



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

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Statement of Acting Assistant Attorney General Jeffrey H. Wood
Environment and Natural Resources Division
U.S. Department of Justice
Before the Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
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INTRODUCTION

Chairman Marino, Representative Cicilline, and distinguished 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 (the Department).

I joined the Division on the first full day of the new Administration. I am grateful for the opportunity to serve as Principal Deputy Assistant Attorney General and to have the privilege of serving as Acting Assistant Attorney General for ENRD. I have been an environmental lawyer since 2003, splitting my time between private practice and public service, including a period from 2011 to 2014 when I worked on the staff of then-Senator Jeff Sessions, who served on the Senate Environment and Public Works Committee.

ENRD is a core litigating component of the Department. In existence for more than a century, ENRD has built a distinguished record of legal excellence. The Division has broad responsibilities: 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. The Division is organized into nine litigating sections (Appellate; Environmental Crimes; Environmental Defense; Environmental Enforcement; Indian Resources; Land Acquisition; Law and Policy; Natural Resources; and Wildlife and Marine Resources), and an Executive Office that provides administrative support.

Each year, ENRD lawyers represent virtually every federal agency in courts across the United States. The Division has about 7,000 pending matters, with about 900 cases filed in 2016. We work frequently with the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. Department of Homeland Security, the U.S. Department of Transportation, the U.S. Department of Energy, and the U.S. Department of Defense, among other agencies.

The Division successfully litigated nearly 800 cases in fiscal year 2016. In that year, we obtained over \$3.0 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 2016, we secured over \$14 billion in civil and stipulated penalties, cost

recoveries, natural resource damages, and other civil monetary relief, including over \$66 million recovered for the Superfund. We concluded 36 criminal cases against 56 defendants, obtaining more than 54 years in confinement and more than \$172 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 2016 saved the United States more than \$12 billion.

To accomplish its mission, ENRD has requested \$115,598,000 for 537 direct positions for fiscal year 2018. Within that funding level, we are also seeking one program enhancement: \$1,798,000 (including 20 positions) for the Division's Land Acquisition Section to support the acquisition of land necessary for the construction of the border wall identified in the President's January 25, 2017 Executive Order titled *Border Security and Immigration Enforcement Improvements*. 82 Fed. Reg. 8793 (Jan. 30, 2017).

DIVISION SUPPORT FOR THE PRIORITIES OF THE NEW ADMINISTRATION

Environmental protection and conservation is an important priority for the Trump Administration. In his February 28, 2017 speech to a Joint Session of Congress, the President stated: "My administration wants to work with members of both parties to . . . promote clean air and clean water . . ." The White House website provides: "Protecting clean air and clean water, conserving our natural habitats, and preserving our natural reserves and resources will remain a high priority." <https://www.whitehouse.gov/america-first-energy>

At the same time, this Administration is committed to course corrections in key areas within the purview of the Division. President Trump has directed new approaches to reduce the regulatory burdens in this country, particularly with regard to energy development, manufacturing, and infrastructure projects. See Executive Order No. 13771 (*Reducing Regulation and Controlling Regulatory Costs*), 82 Fed. Reg. 9339 (Feb. 3, 2017); Executive Order No. 13777 (*Enforcing the Regulatory Reform Agenda*), 82 Fed. Reg. 12285 (March 1, 2017); Executive Order No. 13783 (*Promoting Energy Independence and Economic Growth*), 82 Fed. Reg. 16093 (March 31, 2017); Executive Order No. 13795 (*Implementing an America-First Offshore Energy Strategy*), 82 Fed. Reg. 20815 (May 3, 2017); Presidential Memorandum Regarding Construction of the Dakota Access Pipeline (Jan. 24, 2017); Presidential Memorandum Regarding Construction of the Keystone XL Pipeline (Jan. 24, 2017); Executive Order No. 13766 (*Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects*), 82 Fed. Reg. 8657 (Jan. 30, 2017).

In particular, Executive Order 13777 requires every agency to establish a Regulatory Reform Task Force to evaluate all of its existing regulations and identify candidates for repeal, replacement, or modification. With regard to energy development, Executive Order 13783 articulates the President's policy position that "[i]t is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation." Furthermore, the order provides that actions to promote clean air and clean water for America should respect the role of the States in our system of government. It also directs EPA, the Department of the Interior, and other agencies to review and if appropriate

suspend, revise, or rescind various rules and policies, and to work with the Department of Justice to address related pending litigation.

