

## **2005 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 2005, 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 2005, the ECB obtained twenty (20) indictments and accusations. Successful ECB prosecutions in 2005 secured seven and one-third (7 $\frac{1}{3}$ ) years jail time and over \$750,000 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 2005, the County Prosecutors' Offices obtained approximately three (3) indictments and accusations for crimes related to the environment and/or public health.

#### **I. URBAN INITIATIVE**

During 2005, the ECB worked closely with officials in Paterson, Newark, Jersey City and Camden to address chronic dumping problems in each of those cities.

#### **JERSEY CITY**

1. In State v. Cordell Nesbitt (Indictment No. 05-08-001310-S), the ECB obtained a two count indictment against defendant charging him with third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6b(3) and fourth degree unlawful collection of solid

waste, contrary to N.J.S.A. 13:1E-9.6d. Defendant, a city employee, is charged with unlawfully collecting construction/demolition debris from two separate sites and dumping it at a lot in Jersey City.

2. In State v. Derrick Venable (Indictment No. 05-06-00100-S), the ECB obtained an indictment against defendant charging him with third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6b(3) for dumping debris on a lot in Jersey City.
3. In State v. Stewart and Coar (Indictment No. 05-06-00099-S), the ECB obtained an indictment against defendants charging them with fourth degree unlawful collection of solid waste, contrary to N.J.S.A. 13:1E-9.6d for unlawfully collecting debris from a demolition site in Jersey City.
4. In State v. Teta & Yengo (Indictment No. SGJ491-4-10), both defendants pled guilty to unlawful release of toxic pollutants for causing soil contaminated with lead and PCBs from a clean up site in Jersey City to be dumped elsewhere in Jersey City. Yengo is to be sentenced in 2006. Teta will be admitted into Pretrial Intervention conditioned upon paying a \$100,000 fine.
5. In State v. Bashar Jaber (Complaint No. S-2005-000187-0906), defendant pled guilty to one count of unlawful disposal of solid waste in Jersey City, contrary to N.J.S.A. 13:1E-9.3. The Court sentenced defendant to pay \$500 restitution and a \$750 fine.

### **PATERSON**

1. In State v. Branko Rovcanin, et al. (Indictment No. 05-03-00030-S), the ECB obtained a ten count indictment against defendants charging them with third degree unlawful abandonment of a toxic pollutant, contrary to N.J.S.A. 2C:17-2; fourth degree unlawful collection of solid

waste, contrary to N.J.S.A. 13:1E-9.6d, third degree criminal mischief, contrary to N.J.S.A. 2C:17-3; third degree unlicensed asbestos removal, contrary to N.J.S.A. 34:5A-36 and 41 (four counts); fourth degree tampering with public records, contrary to N.J.S.A. 2C:28-7 (two counts) and fourth degree uttering a forged document, contrary to N.J.S.A. 2C:21-1. Defendants are charged with performing four different asbestos abatement jobs in New Jersey without a Department of Labor license, and collecting and then abandoning solid waste and asbestos in a trailer near defendant's business in Paterson. Defendant is also charged with falsifying various records to conceal the fact that he was unlicensed.

2. In State v. Andrey Milner (Indictment No. 05-06-00098-S), the ECB obtained a three count indictment against defendant for a third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6b(3); third degree bribery, contrary to N.J.S.A. 2C:27-2 and fourth degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for unlawfully disposing of three loads of debris on a lot in Paterson and trying to bribe a Paterson DPW official who caught him dumping.
3. In State v. Leonard Mermelstein (Indictment No. 05-06-00095-S), the ECB obtained an indictment against defendant for unlawfully transporting hazardous waste, specifically lead contaminated soil, without possessing a DEP manifest, contrary to N.J.S.A. 13:1E-9i. Defendant left the trailer on a Paterson street.

### **NEWARK**

1. In State v. Pettaway (Indictment No. 04-08-00028), the Court sentenced defendant to a three year State prison sentence for his convictions for two counts of third degree receiving stolen property (N.J.S.A. 2C:20-7), and two counts of third degree criminal mischief (N.J.S.A.

2C:17-3), for stealing trailers, filling them with debris and abandoning them in Newark and Irvington.

2. In State v. Elton Williams (Indictment No. 04-04-00057-S), the Court sentenced defendant to a three year State prison sentence for unlawfully disposing of hundreds of used tires in Newark and Elizabeth.
3. In State v. Wilenta Feed, Inc. (Accusation No. 5-9-741A), the ECB filed an accusation against defendant corporation charging it with third degree reckless unlawful transportation of solid waste to an unauthorized place, contrary to N.J.S.A. 13:1E-9.6b(2) for transporting solid waste, food waste, to an unlicensed facility in Newark near a housing project. Defendant pled guilty and the Court imposed a \$50,000 fine.

