enforcement Trust Fund and specifically earmarked for criminal water pollution enforcement purposes. Hence, this initiative is being funded without any cost to the State Treasury. The Task Force of nine full time law enforcement personnel working with the OSEP consists of legal and investigative staff from the Environmental Prosecutions Bureau of the DCJ and experienced investigators from both the DEPE and the New Jersey State Police Marine Services Bureau. The latter two individuals have specific investigative responsibilities, but as importantly, serve as direct liaisons with their respective agencies to insure a flow of case lead information and the availability of support services for the operation of the Task Force. Since the unit is intended to have a direct and immediate impact on incidents of perceived criminal water pollution, staff are not involved in other investigations and prosecutions.

IMPLEMENTATION, ACTIVITIES, CASES

In its first full year of operation the Task Force engaged in a significant outreach effort beyond its member agencies to introduce its mission and solicit cooperation from agencies in other levels of government, the regulated community, and private environmental groups. The Task Force met with each County Prosecutor's office to outline its resources and services and to identify water pollution cases in which Task Force participation might be helpful. Throughout the year Task Force members, and the DEPE

liaison in particular, have provided technical expertise and support in 26 criminal water pollution actions undertaken by County Prosecutors in 1992 and in a number of other investigations. Task Force representatives also met with officials from neighboring states and the U.S. Coast Guard in order to coordinate regional efforts for spill responses in the Ports of Philadelphia/Camden and New York/New Jersey.

With respect to outreach to the regulated community, Task Force representatives met with representatives of the Confederation of South Jersey Regional Sewerage Authorities and the Water Pollution Control Officer's Convention in order to describe their mission and solicit assistance regarding potential violations involving illegal discharges into sanitary sewer systems. The notion of sewerage utilities as potential victims of illegal discharges from both an environmental and economic perspective was emphasized and the Authorities were encouraged to inform the Task Force of events which might warrant criminal investigation and prosecution.

With respect to interaction with environmental groups, Task Force members met with citizen groups at meetings sponsored by the SEP and the Baykeeper for the New York/New Jersey Harbor, as well as with the membership of the Delaware Riverkeeper Network. The membership of these groups were invited to refer matters that they discover in the course of their activities to the Task Force when circumstances suggest unlawful discharges.

Within State Government, the Task Force took steps to further maximize the identification and investigation of possible criminal water pollution violations by screening all civil enforcement actions proposed by DEPE and all water pollution investigations conducted by the State Police Marine Bureau. For example, all 945 water pollution matters investigated by the Marine Police in 1992 were reviewed by the Bureau's liaison and from this total, 95 were referred to the Task Force for potential criminal action. In addition, improved communications were established with the DEPE Bureau of Emergency Response to expedite notification to the Task Force of incidents involving potential criminal water pollution actions.

Referrals from all sources, including matters initiated from within the Task Force, resulted in 53 criminal investigations being

formally opened in 1992. During the year, the Task Force filed 6 criminal actions for violations of the Water Pollution Control Act through the DCJ. Of this total, 5 actions involved third degree charges which are awaiting final disposition and 1 involved a fourth degree charge which has resulted in a conviction.

The five matters in which criminal charges are pending include: the indictment of an individual on allegations that he pumped out oil which entered a nearby creek; the indictment of a septic hauler on allegations that he illegally discharged septic waste; the indictment of the owners of an auto speedway facility on allegations that they allowed the discharge of raw sewage into a local stream; the indictment of an apartment landlord on allegations that he discharged a combination of raw sewage and petroleum from his apartment complex into a storm sewer which entered the Delaware River; and the arrest of the proprietor of a marina on allegations that he discharged water contaminated gasoline tanks into the sanitary sewer system via the toilets at his marina. This last case, where actions by the Task Force identified a significant potential for a major explosion within the sewer system, along with another case where the Task Force discovered incompatible hazardous wastes being stored together, provide examples where the Task Force has averted potential disasters in the course of its criminal investigative activities.

The matter which was filed and a conviction obtained in 1992 involved the discharge of acetic acid into the Passaic River in Newark by Chemical Compounds, Inc. In this case the defendant entered a guilty plea to a fourth degree criminal Water Pollution Control Act violation, paid a \$5,000 fine funding the cost of a pro-environmental newspaper advertisement, and also paid over \$30,000 for an independent hook-up to the local sewerage authority.

In addition, numerous matters which were initiated by the Task Force, but found not to warrant criminal prosecution, were subsequently referred to DEPE for potential civil enforcement action under the Water Pollution Control Act, or enforcement under other environmental statutes. Included in this category are two civil penalty assessments filed by DEPE under the Water Pollution Control Act against Guest Packaging for \$45,000 and Buck Mining Co. for \$70,000 for unpermitted discharges to surface water.