Four general objectives and goals for ENRD reflect the priorities of this Administration:

- We will pursue our core mission of protecting clean air, clean water, and clean land for all Americans, through the vigorous enforcement of the laws enacted by Congress and through the vigorous defense of lawful regulations and actions of our client agencies, including EPA and the Department of the Interior.
- We will strengthen our nation's energy, water, and transportation infrastructure by supporting and defending the lawful actions of our client agencies, including the U.S. Army Corps of Engineers, the Department of Transportation, the State Department, and others responsible for critical infrastructure needs for America.
- As we fulfill our legal duties, we will demonstrate a firm commitment to work cooperatively with the States and tribes to achieve shared environmental goals.
- In a time of tight budgets, we will make sure to do our mission as efficiently and effectively as possible, keeping in mind that every tax dollar we are given must be justified and put to appropriate and good use for the American people.

An immediate focus at the Division is the handling of cases on our existing docket challenging rules promulgated by the previous Administration and now under review in this Administration. Issues raised by parties challenging these rules may become moot when an agency suspends, revises, or repeals a rule, and while the review of the rule is underway our aim is to avoid unnecessary adjudication, support the integrity of the administrative process, and ensure due respect for the prerogative of the Executive Branch to reconsider the policy decisions of a prior Administration. We seek to ensure that these cases are handled in a way that conserves resources—of the courts, the agencies, and other litigants. Below are a few examples of cases in which the Division's client agencies have announced the intention to review and possibly revise or rescind the underlying regulation as directed by recent executive orders, and how ENRD is handling them.

West Virginia v. Environmental Protection Agency (D.C. Cir.); *North Dakota v. Environmental Protection Agency* (D.C. Cir.): These cases challenge EPA's Clean Power Plan and related New Source Performance Standards (NSPS), which would regulate greenhouse gas emissions from existing and new fossil-fuel-fired power plants under section 111 of the Clean Air Act. I would note that I am personally recused from these cases and, therefore, have not participated in the decision-making or filings related to the cases. However, given the importance of these cases to the work of the Division, I am providing the following public information about their status. EPA is currently reviewing the October 2015 rules. The agency has sent letters to State governors informing them the agency does not expect them to dedicate resources to complying with the Clean Power Plan, which was stayed by the Supreme Court in February 2016. On April 28, 2017, the D.C. Circuit granted EPA's motions to hold the cases in abeyance for a period of 60 days and is currently considering supplemental briefing addressing

whether the cases should be remanded to the agency or held in abeyance for a longer period of time pending completion of EPA's review.

American Petroleum Institute v. Environmental Protection Agency (D.C. Cir): This case involves consolidated Clean Air Act petitions for review of EPA's 2012 and 2016 NSPS for the oil and gas sector setting standards for volatile organic compounds and methane. EPA is currently reviewing the 2016 rule. On April 7, 2017, we filed a motion to hold this case in abeyance, pending EPA's review. On May 18, 2017, the court granted the motion.

Wyoming v. U.S. Dep't of Interior (10th Cir.): This case challenges the Bureau of Land Management's March 2015 rule governing hydraulic fracturing on federal and Indian lands, which had been struck down by the district court. On March 15, 2017, we filed a motion in the Tenth Circuit to continue the scheduled oral argument and hold the case in abeyance because the Department of the Interior plans to initiate a rulemaking process to rescind the rule within 90 days. On March 17, 2017, the court granted the motion to continue the oral argument, and the parties filed supplemental briefing on the request to hold the case in abeyance, as directed by the court.

The Division also is actively defending certain decisions of the U.S. Army Corps of Engineers and the Department of State to review and approve, consistent with law, the Dakota Access Pipeline and the Keystone XL Pipeline. Since July 2016, the Division has defended the U.S. Army Corps of Engineers against challenges to its authorizations for the construction of portions of the Dakota Access Pipeline, a 1,168 mile-long crude oil pipeline running from North Dakota to Illinois, across federal waters and lands. These challenges were brought under the National Historic Preservation Act, the National Environmental Policy Act, the Religious Freedom Restoration Act, the Rivers and Harbors Act, and the Clean Water Act. The U.S. District Court for the District of Columbia has consolidated three lawsuits filed by multiple tribes and tribal members in the case of *Standing Rock Sioux Tribe v. United States Army Corps of Engineers* (D.D.C.). From last summer through this spring, that court and the D.C. Circuit rejected multiple motions for temporary restraining orders and preliminary injunctions against construction and operation of the pipeline. The pipeline is now operational. We are currently litigating the merits of the claims, and motions for partial summary judgment have been fully briefed and are pending before the district court.

