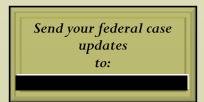


Environmental Crimes Section

April 2023







The photo, above, depicts the condition of Brush Creek following the discharge of approximately 100 barrels (4,000 gallons) of oil into a nearby tributary. Brush Creek flows more than a mile downstream from an oil production facility, the source of the spill. See *U.S. v. Franklin*, <u>inside</u> for more details on this case.





District/Circuit	Case Name	Statutes
Eastern District of California	<u>United States v. Pir Danish Ali, et al.</u>	Big Game Hunting/Conspiracy, ESA, Smuggling
	<u>United States v. Agustin Cruz-Sanchez</u>	Marijuana Grow/Drugs, Depredation to Public Lands
Southern District of California	<u>United States v. Otilio Rodriguez Toledo,</u> <u>et al.</u>	Pesticide Smuggling/ Smuggling
	<u>United States v. Aifa Seafood, Inc., et al.</u>	Seafood Mislabeling/ Lacey Act
Southern District of Florida	<u>United States v. Wendy Kilheffer</u>	Key Deer Killing/ESA
	<u>United States v. Eduardo Ulises Martinez</u>	Ivory Smuggling/Smuggling, Obstruction
Western District of Kentucky	<u>United States v. Joshua M. Franklin</u>	Waste Oil Discharge/CWA
Western District of Missouri	<u>United States v. Dennis Cleveland, et al.</u>	Emissions Defeat Devices/CAA, Conspiracy
Western District of North Carolina	<u>United States v. Laddie Dwayne</u> <u>McMillian et al.</u>	Dog Fighting/Animal Welfare Act, Conspiracy
Southern District of Ohio	<u>United States v. Tony Lee Coffman</u>	Ginseng Sales/Lacey Act
Middle District of Pennsylvania	<u>United States v. John Gallagher</u>	Fumigation Services/Mail Fraud
Eastern District of Virginia	<u>United States v. Jerome D. Smith, et al.</u>	Dog Fighting/Animal Fighting Venture, Conspiracy
	<u>United States v. Derek Garcia, et al.</u>	, circuite, conspiracy
Western District of Virginia	<u>United States v. William R. Stump, et al.</u>	Timber Theft/Conspiracy



Indictments

United States v. Pir Danish Ali, et al., No. 2:23-CR-00080 (E.D. Calif.), AUSA Katherine Lydon.

On March 23, 2023, prosecutors charged Pir Danish Ali, a citizen of Pakistan, and Jason Keith Bruce, of Galt, California, with conspiracy to violate the Endangered Species Act, to make false statements, and to smuggle goods into the United States. Bruce also is charged with smuggling and violating the Endangered Species Act (18 U.S.C. §§ 371, 545; 16 U.S.C. § 1538(a)(1)(A),(g)).

Pir was the CEO of a hunting outfitter and guide company based in Pakistan, and Bruce was a recreational big game hunter. Beginning in February 2016, Pir and Bruce conspired to hunt a Ladakh urial (an endangered wild sheep) in Pakistan and to smuggle the trophy from Pakistan to the United States. Bruce knew it was illegal to export this species from Pakistan. Shortly before the hunt, the two agreed that, if successful, Bruce would present forged documents to U.S. officials falsely declaring the Ladakh urial as a different species when transporting it to the U.S. In December, 2016, Bruce paid Pir \$50,000 for the hunt, and shot a Ladakh urial in April 2017. Bruce travelled back and forth to Pakistan in 2017 and 2018.

On March 29, 2018, Bruce flew into San Francisco International Airport from Pakistan carrying eight trophies in his personal baggage, including the Ladakh urial trophy. U.S. Customs and Border Protection agents stopped him and alerted the Fish and Wildlife Service. After authorities seized the trophies, Bruce presented falsified documents, and lead agents to believe he had merely imported a CITES-listed species without proper export forms.

Further investigation revealed that, between 2013 and 2018, at least 25 people who had hunted with Pir's company presented forged documents to import at least 97 hunting trophies into the United States.

The U.S. Fish and Wildlife Service's Office of Law Enforcement conducted the investigation.



