

# U.S. Department of Justice



ENRD



ENRD

## FY 2019

PERFORMANCE BUDGET  
CONGRESSIONAL BUDGET JUSTIFICATION

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<https://www.flickr.com/photos/lofgreen/>

## **I. Overview of the Environment and Natural Resources Division**

### **A. Introduction:**

*Environment and Natural Resources Division Mission:* The Environment and Natural Resources Division (ENRD) is a core litigating component of the U.S. Department of Justice. Founded more than a century ago, it has built a distinguished record of legal excellence. The Division functions as the Nation’s environmental and natural resources lawyer, representing virtually every federal agency in the United States, and its territories and possessions, in civil and criminal cases that arise under more than 150 federal statutes. Key client agencies of the Division include 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.

ENRD is key to the successful implementation of President Donald J. Trump’s new directions for our nation, including his call for an “America First” energy policy; a major reduction in regulatory burdens, particularly for agriculture and manufacturing; and rebuilding our nation’s infrastructure; while, at the same time, protecting the environment. To guide our work, ENRD leadership has emphasized certain primary goals for ENRD at this time.

To effectively carry out its important mission **in FY 2019, ENRD is requesting a total of \$106,043,000, including 509 positions (348 attorneys), and 509 Full-Time Equivalents (FTE).** ENRD also has 115 reimbursable FTE.

First, ENRD is committed to pursuing our core mission of protecting clean air, clean water, and clean land for all Americans, through the vigorous enforcement of statutes and the defense of the lawful actions of our client agencies. President Trump has committed to “refocus[ing] the EPA on its essential mission of protecting our air and water,” emphasizing that “[p]rotecting clean air and clean water, conserving our natural habitats, and preserving our natural reserves and resources will remain a high priority,” while recognizing that the nation has been “held back by burdensome regulations on our energy industry.”<sup>1</sup> The Division’s environmental and natural resources litigation will assist EPA in delivering on the President’s commitment to clean air and clean water. ENRD is also representing the United States in many cases involving agency actions now under review by the new Administration. Agencies have inherent authority to review past decisions and to revise, replace or repeal a decision to the extent permitted by law and supported by a reasoned explanation. In these kinds of cases, our aim is to avoid unnecessary litigation, support the integrity of the administrative process, and conserve the resources of the courts, the agencies, and other litigants.

Second, a key goal is to effectively support and defend the infrastructure decisions of our client agencies. For example, ENRD is vigorously defending vital infrastructure projects today, including the Dakota Access and Keystone XL pipelines, as well as many highway, port, and other projects of importance to communities around the nation.

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<sup>1</sup> <https://www.whitehouse.gov/america-first-energy>

Related to these first two priorities, the Division is playing, and will continue to play, a key role in supporting and defending federal agencies in the implementation of several Executive Orders and Presidential memoranda, including:

- Presidential Memorandum Regarding Construction of the Keystone XL Pipeline (Jan. 24, 2017).
- Presidential Memorandum Regarding Construction of the Dakota Access Pipeline (Jan. 24, 2017).
- Executive Order on Enforcing Federal Law With Respect to Transnational Criminal Organizations and Preventing International Trafficking (Feb. 9, 2017).
- Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the U.S.” Rule (Feb. 28, 2017).
- Executive Order on Promoting Energy Independence and Economic Growth (March 28, 2017).

Furthermore, the Division is principally responsible for acquiring real property to secure the border between the United States and Mexico, in conjunction with the President’s January 25, 2017 Executive Order on Border Security and Immigration Enforcement Improvements (EO 13767). The Executive Order calls upon the Executive Branch to “immediately plan, design and construct” a “physical wall” or “barrier” along the border between Mexico and the United States (EO Sec. 4), establish “detention facilities” (EO Sec. 5), “hire 5,000 additional Border Patrol agents” (EO Sec. 8), and “have access to all Federal Lands” (EO Sec. 12).

Third, we will work cooperatively with the States and Indian tribes to achieve shared environmental goals. Many of the laws entrusted to us give a primary role to the States and tribes, and we aim to keep that important principle at the forefront of our minds as we fulfill our mission.

Fourth, we will accomplish our work as efficiently and effectively as possible, keeping in mind that every tax dollar we are given must be put to appropriate and good use for the American people.

ENRD is organized into seven core litigating sections: Environmental Crimes, Environmental Defense, Environmental Enforcement, Indian Resources, Land Acquisition, Natural Resources, and Wildlife and Marine Resource; an Appellate Section, a Law and Policy Section, and an Executive Office that provides administrative and operational support. ENRD currently has a staff of about 630 employees, approximately 425 of whom are attorneys.

## **B. Issues, Outcomes, and Strategies:**

The Division initiates and pursues legal action to enforce federal pollution abatement laws and obtain compliance with environmental protection and conservation statutes. ENRD also represents the United States in all matters concerning protection, use, and development of the nation's natural resources and public lands. The Division defends suits challenging all of the

foregoing laws, and fulfills the federal government's responsibility to litigate on behalf of Indian tribes and individual Indians. ENRD's legal efforts protect the federal fisc, reduce harmful discharges into the air, water, and land, enable clean-up of contaminated waste sites, and ensure proper disposal of solid and hazardous waste.

In affirmative litigation, ENRD obtains redress for past violations harming the environment, ensures that violators of criminal statutes are appropriately punished, establishes credible deterrents against future violations of these laws, recoups federal funds spent to abate environmental contamination, and obtains money to restore or replace natural resources damaged by oil spills or the release of other hazardous substances into the environment. ENRD also ensures that the federal government receives appropriate royalties and income from activities on public lands and waters.

By prosecuting those who commit environmental crimes, ENRD spurs greater compliance with the law. Additionally, the Division obtains penalties and fines against violators, thereby removing the economic benefits of non-compliance and leveling the playing field so that companies complying with environmental laws do not suffer competitive disadvantages.

In defensive litigation, ENRD represents the United States in challenges to federal environmental and conservation programs and all matters concerning the protection, use, and development of the nation's public lands and natural resources. ENRD faces a growing workload in a wide variety of natural resource areas, including litigation over water quality and watersheds, the management of public lands and natural resources, endangered species and critical habitat, and land acquisition and exchanges. The Division is increasingly called upon to defend Department of Defense training and operations necessary for military readiness and national defense.

Every day, the Division works with client agencies, U.S. Attorneys' Offices, and state, local and tribal governments, to enforce federal environmental, natural resources, and wildlife laws. It also defends federal agency actions and Administration policies when they are challenged in the courts, working to keep the Nation's air, water and land free of pollution, advancing military preparedness and national security, promoting the nation's energy independence, and supporting other important missions of our agency clients. The Division also acquires land for purposes ranging from national parks to national security, protects tribal lands and natural resources, and works to fulfill the United States' trust obligations to Indian tribes and their members.

Over the past few years, ENRD has taken deliberate steps to reduce costs and limit resource expenditures. We take our role as responsible custodians of the public fisc very seriously; and we are proud of the short and long-term cost saving measures and efficiencies we have implemented over the past few years.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <https://www.justice.gov/about/budget-and-performance>.

### C. Current and Anticipated Workload Challenges:

#### *ENRD Will Continue to Enforce Our Nation's Environmental Laws and Support Administrative Priorities*

The Division provides critical work to ensure that the environmental laws passed by Congress are faithfully executed. ENRD's enforcement of laws such as the Clean Air Act (CAA), Clean Water Act, and Endangered Species Act (ESA) secures environmental compliance and restoration, deterrence of future violations, and *the protection of American taxpayers in the form of criminal and civil penalties which are returned to the federal treasury*. In addition, ENRD litigation plays a significant role in helping to achieve the policy objectives of our nation's legislative and executive officials.

#### *ENRD Defends a Vast Array of Federal Agency Actions*

**In many circumstances, Congress has afforded the American people with the right to challenge federal agency actions through statutory and administrative lawsuits. When such lawsuits are filed, ENRD has an obligation to defend its client federal agencies.**

Defensive cases make up over half of our workload, with court schedules and deadlines driving the pace of work and attorney time in this type of litigation. ENRD's defensive caseload is expected to continue to increase in FY 2018 and FY 2019.