On January 24, 2017, President Trump issued a memorandum inviting TransCanada to re-submit its application for a Presidential Permit for the Keystone XL Pipeline and directing the Secretary of State to reach a final permitting decision within 60 days of TransCanada's re-submission. On March 23, 2017, the Presidential Permit for Keystone XL was issued on a finding that its issuance would serve the national interest. At the end of March 2017, environmental groups filed two separate suits in the U.S. District Court for the District of Montana alleging that the Department of State violated the Endangered Species Act, the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act by approving the Presidential Permit; violated the Administrative Procedure Act by reversing course from a 2015 decision that the Presidential Permit was not in the national interest; and violated the National Environmental Policy Act by not preparing a new Environmental Impact Statement for the renewed permit application. The government's response to these complaints is due in early June,

and we intend to oppose these lawsuits and support the lawful decision to issue the Presidential Permit for Keystone XL.

The Division also is defending multiple cases in the D.C. Circuit challenging the Department of Energy's orders authorizing the export of liquefied natural gas from facilities in Cameron Parish, Louisiana; Calvert County, Maryland; Corpus Christi, Texas; and Quintana Island, Texas, under the Natural Gas Act and the National Environmental Policy Act. All are titled *Sierra Club v. Department of Energy*. This work supports the Administration's goal to promote development of the full array of American energy resources in clean and responsible ways.

ENRD stands ready to support the implementation of the President's direction to expedite environmental reviews and approvals for high priority infrastructure projects in Executive Order 13766. Currently, we serve as a resource to the staff and working groups supporting the Federal Permitting Improvement Steering Council, which was established under Title 41 of the Fixing America's Surface Transportation Act, to oversee required improvements in the timeliness, predictability, and transparency of the federal environmental review and authorization process for covered transportation infrastructure projects. The Division also has long defended the decisions of federal agencies such as the Department of Transportation, the U.S. Army Corps of Engineers, and the Department of Energy to authorize infrastructure projects which strengthen the U.S. economy and create jobs, while at the same time protecting the affected public lands and natural resources.

The Division's defense of four recent challenges under the National Environmental Policy Act and other statutes to transportation projects is illustrative of this work. In June 2016, in the case of *Clean Air Carolina v. North Carolina Department of Transportation*, the Fourth Circuit affirmed the district court's grant of summary judgment to State and federal agencies on the basis of a supplemental National Environmental Policy Act analysis for a proposed highway near Charlotte, North Carolina. Last December, in the case of *Japanese Village, L.L.C. v. Federal Transit Administration*, the Ninth Circuit upheld the district court's grant of summary judgment in favor of the Federal Transit Administration, allowing the "Regional Connector" light rail project in Los Angeles to move forward. That same month, the Tenth Circuit affirmed the district court's denial of a preliminary injunction to stop construction of rapid transit bus lanes on Central Avenue in Albuquerque, New Mexico, in the case of *Coalition of Concerned Citizens v. Federal Transit Administration*. Finally, in February, in the case of *Conservation Alliance of St. Lucie County v. United States Department of Transportation*, the Eleventh Circuit upheld a district court decision allowing the construction of a new bridge crossing the St. Lucie River in Florida, which was needed both to improve the flow of traffic in the City of Port St. Lucie and to speed evacuation of the city in the event of a hurricane.

We also expect to be actively involved in another top priority for the Trump Administration: the construction of a wall along the southern border of the United States. As noted above, on January 25, 2017, the President issued Executive Order 13767, which states in section 2, among other things, that "[i]t is the policy of the executive branch to: . . . secure the southern border of the United States through the immediate construction of a physical wall . . . so as to prevent illegal immigration, drug and human trafficking, and acts of terrorism . . ." 82 Fed. Reg. at 8793. As part of the longstanding national security policy of the United States, it is

sometimes necessary to acquire lands at the nation's borders. The Division has worked on such border security projects since the 1990s, providing just compensation to landowners through a fair and transparent process in open court. (Pursuant to Congressional direction or authority, ENRD undertakes the acquisition of land for the federal government, including for such purposes as national parks, the construction of federal buildings, and national security infrastructure.)

