



Department of Justice

STATEMENT OF

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U.S. DEPARTMENT OF JUSTICE**

BEFORE THE

**SUBCOMMITTEE ON REGULATORY REFORM,
COMMERCIAL AND ANTITRUST LAW
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES**

FOR A HEARING CONCERNING

**OVERSIGHT OF THE ENVIRONMENT AND
NATURAL RESOURCES DIVISION**

PRESENTED

SEPTEMBER 29, 2016

**Statement of Assistant Attorney General John C. Cruden
Environment and Natural Resources Division
U.S. Department of Justice
Before the Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
Committee on the Judiciary
U.S. House of Representatives
September 29, 2016**

Chairman Marino, Representative Johnson, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the important work of the Environment and Natural Resources Division (ENRD or the Division) of the U.S. Department of Justice.

This is my second year as Assistant Attorney General of the Environment and Natural Resources Division. I have previously had the honor and privilege of spending over two decades in ENRD, first as Chief of the Environmental Enforcement Section and then as a career Deputy Assistant Attorney General. I am grateful for the opportunity to represent the interests of the United States in my current capacity.

In existence for over 100 years, the Division is built upon a history of service, integrity, and adherence to the rule of law. Our litigation responsibilities are broad: enforcing the nation's civil and criminal pollution-control laws, defending environmental challenges to federal agency programs and activities, representing the United States in matters concerning the stewardship of the nation's natural resources and public lands, acquiring real property on behalf of the United States, bringing and defending cases under the wildlife protection statutes, and litigating cases concerning the resources and rights of Indian tribes and their members.

For 2017, ENRD requests \$122,561,000 for 550 direct positions (379 attorneys) to support its important work. Each year, ENRD lawyers represent virtually every federal agency in courts across the United States. We work frequently with the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior, the U.S. Army Corps of Engineers, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. Department of Homeland Security, the U.S. Department of Energy, and the U.S. Department of Defense, among others.

I am very proud of the Division's outstanding litigation results and other work. ENRD's efforts result in significant public health and other direct benefits to the American people. The Division successfully litigated 864 cases in fiscal year 2015. In that year, we obtained over \$6.4 billion worth of corrective measures through court orders and settlements, which will go a long way toward protecting the nation's air, water, and other natural resources. In addition, in fiscal year 2015, we secured over \$2.5 billion in civil and stipulated penalties, cost recoveries, natural resource damages, and other civil monetary relief, including over \$1.7 billion recovered for the Superfund. We concluded 41 criminal cases against 66 defendants, obtaining more than 76 years in confinement and more than \$191 million in criminal fines, restitution, community service

funds, and special assessments. Finally, by comparing claims made with the amounts ultimately imposed, we estimate that the handling of defensive and condemnation cases closed in fiscal year 2015 saved the United States more than \$3 billion. This year, we have had a record breaking year in environmental enforcement, which I will describe later in my testimony.

I have established five core goals to guide the work of ENRD:

- Enforcing the nation's bedrock environmental laws that protect air, land, and water for all Americans;
- Vigorously representing the United States in federal trial and appellate courts, including by defending EPA's rulemaking authority and effectively advancing other agencies' missions and priorities;
- Protecting the public fisc and defending the interests of the United States;
- Advancing environmental justice through all of the Division's work and promoting and defending tribal sovereignty, treaty rights, tribal natural resources, and the environment in Indian country; and
- Providing effective stewardship of the nation's public lands, natural resources, and animals, including fighting for the survival of the world's most protected and iconic species and marine resources, and working across the government and the globe to end the illegal trade in wildlife.

RECENT DIVISION LITIGATION

I would like to highlight some of our cases this year.

A. Deepwater Horizon

A key accomplishment of the past year was the conclusion of our extensive Deepwater Horizon litigation, negotiating a consent decree that resolves civil claims of the United States and five Gulf States against BP, arising from the April 2010 blowout of the Macondo well and the massive oil spill that began off the Louisiana coast and spread in the Gulf of Mexico. This was a catastrophic event. The explosion and fire destroyed the Deepwater Horizon drilling rig and killed 11 men aboard the rig.