Lake Hopatcong—Shoreline Initiative

Working in conjunction with the SEP, State Police Marine Bureau officers conducted a comprehensive inspection of the shoreline of Lake Hopatcong—the State's largest lake. A total of 55 miles of shoreline were inspected during this project which began in November and continued throughout the winter. This initiative, which was timed to take advantage of the temporary lowering of the lake's water level by five feet, provided a unique opportunity to inspect for discharge points and pollution sources impacting on the lake. This draining process occurs every five years in order to accommodate owners with shoreline repairs and improvements. Over 700 investigative reports were submitted as a result of the extensive inspection. One hundred eighty of the investigations involved the presence of discharge pipes, including 38 suspected sources of sewage or other household wastewater discharges. Arrangements were made for dye testing with local or county health department officials once the lake thawed and weather conditions improved. The other 518 reports involved the dumping of various types of debris into the water. The largest category of debris was tires which were discarded after serving as bumpers on docks and marinas. The next largest category consisted of wood planks and timbers, and piping and concrete from decayed or discarded docks, all of which pose a navigational hazard to boaters or a safety risk to individuals while swimming, water and jet skiing, or windsurfing. Several sunken boats, automobile parts, and discarded appliances including hot water heaters, stoves and lawnmowers were also discovered. The approach utilized by the OSEP and the State Police Marine Bureau officers in this initiative was intended to secure the responsible cooperation of the lake-side property owners who were instructed to remove the tires, and other objects and debris from the exposed shoreline. Excellent cooperation was obtained from property owners with an estimated 5,000 tires, along with the other objects and debris, being retrieved from the lake without the need for formal enforcement action. State Police contacted the local governments of the four towns which border the lake, Jefferson Township, Roxbury Township, Mount Arlington and Hopatcong, and they too cooperated and assisted in the appropriate disposal of the tires and other

debris. The results of the comprehensive shoreline inspection and the findings contained in the various investigation reports are being summarized and will be discussed with the Lake Hopatcong Regional Planning Board and local health departments for followup enforcement and long-range planning.

Solid Waste Enforcement

CONSTRUCTION AND DEMOLITIONS DEBRIS

Representatives of the State's recycling and solid waste industries expressed concern to the OSEP with respect to the unlawful transportation of construction and demolition material for disposal at out-of-state landfills and facilities. Their concerns included the negative impact that this loss of tonnage has on the economic viability of the State's newly developing construction and demolition debris recycling industry. The OSEP assembled available information and reviewed the matter with the Division of Solid Waste Management of the DEPE. It was decided that the OSEP would work with the DEPE in reviewing and evaluating the existing regulations relating to the transport and disposal of construction and demolition materials. This will focus on ensuring greater clarification as to when and under what criteria construction and demolition material may be treated as recyclable material as opposed to when it must be disposed of as solid waste. In the interim, the OSEP has initiated inspections at Delaware River Bridges to determine compliance with waste flow directives by haulers as they relate to construction and demolition debris. Truck stops in February and March resulted in the issuance of approximately a dozen summonses and Notices of Violations to transporters hauling construction and demolition debris in violation of State solid waste laws.

The OSEP and the DEPE have also initiated a dialogue with New York and Delaware officials to discuss the regional problems created by illegal processing, transportation and disposal of construction and demolition debris. Similar discussions on this issue are planned with Pennsylvania environmental officials.

SOLID WASTE VEHICLE CHECKPOINTS

The OSEP continued the initiative started in 1990 to work in cooperation with the New Jersey State Police Hazardous Materials Unit, Traffic Bureau, and the DEPE Division of Solid Waste Management

to insure the safe, environmentally sound, and lawful movement of solid waste over the highways of our State through a program of waste haulage vehicle inspections. A series of vehicle checkpoints set up at varying sites, on a random schedule, have allowed law enforcement and regulatory officers to review permits and licenses and to inspect vehicles carrying solid waste. Four such checkpoints were conducted during the past year which resulted in the continued detection and interdiction of motor vehicle and solid waste law violators. Since the inception of this cooperative program in 1990, 2,750 violations have been logged and approximately 50 vehicles have been placed out of service.

SOLID WASTE CRIMES LEGISLATION

The OSEP spearheaded and coordinated with the DCJ, the DEPE and the DOL, the drafting of legislation which will fill a void in existing solid waste laws. Absent waste accumulations or disposal which create a risk of widespread injury, the State's criminal laws do not proscribe the dumping of large quantities of solid waste in random locations around the State. This void in criminal authority has made it very difficult for the State's law enforcement community to stem the tide of the illegal disposal of construction and demolition debris, often from New York, which is being abandoned randomly throughout the State. These shortcomings in our criminal statutes have been underscored in a decision of the Appellate Division which directed law enforcement to seek the assistance of the legislature. This proposed legislation would serve to fill the existing void in our solid waste laws by criminalizing the unlawful dumping, accumulating or abandoning of solid waste.

JUNKYARDS

Working with the DEPE, the DOL, and the Division of Motor Vehicles, the OSEP has begun the formidable task of inventorying current and abandoned junkyards across the State. The initiative will, after completion of the inventory, focus on determining the extent of environmental threats posed by these facilities and the need, if any, for controls on ongoing operations. It is then envisioned that mechanisms for addressing any threats uncovered and an appropriate regulatory control program will be developed and implemented in a Statewide manner.

