



V. Enforcing the Nation's Environmental and Antitrust Laws

Goal: To protect the environment and competition while respecting the needs of economic development.

The Department continued to play a vital role in safeguarding the Nation's environment through natural resources protection, environmental enforcement, and promotion of environmental justice. Similarly, the Department was committed to enforcing laws that preserve a competitive business environment, targeting international price-fixing cartels, criminal antitrust activities by corporations, and anticompetitive practices by the health care industry. While it sought to vigorously defend environmental and antitrust laws that disallow unfair or illegal practices, the Department also worked to strike the right balance so as not to hinder economic development.

Safeguarding America's Environment

Several pieces of legislation considered by the Congress in 1996 had potentially negative ramifications for Federal protection of the environment. The Department took a lead role within the Administration in educating members of Congress as to how these various proposals would adversely impact the Government's ability to protect public safety, health, and the environment. Further, as a major participant in the public debate over Superfund reauthorization, the Department presented convincing congressional testimony on why the proposals being considered by Congress were ill-conceived from a liability standpoint. Through congressional testimony, briefings with members and staff, and other forms of outreach, the Department ultimately dissuaded members from passing these problematic bills.

The Department successfully defended many Federal programs designed to protect human health and the environment. It defeated constitutional challenges to Clean Air Act provisions and defended the Environmental Protection Agency's (EPA's) effluent limitations for the offshore oil and gas industry under the Clean Water Act. Similarly, the Department voiced its opposition to legislative proposals that would have weakened enforcement of the Endangered Species Act and imposed new costs on taxpayers. It also defended the most ambitious Federal program ever designed to address pollution in the Great Lakes.



Criminal Enforcement

Procedures implemented in 1994 defined and strengthened the partnership between the U.S. Attorneys and the Department's Environmental and Natural Resources Division (ENRD) in the investigation and prosecution of environmental crimes. The U.S. Attorneys brought criminal charges against 407 defendants during the year, representing a 39-percent increase over the number charged during 1995. Seventy-eight (78) percent of the 330 defendants whose cases were terminated during the year were convicted.

Environmental crime is one of the national priorities identified within the FBI's White Collar Crime Program. The FBI has approximately 500 environmental crimes investigations ongoing at any given time. In 1996, these investigations resulted in 5 complaints, 50 informations, 70 indictments, 6 pretrial diversions, 94 convictions, \$3,408,306 in restitutions, and \$143,007,617 in fines.

Aggressive enforcement of environmental laws is the indispensable cornerstone of environmental protection. As part of its criminal enforcement efforts, ENRD spearheaded an initiative to stem the tide of illegal imports of chlorofluorocarbons (CFCs), regulated under an international agreement for their depletive effects on the stratospheric ozone layer, which lead to skin cancer and cataracts, and cause other serious harm. The Department is working aggressively with FBI, EPA, IRS, USCS, and Canadian officials to deter future illegal CFC importation.

USNCB was requested to provide assistance in a joint USCS-EPA investigation of the illegal importation of CFC-12, more commonly known as "freon," in violation of the Montreal Protocol on Substances that Deplete the Ozone Layer. Through the cooperative efforts of INTERPOL, it was confirmed that a suspect wanted in the case was in Costa Rica. He was arrested there by Costa Rican authorities and extradited back to the United States, which is the first time an environmental violator/fugitive has been apprehended and extradited. Operation Cool Breeze—a joint EPA, IRS, and USCS team—identified 17 separate smuggling efforts by the defendant under a dozen false identities and straw companies.

Civil Enforcement

As a result of the Department's civil environmental enforcement efforts in 1996, defendants were required to spend \$305 million to come into compliance with environmental laws, and nearly \$25 million for supplemental projects to improve the environment. Civil enforcement of the Superfund cleanup statute was equally impressive. During 1996, the Department obtained 95 settlements and judgments requiring defendants to reimburse the Government \$384 million for cleanup costs—an all-time record. The U.S. Attorneys filed or responded to 470 civil actions to assert or defend the inter-

The Department continued to work toward cleanup of contaminated tribal lands. In a precedent-setting enforcement case under the Safe Drinking Water Act, it sued Tenneco Oil Company for polluting the groundwater of the Sac and Fox Nation of Oklahoma. The Department's negotiated settlement requires Tenneco to provide the Nation with a new drinking water supply, pay the Nation \$1.16 million in compensation, and restore contaminated tribal lands.



ests of the United States in environmental matters. The United States prevailed in 80 percent of those cases.