Here is a summary of expected defensive cases in FY 2019 which are likely to require significant ENRD resources:

- ENRD supports the defense and security missions of the Department of Defense and the Department of Homeland Security. From defending environmental challenges to critical training programs that ensure military preparedness, to acquiring strategic lands needed to fulfill the government's military and homeland security missions, ENRD makes a unique and important contribution to defense and national security while ensuring compliance with the country's environmental laws. The Division expects its **Military Readiness Docket** – to include litigation to defend training missions and strategic initiatives, expand military infrastructure, and defend chemical weapons demilitarization – to continue into FY 2018 and FY 2019.
  
- The Division is currently defending a large number of **Flooding Takings suits** brought by property owners who contend that actions by the United States have caused flooding of their properties for which they are entitled to just compensation under the Fifth Amendment including a 30,000 member putative class action seeking \$50 billion due to flooding in the aftermath of Hurricane Katrina, and four putative class actions involving thousands of landowners along the Mississippi and Missouri Rivers whose properties were flooded in 2011 and seek billions of dollars in compensation. The cases are

tremendously complex, requiring extensive use of expert witnesses to determine the cause, extent and damages resulting from such flooding.

- The Division faces a huge influx of litigation under a 19th Century federal statute, commonly known as "**R.S. 2477**," which recognized the "right of way for the construction of highways over public lands, not reserved for public uses." The largest component of this docket is defensive litigation under the Quiet Title Act, 28 U.S.C. § 2409a, in which ENRD defends the federal government against claims, mostly by western states and counties, to R.S. 2477 rights-of-way on lands owned by the United States and managed by federal agencies. Since 2011, ENRD's R.S. 2477 case load has grown from 12 cases covering 114 roads, to more than 45 cases – most of which are in Utah, but also involve lands in Alaska, California, Idaho, Nevada, New Mexico, North Dakota, and Washington – covering over 12,000 roads. This caseload involves extensive discovery, ancient historical facts, significant motion practice, and *de novo* trials.
- The Division currently represents the United States or the Departments of the Interior and of the Treasury in 19 pending **Tribal Trust** cases in various federal district courts and the United States Court of Federal Claims, in which cases 21 tribes or Indian plaintiffs demand "full and complete" historical trust accountings and damages for financial injury resulting from the government's alleged mismanagement of the plaintiffs' trust funds and non-monetary assets. The plaintiffs' damage claims exceed \$5 billion. Over the course of the next year, the Division faces trial in up to four cases. These cases will require substantial resources in order to conduct or complete extensive fact and expert discovery related to claims for alleged mismanagement of not only numerous tribal trust or individual Indian money accounts but also extensive non-monetary tribal trust resources between 1946 and the present.
- The Division continues to deal with a dramatic expansion of its **Rails-to-Trails litigation**, in which property owners along railroad corridors allege a taking of their property interests in violation of the Fifth Amendment as a result of the operation of the National Trails System Act ("Trails Act"). The courts have held that the Trails Act preempts the operation of state law that would otherwise allow a railroad to abandon a rail line, and results in the conversion of the railroad line into thousands of miles of recreational trails throughout the United States, which are also "railbanked" for possible future railroad reactivation. The Division presently defends over 100 such suits, involving many thousands of properties, with estimated aggregate claims in the hundreds of millions of dollars. These cases present considerable legal challenges, as recent court precedent has been generally unfavorable to the United States. These cases also present considerable resource challenges, since each property conveyance and each property valuation must be individually analyzed. The number of hours the Division devotes to these cases has more than tripled in the past few years and the portion of the Division's expert witness funds being applied to these cases has increased several-fold. Given the complexity of the cases and the ongoing conversions of railroad corridors into recreational trails, we expect to see a continued increase of this litigation for many years to come.

- The Division also handles several types of litigation over **water allocation**, including **water rights litigation** on behalf of every federal agency with water-dependent facilities, programs, or land management responsibilities. In the coming years, ENRD anticipates increasing demands on resources from a growing load of water rights cases. In particular, we expect growth in the litigation of voluminous proceedings known as "general stream adjudications," in which courts – mostly state courts in the western United States – adjudicate the rights of all the water users in a river basin. The Division’s staff within the Natural Resources Section dedicated to general stream adjudications across the West is generally smaller than the staff employed by each of the western states alone, and these cases – which often involve thousands of parties, tens of thousands of claims and objections, and take decades for discovery, pretrial litigation and trial – already place significant demands on our personnel resources.

The Division is also deeply engaged in a number of continuing and prospective affirmative cases and matters, including several “defeat device” and related mobile source Clean Air Act cases, such as the one we recently concluded against Volkswagen. We are also engaged in Clean Water Act cases against a variety of corporate defendants as well as municipalities. These cases are discussed in the Accomplishments section below.

### **Internal Challenges**

With the introduction of new technologies and new requirements in the legal industry – such as e-filing, on-line document repositories, electronic trials, extranet docketing systems, and electronic discovery – we are in constant need of ensuring our workforce has the expertise and access to software, hardware and systems to keep pace. ENRD continues to refresh aging hardware, develop and implement required tracking systems, and comply with Federal IT security mandates.

### **D. Achieving Cost Savings and Efficiencies**

The Division has demonstrated a commitment to achieve cost savings and efficiencies. Starting in 2011, ENRD responded to anticipated budgetary challenges by convening a committee of Division attorneys, paralegals, legal assistants, and managers from across all ten sections. The “\$AVE Committee” identified nearly \$2 million in potential cost saving measures, most of which were put into effect. In 2013, when faced with sequestration, ENRD reconvened a “\$AVE2 Committee” to build off of, and expand upon, the cost-saving measures identified in 2011, as well as to identify new potential cost-cutting options. The \$AVE2 Committee identified 40 unique cost-saving alternatives. Many of these were implemented. Through ENRD’s dual \$AVE efforts, the Division cut hundreds of thousands of dollars from its budget. In March 2017, President Trump issued Executive Order No. 13781, establishing a “Comprehensive Plan for Reorganizing the Executive Branch.” In compliance with that Executive Order, ENRD yet again reestablished the \$AVE Committee (designated “\$AVE 2020”) to look at additional cost saving measures that can be implemented by FY 2020. The \$AVE 2020 Committee tentatively plans to address 18 operational areas, involving ENRD’s business practices, staffing structure, facilities and operations.

In the area of litigation support, ENRD has been innovative and forward-thinking with its cost-effective, in-house litigation support computer lab, which provides a wide range of services, such as scanning, OCR-processing, e-Discovery/data processing, email threading, and database creation and web hosting. In FY 2016, the Division recognized savings of over \$21 million, compared to what the in-house services provided would have cost if outsourced to a contractor/vendor.

As a leader in employing technological solutions, ENRD continues to implement cost-effective alternatives such as videoconferencing and web-based applications for meetings (which duly reduce travel costs). We continue to push the use of on-line travel reservations, as opposed to using agent assisted booking services, leading to additional cost savings. ENRD will evaluate and hopes to expand its “no-desk-phone” program which transitions employees from costly traditional desktop phones to sole use of multiple-use mobile devices, with the goal of getting traditional desktop phones out of ENRD employee offices. ENRD has reduced its fax machine inventory by over 90%, and will address whether additional fax machines can be decommissioned, saving line costs as well as machine maintenance and supply cost. The \$AVE 2020 Committee will also encourage participation in ENRD’s Gainsharing program which can save the Division from paying avoidable travel related expenses.

## **II. Summary of Program Changes**

ENRD does not submit any Fiscal Year 2019 Program Changes.

## **III. Appropriations Language and Analysis of Appropriations Language**

ENRD is one of nine offices or divisions grouped under the General Legal Activities (GLAs) appropriation of the Department of Justice. Below is the language from the 2018 President’s Budget for the GLA components:

*For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, \$899,000,000, of which not to exceed \$20,000,000 for litigation support contracts shall remain available until expended.*

The following Department legal activities are financed from this appropriation:

*Environment and natural resource matters.* The Environment and Natural Resources Division enforces the Nation’s civil and criminal environmental laws and defends environmental challenges to Government action. Additionally, the Division represents the United States in virtually all matters concerning the use and development of the Nation's natural resources and public lands, wildlife protection, Indian rights and claims, worker safety, animal welfare, and the acquisition of Federal property.