A-901 PROGRAM COORDINATION

Over the course of this reporting year the OSEP has continued to work with the DEPE management in a joint oversight program which began in 1991 to better coordinate the multi-agency resources which constitute the Solid and Hazardous Waste Hauler Licensing Program, commonly known as A-901. Resources and workloads within the DEPE, the DOL and the New Jersey State Police were reallocated amongst the agencies to address and eliminate historical backlogs. As a result of this intensive management effort, in 1991 and 1992 combined, over 1100 applications were processed. This is almost twice as many as the 595 applications processed in the 7 years combined since the program's inception in 1984. The pre-existing backlog of new applicants for entry into the solid waste business have been scrutinized and virtually all those that do not present disqualifying issues have been licensed. New applications received today are being processed within an average of 7 months.

With the eradication of the backlog, the program has now reached the point where resources are focused to deliver the major intended benefit of the statute, namely, the denial of entry into, or the removal from, the solid waste industry of those who have syndicated criminal associations, and those who do not possess the necessary integrity, reliability, or expertise to warrant licensure. In this regard, in 1992 the OSEP was involved in the detailed review of approximately 30 cases which resulted in the issuance of substantive A901 denials to bad actors. Cases within this category included applicants that were denied based on Federal convictions for conspiracy to commit money laundering, bribery, tax evasion and racketeering, violation of State anti-monopoly statutes, and egregious violations of New Jersey's water pollution laws.

Natural Resource Damage Task Force

The OSEP, in conjunction with the DEPE and the DOL, has worked to establish an interdisciplinary natural resource damage assessment team. This team, currently in its formative stages of development, will allow for the assessment of damages to natural resources during environmental incidents such as oil spills, so that appropriate recovery actions can be subsequently instituted against responsible parties. Until now, the

chief concern of initial response units has been incident containment remediation, with little or no effort directed at developing evidence relating to the extent or value of the natural resource damages. Experience has shown that subsequent efforts to collect such evidence have usually been too little and too late! The dedication of a team to focus, from the outset, on this aspect of an investigation will go a long way to insure the success of subsequent natural resource damage claims litigation. The task force will also be available to determine natural resource impacts resulting from longer term pollution such as hazardous waste sites. The task force will include chemical, biological and environmental engineering expertise. By cooperating with the State Police Marine Bureau the team will be available to react quickly to environmental incidents.

Scrap Tires

The impetus for the tire initiative resulted from a series of tire fires throughout the State in 1990 and 1991 culminating in a tire fire at a site in Jersey City in April, 1991 that sent acrid smoke into the air for hours affecting City residents, fire fighters and other individuals, and interrupted the flow of traffic on the New Jersey Turnpike Extension and other major roadways. As a result of the potentially significant environmental and health hazards of these and other fires involving tires, the OSEP initiated an investigation into the problem of scrap tire disposal practices throughout New Jersey. The investigation by the OSEP revealed that each year approximately nine million scrap vehicle tires are generated in the State. The investigation further revealed that tens of millions of discarded scrap tires are disposed of at tire dumps located throughout New Jersey with some of the sites containing tens of thousands to millions of tires.

The OSEP is in the process of finalizing a report which sets forth its findings concerning scrap tire management and disposal practices in New Jersey, outlines measures that the OSEP and the DEPE have taken in attempting to assess and address the problem, discusses additional measures that should be taken to improve the management of the current scrap tire waste stream, and discusses the remediation of existing tire dump sites.

Pinelands

As previously reported last year, the OSEP is working with the Pinelands Com-

mission in an enforcement initiative designed to protect and preserve the natural beauty and resources of the Pinelands. An ASEP is assigned to assist the Commission, the DEPE, local environmental officials, and the county prosecutors in the seven counties in which the Pinelands Reserve is located. The OSEP is also working with citizen groups such as the Pinelands Preservation Alliance to utilize their eyes and ears in the identification of violations in the Pinelands. At the same time, the OSEP continues to work with the Pinelands Commission and the Preservation Alliance in seeking passage of an amendment to the Pinelands Protection Act which would provide the Pinelands Commission with full administrative enforcement authority including the ability to assess enhanced penalties for violations of the Act and its implementing regulations. While the OSEP has assisted certain of the relevant counties in successfully prosecuting cases for environmental crimes committed in the Pinelands, it recognizes that a fully effective enforcement program in the Pinelands depends upon the Commission receiving the administrative enforcement authority outlined above.

Direct Sewage Discharge

The OSEP continues coordination of the efforts of the State Police Marine Bureau, various county health departments, and the DEPE to end direct discharges of business and household sewage and waste in the various waterways, bays, and shellfish breeding areas in New Jersey. To date, 595 summonses have been issued by the Marine Police requiring the cessation of such discharges since this initiative was begun in 1990. Efforts are underway to develop remedial alternatives with local sewerage authorities and county and local health officials. As a result of these efforts, a number of areas, including the Anchorage Point section of Middle Township, Cape May County, are being provided with sewerage hook-ups.