Compensation for property owners is guided by the U.S. Constitution, which mandates just compensation based on fair market value. We take this constitutional duty very seriously, and work to ensure that the amount paid is fair to both the landowner whose land is being acquired and to taxpayers. Sound appraisals are vital to ensure that government acquisitions do justice to both the individual whose property is taken and the public which must pay for it. The *Uniform Appraisal Standards for Federal Land Acquisitions*, known to many as the "Yellow Book," is written by the Interagency Land Acquisition Conference under the leadership of ENRD's Land Acquisition Section and published by the Appraisal Foundation at no cost to the federal taxpayer. The Yellow Book has guided the appraisal process in the valuation of real estate in federal acquisitions since its original publication in 1971. ENRD's Land Acquisition Section recently updated these standards for the first time in 16 years to incorporate relevant new appraisal methodology, integrate new case law, ensure appropriate consistency with professional appraisal standards, and make the valuation process more efficient and streamlined in order to ensure greater transparency in valuations.

Historically, the U.S. Army Corps of Engineers and U.S. Customs and Border Protection have attempted to purchase property rights directly for much of the previously needed fence construction—and are often successful in buying the needed land outright. If that negotiation fails, ENRD may file a case to acquire the land needed.

The Division's past work to facilitate the construction of border security infrastructure may be illustrative of our involvement. In 2007, Congress mandated construction of fencing and related infrastructure along the United States-Mexico border in order to enhance domestic security by curtailing smuggling, drug trafficking, and illegal immigration. The Division worked closely with local U.S. Attorneys' Offices, the Department of Homeland Security, and the U.S. Army Corps of Engineers to facilitate land acquisitions necessary for the construction of over 225 miles of fencing. This required acquisition by eminent domain of over 400 land parcels in Texas, New Mexico, Arizona, and California, and extensive work to obtain timely possession for construction purposes and to address widespread title and survey issues. The Division helped resolve more than 300 cases (most from fiscal year 2009 forward) under the initiative. Due to the larger anticipated workload associated with construction of the southern border wall, the Division respectfully seeks the budget enhancement for fiscal year 2018 noted earlier.

WORKING WITH THE STATES

Throughout the Department, from top to bottom, there is a firm commitment to cooperative relationships with the States when enforcing and defending the laws that protect our nation's air, water, and land. As has always been true within ENRD, we have a solemn obligation to faithfully execute the laws of the United States, and we all recognize that many of the laws entrusted to us and our client agencies give a primary role to the States—a reflection of the federalism principles embodied in our Constitution. By teaming up with State partners in

both enforcement and defensive cases, we also enhance our ability to meet mutual goals and missions, reduce costs, and obtain more comprehensive results.

Federal-State cooperation is particularly visible in the civil environmental enforcement context. ENRD works with individual States, as well as State organizations such as the National Association of Attorneys General (NAAG). In January 2017, for example, due to the important work completed during the tenure of my predecessor, John Cruden, ENRD and NAAG issued a revised version of 2003 joint guidelines intended to assist federal and State attorneys in civil environmental enforcement cases. The *Guidelines for Joint State/Federal Civil Environmental Enforcement Litigation* provides a general framework for cooperation between sovereigns in joint civil litigation and derives from lessons learned in such cases over the years. In the next section, I will describe some of the Division's recent work in environmental enforcement, which often is undertaken with States. I look forward to continuing joint federal-State enforcement work in the months ahead.

RECENT CASE HIGHLIGHTS

A full discussion of the broad range of ENRD's work is contained in its annual accomplishments reports, which are posted on the Division's website. <https://www.justice.gov/enrd/selected-publications> The Division handles about 50% defensive cases, just under 50% affirmative (enforcement) cases, and roughly five percent "other" matters such as condemnation proceedings. The above discussion of ENRD's support for Administration priorities also illustrates some of the Division's defensive work. Overall, we are defending hundreds of cases challenging actions as diverse as the U.S. Army Corps of Engineers' flood control policies and dredging activities; the Forest Service's forest protection activities; the Bureau of Land Management's administration of public lands and wild horse populations; the National Park Service's multi-use management of the National Park System; and the Fish and Wildlife Service's and National Oceanic and Atmospheric Administration's implementation of the fish and wildlife conservation laws.