THE UNITED STATES ==== DEPARTMENT of JUSTICE

Guilty Pleas

United States v. Jerome D. Smith, et al., No. 3:22-CR-00132 (E.D. Va.), ECS Senior Trial Attorney Banu Rangarajan, ECS Trial Attorney William Shapiro, AUSA Stephen Anthony, and ECS Law Clerk Amanda Backer.

On March 29, 2023, Jerome D. Smith pleaded guilty for his involvement in dog fighting across states lines (18 U.S.C § 49; 7 U.S.C. §§ 2156 (a)(1), (b)). Sentencing is scheduled for June 22, 2023. Connell S. Stukes, the final defendant, is scheduled to plead guilty on April 13, 2023.

In September 2022, a grand jury returned a 39-count indictment charging Smith, Stukes, Herman T. Washington, and Antonio Ruffin with conspiracy and violating the Animal Welfare Act for taking part in dog fighting ventures (18 U.S.C §§ 371, 49; 7 U.S.C. §§ 2156 (a)(1), (a)(2), (b)).

Between December 2017 and August 2021, the defendants travelled to North Carolina, South Carolina, and other states to fight dogs. Authorities rescued 91 pit-bull-type dogs as a result of this drug and dog fighting investigation.

The Federal Bureau of Investigation conducted the investigation, with assistance from the Office of the Attorney General for the Commonwealth of Virginia.

United States v. Otilio Rodriguez Toledo et al., No. 3:22-CR-01965 (S.D. Calif.), ECS Senior Trial Attorney Stephen DaPonte and AUSA Melanie Pierson.

On March 28, 2023, Otilio Rodriguez Toledo and Alicia Aispuro Hernandez pleaded guilty to multiple charges related to their illegally importation of pesticides and veterinary drugs from Mexico into the United States (18 U.S.C. §§ 371, 545; 7 U.S.C. §§ 136j(a)(1)(A),136l(b)(2); 21 U.S.C. §§ 331(a), 333(a)). Sentencing is scheduled for June 21, 2023.

Beginning in December 2018, the defendants



Taktic, illegal Mexican pesticide

and others, (both in Mexico and in the U.S.) conspired to smuggle Mexican pesticides and veterinary drugs from Mexico into this country and sell them to customers here. The defendants contacted co-conspirators in Mexico, asking them to smuggle the pesticides Taktic and Bovitraz, and the veterinary drugs Tetragent Aves, Metabolase, Terramicina, Cipio Vet, Baytril Max, Tylovet, Caterrol, Penicilina, and Tylosma. All these products were labeled solely in Spanish, and the pesticide labels did not bear an Environmental Protection Agency (EPA) registration number. The EPA previously cancelled the registrations of Taktic and Bovitraz. Additionally, the Food and Drug Administration did not approve the

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Guilty Plea

(Continued from page 4)

application, sale, or use of the veterinary drugs Tetragent Aves, Metabolase, Terramicina, Cipio Vet, Baytril Max, Tylovet, Caterrol, Penicilina, and Tylosma.

The defendants and others placed the smuggled pesticides and veterinary drugs in self-storage units at a facility in Calexico, California, after they entered the United States. They photographed the merchandise as proof of delivery. Toledo, Hernandez, and others retrieved the pesticides and veterinary drugs from the storage units to distribute them within the United States.

Authorities determined the fair market value of the merchandise smuggled and sold to be between \$1 million and \$2 million.

The Department of Homeland Security Investigations, the U.S. Environmental Protection Agency Criminal Investigation Division, the U.S. Food and Drug Administration Office of Criminal Investigations, and the California Department of Toxic Substances Control conducted the investigation.

United States v. John Gallagher, No. 3:19-CR-00007 (M.D. Pa.), AUSA Philip Caraballo.

On March 21, 2023, John Gallagher pleaded guilty to two mail fraud violations (18 U.S.C. § 1341).

Gallagher owned and operated J. Douglas Environmental Systems, which provided fumigation and pest control services. Between July 2009 and August 2016, Gallagher falsified and forged a variety of documents, including business contracts, certificates of liability insurance, and certified applicator licenses for employees to apply fumigants (including Phostoxin, a restricted-use pesticide). Phostoxin is a highly toxic inorganic chemical compound used to kill insects and small mammals, and is potentially lethal to human beings. The improper use or storage of Phostoxin, including exposure to water, can lead to spontaneous ignition or explosion. Gallagher received payment for services, while using falsified documents and certifications. He charged two customers in 2015 and 2016, mailing invoices through the U.S. mail.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation.