Economic Benefit Committee

At the request of the Commissioner of DEPE, the OSEP participated in a multidisciplinary committee seeking to implement the provisions of the Clean Water Enforcement Act regarding economic benefit. These provisions mirror the Federal Government's current enforcement policy. This policy seeks to insure that enforcement activity, at a minimum, removes any eco-

conomic benefit a polluter obtains as a result of environmental non-compliance. A report has been prepared detailing recommendations for dealing with the complex issues presented when trying to identify and recover the economic benefit obtained by companies violating their NJPDES water pollution permits.

New Jersey Waterways Audit

The New Jersey Waterways audit initiative was announced by the Governor and the SEP during the summer months of this reporting year. Developed as a cooperative effort with the Division of Solid Waste Management of the DEPE, the aim of this program is to utilize citizen volunteers to compile an inventory of pollution sources along New Jersey's public waterways. Once discovered, the OSEP will coordinate appropriate enforcement and/or remedial responses with appropriate State, county or local agencies.

The waterways audit is a project for citizens residing in all areas of the State who can volunteer to audit portions of local public waterways. Clean Communities Coordinators in each of the counties are available to communicate with citizen volunteers to identify segments of local waterways yet to be audited. Volunteers are provided with an easy to use form which alerts them to objects, conditions or fact situations which may indicate a possible source of pollution. If the volunteer should discover an environmental emergency in the course of conducting the audit, emergency phone numbers are provided so that a response can be provided as quickly as possible. The completed audits are returned to the OSEP where they are reviewed in order to determine the most appropriate and expeditious handling of the reported conditions. In addition to audits currently underway, and the approximately twenty that have been completed, several large-scale audits are being planned over the spring and summer months by environmental organizations already involved in water monitoring or cleanup-type programs.

Local Environmental Liaison Police Officers

In carrying out the mandate of Executive Order #2 which called for the establishment of the statewide environmental enforcement program, the SEP initiated discussions with the State Chiefs of Police Association regarding his desire to secure the appointment of an Environmental Liai-

son Officer within each of the municipal police departments in the State. This designation of an officer at the local level to work in conjunction with the local health officer is viewed by the OSEP as the critical link between the county component of the statewide program and the local towns, citizens and incidents. A detailed discussion of this initiative is contained later in this report under *Local Coordination*.

Environmental Community Service

The SEP initiated meetings at various times with representatives of the Probation Services Division of the Administrative Office of the New Jersey Courts, representatives of the New York/New Jersey Harbor Baykeeper, the Delaware Riverkeeper, the Association of New Jersey Environmental Commissions, and the Passaic River Coalition to consider the possibility of having environmentally oriented projects available for use in conjunction with criminal sentences which included community service and work-release components. Representatives of the Administrative Office of the Courts expressed positive support for the proposal and enumerated the guidelines which need to be followed when planning a project for acceptance as a work release effort. Representatives from the environmental groups voiced strong support for the proposal and saw the numerous environmental groups throughout the State as the potential source of many future projects, as well as beneficiaries of this initiative.

The SEP will be meeting in the near future with representatives of the county probation offices with regard to further development and implementation of this initiative.

New Jersey Asbestos Abatement Control

The OSEP has conducted a preliminary review of the existing laws controlling the asbestos abatement industry in New Jersey and their implementation in the regulations and programs within the DCA, Department of Labor, DOH, and DEPE. On the basis of the information developed, the OSEP has concluded that an ad hoc committee should be convened from within the various departments to perform an in-depth review and evaluation of the effectiveness of the statutes, regulations, and programs within this multi-departmental structure.

COUNTY COORDINATION

Building upon the improved coordination and cooperation developed between State level divisions and departments, the SEP, in the first year of his appointment, initiated the development of the county enforcement components. Seizing upon the pivotal role of the County Prosecutors in the criminal justice system, and the County Health Officers in the regulatory enforcement system, the SEP molded them into the nucleus of these county components. As the focal point of county level enforcement activity, they are the immediate point of contact and coordination with the OSEP. Notification of all new environmental matters is made to the OSEP by the County Prosecutors' offices. Cases are then evaluated by OSEP in the context of alternative agencies and/or dispositions, and other ongoing criminal, civil or administrative enforcement activity, to insure appropriate assignment and handling. Each matter is assessed and, if warranted, designated a priority case.

Two ASEPs are assigned to work exclusively with the operation and further development of these county environmental enforcement components. In accordance with the protocol established between the OSEP and the County Prosecutors, the OSEP was notified of all significant investigations and prosecutions initiated by the County Prosecutors in response to environmental incident notifications. The ASEPs are responsible for providing the County Prosecutors with assistance, including the necessary legal and technical support; designating and assisting with the investigation and prosecution of county level priority cases; and providing complementary civil and regulatory support when needed.

The county component in the state-wide environmental enforcement program has, in two short years, reached the point where over the course of 1992, more than 1300 environmental incidents were reported to the 21 County Prosecutors' offices by various county and local agencies. The reported incidents covered a wide range of environmental events including spills of hazardous substances; the release or abandonment of hazardous wastes or toxic pollutants; the illegal storage, transportation or disposal of hazardous or solid wastes; the unpermitted release of air contaminants; the filling of wetlands; and the illegal discharge of pollutants into the waters of the State.

