

2002 REPORT

ENVIRONMENTAL CRIMES BUREAU

For two decades, the Environmental Crimes Bureau (ECB) has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste and solid waste laws, as well as traditional crimes that have an impact on public health and safety and the environment. During 2002, in addition to responding to pollution incidents statewide, the ECB, working closely with the Department of Environmental Protection (DEP) and local officials, focused its efforts on identifying and prosecuting those who illegally dispose of hazardous or solid waste in vulnerable urban areas, or who endanger surrounding communities and workers by the way they operate. In addition, the ECB, with the assistance of the DEP, has targeted and prosecuted those who discharge dangerous materials into the air. The ECB has also targeted those who make false submissions to the DEP. As the DEP cannot check the accuracy of all the information that it receives, it relies on the integrity of those who file. A filer's concealment of a failure to take appropriate action could lead to significant adverse public health/environmental problems.

In 2002, the ECB obtained fourteen (14) indictments and accusations. Successful ECB prosecutions in 2002 secured seventeen (17) years jail time and approximately \$600,000 in fines and restitution. The ECB also coordinates the criminal enforcement efforts of the County Prosecutors and the DEP and the Marine Bureau of the State Police, and provides technical and legal assistance to the Prosecutors Offices, as well as to local law enforcement. During 2002, the County Prosecutors' offices obtained five (5) indictments and accusations for crimes related to the environment and/or public health.

I. Urban Initiative

1. In State v. Gary Kantor (Indictment No. 02-09-00139-S), the State Grand Jury returned an indictment against defendant charging him with third degree unlawful storage of hazardous waste (N.J.S.A. 13:1E-9g(3)); third degree recklessly causing a hazardous discharge (N.J.S.A. 2C:17-2); and two counts of third degree unlawful discharge of a pollutant (N.J.S.A. 58:10A-10f). The indictment charges defendant, the owner of Exact Anodizing, a now defunct manufacturing processing plant in Elizabeth, with illegally storing vats of hazardous waste, unlawfully discharging chromium, lead, barium and arsenic compounds from drums onto the ground, and unlawfully discharging industrial wastes into the sewer system.

2. In State v. Gennaro Pica (Indictment No. 02-12-001945), the State Grand Jury charged the defendant, a construction contractor, with criminal mischief (N.J.S.A. 2C:17-3) for dumping a dump truck load of solid waste and debris on a Jersey City street near a hospital.

II. Air Pollution

1. In State v. John Mendola (Accusation #828-02), the defendant pled guilty to a third degree violation of the Air Pollution Control Act (N.J.S.A. 26:2C-19(1)) and to fourth degree resisting arrest (N.J.S.A. 2C:29-2). While conducting another investigation in Jersey City, ECB SIs observed the defendant salvaging wire by using open fires that created black smoke. The open burning occurred on a field on Conrail property near a townhouse development. Under a plea agreement, the State is recommending a four year custodial term for the defendant.

2. In State v. Dye Tex Corp. and Joseph Vendette (Accusation Nos. 02-12-1118 and 02-12-1117), the State filed accusations against the defendant company and its president for a fourth degree violation of the Air Pollution Control Act (N.J.S.A. 26:2C-19) and fourth degree violation of the Water Pollution Control Act (N.J.S.A. 58:10A-10f). Both defendants pled guilty to the

charges with Vendette being admitted into pretrial intervention conditioned upon paying \$10,000 to the Clean Water Enforcement Fund and paying all outstanding DEP fines and penalties. In 2001, on numerous occasions, in spite of repeated DEP directives, Dye Tex discharged dark plumes of smoke that violated the facility's permits for opacity limits. The defendants also removed the facility's pH monitoring probe from its waste water effluent.

3. In State v. All American Casting, d/b/a A.T. Casting (Accusation No. 02-12-1075A), the defendant corporation pled guilty to a third degree violation of the Air Pollution Control Act (N.J.S.A. 26:2C-19f(1)) for violating DEP directives in 1999 to 2001 to cease operating or obtain a permit for equipment it was operating, including spray booths and flow coaters. The Court sentenced defendant to pay \$5,000 in penalties to the DEP.