Additionally, Superfund was made fairer and more efficient through the use of creative *de minimis* and *de micromis* settlements, which help small businesses, households, and other small waste contributors avoid litigation. In Superfund cleanup, ENRD continues to give top priority to the cleanup of “Brownfields”—contaminated sites that contribute to poverty by posing health hazards and impeding economic revitalization, especially in urban communities.

Natural Resources Protection

The Department continued to work closely with Federal land management agencies to develop ecosystem approaches to protecting Federal lands. It worked to protect Yellowstone National Park from environmental risks posed by the New World Mine, and reached an agreement to prevent logging of the largest privately held redwood grove in the world, found in the Headwaters Forest of northern California. The Department also convinced the courts to reject an overly expansive reading of the timber provisions in the 1995 Rescissions Act—thereby saving important old-growth habitat—and went to court to acquire land for a wide variety of public uses, including environmental preservation and protection for the Appalachian National Scenic Trail and Everglades National Park.

The Department also continued its crackdown on international wildlife smuggling, a multibillion dollar black market that threatens biodiversity and depletes the national treasures of countries across the globe. As a result of “Operation Renegade,” which targets smuggling of exotic birds and their eggs into the United States, 36 defendants were charged, convicted, sentenced, and ordered to pay approximately \$330,000 in fines, forfeitures, and restitutions.

Finally, EPA and the Department are expanding the use of Prospective Purchaser Agreements (PPAs), which encourage the redevelopment of abandoned properties or the creation of employment opportunities. One PPA, entered into with Spelman College—a nationally prominent, historically black women’s college located in an economically depressed urban area—will expand its campus by constructing administrative and academic buildings and student housing on the property.

During 1996 BOP institutions recycled 86 percent of generated waste totaling over 8,830 tons. In addition to minimizing the impact on the environment, the Bureau’s recycling efforts resulted in greatly reduced costs for disposal of solid wastes. For instance, institutions in the northeast region saved \$184,163 through solid waste recovery and recycling efforts.

Enforcing Antitrust Laws

The Department is responsible for the vital task of enforcing the antitrust laws of the United States. The primary goal of the antitrust laws, under the Sherman and Clayton Acts, is to open markets and ensure their competitiveness for the benefit of American businesses and consumers.



Criminal enforcement against the most serious antitrust offenses—price fixing, market allocation, and bid rigging—is a core responsibility of the Antitrust Division. In 1996, the Antitrust Division filed 42 criminal cases against 41 corporations and 22 individuals. They were fined a total of \$26.8 million in criminal antitrust fines. Major criminal cases were filed in a wide range of industries, including commercial explosives, residential doors, and disposable plastic dinnerware. Corporations and individuals received a total of \$26.8 million in criminal fines and an average jail sentence of 15.5 months in antitrust proceedings.

Merger Reviews

The Antitrust Division formally investigated 235 mergers in 1996, compared with 134 merger investigations in FY 1995. One important antitrust trend in 1996 was increased cooperation with State antitrust authorities in merger reviews. A record-breaking merger wave involving some of the largest mergers in history translated into a dramatic increase in workload for the Antitrust Division.

Mergers in the telecommunications industry have been a major focus following the passage of the Telecommunications Reform Act of 1996 (designed to open up the telecommunications industry to competitive market forces). The Department also consented to Disney's \$19 billion acquisition of the Capital Cities/ABC network after Disney agreed to divest a television station.

Banking Divestitures

The second and third largest antitrust divestitures in the history of the banking industry also benefited from Federal-State cooperation. Following a joint investigation with the State attorneys general of Connecticut and Massachusetts, the Antitrust Division approved the merger of Fleet Financial Group and Shawmut National Corporation on the condition that Fleet sell 64 bank branches—resulting in the second-largest banking divestiture ever. The third-largest divestiture resulted after the Antitrust Division and the attorney general of California jointly approved Wells Fargo's acquisition of First Interstate Bancorp on the condition that the parties divest 61 branch offices.

Civil Litigation

Preserving competition in the health care industry remained a major focus of the Antitrust Division's civil litigation effort. To promote competition in managed health plans, the Antitrust Division



filed a lawsuit against Delta Dental of Rhode Island to challenge Delta Dental's use of a "most favored nation" clause that raises barriers to competition and discourages dentists from charging lower prices.

Among other notable civil antitrust cases filed in 1996 was one involving the settlement by 24 securities firms that make markets on the NASDAQ stock market exchange. The NASDAQ settlement ends collusive practices that had effectively raised the transaction fees these traders charged to investors. The Department also filed a major civil antitrust suit against General Electric Company, alleging that the company improperly used software licenses to restrict competition in the market for medical imaging equipment service.