During the last year, the County Prosecutors filed a total of 163 formal actions in environmental cases consisting of 63 indictments, accusations and/or indictable complaints, 98 disorderly persons offenses, and 1 violation of probation. Criminal dispositions, i.e. convictions/pretrial intervention, were obtained by the counties in 29 environmental matters. Sentences were handed out to 13 individuals/corporations in indictable county environmental cases over the course of the year, 3 of which were custodial in nature. Additionally, one disorderly persons offense resulted in incarceration.

The highlights of selected County criminal environmental cases follow:

— In Hudson County, a corporation that continually allowed its condominium holding tanks to overflow and dump raw sewage into the Hudson river was sentenced to a fine of \$50,000

— In Ocean County, the owners of an auto wrecking business illegally installed a discharge pipe which fed into an oil and water separator in the wetlands. A sentence of \$50,000 fine and \$1,136 in restitution resulted

— In Middlesex County, a solid waste hauling company owner pled guilty to theft (from customers) by deception. Fifty hours of community service at the Edgeboro Landfill, 36 months probation, \$1,200 restitution, a forfeiture of \$5,000 and consent to a \$47,000 civil judgement were conditions of the owners's acceptance into the pretrial intervention program

— In Essex County, the owners of two plastics manufacturing companies agreed to pay cleanup costs which totalled nearly \$25,000 for illegally discharging hazardous waste

— In Burlington County, an individual who pled guilty to unlawfully transporting and disposing of soil contaminated with waste oil was entered into the pretrial intervention program and paid a \$15,000 fine

— In Atlantic County, a Mayor pled guilty to unlawfully operating a municipal landfill after it had been ordered closed by State officials. The Mayor forfeited his elected office and was placed on probation for 18 months

— In Passaic County, a tractor trailer driver discharged diesel fuel from the truck onto the street. The driver was sentenced to pay clean up costs of \$12,481 and a fine of

\$5,000 for violating the Water Pollution Control Act

— In Morris County, an individual who illegally transported hazardous waste was sentenced to 3 years probation and a \$5000 fine

— In Morris County, an individual entered a plea to illegally releasing a toxic pollutant in the course of burning lead paint from the exterior of a three family home, the tenants of which included several children. The defendant had been previously warned against using this method by health officials who were concerned about the children's exposure to lead. Conditioned on 18 months probation, \$150 reimbursement for laboratory expenses, 40 hours of community service and an \$850 donation to a charitable organization involved in lead research, the defendant was accepted into the pretrial intervention program

— In Morris County, an individual entered a plea to an indictment charging him with hazardous waste and water pollution violations. He was accepted into the pretrial intervention program, the conditions of which include 1 year probation, \$500 reimbursement to DEPE for Emergency Response costs, \$82.50 to the County for laboratory costs, \$2,100 for cleanup and a \$500 donation to the Clean Water Enforcement Fund

— In Atlantic County, a door company was ordered to pay cleanup costs and \$1,000 fine for unlawfully transporting and storing hazardous waste materials. The owner was entered into the pretrial intervention program

— In Atlantic County, an employee of a motel negligently discharged septic waste onto the ground. For violating water pollution laws, the employee was fined \$500 and placed on probation for 1 year

— In Hunterdon County, a sewage waste hauler illegally disposed of untreated sewage on his property near a school. Twenty-five hours of community service, 1 year probation and payment of cleanup costs were conditions of acceptance in the pretrial intervention program

— In Burlington County, two incidents of unlawful disposal of solid waste by individuals resulted in one being placed on probation for a year and the other being entered into the pretrial intervention program

— In Sussex County, an individual discharged oil into a lake through a storm drain. Two years probation, 100 hours of community service to a Hazardous Materials Response Unit and alcoholism counseling were conditions of acceptance into the pretrial intervention program

— In Morris County, a dentist abandoned regulated medical waste in an office he formerly leased. A jail tour, 1 year probation, urine monitoring and \$2,500 contribution to the Endangered and Non-Game Wildlife Fund were conditions of acceptance in the pretrial intervention program

— In Morris County, a solid waste hauler illegally disposed of customers' trash he had contracted to dispose of legally at a transfer station. This theft by deception resulted in a sentence of 200 hours of community service, 1 year probation and a fine of \$7086

— In Morris County, an individual dumped motor oil into a storm drain. One year probation, \$500 in restitution and random urine monitoring were conditions of acceptance into the pretrial intervention program

— In Monmouth County, an individual was illegally operating a solid waste business. Sentencing included a \$1,000 fine, 2 years probation and 50 hours of community service

— In Burlington County, two individuals unlawfully transported and disposed of waste materials. Both have been accepted into the pretrial intervention program

— In Salem County, a meat packing company violated an earlier probationary sentence for violation of water pollution laws. A fine of \$4,000 and a 1 year extension of probation resulted