Guilty Pleas

United States v. Dennis Cleveland, et al., Nos. 6:23-CR-03024, 03025 (W.D. Mo.), AUSA Patrick Carney.

On March 13, 2023, and March 9, 2023, two business owners pleaded guilty for their roles in a conspiracy to illegally tamper with emissions controls on diesel-engine trucks. Dennis Cleveland pleaded guilty to conspiracy to violate the Clean Air Act (CAA) and one count of tampering with a CAA monitoring device (18 U.S.C. § 371; 42 U.S.C. § 7413(c) (2)(C)). Robert Dyche pleaded guilty to conspiring to violate the CAA (18 U.S.C. § 371).

Cleveland owned Affordable Towing, a roadside recovery, hauling, and mobile repair provider for commercial and private vehicles serving southwest Missouri. Affordable Towing utilized heavy-duty, commercial diesel trucks to tow and haul vehicles to repair facilities. Starting in 2011, Cleveland directed his employees to disable emissions control components on multiple heavy-duty diesel tow trucks. Cleveland conspired with Dyche, the owner and operator of Full Flash Tuning, which specializes in illegally tampering with vehicle on-board diagnostic systems. Cleveland caused the Affordable Towing trucks to be tampered with to save money by avoiding maintenance expenses and spending less money on fuel.

Cleveland, through Affordable Towing, contracted with Dyche on multiple occasions to "tune" or "flash" the emissions control systems for Affordable Towing vehicles, thereby causing multiple fleet vehicles to release pollutants into the air that far exceeded the legally allowable amounts. This alteration allowed each diesel truck to continue operating normally.

In addition to personally tuning Affordable Towing vehicles, Dyche drove vehicles to another business to "tune" the vehicles, for which he received compensation from Affordable Towing.

The U.S. Environmental Protection Agency Criminal Investigation Division conducted the investigation.

United States v. Tony Lee Coffman, No. 2:22-CR-00154 (S.D. Ohio), ECS Senior Trial Attorney Adam Cullman, SAUSA Mike Marous, AUSA Nicole Pakiz, and ECS Paralegal Jillian Grubb.

On March 9, 2023, Tony Lee Coffman pleaded guilty to violating the Lacey Act for illegally transporting and selling wild American ginseng, a protected species, and falsifying records (16 U.S.C. §§ 3372(a)(2)(B)(i), 3372(a)(4), 3373(d)(1)(B)).

Coffman was a West Virginia-licensed wild American ginseng dealer. On September 7, 2017, and September 15, 2017, Coffman purchased approximately 28 pounds of American ginseng roots that others illegally transported from Ohio. Ginseng dealer reports he submitted to authorities in October 2017 claimed the ginseng purchased on September 7 originated in West Virginia. Coffman also omitted mentioning roots purchased on

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Guilty Pleas

(Continued from page 6)

September 15. Coffman also submitted falsified records claiming ginseng illegally harvested in Ohio between November 2018 and September 2020, came from West Virginia.

The U.S. Fish and Wildlife Service Office of Law Enforcement and the Ohio Department of Natural Resources conducted the investigation.

United States v. Aifa Seafood, Inc., et al., No. 1:22-cr-20479 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On March 7, 2023, Aifa Seafood, Inc., (Aifa), a Florida corporation, and its president, Jiu Fa Chen, pleaded guilty to violating the Lacey Act for exporting falsely labeled spiny lobster from Florida to China (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)). Sentencing is scheduled for May 23, 2023.

Between May and August 2019, Aifa purchased seafood products for export to China. To meet the high demand for spiny lobster, Aifa imported lobster from Haiti for reexport to China. Aifa reexported approximately 5,900 pounds of lobster and falsely labeled the product in shipping documents as "Live Florida Spiny Lobsters, Product of U.S.A."

The National Oceanic and Atmospheric Administration, Homeland Security Investigations, and the Florida Fish and Wildlife Conservation Commission Division of Law Enforcement, conducted the investigation.



Sentencings

United States v. Wendy Kilheffer, No. 4:22-CR-10023 (S.D. Fla.), AUSA Tom Watts-FitzGerald.

