

2004 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 2004, 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 2004, the ECB obtained eighteen (18) indictments and accusations. Successful ECB prosecutions in 2004 secured one and one-half (1½) years jail time and approximately \$693,731 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 2004, the County Prosecutors' Offices obtained one (1) indictment for crimes related to the environment and/or public health.

I. URBAN INITIATIVE

1. In State v. Teta and Yengo (Indictment No. 491-4-10), the State Grand Jury charged defendants Teta and Yengo with two counts of second degree release of a toxic pollutant, contrary to N.J.S.A. 2C:17-2 and defendant Yengo with two counts of third degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for unlawfully disposing of soil contaminated with PCB's and lead from a site owned by Teta in Jersey City. The soil was dumped at two

different sites in Jersey City, one owned by the New Jersey Department of Transportation and one owned by Conrail. Teta is also charged with second degree theft, contrary to N.J.S.A. 2C:20-4, fourth degree false swearing, contrary to N.J.S.A. 2C:28-2, and third degree tampering with public records, contrary to N.J.S.A. 2C:28-7 for fraudulently obtaining a New Jersey Hazardous Site Remediation Fund grant. Teta is charged with third degree theft, contrary to N.J.S.A. 2C:20-4 and third degree tampering with public records, contrary to N.J.S.A. 2C:28-7 for falsely obtaining monies from the Fund through the DEP. Teta is also charged with second degree corporate misconduct, contrary to N.J.S.A. 2C:21-9. Yengo is also charged with second degree witness tampering, contrary to N.J.S.A. 2C:28-5.

2. In State v. Armstrong (Indictment No. 04-08-00145-S), the State Grand Jury charged defendant with second degree conspiracy, contrary to N.J.S.A. 2C:5-2, second degree unlawful abandonment of toxic pollutants, contrary to N.J.S.A. 2C:17-2; second degree release of toxic pollutants, contrary to N.J.S.A. 2C:17-2, third degree receiving stolen property, contrary to N.J.S.A. 2C:20-7; third degree theft by failure to make required disposition of property received, contrary to N.J.S.A. 2C:20-9 and third degree witness tampering, contrary to N.J.S.A. 2C:28-5. Defendant, who operates a trucking company in Roselle, is charged with using a stolen trailer to abandon drums containing toxic pollutants in Elizabeth. He is also charged with misappropriating property that he was hired to transport and he is charged with witness tampering.
3. In State v. Elton Ren Williams, (Indictment No. 04-04-00057-S), the State Grand Jury charged defendant with third degree unlawful transportation and disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6b(3) and (4); fourth degree unlawful collection of solid waste,

contrary to N.J.S.A. 13:1E-9.6 d, and third degree criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant is charged with collecting and then dumping a large volume of tires and debris at a site near Newark Airport and at a site in Elizabeth. Defendant pled guilty to unlawful disposal and collection of solid waste and is awaiting sentencing. This is the State's first prosecution under the Solid Waste Crimes law enacted in January 2004.

4. In State v. German G. Cuadrado and Daniel Estrella (Indictment No. 04-05-00086-S), the State Grand Jury charged defendant Cuadrado with third degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6d, third degree unlawful transportation of solid waste, contrary to N.J.S.A. 13:1E-9.6b, third degree receiving stolen property, contrary to N.J.S.A. 2C:20-7 and third degree criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant Cuadrado is charged with unlawfully collecting solid waste, specifically demolition debris, from a site in Hackensack and abandoning two large stolen trailers filled with debris from that site. The trailers were abandoned in Paterson and Carlstadt. Defendant Estrella is charged with unlawfully collecting solid waste from the Hackensack site.
5. In State v. Pettaway (Indictment No. 04-08-00131-S), the State Grand Jury returned a nine count indictment which charges defendant, a trucker from Newark, with five counts of receiving stolen property, third degree, contrary to N.J.S.A. 2C:20-7 and four counts of criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant is charged with stealing trailers, filling them with debris, and leaving them at various sites in Newark and Irvington. Defendant pled guilty to two counts of third degree theft and two counts of third degree mischief. Under the plea agreement, the State will recommend that defendant receive a three year state prison sentence.

