

UNITED STATES
DEPARTMENT OF JUSTICE



2017 Implementation Progress Report on
Environmental Justice

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U.S. Department of Justice

Forward

I am pleased to present the Department of Justice's seventh Annual Implementation Progress Report on Environmental Justice. This report summarizes some of the Department's work and achievements during 2017 in carrying out Executive Order 12898 – *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, the 2011 Memorandum of Understanding on Environmental Justice and Executive Order 12898, and the Department's Environmental Justice Strategy.

A goal of environmental justice is to provide all Americans – regardless of their race, ethnicity, or income status – full protection under the nation's environmental, civil rights, and health laws. The Executive Order instructs each federal agency to make achieving environmental justice part of their mission. At the Department, we work tirelessly to fulfill our mission to ensure fair and impartial administration of justice for all Americans. Over the last several years the Department has taken significant steps to implement its Environmental Justice Strategy and Guidance to ensure that the principals of environmental justice are appropriately integrated into the ways in which we fulfill our mission. The Department, working with other key environmental justice stakeholders, has achieved impressive results. Those achievements demonstrate the meaningful steps we have taken to implement our Environmental Justice Strategy and Guidance to make a difference in communities with environmental justice concerns.

“Whatever you do here at this Department, let us all renew our dedication to promoting justice . . .”

Attorney General Jeff Sessions Delivers Remarks at the 2018 Department of Justice Dr. Martin Luther King, Jr. Commemorative Program

Last year, Associate Attorney General Rachel Brand designated me as the Department's Director of Environmental Justice pursuant to Executive Order No. 12898 and Section III.A.1 of the Department's Environmental Justice Strategy. I want to highlight a few of our 2017 accomplishments:

- *We worked with agency partners to prevent discrimination in the context of emergency management.* As the 2017 hurricane season illustrated, it is critically important to ensure that, in compliance with the law, the whole community is engaged and assisted at all stages of emergency management. Interagency collaboration is essential to help address environmental justice concerns. After Hurricanes Harvey, Irma, and Maria, the Department's Civil Rights Division disseminated to federal civil rights staff resources such as the 2016 interagency [guidance](#) for recipients of federal financial assistance regarding the application of Title VI of the Civil Rights Act of 1964 in emergency and disaster management. Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. The Division also participated in interagency meetings to identify potential civil rights issues the Division might have the authority to address.
- *We worked collaboratively with community leaders and other stakeholders to increase community capacity.* Meaningful community engagement is a fundamental principle of environmental justice. As the Department's "peacemaker", the Community Relations Service (CRS) continues to use its mediation, consultation, facilitated dialogue, and training expertise to help communities meaningfully participate in environmental decision-making that may affect their community. For example, in the aftermath of Hurricane Harvey, CRS provided capacity building services to faith based communities in Port Arthur, Texas to support their efforts to partner with other service providers such as the Red Cross. These Port Arthur communities were some of the most devastated by the hurricane.
- *We worked with state and local partners to achieve results that benefited communities.* The Department's casework continues to make a difference in communities burdened by pollution. For example, in 2017 the Environment and Natural Resources Division (ENRD) worked with the U.S. Environmental Protection Agency (EPA) and the Louisiana Department of Environmental Quality to successfully resolve a Clean Air Act case that will eliminate thousands of tons of harmful air pollution in low-income minority communities near ExxonMobil facilities in Texas and Louisiana. ENRD also worked with EPA and the Territory of American Samoa to successfully resolve a Clean Water Act case that will reduce pollution in Pago Pago Harbor in American Samoa – an area disproportionately impacted by pollution, economic distress, and related challenges – and preserve the harbor for continued fishing, recreation, and commercial business.

As the accomplishments summarized in this report demonstrate, the Department's efforts are making a positive difference in communities. However, although considerable progress continues to be made toward the goal of a clean, safe, and healthy environment for *all* Americans – it is not yet a reality. The burdens of polluted environments are still borne disproportionately by minority and low-income communities. We have more work to do. The Department will continue to effectively coordinate with other federal agencies and seek appropriate opportunities to meaningfully engage with communities; state, local, and tribal governments; and other stakeholders in this effort. As we continue to infuse environmental justice concerns into the work of the Department, we welcome your feedback on our activities and strategy. To submit a comment please email: ejstrategy@usdoj.gov.

Jean Williams, Deputy Assistant Attorney General (ENRD)

Director of Environmental Justice

U.S. Department of Justice

Introduction

Imagine taking a deep breath of fresh air as you go for a walk or ride your bicycle to work or school, sipping a refreshing glass of cool water on a hot day, going fishing for supper or swimming in a local waterway, growing vegetables in your own backyard, or watching children safely play on a local playground. Enjoying each of these simple activities is possible, if you have access to clean, safe air, water, and land — basic necessities that far too many communities still do not enjoy. Regardless of their income status or race, everyone deserves to live, work, play, worship, or learn in a place that is free from pollution. However, this is not yet a reality. The objectives of Executive Order 12898, that each federal agency shall identify and address “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities” on minority, low income and Native American populations are still relevant. Such communities also continue to have limited opportunities for voicing their concerns. Environmental justice means that all Americans are afforded fair treatment and full protection under the nation’s laws, including environmental, civil rights, and health and safety laws. Furthermore, every American should have the opportunity to participate meaningfully in the decision-making processes that affect their environment.

Accordingly, through the implementation of Executive Order 12898 and our Environmental Justice Strategy, the Department continues to achieve meaningful results as we work on a variety of fronts, utilizing the authorities at our disposal, to help make environmental justice a reality for all communities.

This report provides a brief overview of some of the Department’s environmental justice efforts during 2017. In part one of the report we focus on the Department’s continued interagency collaboration on environmental justice issues. Working primarily through the Federal Interagency Working Group on Environmental Justice, the Department is acting with other agencies to promote a coordinated federal response on environmental justice issues. The work we discuss herein reflects some of the ways we have partnered with a number of agencies that support environmental justice, such as the [EPA](#). In part two of the report we highlight selected accomplishments of the Department that illustrate how our work produces tangible results that benefit communities and advance the principles of environmental justice.

Part One: Interagency Collaboration



Actively Participating in the EJ IWG and Implementing the EJ Interagency Memorandum

The Department of Justice (DOJ), through its work with the [Federal Interagency Working Group on Environmental Justice](#) (EJ IWG), continues to play a leadership role in ensuring a coordinated federal response to environmental justice issues. Representatives from the Environment and Natural Resources Division (ENRD) and the Civil Rights Division (CRT) regularly participate in EJ IWG senior staff-level meetings and identify ways the Department can support and further the EJ IWG's work. The EJ IWG is comprised of 17 federal agencies and White House offices working together to advance environmental justice principles across the federal government, engage and support local communities in addressing environmental and human health impacts, and promote and implement comprehensive solutions and opportunities to address environmental justice concerns. EPA leads the efforts of the EJ IWG, which was established by Executive Order 12898.

Building upon the ground work laid by Executive Order 12898, the Department of Justice was instrumental in helping the EJ IWG develop an interagency [Memorandum of Understanding on Environmental Justice \(MOU\)](#) and Charter signed by the agencies in August 2011. The MOU promotes effective and efficient interagency collaboration and public access to information about federal agency environmental justice efforts. For example, each of the 17 federal agencies that signed the MOU agreed to publish an environmental justice strategy and give the public an opportunity to provide input on those strategies, and to publish annual implementation progress reports. The Charter to the MOU, updated in 2015, includes a governance structure which established the following permanent EJ IWG committees:

- Public Participation,
- Regional Interagency Working Groups,
- Strategy and Implementation Progress Reports, and
- Title VI of the Civil Rights Act of 1964.