*Reimbursable programs.* We are reimbursed by numerous client agencies for personnel, automated litigation support, and litigation consultant services for a variety of environmental, natural resource, land acquisition, and Native American cases, including from the EPA for Superfund enforcement litigation.

ENRD recommends no substantive changes to the Appropriation language in the 2019 Budget.

#### IV. Decision Unit Justification

<b>Environment and Natural Resources Division -</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2017 Enacted	537	580	110,512
2018	537	517	109,761
Adjustments to Base and Technical Adjustments	-28	-8	-3,719
2019 Current Services	509	509	106,043
2019 Program Increases	0	0	0
2019 Request	509	509	106,043
<b>Total Change 2018-2019</b>	<b>-28</b>	<b>-8</b>	<b>-3,719</b>

<b>Information Technology Breakout (of Decision Unit Total)</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2017 Enacted	18	18	7,756
2018 President's Budget	18	18	5,499
Adjustments to Base and Technical Adjustments	0	0	
2019 Current Services	18	18	5,499
2019 Program Decreases	-8	-8	-660
2019 Request	10	0	4,839
<b>Total Change 2018-2019</b>	<b>-8</b>	<b>-8</b>	<b>-660</b>

#### 1. Program Description

As described above, ENRD works to:

- Defend against suits challenging federal statutes, regulations, and agency actions;
- Develop constructive partnerships with other federal agencies, state and local governments, and interested parties to maximize environmental compliance and stewardship of natural resources;
- Investigate and prosecute environmental crimes, including both pollution and wildlife violations;

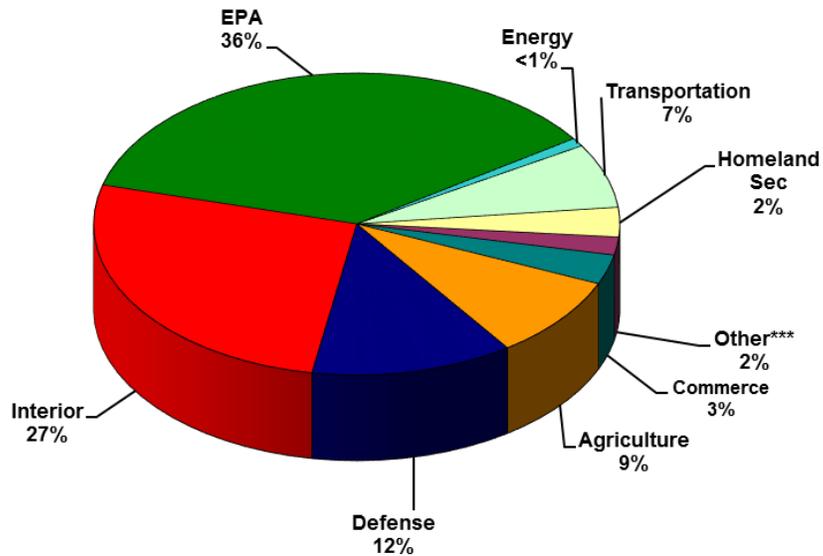
- Pursue cases against those who violate the nation's environmental and natural resources laws;
- Act in accordance with United States trust responsibilities to Indian tribes and individual Indians in litigation involving the interests of Indians. The United States holds close to 60 million acres of land and associated natural resources in trust for tribes and has a duty to litigate to protect this land and resources.

A brief description of ENRD's organizational units is provided below:

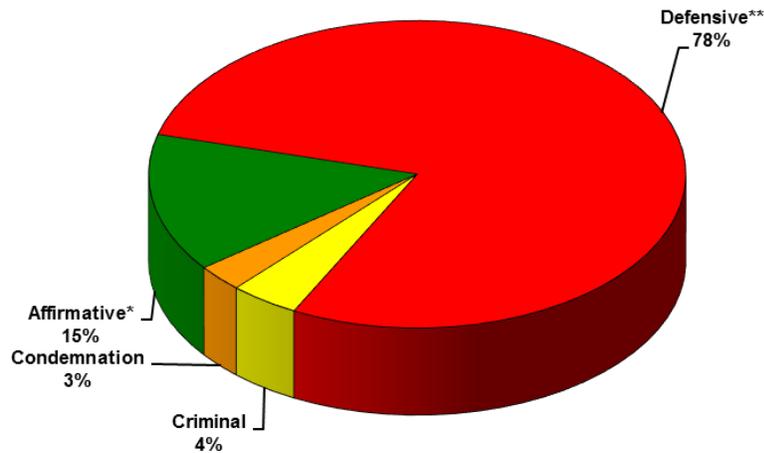
- The **Appellate Section** handles appeals in all cases tried in the lower courts by any of the sections within the Division; it also oversees or handles directly appeals in cases within the Division's jurisdiction that were tried in the lower courts by U.S. Attorneys' Offices. The Section works closely with Justice's Office of the Solicitor General in appeal recommendations and developing Supreme Court filings.
- The **Environmental Crimes Section** is responsible for prosecuting individuals and corporations that have violated laws designed to protect the environment and wildlife. The Section works closely with criminal investigators for EPA, the FBI, and the Fish and Wildlife Service in dealing with criminal violations of the pollution control statutes, the Lacey Act, the Endangered Species Act, and other laws.
- The **Environmental Defense Section** represents the United States in complex civil litigation arising under a broad range of environmental statutes. The section defends rules and policies issued by federal agencies under the pollution control laws, brings enforcement actions to protect wetlands, and defends the United States against challenges to its cleanup at Superfund sites, federally owned facilities and private sites.
- The **Environmental Enforcement Section** is responsible for bringing civil judicial actions under most federal laws enacted to protect public health and the environment from the adverse effects of pollution, such as the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Oil Pollution Act, the Resource Conservation and Recovery Act, and the Superfund law.
- The **Indian Resources Section** represents the United States in its trust capacity for Indian tribes and their members. These suits include establishing water rights, establishing and protecting hunting and fishing rights, collecting damages for trespass on Indian lands, and establishing reservation boundaries and rights to land. The Section also devotes approximately half of its efforts toward defending federal statutes, programs, and decisions intended to benefit individual Indians and tribes.
- The **Land Acquisition Section** is responsible for acquiring land through condemnation proceedings, for use by the federal government for purposes ranging from establishing public parks to creating missile sites. The Land Acquisition Section is also responsible for reviewing and approving title to lands acquired by direct purchase for the same purposes.

- The **Law and Policy Section** advises and aids the Assistant Attorney General (AAG) on environmental legal, legislative, and policy questions, particularly those that affect multiple sections in the Division. Other duties include responding to Freedom of Information Act (FOIA) requests and serving as the Division's ethics officer and counselor, alternative dispute resolution counselor, and liaison with state and local governments. Attorneys in the Section also handle amicus cases and undertake other special litigation projects.
- The **Natural Resources Section** is responsible for defending agency decisions related to natural resources, vital national security programs and border protection, Fifth Amendment takings, challenges brought by Indian tribes relating to the United States' trust responsibility, cultural resource matters; preserving federal water rights, and Supreme Court original actions.
- The **Wildlife and Marine Resources Section** handles civil cases arising under the fish and wildlife conservation laws, including suits defending agency actions under the ESA, the Marine Mammal Protection Act, and the Magnuson-Stevens Fishery Conservation and Management Act.
- The **Executive Office** provides management and administrative support to the Division, including financial management, human resources, automation, security, and litigation support. The Executive Office takes full advantage of cutting-edge technology to provide sophisticated automation facilities for its employees, in order to help the Division's workforce achieve exceptional litigation results for the United States.
- The **Office of the Assistant Attorney General** provides overall leadership and policy direction to the Division. The Office of the AAG includes the component head or acting component head, Deputy Assistant AAGs, and Counsel(s) to the AAG.