In addition to the tragic loss of life, more than three million barrels of oil were spilled into the Gulf of Mexico over a period of 87 days. The spill extended over more than 43,000 square miles; damaged and temporarily closed fisheries vital to the gulf economy; oiled hundreds of miles of beaches, coastal wetlands, and marshes; and killed thousands of birds and other marine wildlife, among other economic and natural resources injuries. Oil covered more than 400 square miles of sea floor and washed onto more than 1,300 miles of shoreline. Five states were directly affected: Texas, Louisiana, Mississippi, Alabama, and Florida.

ENRD was involved in the response to the oil spill and the investigation and enforcement actions from the first day of the disaster. Ultimately, we participated in three trials and court actions that generated three appeals and a trip to the Supreme Court. With the five Gulf States, ENRD led the settlement negotiations with BP which the court has now approved.

Under the decree, BP will pay the United States and the Gulf States more than \$20 billion, including: a \$5.5 billion (federal) civil penalty, more than \$8.1 billion in natural resource damages, \$600 million in further reimbursement of clean-up costs and some royalty payments, and up to \$6 billion in economic damage payments for the Gulf States or their local units of government. This resolution is extraordinary in its size and scope. It is the largest settlement with a single entity in the Department of Justice's history, including the largest civil penalty ever awarded under the Clean Water Act, the largest ever natural resources damages settlement, and massive economic damages payments to our state partners. The final settlement includes a comprehensive natural resource damages restoration plan that will guide the recovery of the Gulf for many years into the future. Joining in the settlement were the Governors and Attorneys General of the five Gulf States and five federal agencies.

Following the settlement, the United States and the five Gulf States conducted eight public hearings and received more than 28,000 public comments. The United States filed its motion for entry of the consent decree this past March, and the court approved the consent decree on April 4, 2016.

It is a strong and fitting civil response to the worse environmental disaster in American history, made possible only through the joint efforts of ENRD, other Departmental components, five federal client agencies, and the five Gulf States.

B. Other Civil and Criminal Environmental Enforcement

The Division's many other civil and criminal environmental enforcement efforts have immeasurably protected human health and the environment through significant reductions in emissions and discharges of harmful pollutants. The cases discussed below—*VW*, *Enbridge*, *DSD Shipping*, and *Consol Energy*—are illustrative and I will detail penalties that were ordered by the court or agreed to in settlement.

This past January, ENRD filed a civil complaint in federal court against Volkswagen alleging Clean Air Act violations. The complaint states, among other things, that nearly 600,000 diesel engine vehicles had illegal "defeat devices" installed. These devices impair their emission control systems and cause emissions to exceed EPA's standards, resulting in harmful air pollution. The Clean Air Act requires manufacturers to certify to EPA that their products will meet applicable federal emission standards. Vehicles equipped with illegal defeat devices cannot be certified. The complaint alleges that Volkswagen equipped certain vehicles with software that detects when the car is being tested for compliance with emission standards and turns on full emission controls only during that testing process. During normal driving situations, the effectiveness of the emission control devices is greatly reduced. This results in cars that meet emission standards in the laboratory, but during normal on-road driving emit nitrogen oxide (NOx) at levels up to 40 times the EPA compliance level.

Last March, the Federal Trade Commission (FTC) also sued Volkswagen. It charged that the company deceived consumers with the advertising campaign it used to promote “clean diesel” Volkswagens and Audis, which falsely claimed that the cars were low-emission and environmentally friendly, met emission standards, and would maintain a high resale value.

On June 28, 2016, Volkswagen, the United States, and California agencies filed with the court a proposed settlement of the litigation covering nearly 500,000 model year 2009 to 2015 2.0 liter diesel vehicles sold or leased in the United States. Volkswagen filed a separate proposed settlement with the FTC. The settlements require Volkswagen to spend up to \$14.7 billion to settle allegations of cheating emission tests and deceiving customers. The settlements also give consumers options, including to have Volkswagen buy back their vehicle or to have the vehicle modified (subject to governmental approval after further testing). Volkswagen will spend \$4.7 billion to mitigate the pollution from the cars and invest in green technology. The company will pay \$2.7 billion to a mitigation trust that will fund projects across the country to reduce emissions of NOx. Volkswagen will also invest \$2 billion toward improving infrastructure, access, and education to support and advance zero emission vehicles.