In 2017, the EJ IWG also maintained additional committees to address a number of important focus areas, such as:

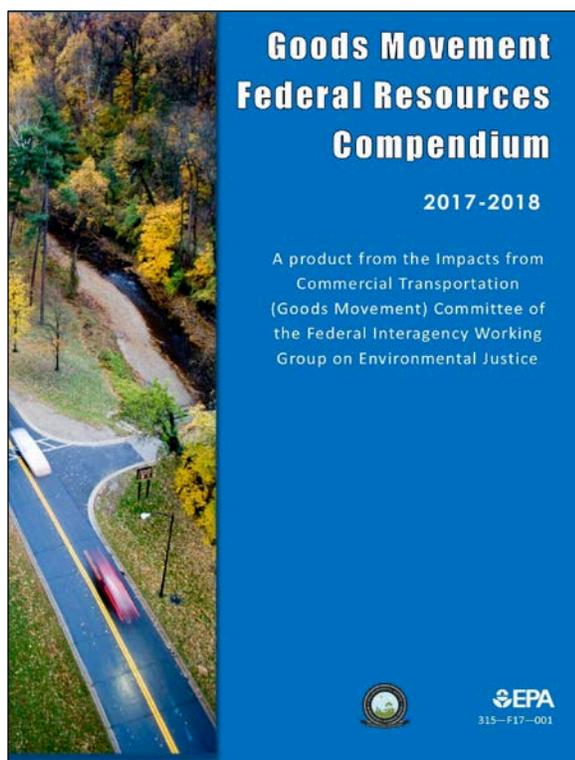
- Impacts From Commercial Transportation (Goods Movement),
- Native Americans/Indigenous Peoples, and
- National Environmental Policy Act (NEPA).

During 2017, the Department chaired the Title VI Committee and co-chaired the Native Americans/Indigenous Peoples Committee, the NEPA Committee, the Public

Participation Committee, and the Strategy and Implementation Progress Reports Committee. The Department also actively participated in other committees such as the Goods Movement Committee and the Regional Interagency Working Groups (RIWG) Committee. Below are some of the ways the Department continues to further the efforts of the EJ IWG and implement the MOU:

EJ IWG Goods Movement Committee

In 2017, a representative from the Department's Environment and Natural Resources Division joined the Goods Movement Committee. The committee, co-chaired by EPA, the U.S. Department of Transportation (DOT), and the U.S. Department of Housing and Urban Development (HUD), serves as a resource to coordinate between federal agencies for facilitating appropriate consideration of potential adverse environmental and human health effects from the commercial transportation of freight (goods movement) and supporting infrastructure on minority, low-income, and tribal/indigenous populations (i.e. overburdened communities). The Committee also works to ensure these communities are afforded opportunities to meaningfully engage with the federal government on goods movement-related programs, policies and activities. One of the Goods Movement Committee's 2017 accomplishments was the publication of a *Goods Movement Federal Resource Compendium*, a document developed to help communities identify the many federal agencies responsible for the movement of goods and services and locate useful information. The *Compendium* aims to organize publicly available information and tools relevant to communities that are impacted by goods movement including agency strategies, guidance documents, reports, funding mechanisms, data and assessment tools. The compendium is available under the Federal Resources tab on the EJ IWG's webpage and can also be accessed directly using this link:



Cover page of Goods Movement Federal Resource Compendium

The compendium is available under the Federal Resources tab on the EJ IWG's webpage and can also be accessed directly using this link: https://www.epa.gov/sites/production/files/2017-09/documents/iwg_goods_movement_federal_resources_compendium.pdf.

EJ IWG Native American/Indigenous Peoples (NA/IP) Committee

In the fall of 2016, the Department of Justice, the Department of the Army, and the Department of the Interior undertook a series of government-to-government Tribal consultations in an effort to improve federal decision-making on infrastructure development and related projects. One result of this consultation process was a January 2017 report entitled [“Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions.”](#) In response to recommendations from this consultation process and the subsequent report, the EJ IWG’s Native American/Indigenous Peoples Committee, co-chaired by the Department of Justice’s Office of Tribal Justice, initiated a project to identify best practices for meaningful engagement of federally recognized tribes and indigenous peoples in infrastructure development decisions.

Additional activities of the NA/IP Committee during 2017 included interagency meetings hosted by the Committee’s UN Declaration on the Rights of Indigenous Peoples (UNDRIP) Subcommittee to discuss the status of federal efforts to support the UNDRIP. Because the UNDRIP expresses the aspirations of indigenous peoples around the world as well as the aspirations of those countries seeking to improve their relations with indigenous peoples, supporting efforts to better understand and apply the UNDRIP, as appropriate, may lead to insights for our work.

The NA/IP Committee held a panel discussion entitled “Environmental Justice, the Federal Family, and Indigenous Communities - Federal Perspectives” at the March 2017 National Environmental Justice Conference and Training Program (NEJC) in Washington, DC. The session was moderated by the Department of Justice and panelists from the U.S. Department of Agriculture’s (USDA) Forest Service and EPA covered topics such as: Visualizing Tribal EJ (the Forest Service Tribal Connections Lands Viewer), EPA’s Approach to Providing EJ for Tribes and Indigenous Peoples, and the use and refinement of existing promising tools and techniques to respond to EJ concerns in Indian Country.

EJ IWG National Environmental Policy Act (NEPA) Committee

The Department’s Environment and Natural Resources Division, through its Natural Resources Section (NRS), continues to be a vital member of the NEPA Committee of the EJ IWG. During 2017, NRS co-chaired the committee along with the U.S. Department of Energy (DOE) and continued to work on the Education and Community of Practice (COP) Subcommittees. The NEPA Committee is dedicated to cross-agency education and coordination to foster the incorporation of environmental justice principles into decision-making through the NEPA process. NEPA is designed for federal agencies to carry out their programs to ensure that all communities and people across this nation are afforded an opportunity to live in a safe and healthy environment. NEPA requires federal agencies, before they act, to assess the environmental consequences of their proposed actions for the dual goals of informed agency decision-making and informed public participation. Additionally, NEPA gives communities the

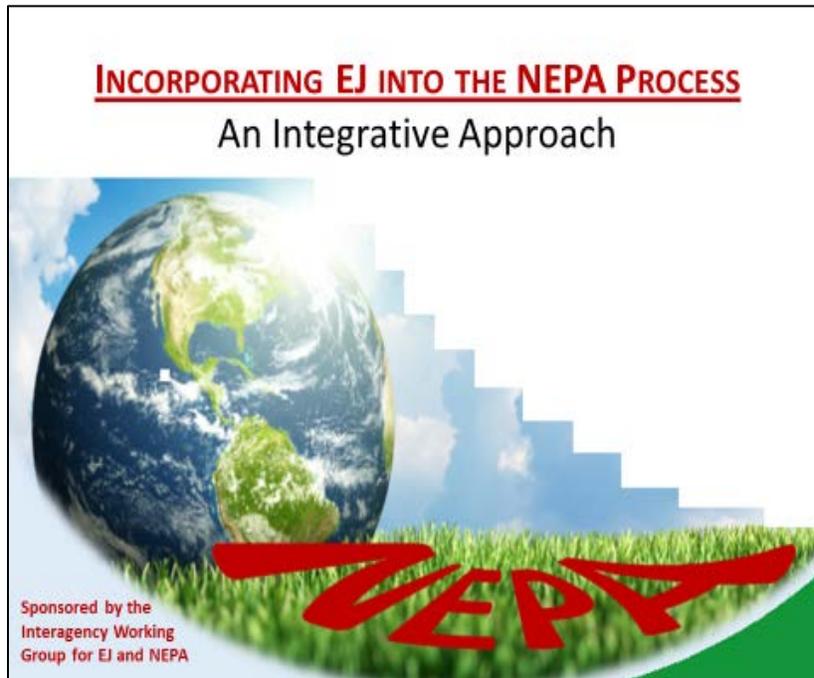
opportunity to access public information on and participate in the agency decision-making process for federal actions. The [Presidential Memorandum that accompanied Executive Order 12898](#) underscores the importance of procedures under NEPA to “focus Federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice.”