**ENRD's Cases/Matters Pending by Client Agency (FY 2017)**



**ENRD's Cases/Matters Pending by Case Type (FY 2017)**



Civil litigating activities include cases where ENRD defends the United States in a broad range of litigation and enforces the nation's environmental and natural resources laws. Over one-half of the Division's cases are defensive or non-discretionary in nature. They include claims

alleging noncompliance with federal, state and local pollution control and natural resources laws. Civil litigating activities involve the defense and enforcement of environmental statutes such as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), CAA, CWA, NEPA, and ESA. The effectiveness of ENRD's affirmative civil litigation is measured by the percentage of cases successfully resolved; the value of fines, penalties, and other monetary impositions imposed; and the value of injunctive relief imposed upon those who violate the law.

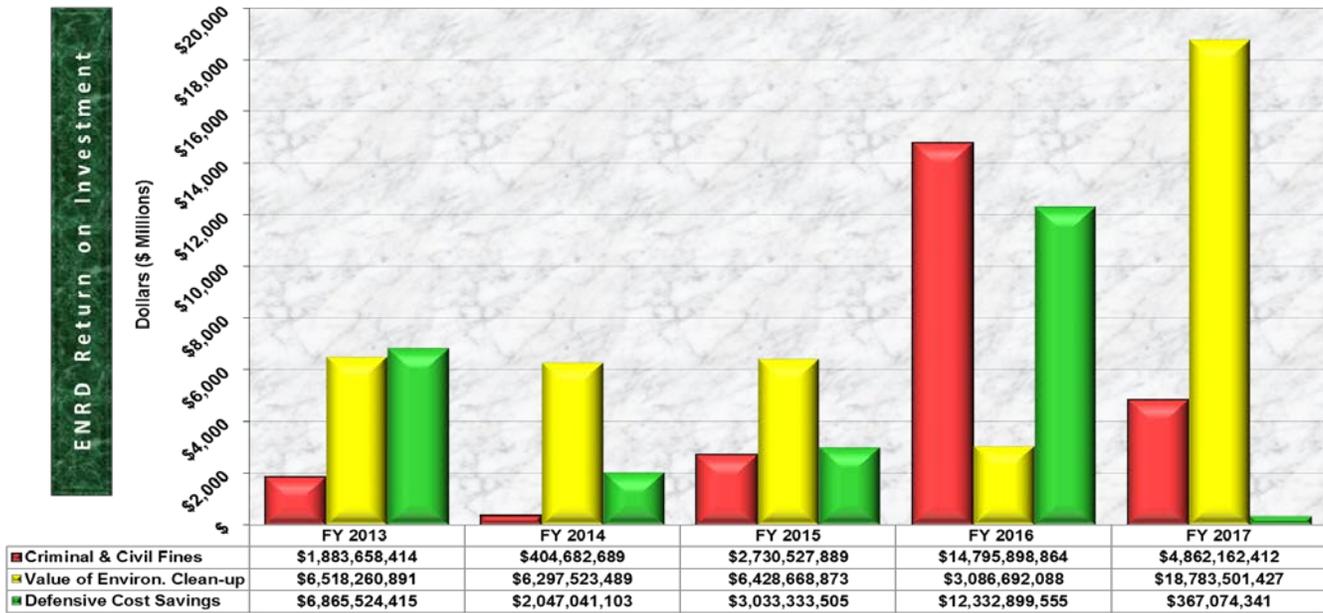
The Division defends Fifth Amendment takings claims brought against the United States alleging that federal actions have resulted in the taking of private property without payment of just compensation. In these cases, the United States must strike a balance between the interests of property owners, the needs of society, and the public fisc, while paying due regard to the Fifth Amendment's just compensation requirement. ENRD also brings eminent domain cases to acquire land for congressionally authorized purposes ranging from national defense to conservation and preservation. Furthermore, the Division assists in fulfillment of the United States trust responsibilities to Indian Tribes. ENRD is heavily involved in defending lawsuits alleging the United States has breached trust responsibilities to Tribes by mismanaging Tribal resources and failing to properly administer accounts that receive revenues from economic activity on Tribal lands. The effectiveness of our defensive litigation is measured by the percentage of cases successfully resolved and savings to the federal fisc.

Criminal litigating activities focus on identifying and prosecuting violators of laws protecting wildlife, the environment, and public health. These cases involve fraud in the environmental testing industry, smuggling of protected species, exploitation and abuse of marine resources through illegal commercial fishing, and related criminal activity. ENRD enforces criminal statutes that punish those who pollute the nation's air and water; illegally store, transport and dispose of hazardous wastes; illegally transport hazardous materials; unlawfully deal in ozone-depleting substances; and lie to officials to cover up illegal conduct. The effectiveness of criminal litigation is measured by the percentage of cases successfully resolved and the value of criminal fines, penalties and other criminal monetary impositions. ENRD's case outcome performance results are included in the Performance and Resources Table contained in this submission.

## **ACCOMPLISHMENTS**

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In **FY 2017**, ENRD successfully litigated 885 cases while working on a total of 6,967 cases, matters, and appeals. The Division recorded more than \$4.8 billion in civil and criminal fines, penalties, and costs recovered. The estimated value of federal injunctive relief (i.e., clean-up work and pollution prevention actions by private parties) obtained in FY 2017 exceeded \$18.7 billion. ENRD's defensive litigation efforts avoided costs (claims) of over \$367 million in FY 2017. The Division achieved a favorable outcome in 95 percent of cases resolved in FY 2017. **In sum, ENRD continues to be a valuable investment of taxpayer dollars as the number of dollars returned to the Treasury exceeds ENRD's annual appropriation many times over.**



**Civil and Criminal Fines, Penalties and Costs Imposed**  
(Includes Awards Payable to States, Territories, Local Governments and Indian Tribes)

**Value of Clean-Up and Corrective Actions**  
(Includes Federal and State Superfund and Non-Superfund Injunctive Relief and Supplemental Environmental Projects)

**Amount Saved in Defensive Litigation**  
(Excludes USAO Lead Cases)

Below are some recent notable successes from the Division’s civil and criminal litigation dockets.

**Civil Cases (Both Affirmative and Defensive)**

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- **Tribal Trust Cases**

The extraordinarily complex and multifaceted Tribal Trust cases command a large portion of ENRD’s time and resources. The Division represents the United States, principally the Interior and Treasury Departments, in 19 pending cases in which 21 tribes or Indian plaintiffs demand “full and complete” historical trust accountings, monetary compensation for various breaches and mismanagement of trust, and trust reform measures relating to the United States’ management of the plaintiffs’ trust funds and trust lands, as well as the non-monetary resources (such as timber, oil, gas, coal, agricultural, range, easements, and rights of way) on those lands. Several of the pending cases are in settlement negotiations, while others are in varying stages of trial preparation; others are conducting trial preparation and settlement discussions simultaneously. The Division has enjoyed success since Fiscal Year 2002 by negotiating and reaching settlements with 107 tribes in 74 cases, while also conducting active litigation, including several full-blown trials, in numerous cases. It has done so by balancing its duties to defend client programs with a commitment to make whole any tribe or Indian plaintiff that has suffered financial injury as a result of any trust fund or trust resource management practices.

- ***Superfund Enforcement Cases***

ENRD and EPA reached a major settlement 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 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 work will reduce the risks to humans and wildlife posed by polychlorinated biphenyls (PCBs) in bottom sediment of the Fox River and Green Bay. The remedy will remove much of the PCB-contaminated sediment from the Fox River by dredging or containing it with specially-engineered caps, greatly diminishing downstream migration of PCBs to Green Bay. The sediment cleanup began in the uppermost segment of the River in 2004, and NCR has committed to complete the final phase of remediation by the end of 2018.

NCR is required to take on sole responsibility for completing all remaining sediment cleanup work at the Site. NCR has done much of the dredging and capping under protest during the last several years, with some funding and assistance from two other defendants, Georgia-Pacific Consumer Products LP and P.H. Glatfelter Company. Once NCR finishes its work, Georgia-Pacific and Glatfelter will have primary responsibility for long-term monitoring and cap maintenance activities under prior court orders from the litigation. The settlement with NCR also resolves the government's potential claims against Appvion, Inc., which purchased NCR's paper manufacturing facilities in the Fox River Valley in the late 1970s. Appvion will not be involved in the remaining cleanup work at the Site.