The Division's Enforcement Work

As the Attorney General made clear in his remarks at the Ethics and Compliance Initiative Annual Conference at the end of April 2017, the Department of Justice "remains committed to enforcing all the laws." That "create[s] an even playing field for law-abiding companies." This Department also will "continue to emphasize the importance of holding individuals accountable for corporate misconduct." And, finally, the Attorney General stressed the importance of "work[ing] closely with our law enforcement partners, both here and abroad, to bring . . . persons to justice."

The Division has a proud tradition of strong criminal and civil enforcement, with—I'm pleased to say—a high rate of success. Turning first to our criminal docket, potential cases are referred to us from a wide range of client agencies and typically involve a diverse set of defendants, from large businesses like cruise line companies to smaller operations like an antique dealer involved in illegal trafficking of rhinoceros horns or a developer who improperly removed asbestos from a building being renovated. Our criminal cases often involve not just violations of environmental or natural resources laws; we also frequently charge obstruction, fraud,

conspiracy, and making of false statements. We are committed to following the facts and law wherever they lead, and charging either individuals or businesses, or both, as justified by the circumstances. And “when we make charging decisions,” as the Attorney General also reminded us in April 2017, “we will continue to take into account whether companies have good compliance programs; whether they cooperate and self-disclose their wrongdoing; and whether they take suitable steps to remediate problems.” Today, I would like to highlight two types of criminal cases: renewable fuels fraud and vessel pollution.

RFS Fraud

The Division, in partnership with U.S. Attorneys’ Offices and criminal investigators from EPA, the Secret Service, the Internal Revenue Service (IRS), the Securities and Exchange Commission, the Department of Transportation, and the Federal Bureau of Investigation, files cases to combat fraud in the renewable fuels arena. Through the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007, Congress obligated fuel producers and importers to produce specific annual volumes of renewable fuel. Accordingly, EPA created Renewable Fuel Standards (RFS), and established Renewable Identification Numbers (RINs) to track these volumes of fuel.

Criminals have discovered it can be quite lucrative to generate counterfeit RINs without producing the volume of renewable fuel that a RIN represents, and then to sell those fake RINs and claim IRS tax credits on the renewable fuel. The Division and its partners have successfully prosecuted a number of individuals and corporations involved in such fraud since 2011. (We have also brought some civil enforcement cases in this area.) Between 2011 and the beginning of May 2017, over 150 million fraudulent RINs have been invalidated and replaced. To date, 22 individual defendants have been sentenced to serve over 159 years of incarceration for their roles in criminal schemes involving RINs and related tax credits. In many cases, the sentencing courts have also issued forfeiture and restitution orders directing convicted defendants to give up criminally obtained assets and to pay back what they stole. The orders pertain to tens of millions of dollars in fraud loss and the restitution orders offer victims of RFS fraud a path to recover some of what these criminals took. Prosecutions in this area help to reassure the industry that the government is serious about attacking criminal conduct that undermines the industry as a whole, hurts law-abiding operators, and defrauds the taxpaying public.

One recent case is noteworthy. In April 2017, a New Jersey man was sentenced to jail time and other sanctions for his role in a RIN fraud scheme. According to his plea, Malek Jalal, who owned Unity Fuels of Newark, New Jersey, engaged in a scheme with other coconspirators to fraudulently claim \$7 million in tax credits and RIN credits multiple times on the same fuel. Jalal did this by buying fuel from a New York-based company, blending it with other materials, and selling it back to the same New York-based company. Jalal also admitted to obstruction of justice. According to his plea, he also knowingly modified and destroyed records after receiving a grand jury subpoena from the U.S. District Court for the Southern District of Ohio. Finally, Jalal directed an employee of Unity Fuels to fabricate false records that were provided to the grand jury in an attempt to hide the fraud scheme. For his conduct, the defendant was sentenced to 60 months in prison, to be followed by three years of supervised release. He was also sentenced to pay \$1,017,087 in restitution and a \$12,500 fine.

Criminal Prosecution of Vessel Pollution

Since the 1990s, the Division has had a robust program of prosecuting shipping companies and their crews for crimes related to the intentional discharges of pollutants from ocean-going vessels. Vessel pollution criminal enforcement is chiefly under the International Convention for the Prevention of Pollution from Ships, known as “MARPOL,” and its federal implementing legislation, the Act to Prevent Pollution from Ships. These laws require vessels to maintain logbooks recording all transfers and discharges of oily wastes which are regularly inspected in port. The presentation of false records concealing the pollution to the U.S. Coast Guard during inspections and other related misconduct frequently result in obstruction of justice charges.