The settlements do not resolve pending claims for civil penalties or any claims concerning 3.0 liter diesel vehicles or that might be brought by agencies other than EPA. They also do not address any potential criminal liability. The United States views this settlement to be a significant first step toward holding Volkswagen accountable for what was a breach of its legal duties and of the public trust. We will continue to follow the facts wherever they lead us. I would note that on September 9, 2016, James Robert Liang, a Volkswagen engineer, pleaded guilty to one count of conspiracy to defraud U.S. regulators and U.S. Volkswagen customers, to commit wire fraud, and to violate the Clean Air Act. His plea agreement provides that he will cooperate with the government in its ongoing investigation.

In July 2016, the United States also announced a settlement with Enbridge Energy Limited Partnership and several related Enbridge companies to resolve Clean Water Act and Oil Pollution Act claims stemming from 2010 pipeline oil spills in Marshall, Michigan, and Romeoville, Illinois. The primary ruptured pipeline ultimately discharged more than 20,000 barrels of crude oil, much of which entered Talmadge Creek and the Kalamazoo River, which flows to Lake Michigan. Flooding caused by heavy rains pushed the discharged oil over the river's banks into its floodplains and accelerated its migration over 35 miles downstream before it was contained.

Under the proposed settlement, Enbridge has agreed to spend at least \$110 million on a series of measures to prevent spills and improve operations in the Great Lakes region. These include a set of specific requirements to prevent spills and enhance leak detection capabilities throughout Enbridge's Lakehead pipeline system—a network of 14 pipelines spanning nearly 2,000 miles across seven states. Enbridge's Lakehead System delivers approximately 1.7 million barrels of oil in the United States each day. Enbridge also must take major actions to improve its spill preparedness and emergency response programs and replace close to 300 miles of one of its pipelines, after obtaining all necessary approvals.

In addition, Enbridge will pay civil penalties totaling \$62 million for Clean Water Act violations. Finally, the proposed settlement will resolve Enbridge's liability under the Oil

Pollution Act, based on Enbridge's commitment to pay over \$5.4 million in unreimbursed costs incurred by the government in connection with cleanup of the Marshall spill, as well as all future removal costs incurred by the government in connection with that spill.

The operation of commercial marine vessels generates large quantities of waste oil, oil-contaminated waste water, and garbage. International and U.S. law forbid the discharge of waste oil and garbage into the ocean and require that these vessels use pollution prevention equipment, known as an oily-water separator, to prevent the discharge of oil-contaminated waste water. Should any overboard discharges occur, they must be documented in either an oil record book or a garbage record book, logs that are regularly inspected by the U.S. Coast Guard.

This year we prosecuted the *DSD Shipping* case in Mobile, Alabama, concerning illegal dumping. The Norwegian shipping company DSD Shipping (DSD) operated the *M/T Stavanger Blossom*, a 56,000 gross ton crude oil tanker, from 2010 to 2014 without an operable oily-water separator as required by law. During just the last two-and-a half months of the vessel's operation, DSD illegally discharged approximately 20,000 gallons of oil-contaminated waste water and plastic bags containing 270 gallons of sludge into the ocean. DSD also lied about these activities by maintaining fictitious record books aboard the vessel. For this conduct, in July 2016, DSD was sentenced to pay a total corporate penalty of \$2.5 million as a result of its convictions for obstructing justice, violating the Act to Prevent Pollution from Ships, tampering with witnesses, and conspiring to commit these offenses. In addition, DSD was placed on a three-year term of probation and was ordered to implement an environmental compliance plan to ensure the company's vessels complied with domestic and international environmental regulations in the future.