III. Environmental Frauds/Thefts

1. In State v. Thomas Carey, (Indictment No. 02-03-00016-S), the State Grand Jury returned a sixteen count indictment against defendant Thomas Carey, who operated Lake Associates Lab, for tampering with public records, third degree, contrary to N.J.S.A. 2C:28-7a(1); falsifying records, fourth degree, contrary to N.J.S.A. 2C:21-4a and theft, third degree, contrary to N.J.S.A. 2C:20-4. Carey subsequently pled guilty to submitting falsified analytical results to the DEP for metals and bacteria for a municipal water supply. In many instances, he never even sampled the water supply system, let alone perform the analysis. The Court sentenced defendant to four years probation and a \$9,000 fine.

2. In State v. Robert White (Accusation No. 2002-09-1260A), the ECB filed an accusation against Robert White charging him with fourth degree falsification of records (N.J.S.A. 2C:21-4) for falsifying to the DEP that he had performed laboratory analyses at a certified laboratory when he had, in fact, done the analyses at his home.

3. In State v. Conrad Manisera (Accusation No. 02-08-0924A), the State filed an accusation against defendant charging him with third degree tampering with public records (N.J.S.A. 2C:28-7) for falsifying OSHA required Confined Space Entry Permits for an underground storage tank removal project in West Orange. The defendant was admitted into pretrial intervention conditioned upon paying \$7,500 to the New Jersey Work Environment Council for worker safety awareness programs. Defendant's prior employer, Active Oil, entered into a settlement agreement in which it agreed to pay \$7,500 to the New Jersey Work Environment Council.

4. In State v. Angelo Scilla (Indictment No. 02-09-00146-S), the State Grand Jury returned an indictment against defendant charging him with two counts of third degree theft (N.J.S.A. 2C:20-4). The Grand Jury charged defendant, the former dispatcher of Yannuzzi Disposal Services, Inc., with altering bills and overbilling two major customers. Defendant pled guilty to third degree theft and is awaiting sentencing. Yannuzzi Disposal Services, Inc. entered into a settlement agreement with the State, under which it has agreed to compensate those two customers for the full value of the theft, which totals approximately \$73,000.

5. In State v. Dana Transport & Michael Torrissi (Indictment No. 01-12-00127-S), the State entered into a settlement agreement with Dana, which agreed to pay \$125,000 to the NJ Spill Compensation Fund. A grand jury had charged Dana with third degree theft (N.J.S.A. 2C:20-4) and criminal mischief (N.J.S.A. 2C:17-3) relating to Dana's delivery of a fuel mixture to Connectiv's Rio Grande generating station, instead of pure kerosene. Defendant Michael Torrissi was admitted into pretrial intervention conditioned upon serving 300 hours community service and paying \$2,500 to the NJ Spill Compensation Fund.

6. In State v. Brenda Grungo (Indictment No. 95-03-008-S), the Court sentenced defendant to four years in State Prison for probation violations. In 2000, she had received a

probationary sentence for her involvement in a waste oil/tax fraud scheme that had been prosecuted by the ECB.

IV. Hazardous Waste/Solid Waste

1. In State v. Meadowlands Plating, et al. (Indictment Nos. SGJ434-00-09(1) & (2)), the Court sentenced defendant James O'Brien to 12 1/2 years State prison for second degree unlawful abandonment of toxic pollutants (N.J.S.A. 2C:17-2a(2)) and second degree theft (N.J.S.A. 2C:20-4). This is one of the largest sentences the State has ever received in an environmental case. The Court also sentenced defendant Padraig Tarrant to five years probation, \$125,000 restitution to US EPA, and a \$4,000 fine for unlawfully storing hazardous waste, specifically, electroplating waste at the Meadowlands/MPF Plating facility in Bergen County. The Court sentenced defendant John Canavari to 18 months probation, \$75,000 restitution to US EPA, and a \$3,000 fine for unlawfully storing hazardous waste, and theft by deception. The Court sentenced defendant Marchese to 18 months probation, a \$4,000 fine, and \$25,000 restitution for unlawfully storing hazardous waste and theft. Between 1996 and 1998, defendants unlawfully stored corrosive hazardous waste and wastewater treatment sludge in electroplating vats and tanks, in drums, and in rolloff containers. When they closed the plant, they left behind the toxic waste from the plating operation. At one time, Meadowlands was one of the largest electroplating facilities in the State. Defendants also obtained over \$75,000 from a lending corporation for the purchase of equipment and fixtures, including pollution control equipment, and failed to use that money for that purpose as required by the US Small Business Administration Authorization and Loan Agreement.