6. In State v. Mariscal (Indictment No. 04-05-00091-S), the State Grand Jury charged defendant with third degree unlawful release of a hazardous substance, oil, contrary to N.J.S.A. 2C:17-2. Defendant, a contractor, is charged with pumping oil from an underground storage tank he was removing in Union City onto the ground.

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8. In State v. Distribution Freight Lines, Inc., (Accusation No. 04-11-1713A), the ECB filed an accusation against defendant for unlawfully transporting solid waste to an unauthorized location, contrary to N.J.S.A. 13:1E-9h(6), for transporting and then leaving a trailer with solid waste at the side of 39th Street in Paterson.

9. In State v. Baily (Indictment No. SGJ501-04-15), the State Grand Jury returned a nine count indictment which charges defendant, the owner of a demolition company, with five counts of receiving stolen property, third degree, contrary to N.J.S.A. 2C:20-7 and four counts of criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant is charged with directing the stealing of trailers, filling them with debris, and leaving them at various sites in Newark and Irvington.

II. HAZARDOUS/SOLID WASTE

1. In State v. David Solow (Indictment No. 00-12-00166-S), the Court sentenced defendant to a five year probationary sentence conditioned upon serving 180 days in the county jail and

paying \$6,494 restitution and a \$3,000 fine. Defendant abandoned drums of waste chemicals from his photo business at a public storage facility in Little Ferry.

2. In State v. W. Scott Shepard and Millville Laundry, (Indictment No. 04-10-00186-2), the State Grand Jury returned a one count indictment against Millville Laundry and its president Scott Shepard charging them with third degree unlawful storage of hazardous waste, contrary to N.J.S.A. 13:1E-9g(3). Defendants are charged with storing drums of waste Perchloroethylene for two years in a building that children had access to.
3. In State v. Morganville Property, Inc., (Indictment No. 04-0026894), the ECB filed an accusation against Morganville Property, Inc. for unlawfully storing hazardous waste, fourth degree, contrary to N.J.S.A. 13:1E-9h(3), for storing drums and containers of hazardous waste for approximately two year at a truck yard at Raritan Center, Edison. Some of the chemicals leaked out of a container and ultimately onto the ground. Defendant pled guilty, received a \$10,000 fine, paid \$50,000 for the clean up, and will have to pay \$6,708 restitution.

III. WATER POLLUTION

1. In State v. Paul Brothers, Inc., Thomas D. Paul, and William Marsden (Indictment No. 04-04-00058-S), the State Grand Jury charged defendants with second degree release of hazardous waste, contrary to N.J.S.A. 2C:17-2 and third degree water pollution, contrary to N.J.S.A. 58:10A-10f. The defendants are charged with discharging highly acidic wastewater from the Paul Brothers concrete fabricating facility in Newfield into an adjoining wooded area. All three defendants have pled guilty to third degree water pollution and are awaiting sentence. Under the plea agreement, Paul will receive a one year county jail sentence, the

company will pay a \$45,000 fine and Marsden will receive a probationary sentence.

2. AmerGen/Oyster Creek: As part of a \$1 million dollar State settlement with AmerGen to resolve the Division's investigation into a discharge of thermal water from the Oyster Creek nuclear plant that resulted in the deaths of 5,876 fish, the Division of Criminal Justice entered into an agreement with AmerGen which required it to pay a \$250,000 fine to the Clean Water Enforcement Fund. The agreement also requires AmerGen to pay \$250,000 to the Natural Resource Education Foundation Lighthouse Center for Natural Resource Education in Waretown. The DEP entered into a \$500,000 settlement that included penalties, natural resource damage assessments and payments to the Lighthouse Center and the Barnegat Bay Estuary Program.
3. In State v. Tunnel Barrel and Drum and Urcioli (Accusation Nos. 03-10-01990A and 01991A), the Court sentenced defendants Tunnel Barrel and Drum and Urcioli to two year probationary terms and to jointly and severally pay a \$25,000 fine and \$10,000 restitution to the Hackensack Riverkeeper for discharging contaminated rinse water from drum cleaning operations into a tributary of the Hackensack River.
4. In State v. Vladimir Smolensky, (Indictment No. 04-03-00052S), the State Grand Jury charged the defendant with a third degree violation of the Water Pollution Control Act, N.J.S.A. 58:10A-10f. Defendant, a supervisor of the UMDNJ - Newark power plant, is charged with violating the plant's water pollution permit by discharging about 10,000 gallons of acidic waste water into the sewer system in a manner that bypassed the pH treatment system.
5. In State v. Jorge Roldan (Accusation No. 04-10-0829-A), the ECB filed an accusation against

defendant, the owner of Precise Plating, in Newark, charging him with unlawful discharge of a pollutant, contrary to N.J.S.A. 58:10A-10f, for discharging wastewater with levels of cyanide above those allowed in its permit into the PVSC sewer system.