During 2017 the NEPA Committee conducted several departmental briefings, trainings, webinars, and workshops at various federal agencies and conferences. As a result, the committee has been able to promote the use of its 2016 report on “[Promising Practices for EJ Methodologies in NEPA Reviews](#)” (*Promising Practices Report*) and the consistent consideration of EJ in the NEPA review process to several hundred NEPA practitioners (federal and contractor) and the public. For example, the NEPA Committee presented a training session at the March 2017 NEJC entitled, “NEPA & EJ: Leveraging Federal Resources to Advance Community Environmental, Economic and Health Vitality – A Focus on *Promising Practices for EJ Methodologies in NEPA Reviews*.” Presenters included members of the EJ IWG’s NEPA Committee from EPA, DOE, and DOJ. The focus of the training/workshop was to increase awareness of the “Promising Practices for EJ Methodologies in NEPA Reviews” tool. The workshop was designed to foster collaboration among the federal agencies and the public. The intended audience was NEPA practitioners (federal and contractor), along with the general public, and other parties who were interested in how environmental justice fits into NEPA compliance.

As another example of the NEPA Committee’s efforts to share promising practices across the federal government, committee members from DOJ, DOE, and EPA gave a presentation at an Office of Management and Budget (OMB) Community of Practice Innovation Exchange meeting in July 2017. The OMB Innovation Exchange is a forum that provides federal staff with the opportunity to engage across geographies, agencies, and missions to share success stories and refine new approaches to help communities achieve robust outcomes. The NEPA Committee’s session on the *Promising Practices Report*, which acts as a guide for agency NEPA practitioners, highlighted collaborative efforts to promote the consistent, effective and efficient consideration of EJ in the NEPA review process.

Also in July 2017, the NEPA Committee’s current co-chairs from DOJ and DOE, and past co-chair from EPA, conducted training entitled, “Environmental Justice and FERC Projects, Using EJ IWG’s *Promising Practices Report* and Other Tools in NEPA Documents” at the Federal Energy Regulatory Commission (FERC). The speakers discussed best practices for NEPA practitioners highlighted in the *Promising Practices Report* on topics such as: meaningful engagement with affected communities, scoping to identify those communities, defining affected communities in geographic/topologic terms, and identifying low-income and/or minority communities that will be impacted.

Other projects of the NEPA Committee included preparing a training tool entitled



“Incorporating EJ into the NEPA Process, An Integrative Approach”. It will serve as the formal training component to the *Promising Practices Report*. The training covers best practices for integrating environmental justice into the NEPA process and can be adapted by agencies for their individual training needs. Plans are to make it available to federal departments and agencies in 2018.

The committee also supported efforts to finalize a *Community Guide to the Promising Practices for Environmental Justice in Assessing Environmental Impacts*. This guide is intended to assist communities in informing agencies of their concerns regarding proposed activities and decisions by federal government agencies that may result in impacts to minority and low-income populations as well as to tribes and indigenous communities.

EJ IWG Regional Interagency Working Groups (RIWG) Committee

The RIWG Committee’s Webinar Subcommittee, lead by EPA and HUD, continued to expand the successful “Access & Awareness Webinar Series.” The webinars, available on the EJ IWG webpage (<https://www.epa.gov/environmentaljustice/federal-interagency-working-group-environmental-justice-ej-iwg>) under the “EJ IWG Webinars” tab, gives the public access to the EJ IWG and increases community awareness of federal agency environmental justice strategies and holistic community-based solutions to address environmental justice issues. Stakeholders can view them at any time and share them with others. Some of the webinars highlighted interagency activities at the federal level, such as the January 12, 2017 “Discrimination Protections and Promising Practices in Federally Assisted Emergency Management” webinar during which DOJ’s Civil Rights Division discussed the interagency Title VI guidance provided to states and local governments. Then the February 9, 2017 “Whole Community Disaster Planning: Inclusive Approaches to Recovery and Preparedness” webinar demonstrated how the federal

government is working collaboratively to strengthen individual and community resilience for disaster preparedness, response and recovery through inclusive approaches to community engagement. These monthly events created the forum for not only the federal family but also state, local and non-governmental partners to exchange knowledge and best practices, share information on federal resources and technical assistance, and have constructive dialogues about strategies to work together and meet the needs of overburdened communities.

EJ IWG Title VI of the Civil Rights Act (Title VI) Committee

The Title VI Committee, chaired by the Department's Civil Rights Division, acts as a resource to help agencies connect their civil rights enforcement responsibilities with their efforts to achieve environmental justice. On March 9, 2017, Civil Rights Division staff and members of the EJ IWG's Title VI Committee presented a workshop at the NEJC entitled "Understanding Title VI of the Civil Rights Act of 1964." This interactive workshop provided participants with an overview of Title VI and information on how to file an administrative complaint with a federal agency and how such complaints are processed. Following the workshop, staff from USDA moderated a panel in which participants had the opportunity to dialogue with representatives from EPA and DOT, who discussed their Title VI enforcement and compliance activities. Representatives from community organizations and various federal agencies attended the workshop.

Increasing Communication and Awareness Among Federal Agencies

In addition to its work with the EJ IWG, the Department continues to collaborate directly with other federal agencies to continue the dialogue on and raise awareness of environmental justice issues. For example:

Crime Victim Training at the Federal Law Enforcement Training Center (FLETC)

In February 2017, ENRD's Environmental Crimes Section presented at the EPA Environmental Investigation Basic Training Course for newly hired EPA special agents at FLETC in Glynco, GA. Students participating in the course included the recently hired EPA Director for the Criminal Investigation Division and the Special Agents in Charge of the Seattle and Dallas Area Offices. As part of the training ENRD and EPA co-presented a class on environmental crime victims and environmental justice.

Issuance of Updated Federal Land Acquisition Guidelines and Trainings

In fiscal year 2017, ENRD's Land Acquisition Section (LAS) issued the newest editions of the Attorney General's Title Regulations and – with the assistance of The Appraisal Foundation – the [*Uniform Appraisal Standards for Federal Land Acquisitions \(Yellow Book\)*](#). The updates to these standards reflect legal and technological developments in real property acquisition over the past 15 years. The updates also streamline federal requirements for federal property acquisitions and give federal agencies greater flexibility to obtain cost-effective, reliable appraisals, and title evaluations required by law. Accordingly, these revisions promote the fair treatment of those affected by public projects and reaffirm the federal government's constitutionally-mandated responsibilities to (1) provide just compensation to landowners and (2) ensure that taxpayer funds are wisely spent. Importantly, these updates also promote core environmental justice principles of fundamental fairness and equal access to justice.

In total, LAS held 16 agency trainings – involving at least 9 federal agencies and components – on the new Yellow Book and/or Title Regulations in 2017. Live trainings took place in Arizona, California, Texas, West Virginia, and Washington, D.C., and nationwide via teleconference and web/simulcast. LAS also participated, with several other agencies, in the Yellow Book Conference sponsored by the Appraisal Foundation, the American Society of Farm Managers and Rural Appraisers (ASFMRA) and the American Society of Appraisers (ASA) in Denver, Colorado. The trainings held over the past year highlight LAS' efforts to ensure that the standards issued by the Yellow Book and Title Regulations are effectively implemented across all land acquiring agencies. Further, the practices and procedures prescribed by the new Yellow Book and Title Regulations are applied within the scope of LAS' current litigation.

Participating in Community and Other Outreach

Community engagement is an important part of the EJ IWG's efforts. As co-chairs of the EJ IWG Public Participation Committee, EPA and DOJ's Environment and Natural Resources Division continue to look for ways to facilitate community engagement. The Public Participation Committee looks for opportunities to give communities an awareness of and access to the EJ IWG. For example, in July 2017 EJ IWG representatives attended a [Community Leaders' Institute \(CLI\) program in Lake City, South Carolina](#) sponsored by the U.S. Department of Energy (DOE) and the Medical University of South Carolina. The event included an overview of the EJ IWG. More than 75 participants attended the CLI, including the mayor of Lake City and representatives from federal, state, and local governments; academia; students; and community leaders. The CLI kicked off with the roles of federal, state, and local governments through a session focused on intergovernmental relationships. Day two session topics included youth issues and challenges, economic development, transportation, housing and community development, and issues related to health and health disparities.