Last month, the United States and the State of Pennsylvania announced a joint settlement with Consol Energy, Inc., CNX Coal Resources, and Consol Pennsylvania Coal Co., L.L.C., (Consol) to address chronic contaminated discharges of mining wastewater from the Bailey Mine Complex in Greene and Washington Counties, Pennsylvania, to the Ohio River and its tributaries. Earlier this month, the court entered the decree. This action resolves chronic exceedances of osmotic pressure and other limitations in Consol's Clean Water Act discharge permits. Osmotic pressure is the standard used in Pennsylvania to control excess amounts of total dissolved solids (TDS). Discharging too much TDS into a water body can increase the salinity of the water, harming aquatic life and impacting drinking water quality. The Environmental Protection Agency estimates that implementation of the consent decree will eliminate more than 2.5 million pounds of TDS. Under the settlement, Consol agreed to complete and maintain important water management measures to prevent discharges from certain outfalls at the complex; conduct specified monitoring to ensure adequate storage capacity to prevent future discharges; submit and implement a plan for achieving long-term compliance; develop and implement an environmental management system to ensure environmental compliance throughout the complex; and pay a \$3 million civil penalty.

ENRD also files claims to protect environmental obligations owed to the United States when a responsible party goes into bankruptcy. From the beginning of fiscal year 2009 through the second quarter of fiscal year 2016, we obtained agreements in 44 bankruptcy proceedings, under which debtors committed to spend an estimated \$4.1 billion to clean up hazardous-waste

sites, reimburse the Superfund more than \$2.7 billion, and pay more than \$171 million in natural resource damages.

C. Increasing Domestic Energy Supplies

One component of the nation's continuing efforts to increase domestic energy supplies is expansion of cleaner domestic sources of energy like wind and solar power. The Division has defended challenges to permits and rights-of-way in approximately 40 cases involving solar and wind projects across the country. These cases typically challenge the subject project under the National Environmental Policy Act, the Endangered Species Act, and other relevant statutes. Our successes included favorable rulings in cases involving the Ivanpah Solar Project, the Genesis Solar Project, the North Sky River Wind Energy Project, the Ocotillo Wind Energy Project, the West Tennessee Solar Farm Project, the Deerfield Wind Project, the Blythe Solar Project, the Rice Solar Project, and the Tule Wind Project. This work has enabled substantial development of renewable energy resources across the country.

D. Other Clean Air Act Litigation

In late July 2016, the United States announced a settlement with Cemex, Inc., under which the company will invest approximately \$10 million to reduce emissions of NO_x and sulfur dioxide (SO₂) at five of its cement manufacturing plants in Alabama, Kentucky, Tennessee, and Texas to resolve alleged violations of the Clean Air Act. Cemex also will pay a \$1.69 million civil penalty, conduct energy audits at the five plants, and spend \$150,000 on energy efficiency projects to mitigate the effects of past excess emissions of NO_x from its facilities. The Knox County, Tennessee, and Louisville, Kentucky, air pollution control authorities participated in the settlement.

Under the settlement, Cemex is required to install state-of-the-art pollution control technology that will reduce emissions of NO_x from the plants. Each facility will also be subject to strict SO₂ emission limits. Nitrogen oxide and SO₂ have numerous adverse effects on human health and are significant contributors to acid rain, smog, and haze. The pollutants are converted in the air into fine particles of particulate matter that can cause severe respiratory and cardiovascular impacts and premature death. Reducing these harmful air pollutants will benefit the communities located near the Cemex plants and vulnerable populations, including children.

We also announced in July 2016 a \$425 million settlement with subsidiaries of Tesoro Corp. and Par Hawaii Refining that resolves alleged Clean Air Act violations and protects public health by reducing air pollution at six refineries in Kenai, Alaska; Martinez, California; Kapolei, Hawaii; Mandan, North Dakota; Salt Lake City, Utah; and Anacortes, Washington. Under the settlement, the two companies will spend about \$403 million to install and operate pollution control equipment, and Tesoro will spend about \$12 million to fund environmental projects in local communities previously impacted by pollution. Tesoro also will pay a \$10.45 million civil penalty.