On March 23, 2023, a court sentenced Wendy C. Kilheffer to pay a \$4,000 fine, complete a one-year term of probation, and perform 100 hours of community service. Kilheffer pleaded guilty to violating the Endangered Species Act by shooting and killing a Key deer (16 U.S.C. \S 1538(a)(1)(C), 1540(b)(1)).

On November 16, 2022, several Florida Keys residents discovered a Key deer lying on the ground with its antlers entangled in rope. Kilheffer arrived on the scene and, despite having zero veterinary training or related experience, decided that the deer was in distress and would not survive. Kilheffer went to her vehicle, secured a high caliber handgun, and shot the deer in the head at close range. According to witnesses, the deer's death was not immediate.

When law enforcement later questioned Kilheffer, she denied even being at the scene. Video surveillance and eyewitness statements refuted her lie.

The Florida Fish and Wildlife Conservation Commission conducted the investigation, with support from the National Fish and Wildlife Service Forensics Laboratory in Ashland, Oregon, and the Monroe County State Attorney's Office.

United States v. William R. Stump, et al., No. 7:21-CR-00019 (W.D. Va.), AUSA Michael Baudinet.

On March 17, 2023, a court sentenced William R. Stump to four months' incarceration, followed by one year of supervised release. Stump will also pay \$3,1849 in restitution to the U.S. Army Corps of Engineers (ACOE), after pleading guilty to illegally removing timber from public lands (18 U.S.C. § 1852).

Between August 2019 and February 2020, Stump and co-defendants Derrick Thompson and Justin W. Johnson, conspired to cut and remove black walnut trees located in the Bluestone Project in Giles County, Virginia, and transport them to Lindside, West Virginia, for sale. The U.S. ACOE designed the Bluestone Project to help inhibit flood-level water flow along both the New River and Bluestone River. The federally-protected 21,000 acre area provides fertile habitat for a variety of trees and plants, including the highly valuable black walnut trees. Walnut trees are among the largest and longest living hardwood tree.

In November 2022, a jury convicted Thompson of conspiracy to violate the Lacey Act, to steal government property, and remove to timber from public lands (18 U.S.C. § 371). He is scheduled for sentencing on May 1, 2023. Johnson is scheduled for trial to begin on November 28, 2023, on charges of conspiracy, violating the Lacey Act, theft of government property, removal of timber from lands of the United States, and illegally cutting trees on government lands (18 U.S.C. §§ 371, 1852, 1853; 16 U.S.C. § 3372(a) (1)).

The U.S. Forest Service and the Army Corps of Engineers conducted the investigation.



Sentencings

United States v. Eduardo Ulises Martinez, No. 22-CR-20137 (S.D. Fla), AUSAs Marty Fulgueira Elfenbein and Lindsey Lazapoulos Friedman.

On March 13, 2023, a court sentenced Eduardo Ulises Martinez to 51 months' incarceration, followed by three years' supervised release, for illegally smuggling sculptures containing ivory and obstructing justice. Martinez also will pay a \$20,000 fine and forfeit a number of items containing ivory. A restitution hearing is set for June 6, 2023.



Following a seven-day trial, a jury convicted Martinez of multiple counts of illegally smuggling and exporting items containing ivory in and out of the United States, and one count of obstructing justice for soliciting false evidence, documents, and testimony from a witness during the ongoing investigation (18 U.S.C. §§ 545, 554, 1503(a)).

Between March 2016 and September 2021, Martinez purchased numerous sculptures containing ivory from auction houses located in Spain, England, Canada, and Australia, later importing the sculptures into the United States for commercial purposes using various methods of concealment. On some occasions, Martinez dismantled the sculptures, breaking them down into their ivory, bronze, and marble components. He later shipped the individual components in different boxes to evade detection from law enforcement. Martinez shipped the components to various addresses not associated with his home or business. Martinez also used third parties located in Spain and England to collect or receive the sculptures from auctions houses in Europe, creating the appearance that the sculptures would stay within the European Union, and thereafter directed third parties to ship the ivory-containing sculptures to the United States. In every instance, Martinez, or others working on his behalf, falsely declared the packages as bronze, marble, porcelain, or other materials to evade inspection and detection. Once the sculptures arrived in the United States, Martinez reconfigured them to sell at a significant mark up.