DOE has sponsored CLI's for many years. The purpose of the institute is to reinforce the principle that progress requires informed and active leaders and emphasize the unique relationship between environmental protection, human health, environmental justice, and economic development. CLI aims to educate community leaders on accessing information that is necessary for decision making and communicating this information back to community members. The institute helps communities understand energy, environmental topics, economic development, and other issues, along with the ability to participate in federal decision-making processes. As a result of the institute, community leaders across the country are able to be informed and take on active leadership roles to encourage the development and long-term sustainability of their communities.

Part Two: Environmental Justice Accomplishments



Accomplishments that Advanced Environmental Justice

As outlined in the Department's Environmental Justice Strategy, the Office of the Associate Attorney General is responsible for coordinating the Department's Environmental Justice work to implement Executive Order 12898 and DOJ's Environmental Justice Strategy and Guidance. The Associate Attorney General assigns a Director of Environmental Justice to lead the Department's Environmental Justice Working Group and coordinate environmental justice issues that arise in the ongoing work of DOJ's components.

The Department continues to maintain its environmental justice website (www.justice.gov/ej), launched in 2011 to provide the public with information about DOJ policies, case resolutions, and contacts, as well as a way to view and submit comments on the Department's Environmental Justice Strategy and Guidance. All of the Department's Annual Implementation Progress Reports are also available on the website under [Selected Resources](#).

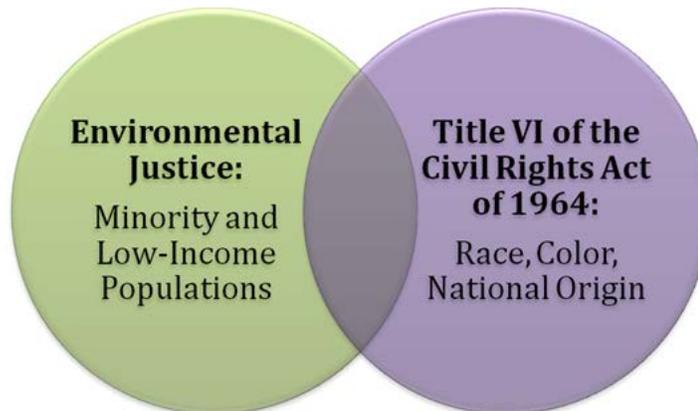


DOJ EJ Website

This section of the Department's 2017 report focuses on three areas of the Department's work as it relates to environmental justice: (1) civil rights issues; (2) environmental issues; and (3) mediation and conciliation assistance. The Department has continued to achieve significant results, but there is still more to accomplish in our efforts to promote environmental justice in all our work. The Department is committed to ensuring that achieving environmental justice remains a part of its mission.

Civil Rights Issues

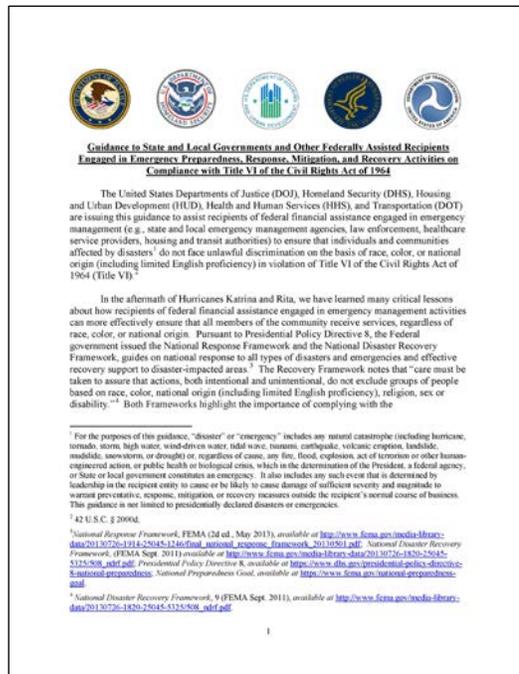
The Civil Rights Division continued its government-wide effort to ensure compliance with Title VI of the Civil Rights Act of 1964 and implementing regulations. Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. The Division is charged with ensuring that all federal agencies consistently and effectively enforce Title VI and other civil rights statutes and Executive Orders that prohibit discrimination in federally conducted and assisted programs and activities.



The Division addresses environmental justice issues through its authority under [Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws](#) (reprinted at [45 Fed. Reg. 72,995](#) (Nov. 4, 1980)), by coordinating with federal civil rights offices and providing counsel and technical assistance on investigations and compliance reviews involving adverse environmental and human health impacts on communities to ensure consistent application of the law. Title VI requires recipients of federal funding to ensure that their programs and activities operate in a nondiscriminatory manner. Such programs may include those conducted by transportation agencies, state agencies responsible for environmental permitting and enforcement, hospitals and health clinics, and countless others. Where these programs affect human health or the environment, Title VI enforcement may resolve problems that other laws cannot.

The Civil Rights Division's Federal Coordination and Compliance Section (FCS) runs a comprehensive program of technical assistance and legal counsel to civil rights offices across the government. During 2017, FCS provided extensive training on Title VI to federal civil rights staff. Additionally, FCS led a session on Title VI at the annual National Environmental Justice Conference and Training Program. The presentation provided valuable information to attendees from state and local government agencies, as well as other stakeholders, on the statutory requirements of Title VI.

The Civil Rights Division remains committed to ensuring compliance with Title VI in the context of emergency management. The 2017 hurricane season was a reminder of the importance of engaging the whole community in the planning and recovery process. After Hurricanes Harvey, Irma, and Maria, the Division circulated the interagency [Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964](#) and other resources to federal civil rights staff to support agencies as they work with recipients engaged in recovery activities. Additionally, the Division participated in regular interagency meetings to identify potential civil rights issues the Division may have authority to address. The Federal Coordination and Compliance and Disability Rights Sections will continue to work with their colleagues in other agencies to ensure the whole community is served at every stage in emergency management, in compliance with the law.



Cover page of 2016 interagency guidance document

The Division looks forward to working with the Environmental Protection Agency and other federal agencies' civil rights staff through the Federal Interagency Working Group, the Title VI Committee, and other interagency activities on environmental justice matters in 2018.

Environmental Issues

The Department has continued to vigorously enforce our nation's environmental and natural resources laws. This work is principally handled by the Environment and Natural Resources Division (ENRD), which was founded in 1909. ENRD is predominately located in Washington, D.C., with field offices in Denver and San Francisco. The Division is organized into nine Sections and an Executive Office, and is led by Acting Assistant Attorney General Jeffrey H. Wood. ENRD remains committed to its mission which is to, among other things, enforce the Nation's environmental laws to ensure clean air, water and land for all Americans. Everyone should be protected from environmental harms – regardless of their income status, race, or ethnicity. The Division works closely with U.S. Attorneys' Offices and in concert with our federal agency partners to find meaningful ways to engage the community. Highlighted below are some of the steps the Division took in 2017 to advance environmental justice principles through its work and that of its client agencies.

Conducting Outreach on Environmental Justice Issues

ENRD continues to look for ways to better understand and respond to community concerns. The Division utilizes a variety of approaches to community outreach to provide the flexibility needed to employ methods that are appropriate and effective for the circumstances. This can include, for example, community meetings and visits by senior officials, participation in EJ IWG community meetings and calls, participation in environmental justice conferences, and outreach in conjunction with matters handled by the Division.

In addition to working with the EJ IWG, ENRD continues to utilize other forums to hear about concerns directly from communities. For example, in April 2017, ENRD's Senior Litigation Counsel for Environmental Justice attended EPA's National Environmental Justice Advisory Council (NEJAC) face-to-face public meeting in Minneapolis, Minnesota. The NEJAC meeting included an open public comment session that allowed communities to discuss environmental justice issues that affect or are of concern to them.

ENRD also looks for opportunities to highlight the importance of environmental justice to audiences inside and outside the Department to raise awareness. For example, on October 30, 2017, ENRD's Senior Litigation Counsel for EJ participated on the University of Virginia School of Law's "The Discrimination of Natural Disasters," panel on the topic of "the disparate impact that hurricanes, other natural disasters, and environmental problems in general have on minority and low-income communities."