Once the Tesoro companies install the pollution controls required by the settlement, annual emission reductions at the six refineries will total an estimated 773 tons of SO₂, 407 tons of NO_x, 1,140 tons of volatile organic compounds, 27 tons of hazardous air pollutants, 20 tons of

hydrogen sulfide, and the equivalent of 47,034 tons of carbon dioxide, which is a greenhouse gas. A large number of the emission reductions will occur in areas with impaired air quality and protect populations at risk for respiratory illnesses. In particular, this settlement will reduce greenhouse gas emissions from flaring at the subject refineries by over 60 percent.

The national grocery store chain Trader Joe's Company agreed in June of this year to reduce emissions of potent greenhouse gases from refrigeration equipment at 453 of its stores under a proposed settlement with the United States to resolve alleged violations of the Clean Air Act. This was the third in a series of national grocery store refrigerant cases; we previously settled cases with Safeway, Inc., and Costco Wholesale Corp. Under the agreement, Trader Joe's will spend an estimated \$2 million over the next three years to reduce coolant leaks from refrigerators and other equipment and improve company-wide compliance. The company also will pay a \$500,000 civil penalty.

We alleged that Trader Joe's violated the Clean Air Act by failing to promptly repair leaks of R-22, a hydrochlorofluorocarbon (HCFC) that is an ozone-depleting substance used as a coolant in refrigerators. The company also failed to keep adequate servicing records of its refrigeration equipment and failed to provide information about its compliance record.

Damage to the ozone layer results in dangerous amounts of cancer-causing ultraviolet solar radiation, increasing skin cancers and cataracts. R-22 is also a potent greenhouse gas with 1,800 times more global warming potential than carbon dioxide. Approximately one-quarter of Trader Joe's equipment units use hydrofluorocarbon (HFC) refrigerants that are non-ozone-depleting, but have a high global warming potential. An added benefit of repairing refrigerant leaks is improved energy efficiency of the system, which can save electricity.

Trader Joe's will now implement a corporate refrigerant compliance management system to detect and repair leaks through a new quarterly leak monitoring program. In addition, Trader Joe's will achieve and maintain an annual corporate-wide average leak rate of 12.1 percent through 2019, well below the grocery store sector average of 25 percent. The company also will use non-ozone depleting refrigerants at all new stores and major remodels and at least 15 of these stores must use advanced refrigerants which have significantly less global warming potential compared to typical refrigerants.

Division cases frequently involve challenges to regulations promulgated to implement other aspects of the Clean Air Act. For example, this year, we continued our vigorous defense of the Clean Power Plan, the EPA rule governing carbon dioxide emissions from existing power plants under section 111(d) of the Clean Air Act. On September 27, 2016, oral argument before the D.C. Circuit *en banc* took place. In February 2016, the Supreme Court stayed the rule pending judicial review before the D.C. Circuit and any subsequent proceedings in the Supreme Court.

E. Management of Public Lands and Resources

A substantial portion of ENRD's work includes litigation under dozens of statutes and treaties related to the management of public lands and associated natural and cultural resources. Cases involving the U.S. Department of the Interior's Bureau of Land Management, for example,

are a significant part of the ENRD docket. The Bureau of Land Management is responsible for the administration of more than 245 million surface acres. The agency manages these lands according to the multiple-use mandate given to it by Congress. Bureau of Land Management lands are important for such uses as energy development, livestock grazing, recreation, and timber harvesting; the agency also works to protect a wide variety of natural, cultural, and historical resources. Management of these lands may result in litigation by industry groups, timber companies, environmental organizations, tribes, states, counties, and individuals. Litigation over the management of these lands arises at all levels, ranging from challenges to nationwide rules to small, site-specific projects.

The Division recently successfully defended the Bureau of Land Management's Recreational Area Management Plan for the Algodones Dunes, a popular off-highway vehicle destination in southern California against a variety of challenges brought by the Center for Biological Diversity (CBD). Last month, the Ninth Circuit Court of Appeals affirmed the district court's decision to uphold the plan and the biological opinion that the Fish and Wildlife Service prepared for that plan. CBD had challenged the plan as in violation of the Federal Land Policy and Management Act, the Endangered Species Act, the Clean Air Act, and the National Environmental Policy Act. The court rejected the plaintiff's Endangered Species Act interpretation and its air-emissions arguments, holding that the Bureau of Land Management's factual assumptions about off-highway vehicle use at the Dunes were supported by substantial evidence in the record and that its choice of scientific methodology was reasonable.