NCR and its affiliates produced and recycled a particular type of PCB-containing "carbonless" copy paper from the mid-1950s until 1971. Prior settlements included \$105 million for natural resource damage assessment activities and natural resource restoration projects selected jointly by federal, state, and tribal government trustees.

- ***Clean Air Act Litigation***

The Division reached a settlement with Slawson Exploration Company Inc. resolving alleged CAA violations stemming from the company's oil and gas production activities in North Dakota, including on the Fort Berthold Indian Reservation. The settlement resolves claims that Slawson failed to adequately design, operate and maintain vapor control systems on its storage tanks at its approximately 170 oil and natural gas well pads in North Dakota, resulting in emissions of volatile organic compounds (VOCs). VOCs are a key component in the formation of smog or ground-level ozone, a pollutant that irritates the lungs, exacerbates diseases such as asthma and can increase susceptibility to respiratory illnesses, such as pneumonia and bronchitis.

As part of this settlement, Slawson's total expenditures on system upgrades, monitoring and inspections are estimated to be \$4.1 million. These improvements will significantly reduce VOC emissions and include the use of advanced technology such as infrared cameras and electronic pressure monitors to better detect and respond to air emissions. In addition, Slawson will spend

at least an estimated \$2 million to fund environmental mitigation projects and pay a \$2.1 million civil penalty.

EPA estimates Slawson's system upgrades, many of which are already in place, will reduce the emission of at least 11,700 tons of VOCs, 400 tons of hazardous air pollutants, primarily benzene, toluene, ethylbenzene and xylenes and 2,600 tons of methane annually. Improved operation and maintenance will result in additional emissions reductions, as will the replacement of all pit flares used to control emissions from storage tanks.

Many of Slawson's North Dakota wells are located on the Fort Berthold Indian Reservation; governed by the Mandan, Hidatsa, and Arikara Nation. Nearly all of the electronic pressure monitors will be installed at operations on the Fort Berthold Indian Reservation; Slawson will replace all pit flares on the Fort Berthold Indian Reservation with control devices capable of achieving greater efficiency. These measures, in addition to the other injunctive relief and mitigation projects Slawson will carry out on the Fort Berthold Indian Reservation, will result in a substantial reduction in harmful emissions.

- ***Oil Spill Enforcement***

ENRD and EPA reached a settlement with Magellan Pipeline Company, L.P., for alleged violations of the Clean Water Act related to gasoline, diesel and jet fuel spills in Texas City, Texas, Nemaha, Neb. and El Dorado, Kan. Magellan has agreed to complete approximately \$16 million of injunctive relief across its 11,000-mile pipeline system and pay a \$2 million civil penalty.

Magellan has agreed to: (1) complete an ongoing spill cleanup effort in Nebraska; (2) institute an enhanced annual training program for its third-party damage prevention staff; (3) update and enhance company information resources concerning selective seam corrosion; (4) update its integrity management plan; and (5) create a publicly-accessible web page that will report information about certain types of pipeline releases and Magellan's responses to them.

- ***Volkswagen (VW) / Defeat Device Cases / Mobile Source Emissions Enforcement***

In January 2016, ENRD, on behalf of EPA, filed a civil complaint in the Eastern District of Michigan against Volkswagen AG, Audi AG, Volkswagen Group of America Inc., Volkswagen Group of America Chattanooga Operations LLC, Dr. Ing. h.c. F. Porsche AG and Porsche Cars North America Inc. (collectively referred to as Volkswagen or VW). The complaint alleged that nearly 600,000 model year 2009-2016 2.0 and 3.0 liter diesel engine vehicles sold in the United States were equipped with illegal "defeat devices" that impaired their emission control systems during normal driving conditions and caused emissions to substantially exceed EPA's standards for nitrogen oxide (NOx.)

When EPA and California regulators began questioning Volkswagen about substantial discrepancies in NOx emissions from certain VW vehicles when tested on the road compared to standard regulatory tests, the company provided testing results, data, presentations and statements in an attempt to make it appear that there were innocent mechanical and technological

explanations for the discrepancies. Ultimately, the company admitted knowing that the primary reason for the discrepancy was the software that was installed in every VW diesel vehicle sold in the United States.

Volkswagen entered into three separate settlements in the civil litigation in which it agreed to fully address the polluting cars on the road, to pay Clean Air Act, financial, and Customs penalties, and to provide redress to vehicle owners and lessees.

- VW agreed to offer consumers a buyback and lease termination for nearly 500,000 model year 2009-2015 2.0 liter diesel vehicles sold or leased in the U.S., and spend up to \$10.03 billion to compensate consumers under the program. In addition, the company agreed to fund \$2.7 billion in state and territorial government-sponsored projects across the country that will reduce emissions of NOx where the 2.0 liter vehicles were, are or will be operated. These projects are intended to fully mitigate the past and future NOx emissions from the 2.0 liter vehicles.
- VW agreed to recall, modify, or buy back 83,000 model year 2009 through 2016 3.0 liter diesel vehicles sold or leased in the U.S. that are alleged to be equipped with “defeat devices.” The settlement requires Volkswagen to pay \$225 million to fund projects across the country that will reduce emissions of NOx where the 3.0 liter vehicles were, are or will be operated. This funding is intended to fully mitigate the past and future NOx emissions from the 3.0 liter vehicles.
- VW will pay \$1.45 billion to resolve EPA’s civil penalty claims, as well as the civil fraud claim of U.S. Customs and Border Protection (CBP) against VW entities that violated criminal and civil customs laws by knowingly submitting to CBP material false statements and omitting material information, over several years, with the intent of deceiving or misleading CBP concerning the admissibility of vehicles into the United States.
- VW also agreed to pay \$50 million in civil penalties for alleged violations of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). The Justice Department alleged that a VW entity supported the sales and leasing of certain VW vehicles, including the defeat-device vehicles, by offering competitive financing terms by purchasing from dealers certain automobile retail installment contracts (i.e. loans) and leases entered into by customers that purchased or leased certain VW vehicles, as well as dealer floorplan loans. These financing arrangements were primarily collateralized by the vehicles underlying the loan and lease transactions. The department alleged that certain of these loans, leases and floorplan financings were pooled together to create asset-backed securities and that federally insured financial institutions purchased certain notes in these securities.
- Finally, to resolve EPA’s remaining claim in the complaint for injunctive relief to prevent future violations under the Clean Air Act, Volkswagen agreed to undertake a number of corporate governance reforms, employ an independent monitor to oversee its compliance with these obligations, and perform in-use testing of its vehicles using a portable

emissions measurement system of the same type used to catch VW's cheating in the first place<sup>2</sup>.

## **Criminal Cases**

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- ***Volkswagen / Defeat Device Cases***

In addition to the Department's civil charges against Volkswagen AG (VW), on March 10, 2017, VW pleaded guilty in federal court to three felony counts charging: (1) conspiracy to defraud the United States, engage in wire fraud, and violate the CAA; (2) obstruction of justice; and (3) importation of merchandise by means of false statements. As part of the plea, VW agreed to pay a \$2.8 billion penalty as a result of the company's decade-long scheme to sell approximately 590,000 diesel vehicles containing software designed to cheat on U.S. emissions tests.

VW pleaded guilty, first, to participating in a conspiracy to defraud the United States and VW's U.S. customers and to violate the CAA by lying and misleading the EPA and U.S. customers about whether certain VW, Audi and Porsche branded diesel vehicles complied with emissions standards, using cheating software to circumvent the U.S. testing process and concealing material facts about its cheating from U.S. regulators. Second, VW pleaded guilty to obstruction of justice for destroying documents related to the scheme. And third, VW pleaded guilty to importing these cars into the United States by means of false statements about the vehicles' compliance with emissions limits. Under the terms of the agreement, which must be accepted by the court, VW will be on probation for three years. The company will be overseen for at least three years by an independent corporate compliance monitor. VW will fully cooperate in the Justice Department's ongoing investigation and prosecution of individuals responsible for these crimes.