1992 COUNTY PROSECUTOR STATISTICS

County	Investigations	Open	Closed	Actions*	Dispositions**
Atlantic	130	73	59	8	8
Bergen	24	7	6	1	0
Burlington	457	16	453	34	4
Camden	67	11	46	6	2
Cape May	2	2	0	0	0
Cumberland	7	3	4	0	0
Essex	103	31	72	59	19
Gloucester	6	0	6	1	1
Hudson	19	2	17	0	1
Hunterdon	4	2	2	2	1
Mercer	8	0	8	1	1
Middlesex	14	11	12	1	1
Monmouth	76	17	67	14	14
Morris	225	21	223	9	7
Ocean	103	27	76	2	2
Passaic	46	26	23	1	2
Salem	1	1	0	1	1
Somerset	1	0	1	0	0
Sussex	36	6	33	6	7
Union	16	16	0	16	0
Warren	2	3	1	1	0
TOTALS	1347	275	1109	163	71

*Criminal, Disorderly Persons

**Convictions and Pre-trial Interventions

LOCAL COORDINATION

The SEP considers the proposed municipal/local component of the comprehensive Statewide environmental enforcement program to be the critical link between the county components and the local citizens, crime scenes, and courts. It is the link which insures that the local citizenry get the complete and timely assistance of not only the State and county criminal justice resources, but also the real and tangible benefits of the varied State, county and local, civil and regulatory enforcement remedies. As ultimately envisioned, the local police departments and the local health officials will form the nucleus of the local enforcement components, working in conjunction with fire inspectors, code enforcement officers, environmental commissions, emergency response representatives, schools, churches and local citizen and industry groups. The coordinated involvement of these entities, each in its own way will, in the long run, contribute to the long range success of the Statewide environmental protection program.

Working in cooperation with the New Jersey Chiefs of Police Association, the SEP and the Association's Advisory Board focused on the fact that environmental crimes, like all crimes, are committed on the lands, roadways, and waterways of our local municipalities. Each acknowledged the real and dramatic impact on the lives, property values, and the health of the local citizen, attendant upon the pollution of their lakes and rivers and the accumulation of hazardous chemicals and other wastes in their "backyards". It was concluded that the personnel and resources of our local police de-

partments should be better equipped and utilized to prevent such tragic occurrences. The Board then endorsed, and the general membership voted to support, the request of the SEP for the designation of an experienced police officer to be the Environmental Liaison Officer in each of the State's municipalities to act with the health officers as the focal point on the local level for environmental enforcement activities. It is not the intention to train these officers to get hands-on involved with environmental crime scenes, but rather to equip them to coordinate local criminal enforcement issues with the County Prosecutors' representatives, if and when the need arises.

Since this request was presented to the State's Chief of Police in February of this year, nearly 300 experienced police officers have been designated as their local police Environmental Liaison Officers. A single day of training is being planned by OSEP for these officers. With these hours of training, officers will be equipped to recognize environmental crimes fact patterns; understand the civil and administrative distinctions; insure the proper routing of indictable criminal events; through coordination with, and the assistance of, the local health officers, act as a source of direction and information for fellow police officers, citizens, and other local officials; and serve as a conduit for channeling of State and county assistance. In short, these officers can insure that the signs and symptoms of local environmental criminal conduct are properly gathered, developed, and charged, and that the appropriate State, county, and local resources are brought to bear on local environmental enforcement issues.

ENVIRONMENTAL TRAINING PROGRAMS



The SEP is committed to the proposition that properly trained enforcement personnel are critical to the overall success of the Statewide environmental enforcement effort.

POLICE ACADEMY ENVIRONMENTAL OFFENSES CURRICULUM

The OSEP in conjunction with the DCJ Environmental Prosecutions Bureau has developed the nation's first environmental crimes curriculum for all New Jersey police officers. The curriculum is designed to educate local police recruits to the various environmental statutes which currently exist in the State of New Jersey to assist them as new officers in the detection and the prosecution of environmental crimes. The New Jersey Police Training Commission, as well as the New Jersey State Police, are requiring the inclusion of this curriculum in the Basic Training for their respective officers. Effective July 1, 1993, all municipal police academies will provide this environmental crimes block of instruction to all new recruits going through the 21 county police academies. The New Jersey State Police is incorporating this curriculum into its training to commence with the next State Police class in October of 1993. The environmental crimes training will be mandatory in the police academies and will require officers to be proficient in the detection and apprehension of those who pollute our natural resources.

Traditionally, all enforcement agencies perform their functions during normal business hours, Monday through Friday. With the incorporation of our local police into the environmental enforcement effort, the State will have an around-the-clock network sensitive to violations of our environmental laws. In addition to expanding the environmental enforcement network, the visibility of police officers and their sensitivity to environmental violations will act as a deterrent to those who are inclined to commit environmental offenses in the future. The training of police officers in the area of environmental crimes will now put New Jersey in the forefront of environmental enforcement.