F. Indian Tribal Work

The Division handles a broad range of matters affecting Indian tribes and their members. We have been actively engaged with the Interior Department and tribes to protect tribal interests such as tribal water rights; tribal hunting, fishing, and gathering rights; reservation boundaries; and tribal jurisdiction and sovereignty. The United States has a government-to-government relationship with each of the 567 federally recognized Indian tribes, and we seek to work collaboratively with them in carrying out this work wherever possible.

We assert water-rights claims for the benefit of tribes to secure safe and reliable drinking water for tribes, as well as water for sanitation, economic development, and other purposes. For example, during this Administration, ENRD contributed to six landmark Indian water-rights settlements and corresponding statutes which, when fully implemented, will resolve complex and contentious water-rights issues in Arizona, Montana, Nevada, and New Mexico. In the last two years, the federal government also negotiated five settlements that are pending before Congress, resolving complex and contentious Indian water-rights issues in five western states (involving the Pechanga and San Luis Rey tribes in California; the Blackfeet Tribe and Confederated Salish & Kootenai tribes in Montana; and the Chickasaw and Choctaw tribes in Oklahoma).

ENRD is also charged with representing the United States in civil litigation brought by tribes and their members against the United States, including claims that the United States has breached its trust responsibility. Over the past several years, the Division has sought to resolve, without protracted litigation, dozens of Indian tribal lawsuits alleging that the United States, principally the Departments of the Interior and the Treasury, violated the federal government's trust duties and responsibilities to the tribes by failing to provide full and complete historical

trust accountings and failing to properly manage the tribes' trust funds and non-monetary trust assets or resources. The tribes seek declaratory and injunctive relief, as well as monetary compensation for their financial injuries. Between January 2002 and the beginning of September 2016, the United States settled the trust accounting and trust mismanagement claims of 94 tribes in 67 cases.

Among other things, all of these settlements set forth a framework for promoting tribal sovereignty and improving aspects of the tribes' relationship with the United States, while reducing or minimizing the possibility of future disputes and avoiding unnecessary litigation. Under the settlements, the tribes and the United States will implement measures that will lead to strengthened management of trust assets and improved communications between the Department of the Interior and the tribes. Also, the tribes and the United States will use an alternative dispute-resolution process to address concerns regarding the future management of the tribes' trust funds and non-monetary trust resources.

The Division's 2017 Budget request includes a \$1.5 million enhancement, supporting four attorney positions, to expand the Division's efforts to enforce environmental statutes to protect human health and the environment in Indian Country.

G. Wildlife Trafficking

The Department, principally through ENRD, has long been a leader in the fight against wildlife trafficking. In the past decade, wildlife trafficking has escalated into an international crisis. Wildlife trafficking threatens the very survival of multiple species throughout the world—including iconic species such as elephants, rhinoceros, great apes, tigers, and sharks. It also has grave impacts on people throughout the world. Wildlife trafficking generates billions and billions of dollars in illicit revenues—contributing to the illegal economy, fueling instability, and undermining global security.

Congress has been an integral partner in our efforts to combat wildlife trafficking, and we greatly appreciate its interest and support.

Over the last several years, the Department has engaged fully in the Administration's redoubled effort to combat wildlife trafficking through the Presidential Task Force on Wildlife Trafficking, established by the July 2013 *Executive Order on Combating Wildlife Trafficking*. ENRD worked with the other co-chairs from the Departments of State and the Interior, and the numerous other Task Force agencies, to craft the *National Strategy for Combating Wildlife Trafficking*, which the President signed and issued on February 11, 2014. The *National Strategy* emphasizes the need for a "whole of government" approach to combating this problem and identifies three priorities: (1) strengthening domestic and global enforcement; (2) reducing demand for illegally traded wildlife at home and abroad; and (3) strengthening partnerships with foreign governments, international organizations, nongovernmental organizations, local communities, private industry, and others to combat illegal wildlife poaching and trade. The *National Strategy* provides a set of overarching principles to guide the U.S. response to the increasing global wildlife-trafficking crisis.