Training and Increasing Awareness

The Division remained committed to increasing awareness and understanding of environmental justice issues among its attorneys and staff. For example, in September 2017, ENRD provided an overview of environmental justice at its annual training for new attorneys entering the Division through the Attorney General's Honor Program and newly hired experienced-attorneys. In November 2017, the Division hosted a panel discussion on community engagement.

Integrating Environmental Justice Principles into Litigation and Outcomes

The work of ENRD touches communities across the nation and reflects the Department's commitment to environmental justice and enforcing environmental laws that protect human health and the air, land, and water for all Americans. By impartially enforcing the nation's environmental and natural resources laws, ENRD strives to protect communities from environmental harms. During 2017, ENRD, in coordination with federal and state agency partners and the U.S. Attorney's Offices, resolved a number of environmental cases that illustrate how the Department continues to integrate the principles of environmental justice into its work:

United States v. Maynard Steel Casting Co.

Residents living near a specialty steel manufacturing facility in Milwaukee, Wisconsin will breathe cleaner air as a result of the settlement reached in *United States v. Maynard Steel Casting Co.* (E.D. Wis.). Maynard Steel Casting Co. operates an electric arc furnace steel casting facility (a foundry) in an area of Milwaukee where the residents are predominantly Latino and African American. Almost half of the residents in the area live below the poverty level. The facility is located immediately adjacent to a hospital, a school, and a public park. The foundry melts scrap steel into molten form creating steel alloys using chrome, nickel, or manganese which are then refined and poured into molds to create castings. This process creates air toxins, particulate matter (PM), and hazardous waste in the form of dust in its baghouse air pollution control equipment.

The settlement, memorialized in a consent decree approved by the court on May 30, 2017, resolves alleged violations of the Clean Air Act (CAA) and the Resource Conservation and Recovery Act (RCRA) at the foundry. The primary alleged CAA violations are that Maynard: (i) exceeded PM emissions limits set in the facility's Title V operating permit and the State Implementation Plan and (ii) exceeded manganese emissions limits in the Title V permit, which also resulted in the facility being a major source for hazardous air pollutants under the National Emissions Standards for Hazardous Air Pollutants. The alleged RCRA violations stem from Maynard's failure to

properly test, store, and handle hazardous waste at the foundry, including the hazardous dust collected in Maynard's air pollution control equipment.

The settlement requires Maynard to: 1) perform an engineering study to evaluate the emissions capture and control effectiveness of its air pollution control equipment, and if the results show that Maynard must upgrade its air pollution control equipment, it is obligated to submit to EPA for review and approval a proposal for specific upgrades and an implementation schedule; 2) install various monitors to alert operators of problems with the air pollution control equipment; 3) perform stack tests and monitor visible emissions; 4) perform air dispersion modeling; 5) continue implementing and complying with RCRA requirements for the storage, handling and transport of its hazardous waste; and 6) pay a civil penalty based on an appropriate ability-to-pay analysis.

United States and the Louisiana Department of Environmental Quality v. Exxon Mobil Corp. and ExxonMobil Oil Corp.

On October 31, 2017, the Department of Justice, EPA, and the Louisiana Department of Environmental Quality (LDEQ) announced the lodging of a consent decree memorializing a settlement with Exxon Mobil Corp. and ExxonMobil Oil Corp. (ExxonMobil) that will eliminate thousands of tons of harmful air pollution from eight of ExxonMobil's petrochemical manufacturing facilities in Texas and Louisiana. ExxonMobil's facilities in Baytown, Texas and Baton Rouge, Louisiana are located in areas that EPA identifies as communities with environmental justice concerns. These areas have diminished air quality and are in marginal non-attainment with the Clean Air Act's 8-hour ozone National Ambient Air Quality Standard (NAAQS). The settlement reached in *United States and the Louisiana Department of Environmental Quality v. Exxon Mobil Corp., et al.* (S.D. Tex.) resolves allegations that ExxonMobil violated the Clean Air Act by failing to properly operate and monitor industrial flares at their petrochemical facilities which resulted in excess emissions of harmful air pollution. The LDEQ is also a signatory of the settlement which resolves alleged violations of Louisiana law at ExxonMobil's three plants in Baton Rouge, Louisiana.

Under the settlement, ExxonMobil will spend approximately \$300 million to install and operate air pollution control and monitoring technology to reduce harmful air pollution from 26 industrial flares at five ExxonMobil facilities in Texas and three of the company's facilities in Baton Rouge, Louisiana. The pollution controls required by the settlement are estimated to reduce harmful air emissions of hazardous air pollutants (HAPS) and volatile organic compounds (VOCs) such as benzene by more than 7,000 tons per year and reduce toxic air pollutants by more than 1,500 tons per year.

These pollutants can cause significant harm to public health. 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 increases susceptibility to respiratory illnesses such as pneumonia and bronchitis. Chronic exposure to benzene, a toxic air

pollutant, can cause numerous health impacts including leukemia and adverse reproductive effects in women.

The United States conducted outreach with citizen groups from the Houston area to elicit community input for potential supplemental environmental projects (SEPs) and mitigation projects that could be included in the settlement. Some of the flare minimization injunctive relief and the fence line monitoring requirements included in the settlement are consistent with suggestions made by the citizen groups. The settlement requires fence line monitoring at four out of the eight facilities in this case. The four facilities that are not getting fence line monitoring systems are polymer and plastics plants with comparatively less significant sources of hazardous air pollutants.

Flares are devices used to combust waste gases that would otherwise be released into the atmosphere during certain industrial operations. Well-operated flares should have a high combustion efficiency which means that they combust nearly all harmful waste gas constituents, like VOCs and HAPS, and turn them into water and carbon dioxide. This settlement is designed to improve ExxonMobil's flaring practices as it requires ExxonMobil to minimize the amount of waste gas that is sent to the flares and improve the combustion efficiency of its flares.



Air pollution from an improperly operated flare

[EPA photo](#)

United States v. Harcros Chemicals Inc.

As a result of the settlement reached in *United States v. Harcros Chemicals Inc.* (D. Kan.), communities living near Harcros' facilities will be less vulnerable to the risks associated with accidental releases of hazardous substances. Harcros, headquartered in Kansas City, Kansas, maintains and operates 31 facilities in 19 states that manufacture, blend, repackage, and distribute over 400 chemicals and substances in EPA Regions 1, 4, 5, 6, 7, and 8. Most Harcros facilities, 25 of 31, are located in areas with minority and/or low-income populations and potential environmental justice concerns.

On October 30, 2017, the U.S. District Court for the District of Kansas approved a settlement between the United States and Harcros Chemicals Inc. to settle claims that Harcros violated provisions of the Clean Air Act aimed at preventing accidental releases of chemicals that can have serious consequences for public health, safety, and the

environment. Harcros Chemicals initially brought these violations to the attention of EPA and cooperated with the United States during the negotiation of the consent decree.

Under the proposed agreement, Harcros will assure that its accident prevention program complies with all applicable requirements. Harcros will also audit 28 of its facilities to identify and correct any potential violations of its risk management program and comply with Clean Air Act requirements that facilities adequately assess hazards, undertake measures to prevent accidents, and be prepared to effectively address such accidents when they occur. One of the factors used to determine the sequence of audits that will be conducted under the settlement, as well as the locations of pilot audits that were conducted earlier, was whether the sites raised environmental justice concerns. Harcros will correct any violations identified in the audits according to a schedule set forth in the agreement. The settlement agreement also requires Harcros to pay a \$950,000 civil penalty.

In addition, Harcros will perform an approximately \$2.5 million SEP involving upgrading sprinkler systems to install aqueous film-forming foam (AFFF) fire suppression systems at eight of its facilities, including its Kansas City flagship manufacturing facility. In choosing the locations where the company will implement its project, sites raising environmental justice concerns were prioritized. The enhanced fire suppression system is expected to minimize the impacts of an accident by enhancing the speed and effectiveness of the facilities' ability to extinguish the flames thus reducing the chance of the spread of fire, vessel failure due to melting/rupturing, and the spread of released chemicals in sprinkler water.