LOCAL ENVIRONMENTAL LIAISON OFFICERS TRAINING

With the newly developed local environmental liaison officers initiative, police



officers now join the local health officers to provide a critical link between their local community, and the county and State environmental enforcement components. In order for the officer to effectively deal with these types of environmental incidents, the OSEP will provide training to the designated officers in each of the municipalities. Training courses are currently being scheduled both in the northern and southern areas of the State. These one-day courses will serve to enhance the liaison officers' environmental awareness and sensitize them to details regarding violations of law and regulations in the areas of solid, hazardous and medical waste, as well as air and water pollution. The training, approximately 6 hours in length, will be an in-depth review of the laws and various types of violations that may be experienced while on routine assignments in their local community. Using prior case histories, the environmental liaison officers will also be exposed to environmental violations and scenarios depicting the role of the local police officer in responding and handling environmental incidents. The officers will also be sensitized to the dangers that exist while responding to these incidents, with an emphasis on how to protect themselves and the public from exposure to potentially hazardous materials. The officers will be provided with a student manual which will include all of the existing New Jersey environmental statutes as well as sample complaint forms which can be uniformly used throughout the State. The manual was developed expressly to be used as a training aid, but will also serve as a reference guide which the officers can carry with them in their patrol vehicles.

ENVIRONMENTAL TRAINING FOR EXPERIENCED POLICE OFFICERS

As part of the overall concept of environmental enforcement training for police officers, the OSEP is completing the development of an environmental crimes training program for the experienced police. The basic police academy curriculum is being modified and will be provided, at no cost, to each

municipal police department along with audio visual aids, and the course book. It is anticipated that the local departments will utilize these instructional aids to provide the current approximately 33,000 police officers with up-to-date environmental crimes enforcement materials.

The training of the experienced police officer will complete a comprehensive program designed to educate our local police in the detection, apprehension and prosecution of those who pollute our environment.

UNITED NEW YORK AND NEW JERSEY SANDY HOOK PILOTS ASSOCIATION

The OSEP arranged for the United New York and New Jersey Sandy Hook Pilots' Association to conduct an educational program covering topics relevant to the investigation of environmental incidents involving the operation of vessels in harbor areas, with particular emphasis placed on matters involving the loading and discharging of hazardous cargos from vessels. The full day presentation was attended by the Rivers and Harbors Task Force staff, DOL deputies, DEPE Emergency Response staff, State Police Marine Bureau staff and County Prosecutor Environmental liaisons from coastal counties.

DISCHARGE PREVENTION AND CONTAINMENT COUNTERMEASURES

The SEP also arranged for every Marine Police Officer to receive instruction from DEPE's Discharge Prevention and Containment Countermeasures (DPCC) staff on regulations pertaining to the booming and illumination of marine transfers of hazardous cargos. At the conclusion of the training, a cooperative enforcement effort designed to insure compliance with the booming and illumination regulations was initiated by the State Police Marine Bureau, as part of their routine patrols of the waterways.

COOPERATIVE ACTIVITIES— INTERSTATE/FEDERAL/ INTERNATIONAL ENFORCEMENT AGENCIES



MARYLAND DELEGATION VISIT

A Maryland delegation, including the Montgomery County States Attorney, the Director of its Department of Environmental Protection, and the Chief of the Maryland Attorney General's Environmental Bureau, visited New Jersey as part of an effort by Montgomery County to establish a more effective and efficient county level environmental unit. The group was briefed by the OSEP on New Jersey's comprehensive State-wide environmental enforcement network. The SEP stressed the need for coordination among the administrative, civil, and criminal enforcement agencies, and underscored the key role played by the county prosecutors in the county component. The OSEP arranged for the Maryland contingent to meet with members of the Monmouth and Ocean County Task Forces to get an insight into structuring, initiating, and operating a county environmental strike-force.

STEERING COMMITTEE ON STATE/FEDERAL ENFORCEMENT RELATIONSHIP

The SEP continues to function as a member of the Steering Committee on State/Federal Enforcement Relationship which operates under the aegis of the Federal Environmental Protection Agency. The Committee, which was established to oversee the implementation of the State/Federal enforcement relationship envisioned in EPA Oversight and Delegations policies, continued throughout the year to work with EPA to identify relevant issues and to develop operational policies to harmonize State/Federal enforcement programs.

NATIONAL ENFORCEMENT TRAINING INSTITUTE

The SEP continues to serve on the Advisory Council of the National Enforcement Training Institute. The Institute, which has been established pursuant to the Federal Pollution Prosecution Act of 1990 within the Environmental Protection Agency, is charged with the responsibility to train Federal, State, and local enforcement personnel in the enforcement of the Nation's environmental laws. As a member of the Council, the SEP advises on the development of core enforcement curricula, and on the delivery of enforcement training services.

ATOMIC ENERGY ACT WORKING GROUP

The SEP, assisted by a DOL Deputy, represented the Attorney General on a working group established by the National Association of Attorneys General (NAAG) to address the advisability of amending the Federal Atomic Energy Act of 1954 ("the AEA"). The working group began meeting by conference call in June 1992 with about 17 states participating. The working group divided into sub-groups, with each sub-group addressing a specific topic. The SEP and the DOL Deputy actively served on a sub-group that eventually recommended strengthening the citizens suits provisions in the AEA. In March 1992, the working group presented a resolution to NAAG that called for the AEA to be amended. The proposed amendment would make it more consistent with most other environmental laws by requiring certain minimal levels of protection, requiring Federal facilities to comply with the act, allowing states to impose requirements beyond the Federal requirements, and strengthening the citizens suit provisions.