The Task Force agencies have been working in coordination to implement the Strategy since its issuance, and in February 2015, the Task Force released an Implementation Plan that builds upon the Strategy. The Implementation Plan provides a robust, focused reaffirmation of the nation's commitment to stopping wildlife trafficking, and sets out specific steps to achieve each strategic priority. In March 2016, the Task Force released its *2015 Annual Progress Assessment*. In March 2015, I had the honor of leading the U.S. delegation to the Kasane Conference on the Illegal Wildlife Trade, in Kasane, Botswana. And, with other co-chairs, I addressed the IUCN World Conservation Conference this month in support of international efforts to combat illegal wildlife trafficking.

The Division works with U.S. Attorneys' Offices around the country and federal agency partners (such as the U.S. Fish and Wildlife Service, U.S. Immigration and Customs Enforcement, and the National Oceanic and Atmospheric Administration) to combat wildlife trafficking under the Endangered Species Act and the Lacey Act, as well as statutes prohibiting smuggling, criminal conspiracy, and related crimes. The Department has successfully prosecuted numerous cases of illicit wildlife smuggling involving trafficking of rhinoceros horns, elephant ivory, South African leopard, Asian and African tortoises and reptiles, and many other forms of protected wildlife and protected plant species. Through enforcement efforts like "Operation Crash"—which is focused on the lucrative and often brutal trade in rhinoceros horns—we work to bring traffickers to justice. As of early this month, Operation Crash has resulted in charges being brought in U.S. courts against nearly 40 individuals and businesses and so far has led to at least 30 convictions, prison terms as long as 70 months, and forfeitures and restitutions as high as \$4.5 million.

As important as robust domestic enforcement is, it's clear that the United States cannot simply prosecute our way out of the wildlife trafficking crisis. This is a global problem that requires global solutions. Increased international cooperation and collaboration are critical and that includes working with our foreign government partners to help build their capacity to craft strong laws, strengthen their investigative and evidence-gathering capabilities, and improve their judicial and prosecutorial effectiveness.

The Department of Justice—and ENRD, in particular—has a unique ability to share with international enforcement partners its expertise at building a strong and effective program to prosecute wildlife trafficking cases. In many years of working to train prosecutors from other countries in other areas, we have seen that capacity-building work develops more effective partners to investigate and prosecute transnational environmental crimes, increases our ability to enforce U.S. criminal statutes that have extraterritorial dimensions, and helps law enforcement officials in the United States and other countries to meet their enforcement obligations under international environmental and free trade agreements. In the area of wildlife trafficking, our current focus is on building capacity in source (or range) and transit countries in Africa. With funding from the State Department and invaluable assistance from the U.S. Agency for International Development and the United Nations Office on Drugs and Crime, ENRD attorneys designed and implemented several regional workshops in Africa over the past year.

H. New Initiatives

This year, ENRD has expanded its activities to the areas of enforcement of worker protection laws and animal welfare. The Department is committed to fairly upholding the nation's important worker protection laws and ensuring every American's right to a safe workplace. In December 2015, the Department transferred responsibility for criminal worker safety prosecutions to ENRD. This responsibility, shared with the United States Attorneys' Offices, is a more deliberate approach by the Department to address worker safety offenses. In developing this enforcement priority, the Division is working closely with the Department of Labor. There is a decided overlap between many of the statutes traditionally enforced by ENRD and worker safety because occupational safety violations often involve the mishandling of hazardous wastes, unlawful discharges of regulated toxic or harmful substances, or violations of the Risk Management Program (chemical facility regulations overseen by EPA, which are identical to Process Safety Management regulations overseen by the Occupational Safety and Health Administration). This year, the Department signed a Memorandum of Understanding with the Department of Labor in handling these cases, enlisted U.S. Attorneys in support of the effort, and has worked with the Department of Labor to train their inspectors.