United States v. James Powers

The defendant in *United States v. James Powers* (D.D.C.) was a real estate developer who knew about the regulations governing asbestos removal, but did not hire a licensed abatement contractor to remove asbestos from an old school building he was renovating into condominiums in Washington, DC. Instead, without performing any asbestos abatement at all, he hired a handyman from Atlanta to gut the building, which contained asbestos insulation and floor tiles. That handyman hired a number of workers—all of whom were low-income men of color—to travel from Atlanta to DC in the contractor's van and conduct the demolition work. The workers were effectively trapped in DC, dependent on the contractor for transportation back to Atlanta. They demolished the inside of the building without any protective equipment to prevent asbestos inhalation. They worked within the unventilated space for approximately a month, and were exposed to asbestos fibers during the entirety of that period. Asbestos exposure is linked to deadly diseases including asbestosis, mesothelioma, and lung cancer. James Powers pled guilty to violating the Clean Air Act and was sentenced to 20 months' imprisonment on January 30, 2017. The defendant has appealed his sentence and the application of the sentencing guidelines.



Danger sign EPA photo from www.epa.gov/asbestos

United States and the Territory of American Samoa v. StarKist Company and StarKist Samoa Company

The community of American Samoa will benefit from the settlement reached in *United States and the Territory of American Samoa v. StarKist Company and StarKist Samoa Company* (W.D. Pa.) requiring StarKist Co. and its subsidiary, StarKist Samoa Co., to make a series of upgrades to reduce pollution, improve safety measures, and comply with environmental laws at their tuna processing facility. StarKist Samoa Co. owns and operates a tuna processing facility on the northwestern side of Pago Pago Harbor in the village of Atu'u on the Island of Tutuila in American Samoa, which is located in the South Pacific Ocean. The surrounding community uses the harbor for fishing, recreation, and commercial business. EPA identified the community as an area with environmental justice concerns – disproportionately impacted by pollution, economic distress, and related challenges. American Samoa is among the most financially distressed communities in the United States, with rates of people living under the poverty level nearly four times the rate of the rest of the United States. The StarKist facility has been in operation since its construction in 1963 and is the backbone of the American Samoa economy.

In July 2014, the American Samoa Environmental Protection Agency informed EPA of a discharge pipeline break at the StarKist facility which was spilling unpermitted wastewater into Pago Pago Harbor. EPA began investigating the facility after monitoring reports submitted by StarKist revealed wastewater pollutant levels that consistently exceeded permitted levels. EPA's investigations showed that StarKist had changed the composition of the facility's discharged wastewater such that its existing wastewater treatment system was inadequate. EPA also found StarKist was improperly storing ammonia, butane, and chlorine gas, which the facility used on-site for refrigeration, operation of forklifts, and disinfection. The Clean Air Act requires companies to operate safely in order to prevent releases of hazardous chemicals that can harm workers and the surrounding community.

On December 22, 2017, the Department of Justice filed an amended complaint and lodged a revised proposed consent decree resolving violations of the Clean Water Act, Clean Air Act, Emergency Planning and Community Right-To-Know Act (EPCRA), and Resource Conservation and Recovery Act (RCRA) at the tuna processing facility. The amended complaint and revised proposed consent decree superseded a complaint and consent decree the United States filed in the case on September 12, 2017. After lodging the original consent decree in September, the United States received new information during the public comment process prompting it to revise the settlement. By working collaboratively with local officials, the United States addressed the concerns and negotiated an even stronger settlement. Notably, the revisions included: adding new Clean Water Act violations for unpermitted discharges and increasing the civil penalty, adding the Territory of American Samoa as a co-plaintiff with a vital oversight role in the settlement's implementation and a share of the penalty, and providing a Samoan language summary of the settlement for circulation in the territory.

Under the amended settlement agreement, StarKist will perform injunctive relief and pay a \$6.5 million penalty. After full implementation of the wastewater treatment system upgrades, the facility's annual discharge of pollutants into Pago Pago Harbor, including total nitrogen, phosphorous, oil and grease, and total suspended solids, will be reduced by at least 85 percent. This totals a reduction of more than 13 million pounds of wastewater pollutants each year.

To prevent oil spills, the company is upgrading four large above-ground oil storage tanks containing diesel oil, used petroleum oil, and food-grade oil – a byproduct of fish processing. The four tanks, located only feet from inner Pago Pago Harbor, were found to have inadequate secondary containment structures as required by the Clean Water Act. In its own audit, StarKist identified additional problems, including violations of RCRA hazardous waste management and notification regulations, and disclosed them to EPA.



PagoPago Harbor

Tavita Togia/National Park Service

The settlement agreement also requires StarKist to improve the facility's ammonia refrigeration system and discontinue using chlorine gas and butane, which will reduce the risk of hazardous substance releases. The companies have submitted emergency planning information to local responders and will implement a new system for notifying the public in real time in the event of a release. In addition, StarKist will perform a SEP requiring it to purchase and donate no less than \$88,000 worth of specified emergency response equipment to the American Samoa Fire Department, the entity that would respond to a chemical release from the facility on Tutuila Island.

In the Matter of: Cooper Drum Company Superfund Site

The agreement reached in *In the Matter of: Cooper Drum Company Superfund Site* (C.D. Cal.) will benefit residents of South Gate, California. On October 25, 2017, the Department of Justice approved a Prospective Purchaser Agreement (PPA) with Autumn Holding Group (AHG), a developer, for the purchase of an uncontaminated parcel adjacent to the Cooper Drum Company Superfund Site in South Gate, California that was formerly part of the Site (the Property).

The Cooper Drum Company Superfund Site is a mixed commercial, industrial and residential area ten miles southeast of downtown Los Angeles. The city of South Gate is one of several densely populated communities located along the I-710 Freeway Corridor in South Central Los Angeles County, where the effects of pollution are disproportionately more severe than those found in other areas of Los Angeles County. Approximately one

million people, about 70% of whom are minority or qualify as low income households, are directly impacted by industrial activities in this area.

The Prospective Purchaser Agreement is an administrative agreement between EPA and AHG that was executed in conjunction with a Consent Decree, lodged with the court on October 26, 2017 in *United States v. Cooper Living Trust and Cooper Properties LP*. The Consent Decree embodies the settlement of the United States with the Cooper Living Trust and Cooper Properties LP (the Settling Defendants) to resolve their liability as owners of the Site under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for injunctive relief to remedy conditions in connection with the release and threatened release of hazardous substances, and for response costs incurred for response activities undertaken at the Site. Under the proposed Consent Decree and the PPA, the United States will obtain no less than \$2.5 million from the proceeds of the sale of the Property. Under the Consent Decree, the Settling Defendants, have agreed to execute a contract of sale.

United States v. Cyprus Amax Minerals Company and Western Nuclear, Inc.

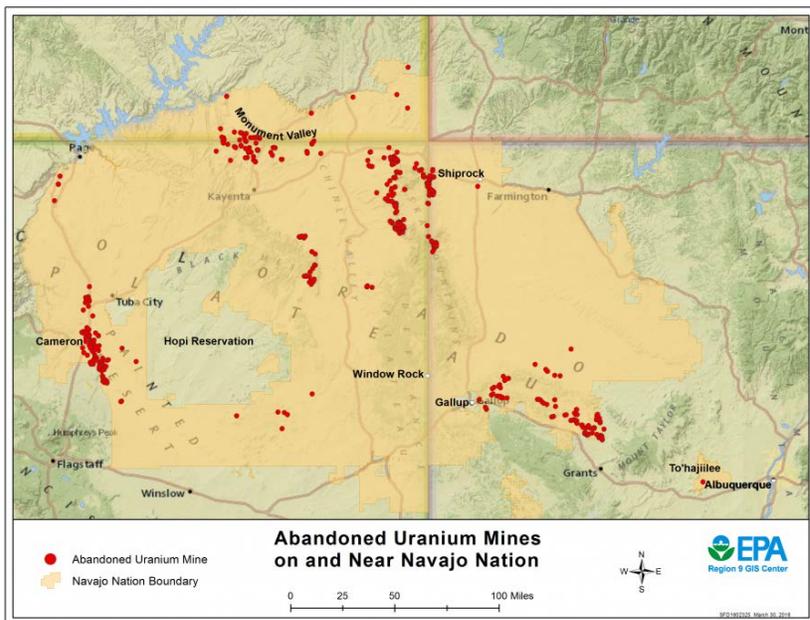
On May 22, 2017, the U.S. District Court for the District of Arizona approved a settlement agreement between the United States, the Navajo Nation, and two subsidiaries of Freeport-McMoRan, Inc. for the cleanup of 94 abandoned uranium mines on the Navajo Nation. Under the settlement, valued at over \$600 million, Cyprus Amax Minerals Company and Western Nuclear, Inc. will perform the work and the United States will contribute approximately half of the costs. One of the most serious environmental justice problems in Indian Country is the legacy of uranium mining on Navajo lands. With this settlement, funds are now committed to begin cleanup efforts at nearly twenty percent of the abandoned uranium mines on the Navajo Nation. The work is subject to oversight of EPA and the Navajo Nation Environmental Protection Agency.