SHIP POLLUTION, DELAWARE BAY, U.S. COAST GUARD

The OSEP was notified by the State Police Marine Bureau Bivalve Station that they had retrieved plastic bags of garbage from the Delaware Bay which were directly traceable to a cruiseliner which had recently passed through that area. This incident closely paralleled an incident last year involving a Saudi Arabian vessel which had also discharged garbage in the Delaware Bay. The OSEP determined in that case that the U.S. Coast Guard had jurisdiction to pursue the most effective remedy for this conduct. Utilizing the evidence developed by the State Police Marine Bureau, last year's matter was prosecuted by the U.S. Coast Guard under the MARPOL Protocol which implements the "International Convention for the Prevention of Pollution from Ships." That prosecution resulted in the imposition of a \$20,000 civil penalty and, more importantly, the initiation by the shipping company of a formal policy to fully comply with environmental regulations regarding disposal of ship-generated garbage. Based on that success, the evidence involving the cruiseliner has been similarly forwarded to the U.S. Coast Guard and a joint enforcement action has begun, although not concluded at the time of this report.

EASTERN EUROPEAN ASSISTANCE International Enforcement Conference

The SEP attended the Second Annual International Conference on Environmental Enforcement convened in Hungary. As an invited member of the United States EPA delegation, the SEP participated in meetings and workshops with representatives of nearly 50 countries. Jointly sponsored by the EPA, the Commission of the European Communities and the Netherlands Ministry of the Environment, the purpose of the conference was, through an exchange of techniques and experiences, to improve compliance with and enforcement of environmental laws throughout the countries of the world.

International Study Group Visit to New Jersey

The OSEP assisted the non-profit Environmental Law Institute, based in Washington, D.C., in connection with a U.S. Study Tour for environmental officials from Hungary, Poland, Romania, Bulgaria and the Czech and Slovak Republics. The foreign delegation of approximately 20 individuals, involved in various levels and capacities in their nation's environmental programs, visited New Jersey to study the State's environmental enforcement programs and to review the supportive role of environmental organizations. The SEP provided an overview of the State's enforcement resources and programs and arranged for the delegation to meet with organizations such as the American Littoral Society—Baykeeper Program, the Passaic River Coalition, the Pinelands Preservation Alliance and the Pinelands Commission. The group's interest and itinerary also included observing the environmental self-monitoring operations at the E.I. duPont Chambers' Works facility.

KOREAN PROSECUTOR'S VISIT TO NEW JERSEY

The SEP met with a Prosecutor representing the Supreme Public Prosecutor's Office of Seoul, Korea during his recent visit to New Jersey. The prosecutor was interested in an overview of New Jersey's environmental enforcement program; the concept, experience, and benefits of the Environmental Prosecutor concept; and the use of the State's criminal laws as a tool to protect the environment.

PUBLIC EDUCATION AND OUTREACH ACTIVITIES



The SEP considers public involvement and education a key component of a successful Statewide environmental protection program.

ACTIVITIES, COMMITTEES

Over the course of the reporting year, the SEP and staff representatives have travelled throughout New Jersey in response to invitations to speak on the State's environmental enforcement initiatives. Presentations at grammar school, high school, and university level programs have provided the OSEP the opportunity to not only encourage environmental awareness, but to instill a sense of responsibility among students. Panel presentations and other speaking opportunities at programs sponsored by the State's business and professional organizations have provided the SEP and office representatives the opportunity to discuss and promote more responsible environmental practices in the business/industry community. Interaction with local organizations and environmental groups has allowed citizens to become better acquainted with the OSEP's mandates and the ways in which they can contribute to the overall environmental protection effort. The SEP and staff have also given interviews to representatives of newspapers, magazines or other trade and professional publications.

The SEP and OSEP staff are also participating as members on various State agency working committees: the Ad Hoc Committee on Asbestos Abatement, the New Jersey Regulated Medical Waste Task Force of the New Jersey Health Care Facilities Financing Authority, the DEPE Economic Benefit Roundtable, the DEPE Executive Enforcement Committee, the DEPE Solid Waste Enforcement group, the Cape May Speedy Trial Program and the New Jersey Environmental Education Commission.

NEW JERSEY ENVIRONMENTAL EDUCATION COMMISSION

In 1991, the SEP was named to the New Jersey State Environmental Education Commission. Members of the Commission include representatives from formal education, school administration, government, environmental, civic, youth, cultural and special interest organizations, business and industry, science, religious affiliations, agriculture and environmental health. The Commission was charged with three mandates: to identify information on envi-

ronmental protection, propose ways to effectively communicate this information to the public and recommend actions which citizens can undertake to become environmentally responsible. In addition to assisting in the overall development of the plan, the SEP's audit and compliance program was incorporated into the plan of action which specifically addresses how business and in-

dustry, through sound management practices and training, can contribute to protecting our environment.

Through the efforts of the SEP, a global settlement was reached in a specific case which resulted in the contribution by a convicted water polluter of \$57,000 to the Environmental Education Commission to assist in its implementation costs.