#### **CAMDEN**

1. In State v. William Carter (Indictment No. 05-04-00049-S), the ECB obtained a one count indictment against defendant charging him with third degree unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.6 for dumping two truckloads of demolition debris on vacant lots in Camden.

#### **Other Cities**

1. In State v. Armstrong, (Indictment No. 04-08-000145-S), the Court imposed a three year probationary sentence on defendant, conditioned upon serving 120 days in the county jail. It also imposed \$32,500 in restitution to pay for clean up costs for the clean up and proper disposal of drums of waste oil he abandoned in a trailer in Elizabeth.
2. In State v. Calcagni, Inc. (Accusation No. 02-12-0981), the ECB filed an accusation against

the defendant company charging it with third degree criminal mischief, contrary to N.J.S.A. 2C:17-3 for disposing of drummed waste chemicals on a lot in Ewing. Defendant pled guilty, and the court sentenced defendant to pay \$7,248.00 restitution to the Spill Compensation Fund and to pay a \$500.00 fine.

3. In State v. Montanaro, (Accusation No. 05-12-00918A ), the ECB filed an accusation against defendant, a contractor, charging him with third degree criminal mischief, contrary to N.J.S.A. 2C:17-3, for burying demolition debris from a remodeling job in the backyard of the house where he was doing the work.
4. In State v. Vaccaro (5-2005-00321-0211), the ECB filed a summons complaint against defendant charging him with unlawful disposal of solid waste, contrary to N.J.S.A. 13:1E-9.3, a disorderly persons offense, for dumping oil sludge on a lot in Elmwood Park from a tank clean out he was doing for a company he worked for. He pled guilty and the Court sentenced him to pay a \$1,500 fine.

## **II. HAZARDOUS WASTE**

1. In State v. Paul Brothers Inc., Thomas Paul and Thomas Marsden (Indictment No. 04-04000058-S), the Court imposed a \$45,000 fine on Paul Brothers and sentenced company president Thomas Paul to three years probation, conditioned upon serving 364 days in the county jail. The Court also sentenced defendant Thomas Marsden to three years probation. All defendants had pled guilty to water pollution charges for discharging highly acidic wastewater into a wooded area next to the Paul Brothers concrete fabricating facility in Newfield.
2. In State v. Brian Kievit (Accusation No. 05-01-0142A), the ECB filed a one count

accusation against defendant charging him with fourth degree creating the risk of widespread injury or damage, contrary to N.J.S.A. 2C:17-2c. Defendant pled guilty to the charge. Defendant, a employee of Terminix, was the lead applicator for a group of employees who fumigated a room filled with coffee beans without proper ventilation, resulting in injuries to all workers involved. The Court sentenced defendant to probation for his conviction of creating the risk of widespread injury or damage.

3. In State v. Millville Laundry, Inc., et al. (Indictment No. 04-10-0186-S), defendant Millville pled guilty to third degree unlawful storage of hazardous waste for storing hazardous waste without DEP approval for two years at a facility it had operated in Millville. The Court sentence defendant Millville to pay a \$25,000 fine and to pay an additional \$8,938 to the Spill Fund relating to DEP clean up oversight costs. All money was paid at sentencing. Defendant Scott Sheppard was admitted into PTI.
4. In the Matter of Curtis Wright, the DEP, through the Division of Law entered into a stipulation of Settlement with Curtis Wright relating to DEP and DCJ's investigation of Curtis Wright's unlawful 2002 shipment of twelve loads of hazardous waste off-site. The total settlement was \$209,991, of that total \$100,000 will be paid to the N.J. Spill Fund to resolve the ECB's criminal investigation relating to Curtis Wright.
5. In State v. Edwin Elbertson, (Accusation No. 05-12-01106), the ECB filed an accusation against defendant charging him with third degree criminal mischief, contrary to N.J.S.A. 2C:17-3. Defendant is charged with dumping numerous small containers of old paint products on a dirt road near a drive-in movie theater in Vineland. Defendant pled guilty and is awaiting sentencing.