The Navajo Nation encompasses more than 27,000 square miles within Utah, New Mexico, and Arizona in the Four Corners area. The Navajo Nation's geology makes it rich in uranium, a radioactive ore in high demand after the development of atomic power and weapons at the end of World War II. Many private entities, including predecessors of Cyprus Amax and Western Nuclear, mined approximately thirty million tons of uranium ore on or near the Navajo Nation between 1944 and 1986. Through the Atomic Energy Commission (AEC), the federal government was the sole purchaser of uranium until 1966 when commercial sales of uranium began. The AEC continued to purchase ore until 1970. The last uranium mine on the Navajo Nation shut down in 1986.

Many Navajo people worked in and near the mines, often living and raising families in close proximity to the mines and mills where ore was processed. Since 2008, federal agencies – including EPA, the Department of Energy, the Bureau of Indian Affairs, the Department of the Interior, the Nuclear Regulatory Commission, and the Indian Health Service – have collaborated to address uranium contamination on the Navajo Nation. The

federal government has invested more than \$130 million to address the legacy of abandoned uranium mines on Navajo lands.

EPA has compiled a list of 46 priority mines for cleanup and performed stabilization or cleanup at 9 of those mines. EPA's cleanup efforts have generated over 100 jobs for Navajo citizens and work for several Navajo owned businesses. This settlement with Cyprus Amax and Western Nuclear includes 10 priority mines and is expected to create many jobs for Navajo workers.



Navajo Nation Abandoned Uranium Mines Map

EPA Image

Under the settlement Cyprus Amax and Western Nuclear agree to perform removal site evaluations, engineering evaluations and cost analyses, and cleanups at 94 mines. In return for that commitment, the United States, on behalf of the Department of the Interior and the Department of Energy, agrees to place \$335 million into a trust account to help fund the cleanup. The settlement agreement resolves the claims of the United States on behalf of EPA against Cyprus Amax and Western Nuclear; of the Navajo Nation against the United States, and against Cyprus Amax and Western Nuclear; and of Cyprus Amax and Western Nuclear against the United States for the mines at issue in this case.

In April 2014, the Justice Department and EPA announced in a separate matter that approximately \$985 million of a multi-billion dollar settlement of litigation against subsidiaries of Anadarko Petroleum Corp. will be paid to EPA to fund the clean-up of approximately 50 abandoned uranium mines in and around the Navajo Nation, where radioactive waste remains from Kerr-McGee mining operations. EPA has already begun field work with the proceeds from the 2014 settlement. In addition, the United States previously entered into two settlement agreements with the Navajo Nation to fund cleanups at 16 priority mines and investigations at an additional 30 mines for which no viable responsible private party has been identified.

United States v. Washington

The *United States v. Washington* (W.D. Wash.) case provides the framework for the State and Tribes to co-manage the Pacific Salmon fishery in Western Washington. The process of co-management is under increasing stress due to lower salmon

populations and harvest limitations under the Endangered Species Act (“ESA”). In the spring of 2017, the parties began a mediation process with Judge Pechman in the Western District of Washington. The primary purpose of the mediation is for the parties to develop a Regional Salmon Management Plan, which was agreed upon by the parties and submitted to the National Marine Fisheries Service (“NMFS”) on December 1, 2017. The Management Plan requests approval under the ESA of a long-term (10 year) fisheries framework, thus avoiding the uncertainty of annual consultations and negotiations among the co-managers. NMFS is currently in the process of reviewing the Management Plan and conducting the appropriate NEPA and ESA analyses. The mediation includes other issues, such as establishing an enforceable process for North of Falcon, the annual allocation negotiations between the State and Tribes.

United States v. Oregon

The *United States v. Oregon* (D. Or.) case is the outgrowth of the consolidation of two cases filed in 1968, *Sohappy v. Smith*, No. 68-409 (D. Or.), and *United States v. Oregon*, No. 68-513 (D. Or.). These suits were brought against the State of Oregon to establish the scope of the state’s authority to regulate tribal off-reservation fishing on the Columbia River and its tributaries. The case arises out of four treaties known as the Stevens and Palmer Treaties entered into in 1855 between the United States and four Indian tribes (Nez Perce, Umatilla, Warm Springs, and Yakama) living along the Columbia River and its tributaries in an area that is now within the states of Oregon, Washington and Idaho. The parties in *United States v. Oregon* completed negotiations on a ten-year Management Agreement addressing fish harvests and hatchery production on the Columbia and Snake Rivers in Washington, Oregon, and Idaho for 2018-2027 (“Agreement”).

The proposed Agreement will further the protection of reserved treaty fishing rights, facilitate cooperative management of tribal and state fishing on the Columbia and Snake Rivers, and potentially reduce legal challenges to federal agency actions affecting anadromous fish in the Columbia River basin. Notably, for the first time in nearly 50 years, all of the parties, the States of Idaho, Washington, and Oregon, as well as the Yakama, Umatilla, Warm Springs, Nez Perce, and Shoshone-Bannock Tribes, are signatories to the Agreement. The Agreement will also result in tribal and state support for federal efforts under the Endangered Species Act to protect many of these anadromous species.

On March 20, 2018, in response to a joint motion by the parties, the Court adopted the Agreement as a Court order, but issued a second order dismissing the fifty year old case without prejudice. The United States and the tribes have moved for clarification and reconsideration of the dismissal order to ensure that the Court will still be available to resolve any dispute arising from implementation of the Agreement, as well as enforcement of the Judgment. All three states support the requested relief in our motion.

Integrating Environmental Justice into Other Cases

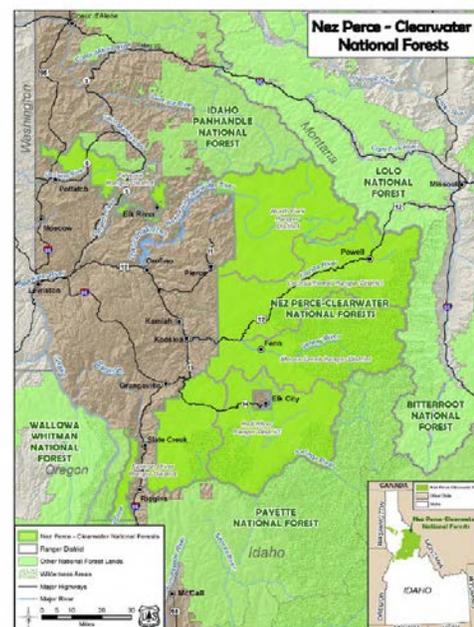
In addition to its affirmative actions to enforce the environmental and natural resource protection laws, more than half of ENRD's work consists of defending the environmental or natural resources actions of federal agencies. The Division has worked to incorporate the principles of environmental justice into the handling of these cases as well. ENRD works closely with agencies to identify defensive cases that present environmental justice concerns, even where the complaint may not clearly assert a specific claim that the agency failed to address environmental justice issues adequately. More broadly, in the context of litigation, the Division actively evaluates the depth of the agency's analysis and handling of environmental justice issues as well as the completeness of the decision-making effort in addressing environmental justice concerns. Indeed, rather than merely defending agency analysis of environmental justice issues and decision-making, ENRD implements the environmental justice Executive Order by proactively looking for ways to address concerns of environmental justice communities both inside and outside of the traditional litigation context.