6. In State v. Delton Lyons, (Accusation No. 2004-11-1272), the ECB filed an accusation against Lyons for third degree water pollution, contrary to N.J.S.A. 58:10A-10f(2), on two separate occasions in November 2004, for dumping oily water into a storm sewer leading to a nearby pond. Defendant, if admitted into Pre-Trial Intervention, will have to pay \$6,000 to the New Jersey Spill Compensation Fund.

IV. ENVIRONMENTAL FRAUDS

1. In State v. Mitchell Reisman (Indictment No. 03-07-00144-S), defendant pled guilty to third degree theft and third degree securities fraud for orchestrating the sale of shares of Biometric Access stock at inflated values. This is a spinoff investigation from the Environmental Crimes Bureau's Meadowlands Plating prosecution. The Court sentenced defendant to a five year probationary sentence conditioned upon serving 364 days in the Essex County jail. He was also required to pay \$100,000 restitution and a \$20,000 fine.
2. In State v. Kevin Rothauser, (Indictment No. 04-09-00152-S), the State Grand Jury returned a five count indictment against all defendants charging them with third degree theft by deception, contrary to N.J.S.A. 2C:20-4 (count one) and four counts of third degree tampering with public records, contrary to N.J.S.A. 2C:28-7 (counts two through four). The indictment charges defendant Rothauser, who owned Matrix Environmental (now defunct) with billing Prudential Property and

Casualty company for underground storage tank remediation work that they had not performed at various Prudential insured homes. They are also charged with submitting false information to the DEP in Remedial Action Reports.

V. RADIATION PROTECTION ACT

1. In State v. Andrew Telymonde, (Indictment No. 04-02-00027-S), the State Grand Jury charged defendant with three counts of fourth degree unlawfully exposing people to radiation, contrary to N.J.S.A. 26:2D-10 and N.J.S.A. 26:2D-22 and with one count of fourth degree x-raying of people without a DEP license, contrary to N.J.S.A. 26:2D-22, N.J.S.A. 26:2D-36 and N.J.S.A. 26:2D-27. Defendant is charged with x-raying humans to develop digital x-ray technology, with failing to shield employees from radiation from x-ray machines, with not providing lead aprons to people he x-rayed and with x-raying people without a DEP license. Defendant was admitted into Pretrial Intervention conditioned upon paying a \$20,000 fine.
2. In State v. Timothy Telymonde (Accusation No. 04-02-394A), the State filed a two count accusation against defendant, for fourth degree unlawfully exposing people to radiation, contrary to N.J.S.A. 26:2D-22 and N.J.S.A. 26:2D-10, and for x-raying people without a DEP license, contrary to N.J.S.A. 26:2D-22, N.J.S.A. 26:2D-36 and N.J.S.A. 26:2D-27. Defendant pled guilty to both charges and the matter is pending.

TRAINING/OUTREACH/LEGISLATIVE INITIATIVES

1. During the summer of 2004, the ECB sent copies of its 2004 “Environmental Crimes Handbook” (including a computer disc), to all municipal police departments in the State (over 500). This effort, part of the Urban Initiative, was designed to inform local law

enforcement about the statutes they have available for dealing with small scale dumping incidents, as well as to remind them about the ECB's commitment to the investigation and prosecution of those who dump on our cities. We also provided municipalities with copies of their own ordinances, when we could obtain them, to assist them in their own enforcement efforts.

2. The ECB began what will be a series of half-day training sessions on solid waste dumping for local law enforcement and local health officers. The first training session was held in Union County. In 2005, we expect to conduct similar programs in Paterson and in Camden. This will supplement our summer mass mailing of our Environmental Crimes Handbook to all of New Jersey's police departments (over 500).
3. In January 2004, the Governor signed into law the Solid Waste Crimes bill that the ECB had developed. This law greatly enhances the criminal penalties for solid waste dumping. In 2004, the ECB used the new law in three separate prosecutions.