2. In State v. John Upperman (Indictment No. 02-09-0145-S), the State Grand Jury returned an indictment against defendant charging him with third degree reckless abandonment of hazardous waste (N.J.S.A. 2C:17-2) and third degree criminal mischief (N.J.S.A. 2C:17-3). The

Grand Jury charged defendant, the former owner of Taurus Industries, with abandoning 20 drums of pcb contaminated waste in a trailer at a tractor dealership in Mantua. Defendant has pled guilty to criminal mischief and is awaiting sentence.

3. In State v. Tina Daly and Wildcat Express (Indictment No. 01-12-00130-S), the Court sentenced defendant Wildcat Express to one year probation for falsifying records (N.J.S.A. 2C:21-4), and defendant Tina Daly to one year probation for criminal mischief (N.J.S.A. 2C:17-3). As a condition of probation, pursuant to DEP's requirements, defendants must fully clean up the site where they unlawfully disposed of large quantities of solid waste/debris.

4. In State v. Anthony Iannuzzio (Indictment No. 02-09-00141-S), the State Grand Jury returned an indictment against defendant charging him with two counts of fourth degree criminal contempt (N.J.S.A. 2C:29-9). The Grand Jury charged defendant with collecting and disposing of solid waste in violation of a DEP obtained court order barring him from doing so because of his numerous prior solid waste regulatory violations.

V. Protection of Waters

1. In State v. Sylvan Callica (Indictment No. 91-11-196S), the Court sentenced defendant to 180 days in the Hudson County jail for second degree unlawful release of a hazardous substance (N.J.S.A. 2C:17-2a(2)) and third degree unlawful discharge of water pollutants (N.J.S.A. 58:10A-10f). Defendant unlawfully discharged oil contaminated water into a storm sewer that flowed into the Hackensack River.

2. In State v. Ken Diamond (Accusation No. 02-07-1227A), the State filed an accusation against Ken Diamond, the owner of Grand Technologies, Englishtown, for a third degree reckless violation of the Water Pollution Control Act, contrary to N.J.S.A. 58:10A-10f. Defendant, as a condition of admission into Pretrial Intervention, has agreed to pay \$10,000 to the Clean Water

Enforcement Fund. Defendant was charged with recklessly discharging contaminated rinse water on several occasions from Grand Technologies onto the ground and ultimately into a nearby stream.

3. In the matter of Eastern Concrete Materials, Inc., the Environmental Crimes Bureau entered into a consent agreement with Eastern Concrete in which Eastern has agreed to pay \$30,000 to the Hackensack Riverkeeper and \$69,000 to the Clean Water Enforcement Fund. This settlement resolves the Environmental Crimes Bureau's investigation into the discharge of high pH concrete barrel washout water from Eastern's facility in Secaucus into the Hackensack River between November 2001 and February 2002.

4. In State v. Joseph Johanson (Indictment No. 01-10-00093-S), defendant Joseph Johanson pled guilty to unlawfully disposing of solid waste at Johanson swine farm in Salem County in 1999 and 2000. The Court sentenced defendant Joseph Johanson to one year probation, conditioned upon paying a \$2,500 fine and, pursuant to all DEP directives, fully cleaning up and properly disposing of all the solid waste he disposed of at Johanson swine farm. Defendant had been charged with unlawfully disposing of solid waste at the swine farm and polluting a local stream from solid waste runoff.

5. In the matter of Atlantic States Cast Iron Pipe, the Environmental Crimes Bureau entered into a settlement agreement with Atlantic States in which Atlantic States has agreed to pay \$50,000 to an environmental group dedicated to protecting the Delaware River and surrounding waterways, as well as to take a series of steps to improve the operations of its plant. In December 1999, there was a discharge of petroleum contaminated water from the Phillipsburg stormwater system into the Delaware River in the area of the Atlantic States facility.

6. In State v. Captain Barrus, Inc., et al. (DFW#s 020921, et al.), defendants Belisario, Varollo, Krause, Dougherty and Lan, entered into civil consent agreements with the State in which

they agreed to pay, respectively, \$7,500, \$5,500, \$3,000, \$3,000 and \$4,500 to the New Jersey Division of Fish and Wildlife Shellfisheries Law Enforcement Fund. This resolves, but for two remaining defendants, the Division of Fish and Wildlife referral to the ECB relating to the unlawful fishing and sale of blackfish near Ocean City.