- ***Enforcing the Laws Against Wildlife Trafficking***

In 2016, Lumsden W. Quan, an art dealer, was sentenced to one year and two days in prison for conspiracy to violate the Lacey and Endangered Species Acts for knowingly selling black rhinoceros horns to an undercover agent from the United States Fish and Wildlife Service (USFWS). Quan was also sentenced to three years of supervised release to follow his prison sentence, pay a \$10,000 fine and a three-year ban on work in the art and antique business. In pleading guilty, Quan admitted to working with his co-defendant to transport two horns from California to Nevada, where they sold them to an undercover agent from Colorado for a sum of \$55,000.

Quan, was arrested in March 2014 as part of "Operation Crash," a nation-wide crackdown in the illegal trafficking of rhinoceros horns, for his role in a conspiracy to knowingly sell black rhinoceros horns across state lines. A "crash" is the term for a herd of rhinoceros. Operation

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<sup>2</sup> In addition, a consent decree approved by a federal court in October 2016 requires VW to invest \$2 billion over ten years toward zero emission vehicle programs and initiatives, with \$1.2 billion directed toward a national investment plan subject to EPA approval, and \$800 million directed toward a California-specific investment plan subject to California Air Resources Board approval.

Crash is an ongoing effort conducted by USFWS in coordination with other federal and local law enforcement agencies. to detect, deter and prosecute those engaged in the illegal killing of rhinoceros and the unlawful trafficking of rhinoceros horns.

Since 1976, trade in rhinoceros horn has been regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), a treaty signed by over 180 countries around the world to protect fish, wildlife and plants that are or may become imperiled due to the demands of international markets.

- ***Vessel Pollution Cases***

The Caribbean Princess had been making illegal discharges through bypass equipment since 2005, one year after the ship began operations. The August 2013 discharge approximately 23-miles off the coast of England involved approximately 4,227 gallons within the country's Exclusive Economic Zone. At the same time as the discharge, engineers ran clean seawater through the ship's monitoring equipment in order to conceal the criminal conduct and create a false digital record for a legitimate discharge.

In December 2016, Princess Cruise Lines Ltd. (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 British engineer who first reported the illegal discharges to the British Maritime and Coastguard Agency (MCA), which in turn provided the evidence to the U.S. Coast Guard was awarded \$1.0 million. The newly hired engineer on the Caribbean Princess reported that a so-called “magic pipe” had been used on Aug. 23, 2013, to illegally discharge oily waste off the coast of England without the use of required pollution prevention equipment. The evidence gathered by the whistleblower, including photographs of the magic pipe, led to an inspection of the cruise ship both in England and then when it reached New York on Sept. 14, 2013. During each of the separate inspections certain crew members concealed the illegal activity by lying to the authorities in accordance with orders they had received from Caribbean Princess engineering officers.

Princess will remain on probation for a period of five years during which time all of the related Carnival cruise ship companies trading in the U.S. will be required to implement an environmental compliance plan that includes independent audits by an outside company and oversight by a court appointed monitor. Princess has already taken various corrective actions, including upgrading the oily water separators and oil content monitors on every ship in its fleet and instituting many new policies.

- ***Biodiesel Fraud Prosecutions***

The RFS program is a national policy, authorized under the Energy Policy Act of 2005 and expanded under the Energy Independence and Security Act of 2007, which requires a certain volume of renewable fuel to be produced to replace or reduce the quantity of petroleum-based

transportation fuel, heating oil or jet fuel. Tax credits incentivize businesses to produce renewable fuel like biodiesel.

The owner of a New Jersey feedstock collector and processor, Malek Jalal, engaged in a scheme with other coconspirators to fraudulently claim tax credits and renewable fuels credits (RIN credits) 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; he knowingly modified and destroyed records after receiving a grand jury subpoena from the Southern District of Ohio. Jalal also directed an employee to fabricate false records that were provided to the grand jury in an attempt to hide the fraud scheme.

Jalal was sentenced to 60 months in prison for his role in a scheme that generated over \$7 million in fraudulent tax credits and RIN credits connected to the purported production of biodiesel fuel, as well as his subsequent attempts to obstruct a grand jury investigation into the fraud. Jalal will also serve three years of supervised release. He was also sentenced to pay over \$1 million in restitution, and a \$12,500 fine in April 2017.

## **2. Performance and Resources Table**

Performance Materials will be provided at a later date.

**Performance Measure Table**

Performance Materials will be provided at a later date.

### 3. **Performance, Resources, and Strategies**

Performance Materials will be provided at a later date.

## **VI. Program Increases**

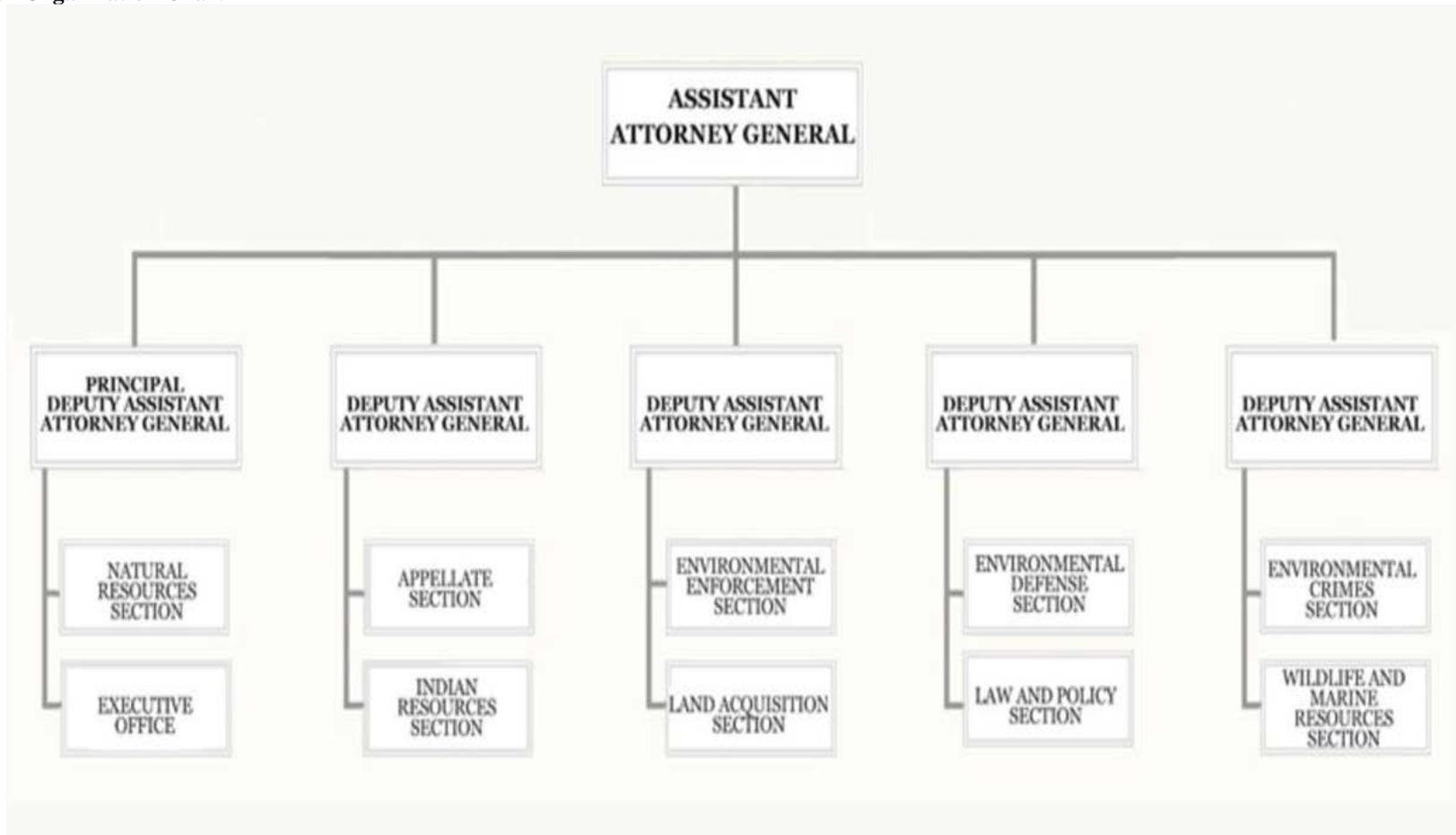
ENRD does not submit any Fiscal Year 2019 Program Enhancements.