The defendant obstructed justice by asking another Miami art dealer to tell a story to federal agents regarding certain ivory sculptures listed on the art dealer's website. Following the execution of a search warrant, Martinez also asked the dealer to use an invoice for an unrelated transaction involving bronze and ivory sculptures he purchased as proof he purchased the sculpture locally to induce authorities to return the seized property.

The U.S. Fish and Wildlife Service Office of Law Enforcement and Homeland Security Investigations conducted the investigation.



Sentencings

United States v. Agustin Cruz-Sanchez, No. 2:18-CR-00171 (E.D. Calif.), AUSA David W. Spencer.

On March 10, 2023, a court sentenced Agustin Cruz-Sanchez to 10 years' incarceration, followed by five years' supervised release. The court further ordered the defendant to pay \$10,000 in restitution to the U.S. Forest Service following his guilty plea to conspiracy to manufacture marijuana and depredation of public lands and resources (18 U.S.C. § 1361; 21 U.S.C. §§ 846, 841)

Between April and August 2018, Cruz-Sanchez lived and worked at an illegal marijuana grow site in the Shasta-Trinity National Forest, along with co-defendant Abraham De Los Santos-Sanchez. In August 2018, law enforcement officers executed a search of the grow area, eradicating 6,575 marijuana plants. Authorities estimate the



Garbage left on grow site

street value of the marijuana at more than \$1.5 million. Cruz-Sanchez and Santos-Sanchez expected to share in those profits, along with the off-site leader of the operation, Fidel Sanchez-Cruz.

During the search and site reclamation, law enforcement found a .40-caliber Smith & Wesson handgun with an obliterated serial number, pellet rifles, a loaded Smith & Wesson magazine, and a .40-caliber Smith & Wesson ammunition cartridge located in front of Cruz-Sanchez's tent. They found the handgun along the route Cruz-Sanchez used to flee the scene prior to his arrest. Photographs and videos found on Cruz-Sanchez's cellphone showed him and Santos-Sanchez posing with the handgun and pellet rifle in the marijuana fields and touting their ability to protect the grow with the weapons.

According to an environmental assessment, the defendants caused extensive environmental damage, by, among other things, using and disposing pesticides, fertilizers, and other chemicals onsite. The hazardous wastes found at the grow site included carbofuran (a banned toxic pesticide). The assessment concluded that the carbofuran and other pesticides and fertilizer at the grow site likely posed a significant direct risk to several endangered and threatened species, including the northern spotted owl, the foothill yellowlegged frog, and coho salmon. Authorities also identified and removed makeshift reservoirs and a large network of plastic irrigation lines. The defendants diverted more than 14.25 million gallons of water on the grow site.

(Continued on page 11)

Sentencings

(Continued from page 10)

Santos-Sanchez was sentenced in June 2020 to ten years' incarceration. Fidel Sanchez-Cruz is scheduled for sentencing on July 13, 2023.

The U.S. Forest Service, the U.S. Bureau of Land Management, the California Department of Fish and Wildlife, the California Highway Patrol, the California Department of Justice – North State Marijuana Investigation Team, the Trinity County Sheriff's Office, the Tehama County Sheriff's Office, the Corning Police Department, and the Red Bluff Police Department conducted the investigation.

United States v. Derek Garcia, et al., No. 1:22-CR-00154 (E.D. Va.), AUSAs Gordon Kromberg and Cristina Stam.

On March 7, 2023, and March 1, 2023, a court sentenced three defendants in this case involving an extensive dog fighting ring. Derek Garcia will serve 10 days' incarceration, followed by three years' supervised release. Ricardo G. Thorne, Jr., will serve 12 months' and one day incarceration, followed by three years' supervised release, and pay a \$2,500 fine. Michael Hilliard will serve six months' incarceration. followed by three years' release. These supervised defendants participated in a dog fighting conspiracy that extended throughout the Washington, D.C., area (18 U.S.C. §§ 371, 49: 7 U.S.C. §2156(c)).