The Division is also enhancing civil enforcement related to worker safety, led by the Environmental Enforcement Section. The Clean Air, Clean Water, Resource Conservation and Recovery, and Toxic Substances Control Acts contain a number of provisions that establish safety measures for chemical handling, toxic releases, or catastrophe prevention. Violations of these statutes often have a direct impact on workers tasked with handling dangerous chemicals or cleaning up spills.

For 2017, ENRD is also requesting \$1.0 million, supporting three attorney positions, to enhance enforcement of worker protection statutes in partnership with the Department of Labor.

The prevention of animal cruelty has a long history in American law, dating back to the early colonial era. At the federal level, Congress has repeatedly made clear that ensuring the humane treatment of animals is a national policy. This federal policy carries with it enforcement responsibilities, as there are a number of federal statutes that impose criminal and civil penalties for animal welfare violations. These laws include the Animal Welfare Act, Animal Fighting Prohibition Act, Horse Protection Act, Humane Slaughter Act, Twenty-Eight Hour Law, and Animal Crush Video Prohibition Act. Violations of these statutes are serious matters which often intersect with other law enforcement priorities. For example, some animal welfare offenses, such as dog-fighting, are committed by highly organized interstate criminal enterprises which attract an array of other illegal activities including drug trafficking, gun running, and gang violence, all of which threaten public safety. And even in large-scale commercial settings, such as with animal exhibitors, slaughterhouses, and horse shows, the enforcement of animal welfare laws is critical to ensuring not only the integrity of our legal system, but a level playing field for those commercial actors who are complying with humane standards.

The Department is committed to assuring animal cruelty statutes are enforced. In late 2014, the Department made some long-term structural changes to improve federal coordination and enforcement on this issue, including adding the above six federal animal welfare laws to ENRD's enforcement portfolio. This change was made to fill a longstanding gap in the

Department's enforcement efforts, where traditionally there was no centralized body that had responsibility for tracking and coordinating litigation, facilitating training, and developing enforcement policy in this specialized area.

The Division is implementing its new responsibilities. We have met with the responsible federal agencies, conducted training, and with the Office of Justice Programs, held a highly successful conference that brought together federal, state, and local leaders to map out a coordinated strategy for the future. In June, ENRD, with the U.S. Attorney's Office in New Jersey, brought its first criminal case, charging and arresting nine defendants under the Animal Welfare Act for their role in a multi-state dog-fighting conspiracy spanning from New Mexico to New Jersey, and rescuing more than 60 dogs onsite. The U.S. Attorney's Offices in the District of New Mexico, Northern District of Illinois, and the Northern District of Indiana provided assistance. We also are pursuing civil forfeiture of the rescued dogs to allow their adoption.

We are only at the beginning, but this is important work that we will continue to move forward. For 2017, ENRD also requests \$1.0 million (including three positions) to support the Division's efforts to develop its new animal welfare enforcement program.

I. Joint State-Federal Enforcement

At the beginning of my tenure as Assistant Attorney General, I selected a senior career attorney to be the Counselor for State and Local Matters. I did this in consultation with both the National Association of Attorneys General and the Environmental Council of States. My goal was to enhance communication, provide support to state and local governments in environmental enforcement, and to promote joint enforcement. And, in appropriate cases, when we are jointly prosecuting, to share any penalties with state governments.

The partnerships we have forged with state and local governments in a variety of contexts are critical to achieving ENRD's mission on behalf of the American people. Over the past year, we have partnered with several states to address environmental violations within their borders. These joint efforts have resulted in millions of dollars of shared civil penalties with states, as well as corrective measures by violators to clean up the contamination caused by their actions and prevent future violations. We have also developed joint training programs with our state partners on matters of mutual interest, and worked closely to bring the most serious criminal violators to justice. These examples typify cooperative federalism in environmental enforcement, a top priority for ENRD. We place a high value on our partnerships with state and local governments, and we look forward to continuing to develop such partnerships in the future.

CONCLUSION

At this time, Mr. Chairman, I would be happy to address any questions you or Members of the Subcommittee may have.