## **VII. Program Offsets**

ENRD does not submit any Fiscal Year 2019 Program Offsets.

## **VII. Exhibits**

**A. Organization Chart**



**Exhibit A**

**B. Summary of Requirements**

<b>Summary of Requirements</b>			
Environment & Natural Resources Division			
Salaries and Expenses			
(Dollars in Thousands)			
	<b>FY 2019 Request</b>		
	<b>Positions</b>	<b>Estimate FTE</b>	<b>Amount</b>
<b>2017 Enacted 1/</b>	<b>537</b>	<b>580</b>	<b>110,512</b>
<b>Total 2017 Enacted</b>	<b>537</b>	<b>580</b>	<b>110,512</b>
<b>2018 Continuing Resolution</b>	<b>517</b>	<b>517</b>	<b>109,762</b>
<b>Technical Adjustments</b>			
CR Base Adjustment	20	10	5,836
<b>Total Technical Adjustments</b>	<b>20</b>	<b>10</b>	<b>5,836</b>
<b>Base Adjustments</b>			
Pay and Benefits	0	10	1,963
Domestic Rent and Facilities	0	0	-7,005
Other Adjustments	-28	-28	-4,513
<b>Total Base Adjustments</b>	<b>-28</b>	<b>-18</b>	<b>-9,555</b>
<b>Total Technical and Base Adjustments</b>	<b>-8</b>	<b>-8</b>	<b>-3,719</b>
<b>2019 Current Services</b>	<b>509</b>	<b>509</b>	<b>106,043</b>
<b>2019 Total Request</b>	<b>509</b>	<b>509</b>	<b>106,043</b>
<b>2018 - 2019 Total Change</b>	<b>-8</b>	<b>-8</b>	<b>-3,719</b>
<sup>1/</sup> FY 2017 FTE is actual			

**Exhibit B**

### Summary of Requirements

Environment & Natural Resources Division

Salaries and Expenses

(Dollars in Thousands)

Program Activity	FY 2017 Enacted			FY 2018 Continuing Resolution			FY 2019 Technical and Base Adjustments			FY 2019 Current Services		
	Position s	Actual FTE	Amount	Position s	Est. FTE	Amount	Position s	Est. FTE	Amount	Position s	Est. FTE	Amount
Environment and Natural Resources	537	580	110,512	517	517	109,762	-8	-8	-3,719	509	509	106,043
<b>Total Direct</b>	<b>537</b>	<b>580</b>	<b>110,512</b>	<b>517</b>	<b>517</b>	<b>109,762</b>	<b>-8</b>	<b>-8</b>	<b>-3,719</b>	<b>509</b>	<b>509</b>	<b>106,043</b>
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>			<b>110,512</b>			<b>109,762</b>			<b>-3,719</b>			<b>106,043</b>
Reimbursable FTE		62			115			0			115	
<b>Total Direct and Reimb. FTE</b>		<b>642</b>			<b>632</b>			<b>-8</b>			<b>624</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>642</b>			<b>632</b>			<b>-8</b>			<b>624</b>	

Program Activity	2019 Increases			2019 Offsets			2019 Request		
	Position s	Est. FTE	Amount	Position s	Est. FTE	Amount	Position s	Est. FTE	Amount
Environment and Natural Resources	0	0	0	0	0	0	509	509	106,043
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>509</b>	<b>509</b>	<b>106,043</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>0</b>			<b>0</b>			<b>106,043</b>
Reimbursable FTE		0			0			115	
<b>Total Direct and Reimb. FTE</b>		<b>0</b>			<b>0</b>			<b>624</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>624</b>	

Exhibit B. Summary of Requirements – continued

#### **D. Strategic Goals & Objectives**

Performance Materials will be provided at a later date.

**E. Justification for Base Adjustments**

<b>Justifications for Technical and Base Adjustments</b>			
Environment & Natural Resources Division			
Salaries and Expenses			
(Dollars in Thousands)			
	Positions	Estimate FTE	Amount
<b>Technical Adjustments</b>			
1 <b>CR Base Adjustment</b>	20	10	5,836
Because no final 2018 appropriations bills have been enacted, this technical adjustment is to reflect the difference between the 2018 President's Budget and the annualized amounts provided in the Continuing Appropriations Act, 2018 (P.L. 115-56) (CR).			
<b>Subtotal, Technical Adjustments</b>		<b>20</b>	<b>10</b>
<b>Pay and Benefits</b>			
1 <b>Annualization of 2018 Approved Positions</b>	0	10	1,367
This provides for the annualization of new positions appropriated in 2018. Annualization of new positions extends up to 2 years to provide entry level funding in the first year, with a 1 or 2-year progression to a journeyman level. For 2018 increases, this request includes an increase of \$1,367,000 for full-year payroll costs associated with these additional positions.			
2 <b>Annualization of 2018 Pay Raise</b>	0	0	301
This pay annualization represents first quarter amounts (October through December) of the 2018 pay increase of 1.9% included in the 2018 President's Budget. The amount requested \$301,000 represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$207,000 for pay and \$94,000 for benefits).			
3 <b>Health Insurance</b>	0	0	206
Effective January 2019, the component's contribution to Federal employees' health insurance increases by 7.1 percent. Applied against the 2018 estimate of \$3,399,000, the additional amount required is \$206,000.			
4 <b>Retirement</b>	0	0	89
Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$89,000 is necessary to meet our increased retirement obligations as a result of this conversion.			
<b>Subtotal, Pay and Benefits</b>		<b>0</b>	<b>10</b>
<b>Subtotal, Pay and Benefits</b>		<b>0</b>	<b>1,963</b>

## Justifications for Technical and Base Adjustments

Environment & Natural Resources Division

Salaries and Expenses

(Dollars in Thousands)

		Positions	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>				
1	<u>GSA Rent</u> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$810,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2019 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. GSA provides data on the rate increases.	0	0	810
2	<u>Guard Service</u> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$13,000 is required to meet these commitments.	0	0	13
3	<u>Moves - Non-Recur</u> GSA requires all agencies to pay relocation costs associated with lease expirations. This request does not provide for the costs associated with new office relocations caused by the expiration of leases in FY 2019.	0	0	-7,828
<b>Subtotal, Domestic Rent and Facilities</b>		<b>0</b>	<b>0</b>	<b>-7,005</b>
<b>Other Adjustments</b>				
1	<u>Administrative Reduction</u> The budget consolidates position functions for certain offices, reducing positions and identifying cost savings.	-20	-20	-3,950
2	<u>IT Consolidation</u> Supports the migration of back office infrastructure to Core Enterprise Facilities and to Cloud providers enables the Department to gain economies of scale in managing computing infrastructure at reduced cost. The support of mission applications, case management, litigation support, and e-Discovery are functions that remain core to and will be managed by each component, along with an IT Business Relationship Manager residing within each organization. GS-2210 Information Technology Specialist positions supporting back office IT operations and infrastructure services will be moved into OCIO.	-8	-8	-660
3	<u>Security Investigations</u> For FY 2019, the request includes an increase for security investigations totalling \$56,000.	0	0	56
4	<u>Working Capital Fund - Trusted Internet Connection (TIC)</u> Trusted Internet Connection (TIC) This request continues efforts to provide additional cybersecurity to our IT infrastructure and systems.	0	0	41
<b>Subtotal, Other Adjustments</b>		<b>-28</b>	<b>-28</b>	<b>-4,513</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>		<b>-8</b>	<b>-8</b>	<b>-3,719</b>