Recent examples of this aspect of ENRD's environmental justice efforts are described below:

Nez Perce Tribe and Idaho Rivers United v. United States Forest Service

Under the settlement reached in *Nez Perce Tribe, et al. v. United States Forest Service* (D. Idaho), the Forest Service agreed to transmit to the Idaho Transportation Department (ITD) a letter stating the Service's position as to oversized truck loads on a corridor of U.S. Highway 12 in Idaho that has cultural importance to the Nez Perce Tribe and recognized values under the Wild and Scenic Rivers Act. The corridor at issue traverses the Nez Perce-Clearwater National Forests. The Forest Service's letter under the settlement agreement addresses the circumstances under which oversized truck loads are incompatible with the Tribal and unique values of that corridor.

The Nez Perce-Clearwater National Forests were once part of the Nez Perce Reservation. The Tribe ceded to the United States the lands now encompassing the National Forests, but the Tribe retained treaty rights in the lands, including rights to hunt, fish, gather, and practice traditional religious and cultural ceremonies on the Tribe's "ancestral homelands." The Forest Service manages these National Forests consistent with those treaty rights.



Nez Perce-Clearwater National Forests Map [USDA FS](https://www.usda.gov/land-management/forests/land-use-planning/land-use-planning-reports/nez-perce-clearwater-national-forests-map)

Before entering into the settlement, the Forest Service: (1) conducted and published a study entitled "Values of the Middle Fork Clearwater and Lochsa River

Corridor Potentially Affected by Certain Over-Legal Truck Traffic, US Highway 12,” and (2) consulted with the Nez Perce Tribe concerning the impact of oversized truck loads on the river corridor. The Service ascertained particular restrictions that could be incorporated into ITD-issued permits for the transport of oversized loads on the Highway 12 river corridor. In the letter transmitted to ITD under the settlement agreement, the Forest Service identified the restrictions and explained that, based on current information, it was the Service’s position that including those restrictions in ITD permits would protect the scenic, aesthetic, and Tribal values associated with the river corridor.

The settlement agreement was approved by the district court on January 27, 2017. The settlement represents the joint consultation efforts of the Forest Service and the Nez Perce Tribe in identifying a specific, restricted category of oversized traffic that the Service believes is consistent with the Tribe’s values and the scenic and aesthetic values of the river corridor. As a result of the settlement, ITD has concrete guidance for protecting those values when it issues permits, and the Tribe’s treaty rights and cultural values will benefit from such protections.

Application of Fair and Equitable Treatment of Landowners

In 2017, ENRD’s Land Acquisition Section (LAS) assisted the Departments of the Navy and Army with acquiring property for the Townsend Bombing Range in McIntosh County, Georgia and the Army’s Fort Polk Land Purchase Program in Vernon Parish, Louisiana. The Townsend Bombing Range provides critical aviation readiness and training activities for Marine Corps aviators stationed on the East Coast, and the Fort Polk Land Purchase Program expands and supports training by members of the U.S. Army.

In order to ensure that all affected landowners are treated in an equitable manner, attorneys from LAS have provided meaningful assistance and guidance to the previous landowners throughout the condemnation process – including some who are not represented by an attorney and are appearing *pro se*. With the assistance of representatives from the Navy and the Army, LAS attorneys have also sought out individuals who may be related to the original landowners, and therefore may have a share in the just compensation. In so doing, LAS has worked diligently to ensure fair, equitable, and just outcomes of these ongoing condemnation actions.

Mediation and Conciliation Assistance

The Community Relations Service (CRS) is the Department's "peacemaker" for community conflicts and tensions arising from differences of race, color, and national origin. With authority under Title X of the Civil Rights Act of 1964 and the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, CRS responds to community conflicts arising from differences of race, color and national origin, and in prevention of and response to actual or perceived hate crimes based on gender, gender identity, sexual orientation, religion, or disability. CRS does not have law enforcement or prosecutorial authority. Rather, CRS works with communities in conflict to help rebuild relationships, facilitate mutual understanding, and encourage the development of local solutions. Through mediation, consultation, facilitated dialogue, and training, CRS offers services that can enable community members to participate meaningfully in environmental decision-making that may affect their community. CRS's commitment to assisting overburdened communities continues to be demonstrated through its environmental justice casework.

Southwest Detroit, Michigan

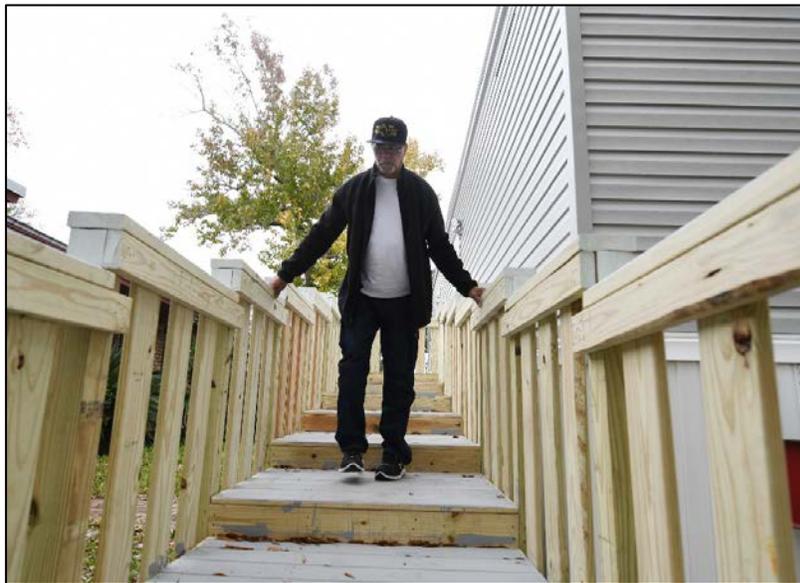
CRS assistance was requested to address increasing tension in the African American community stemming from reports of unaddressed environmental health hazard concerns in southwest Detroit neighborhoods. The community requested CRS's assistance in the development of an action plan to decrease tension surrounding concerns related to the impact of air pollution and health hazard in the community.

CRS worked in collaboration with federal and state partners, and African American, Latino, and Arab community leaders, to provide technical assistance to a low-to-middle level income minority community impacted by environmental health issues. Over the course of fiscal year 2017, CRS facilitated the creation of a community working group (Task Force), provided mediation services, facilitated the development of a Proclamation, and provided technical assistance in the planning of a community forum. CRS created a community Task Force which agreed to create a Memorandum of Understanding (MOU) to formalize an Action Plan with the Environmental Justice Task Force of Southwest Detroit, Wayne County, Michigan.

CRS proposed, and the director of the Office of Enforcement and Compliance Assurance (OECA)-U.S. EPA, Region 5, agreed, to organize a community dialogue and panel discussion. Subject matter experts for the broader community participated in the event and developed a system for the community's key leaders to maintain routine contact with these agencies, regarding their concerns. They also developed additional ways to engage, provide services, and build community capacity with the community, key parties, and state and federal agencies, toward resolving respective community concerns around air and land environmental pollution and the disproportionately high and adverse human health and environmental effects impacting residents.

Houston, Texas

In Houston, Texas, CRS served as a resource in the aftermath of Hurricane Harvey. CRS attended a town hall meeting with low-income residents, faith based leaders, and city and county officials in flooded Port Arthur, Texas. CRS assisted in the initial phase of planning for a community town hall meeting that included the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) and other city, county and state providers. FEMA held four town hall meetings, in Port Arthur communities, which was one of the most devastated communities affected by Hurricane Harvey. CRS provided faith based communities with capacity building services in support of their efforts to partner with other service providers, such as the Red Cross.



Port Arthur, TX, USA--December 14, 2017--Local resident Reverend Eugene Trice walks down the ramp at his new Harvey housing, a partnership between local, state and federal officials to provide housing to residents displaced by Hurricane Harvey. [Jocelyn Augustino/FEMA](#)



“Injustice anywhere is a threat to justice everywhere.”

Martin Luther King, Jr.