By the end of fiscal year 2016, criminal penalties imposed in these cases totaled more than \$363 million in fines and more than 32 years of confinement. In the last few months we have secured criminal pleas and convictions against both a foreign shipping company, Aegean Shipping Management, S.A., and Princess Cruise Lines, Ltd. (Princess), as part of this program.

In April 2017, Princess was sentenced to pay a \$40 million penalty—the largest-ever for crimes involving deliberate vessel pollution—related to illegal dumping overboard of oil contaminated waste and falsification of official logs in order to conceal the discharges. The case against Princess included illegal practices which were found to have taken place on five Princess ships—Caribbean Princess, Star Princess, Grand Princess, Coral Princess, and Golden Princess. The sentence also requires that Princess remain on probation for a period of five years during which time all of related Carnival cruise ship companies trading in the United States will be required to implement an environmental compliance plan that includes independent audits by an outside company and oversight by a court-appointed monitor.

Civil Environmental Enforcement

The Division can take civil enforcement action (as well as criminal action) under a variety of environmental laws. These laws include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also commonly known as the Superfund law), the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Oil Pollution Act, and the Safe Drinking Water Act, among others. Most modern-era federal environmental laws provide for civil enforcement to secure injunctive relief, civil penalties, enforcement of administrative orders, and other relief. Pursuant to a longstanding executive order, we also seek to settle every civil matter before filing suit, absent exigent circumstances.

The ENRD docket of civil enforcement cases varies at any given time based on the course of investigations, the priorities of client agencies, the readiness of parties to settle, and disposition by courts. It also reflects changes in the law as regulations are promulgated, modified or remanded, and priorities set by the Division to address the most egregious violations. Generally, however, the ENRD docket contains a mix of clean air, clean water, hazardous waste, and other types of civil enforcement actions. Typically, about 40% of the civil docket is CERCLA, 30% Clean Air Act, and 15% Clean Water Act cases. As discussed above, we have brought cases with—and will continue to work as closely as possible with—State as well as local government partners.

I would like to highlight three recent settlements under CERCLA and the Clean Air Act. Last January, the Division announced the settlement of *United States v. NCR Corporation* (E.D. Wisc.) that requires NCR Corporation to complete one of the nation's largest Superfund cleanup projects at Wisconsin's Lower Fox River and Green Bay Site. An enormous amount of cleanup and natural resource restoration work has already been done in the area under a set of partial settlements, an EPA administrative cleanup order, and court orders in a federal lawsuit brought by the United States and the State of Wisconsin. The final phase of cleanup now taken on by NCR will cost up to \$200 million or more over the next few years. The total cleanup costs for the Fox River Site will exceed \$1 billion. The cleanup remedy for the Fox River Site was jointly selected by EPA and the Wisconsin Department of Natural Resources. The remedy will remove much of the polychlorinated biphenyl (PCB)-containing sediment from the Fox River by dredging. In other portions of the river, contaminated sediment is being contained in place with specially engineered caps. The dredging and capping will reduce PCB exposure to humans and wildlife and greatly diminish downstream migration of PCBs to Green Bay.

In November 2016, the U.S. District Court for the Eastern District of Tennessee approved a settlement with Cemex, Inc., under which the company will invest approximately \$10 million to reduce emissions of nitrogen oxide (NOx) and sulfur dioxide 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 NOx from its facilities. The Knox County, Tennessee, and Louisville, Kentucky, air pollution control authorities participated in the settlement.

In March 2017, the U.S. District Court for the Northern District of Indiana approved the agreement of the United States and the States of Indiana and Illinois and the Michigan Department of Environmental Quality, to settle Clean Air Act litigation brought against the United States Steel Corporation concerning three of its plants in Gary, Indiana; Ecorse, Michigan; and Granite City, Illinois. Under the decree, U.S. Steel, a major global iron and steel manufacturer, will make improvements to furnaces and other facilities to reduce the emissions of hazardous pollutants, particulate matter, and other pollutants impacting communities around the plants; and agreed to maintain the effective operation of its pollution control equipment and to continue work practices for improved environmental compliance. The company also will pay a \$2.2 million civil penalty, split between the United States and State co-plaintiffs, among other relief.

CONCLUSION

I am honored to be given the opportunity to serve under Attorney General Sessions at the Department of Justice. In ENRD, we have a busy docket, and I truly believe the work of our talented team at ENRD makes a vital difference for Americans every day.

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