**E. Justification for Base Adjustments – continued Exhibit E – continued**

**F. Crosswalk of 2017 Availability**

<b>Crosswalk of 2017 Availability</b>											
Environment & Natural Resources Division											
Salaries and Expenses											
(Dollars in Thousands)											
Program Activity	FY 2017 Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2017 Availability		
	Position s	Actual FTE	Amount	Position s	Actual FTE	Amount	Amount	Amount	Position s	Actual FTE	Amount
Environment and Natural Resources	537	580	110,512	0	0	1,900	579	0	537	580	112,991
<b>Total Direct</b>	<b>537</b>	<b>580</b>	<b>110,512</b>	<b>0</b>	<b>0</b>	<b>1,900</b>	<b>579</b>	<b>0</b>	<b>537</b>	<b>580</b>	<b>112,991</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			110,512			1,900	579	0			112,991
Reimbursable FTE		62			0					62	
Total Direct and Reimb. FTE		642			0					642	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total, FTE		642			0					642	
<b>Reprogramming/Transfers:</b>											
Transfer of \$1.9 million from GLA prior year balances to ALS account											
<b>Carryover:</b>											
Funds were carried forward into FY 2018 from GLA's FY 2017 no year account											
<b>Recoveries/Refunds:</b>											

**Exhibit F**

**G. Crosswalk of 2018 Availability**

<b>Crosswalk of 2018 Availability</b>											
Environment & Natural Resources Division											
Salaries and Expenses											
(Dollars in Thousands)											
Program Activity	FY 2018 Continuing Resolution			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2018 Availability		
	Position s	Est. FTE	Amount	Position s	Est. FTE	Amount	Amount	Amount	Position s	Est. FTE	Amount
Environment and Natural Resources	517	517	109,762	0	0	0	0	0	517	517	109,762
<b>Total Direct</b>	<b>517</b>	<b>517</b>	<b>109,762</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>517</b>	<b>517</b>	<b>109,762</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			109,762			0	0	0			109,762
Reimbursable FTE		115			0					115	
Total Direct and Reimb. FTE		632			0					632	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total, FTE		632			0					632	
<b>Reprogramming/Transfers:</b>											
<b>Carryover:</b>											
<b>Recoveries/Refunds:</b>											

**Exhibit G**

**H. Reimbursable Resources**

<b>Summary of Reimbursable Resources</b>												
Environment & Natural Resources Division												
Salaries and Expenses												
(Dollars in Thousands)												
Collections by Source	2017 Actual			2018 Estimate			2019 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
All Other Sources	0	0	39	0	0	400	0	0	400	0	0	0
Department of Agriculture	0	0	0	0	0	18	0	0	18	0	0	0
Department of Commerce	0	0	0	0	0	4	0	0	4	0	0	0
Department of Defense	0	0	971	0	0	1,000	0	0	1,000	0	0	0
Department of Energy	0	0	10	0	0	200	0	0	200	0	0	0
Department of Health and Human Services	0	0	7,350	0	0	2,500	0	0	2,500	0	0	0
Department of Homeland Security	0	0	24	0	0	500	0	0	500	0	0	0
Department of Interior	0	0	3,928	0	0	4,600	0	0	4,600	0	0	0
Department of Justice	0	0	21,713	0	0	36,738	0	0	36,738	0	0	0
Department of State	0	0	152	0	0	300	0	0	300	0	0	0
Department of Treasury	0	0	0	0	0	5	0	0	5	0	0	0
Environmental Protection Agency	115	62	24,526	115	115	22,735	115	115	22,735	0	0	0
Federal Trade Commission	0	0	1,750	0	0	1,000	0	0	1,000	0	0	0
Securities and Exchange Commission	0	0	59	0	0	11,000	0	0	11,000	0	0	0
<b>Budgetary Resources</b>	<b>115</b>	<b>62</b>	<b>60,522</b>	<b>115</b>	<b>115</b>	<b>81,000</b>	<b>115</b>	<b>115</b>	<b>81,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
Obligations by Program Activity	2017 Actual			2018 Estimate			2019 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Environment and Natural Resources	115	62	60,522	115	115	81,000	115	115	81,000	0	0	0
<b>Budgetary Resources</b>	<b>115</b>	<b>62</b>	<b>60,522</b>	<b>115</b>	<b>115</b>	<b>81,000</b>	<b>115</b>	<b>115</b>	<b>81,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Exhibit H**

**I. Detail of Permanent Positions by Category**

<b>Detail of Permanent Positions by Category</b>									
Environment & Natural Resources Division									
Salaries and Expenses									
(Dollars in Thousands)									
Category	FY 2017 Enacted		FY 2018 Continuing Resolution		FY 2019 Request				
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb. Pos.
Security Specialists (080)	1	0	1	0	0	0	0	1	0
Personnel Management (0200-0260)	5	2	5	2	0	0	0	5	2
Clerical and Office Services (0300-0399)	52	20	52	20	0	0	0	52	20
Accounting and Budget (500-599)	4	1	4	1	0	0	0	4	1
Paralegals / Other Law (900-998)	88	19	80	19	0	0	0	80	19
Attorneys (905)	370	69	358	69	-2	0	0	356	69
Business & Industry (1100-1199)	3	1	3	1	0	0	0	3	1
Information Technology Mgmt (2210-2299)	14	3	14	3	0	0	0	14	3
<b>Total</b>	<b>537</b>	<b>115</b>	<b>517</b>	<b>115</b>	<b>-2</b>	<b>0</b>	<b>0</b>	<b>515</b>	<b>115</b>
Headquarters Washington D.C.	460	99	469	99	-7	0	0	462	99
US Fields	77	16	48	16	-1	0	0	47	16
Foreign Field	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>537</b>	<b>115</b>	<b>517</b>	<b>115</b>	<b>-8</b>	<b>0</b>	<b>0</b>	<b>509</b>	<b>115</b>

**Exhibit I**

**K. Summary of Requirements by Object Class**

<b>Summary of Requirements by Object Class</b>								
Environment & Natural Resources Division								
Salaries and Expenses								
(Dollars in Thousands)								
Object Class	FY 2017 Actual		FY 2018 Continuing		FY 2019 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	580	43,825	517	47,810	509	46,785	-8	-1,025
11.3 - Other than full-time permanent	0	3,881	0	6,593	0	4,051	0	-2,542
11.5 - Other personnel compensation	0	1,118	0	984	0	744	0	-240
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	358	0	166	0	281	0	115
<b>Total</b>	<b>580</b>	<b>49,182</b>	<b>517</b>	<b>55,553</b>	<b>509</b>	<b>51,861</b>	<b>-8</b>	<b>-3,692</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		20,485		21,973		18,675	0	-3,298
13.0 - Benefits for former personnel		0		9		0	0	-9
21.0 - Travel and transportation of persons		1,866		2,638		2,289	0	-349
22.0 - Transportation of things		462		327		318	0	-9
23.1 - Rental payments to GSA		15,810		14,219		12,391	0	-1,828
23.3 - Communications, utilities, and miscellaneous charges		1,624		1,153		1,238	0	85
24.0 - Printing and reproduction		56		40		92	0	52
25.1 - Advisory and assistance services		824		457		518	0	61
25.2 - Other services from non-federal sources		15,883		8,007		6,608	0	-1,399
25.3 - Other goods and services from federal sources		5,170		3,165		10,101	0	6,936
26.0 - Supplies and materials		554		378		355	0	-23
31.0 - Equipment		1,075		1,843		1,500	0	-343
42.0 - Insurance claims and indemnities		0		0		97	0	97
<b>Total Obligations</b>		<b>112,991</b>		<b>109,762</b>		<b>106,043</b>	<b>0</b>	<b>-3,719</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-579		0		0	0	0
Transfers/Reprogramming		-1,900		0		0	0	0
Recoveries/Refunds		0		0		0	0	0
Balance Rescission		0		0		0	0	0
Unobligated End-of-Year, Available		0		0		0	0	0
Unobligated End-of-Year, Expiring		0		0		0	0	0
<b>Total Direct Requirements</b>		<b>110,512</b>		<b>109,762</b>		<b>106,043</b>		<b>-3,719</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	62		115		115		0	0

**Exhibit K**