### III. WATER POLLUTION/WETLANDS

1. In State v. Gerald Portee (Indictment No. 05-02-0006-S), the State Grand Jury returned an indictment against defendant, the director of the UMDNJ-Newark physical plant, for third degree unlawful discharge of a pollutant, contrary to N.J.S.A. 58:10A-10f (two counts), and third degree witness tampering contrary to N.J.S.A. 2C:28-5. Defendant was charged with directing that the facility on two separate dates discharge thousands of gallons of acidic wastewater into the PVSC sewer system without the material going through Ph treatment and telling the subordinate he had ordered to unlawfully discharge to lie to State Investigators. After a two week trial, an Essex County jury convicted defendant of third degree witness tampering. The matter is awaiting sentencing.
2. In State v. Craffen (Accusation No. 05-09-01727A) and State v. Empire Overall Cleaners, Inc. (Accusation No. 05-09-01726-A), the ECB filed separate accusations against Craffen, and her company charging them with a third degree water pollution violation, contrary to N.J.S.A. 58:10A-10f, for filing false Discharge Monitoring Reports with the Passaic Valley Sewerage Commission. Empire pled guilty and will receive a \$30,000 fine at sentencing and Craffen will be admitted into PTI.
3. In State v. Vera, (Accusation No. 05-09-00308-A), the ECB filed an accusation against Vera, who works with a tank repair company, charging him with a fourth degree water pollution violation for discharging oil into a drain leading to the Washington Borough sewer system. Defendant was admitted into Pre-Trial Intervention conditioned upon paying \$8,326 restitution.
4. In the Matter of Commerce Bank, the ECB and Commerce Bank/North entered into a

stipulation of settlement to resolve the ECB's investigation into wetlands/wetlands transition area damage caused by a contractor building a Commerce Bank facility in Hanover. As part of the agreement, Commerce has paid the Baykeeper \$225,000 for Passaic River Projects. The impacted wetlands area is in the Passaic River Watershed. Commerce will also restore the affected wetland transition area.

5. In State v. William Miller, (Indictment No. 05-12-00206-S), the ECB obtained a State Grand Jury indictment against defendant charging him with third degree unlawful discharge of a pollutant, contrary to N.J.S.A. 58:10A-10f(2). Defendant is charged with draining liquid waste material into a sewer grate in Passaic.
6. In State v. Manuel Colon, (Indictment No. 05-12-00209-S), the ECB obtained a State Grand Jury indictment against defendant charging him with a third degree water pollution violation, contrary to N.J.S.A. 58:10A-10f(2) for directing workers to discharge into a Paterson street leading to a storm sewer, which goes into the Passaic River, waste liquids from cleaning out drums that had contained chemicals.

#### **IV. ENVIRONMENTAL FRAUD**

1. In State v. Hometown Tank Services, et al (Indictment No. 04-09-000152-S), defendant Hometown Tank entered a guilty plea to third degree theft relating to its billing to Prudential for environmental remediation work that it had not done. The Court sentenced defendant Hometown Tank to pay \$10,000 to the Spill Compensation Fund. Defendant Rich was admitted into Pretrial Intervention and must pay \$30,000 restitution to Prudential and \$2,500 to the Spill Fund. Defendant Rothausser was admitted into Pretrial Intervention and must pay \$21,500 restitution to Prudential and \$5,000 to the Spill Fund.
2. In State v. Eastern Waste, Inc. (Accusation No. 05-07-0565), the ECB filed a one count

Accusation against defendant, a solid waste hauling company, charging it with third degree theft, contrary to N.J.S.A. 2C:20-4 for diverting solid waste from the Mercer County Improvement Authority's scalehouse to avoid paying a required fee. Defendant pled guilty and the Court sentenced defendant to pay \$33,000 restitution to Mercer County and to pay a \$3,000 fine.

3. In State v. William Mozer (Accusation No. 05-07-0647), the ECB filed a one count Accusation against defendant, the owner of Horizon Disposal, a solid waste hauling company, charging him with third degree theft, contrary to N.J.S.A. 2C:20-4, for diverting solid waste from the Mercer County Improvement Authority scalehouse to avoid paying a required fee. Defendant was admitted into Pretrial Intervention conditioned upon paying \$76,310 to Mercer County.

## **V. RADIATION PROTECTION**

1. In State v. Timothy Telymonde (Accusation No. 04-02-394), the Court sentenced defendant to probation and a \$10,000 fine for criminal violations of the Radiation Protection Act.

## **VI. Training/Outreach/Legislature Initiatives**

### 1. Local Police/Code Official Training

During 2005, the ECB, completed its Statewide environmental crimes training for local police officers and code officials. Started in late 2004, this training was designed to make local officials aware of the relevant laws and how to respond to pollution incidents. The ECB trained several hundred officers who will now be able to deal with smaller incidents and who will know to contact the ECB about larger incidents.

### 2. County Health Officer Training

During 2005, as part of the DEP's Solid Waste training for county health officers from throughout the State, the ECB provided training on environmental crimes and more particularly on solid waste dumping crimes.

During the year, the ECB staff also provided training to enforcement officials throughout the county through the National Association of Attorneys General, Federal Law Enforcement Training Center and Northeast Environmental Enforcement Project.

3. Legislative Initiatives

During 2005, the ECB prepared draft legislation to enhance freshwater wetlands penalties and to create penalties under the Coastal Areas Facilities Review Act (CAFRA) and Waterfront Development Act. It also prepared draft legislation to create a new crime for filing false submission under the Indictment Site Recovery Act (ISRA).