Between May 2015 and August 2020,



Dog taken from Thorne's property

the defendants and other co-conspirators from Virginia, Washington, D.C., and Maryland used a messaging app private group, which they generally referred to as "The DMV Board" or "The Board." The defendants and their associates used this private messaging group to discuss training fighting dogs, exchange videos about dog fighting, and arrange and coordinate fights, without alerting law enforcement. The DMV Board members also used the messaging app to compare methods of killing dogs that lost fights, as well as to circulate media reports about others caught by law enforcement and discuss methods to reduce the odds of their capture.

The Federal Bureau of Investigation conducted the investigation, with assistance from the U.S. Department of Agriculture Office of Inspector General.



Sentencings

United States v. Laddie Dwayne McMillian et al., No. 1:22-CR-00045 (W.D.N.C.), ECS Senior Trial Attorney Banu Rangarajan, ECS Trial Attorney William Shapiro, Deputy Criminal Chief Don Gast, and ECS Law Clerk Amanda Backer.

On March 2, 2023, a court sentenced Laddie Dwayne McMillian to 16 months' incarceration, followed by two years' supervised release. Derrick Twitty will serve six months' incarceration, followed by two years' supervised release. Both are prohibited from possessing any dogs while under supervision. Twitty and McMillan pleaded guilty to conspiracy to violate the Animal Welfare Act's animal fighting prohibitions, and sponsoring and showing an animal in an animal fighting venture (18 U.S.C.§ 371; 7 U.S.C § 2156(b)).

Over a 15-year period, the defendants participated in dog fights involving more than 45 animals, including a dog named "Slick Rick" that McMillian sponsored in a fight in January 2022. Slick Rick died 20 days later. The evidence included multiple communications between the two and others, through which they shared graphic video of fight events and pictures of the injured dogs.

The U.S. Department of Agriculture Office of Inspector General and the Polk County Sheriff's Office conducted the investigation.

United States v. Joshua M. Franklin, No. 1:22-CR-00006 (W.D. Ky.), ECS Senior Trial Attorneys Dan Dooher and Ryan Connors.

On March 1, 2023, a court sentenced Joshua M. Franklin to pay \$10,000 in restitution and complete a one-year term of probation. The restitution will be paid as follows: \$4,357 to the Kentucky Department



of Environmental Protection and \$5,642 to the U.S. Environmental Protection Agency. Franklin pleaded guilty to violating the Clean Water Act for his involvement in discharging oil and brine water into Adair County creeks in 2018 (33 U.S.C. §§ 1311(a); 1319(c)(2)(A)).

Franklin worked as an operator at an oil lease tank battery in Columbia, Kentucky. His duties included ensuring that employees separate brine water (a waste product generated during oil production), from the oil before delivering it to customers. In August 2018, the onsite oil/water separator failed to work. As a result, Franklin attached a conduit to the bottom of the oil tank, placing the open end just yards away from a nearby creek. After opening the valve to discharge the oily waste, he left the site. Approximately 100 barrels (about 4,000 gallons) of the oily mixture discharged into a nearby creek and eventually flowed into connecting tributaries.

The U.S. Environmental Protection Agency Criminal Investigation Division and the Kentucky Department of Environmental Protection conducted the investigation.



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Senior Trial Attorney	Ethan Eddy	
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Senior Trial Attorney	Ken Nelson	
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Trial Attorney	Matthew Evans	
Trial Attorney	Stephen Foster	
Trial Attorney	Christopher Hale	
Trial Attorney	Joel LaBissonniere	
Trial Attorney	Samuel (Charlie) Lord	
Trial Attorney	Matt Morris	
Trial Attorney	Erica Pencak	
Trial Attorney	Leigh Rende	
Trial Attorney	Rachel Roberts	
Trial Attorney	Mark Romley	
Trial Attorney	William Shapiro	
Trial Attorney	Lauren Steele	



Announcements

We are updating the Environmental Crimes brief bank. The bank is accessible to DOJ employees (<u>https://dojnet.doj.gov/enviro-crimes/brief-bank/search.php</u>). Please send us pleadings you believe would be beneficial for your colleagues to access.

The Environmental Crimes Section maintains a sentencing database that compiles data from all the U.S. Attorney's Offices, in addition to ECS cases. Contact Elizabeth Janes if you would like her to run a search for you.

Please continue to send Elizabeth Janes updates on your cases for inclusion in the Monthly Bulletin. With the recent software upgrade, many press releases from your offices are not yet accessible.