



# Department of Justice

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**STATEMENT OF**

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ENVIRONMENT AND NATURAL RESOURCES DIVISION  
U.S. DEPARTMENT OF JUSTICE**

**BEFORE THE**

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

**FOR A HEARING CONCERNING**

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

**PRESENTED**

**MAY 19, 2015**

**Statement of Assistant Attorney General John C. Cruden  
Environment and Natural Resources Division  
U.S. Department of Justice  
Before the Subcommittee on Regulatory Reform,  
Commercial and Antitrust Law  
Committee on the Judiciary  
U.S. House of Representatives  
May 19, 2015**

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

In January, I returned to the Division as the Assistant Attorney General following my Senate confirmation. I have had the honor and privilege of spending over two decades at the Department of Justice, first as Chief of the Environmental Enforcement Section and then as a career Deputy Assistant Attorney General. I am grateful for the opportunity to represent the interests of the United States in my current capacity.

The Division functions as the nation's environmental and natural resources lawyer. Our work protects the country's air, land, and water, and promotes responsible stewardship of America's wildlife, natural resources, and public lands. About half of ENRD's lawyers bring enforcement cases against those who violate the nation's civil and criminal pollution-control laws. Others defend environmental challenges to government programs and activities, and represent the United States in matters concerning natural resources and public lands. The Division is responsible for the acquisition of real property by eminent domain for the federal government and for cases arising under the wildlife and marine resources protection laws. In addition, ENRD handles a broad array of important matters affecting Indian tribes and their members, as well as protecting the lands and resources held in trust for them by the United States.

The FY 2016 budget requests \$127 million to support ENRD's important work as the nation's environment and natural resources lawyer, representing the United States, and its territories and possessions, in civil and criminal cases that arise under more than 150 federal statutes. ENRD is made up of about 600 permanent employees, more than 400 of whom are attorneys. Each year, Division lawyers handle thousands of cases, and represent virtually every federal agency in courts across the United States. Our primary client agencies are the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior, the U.S. Army Corps of Engineers, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. Department of Homeland Security, the U.S. Department of Energy, and the U.S. Department of Defense, among others.

I am very proud of the Division's work and its outstanding litigation results. The Division's efforts result in significant public health and other direct benefits to the American

people. In fiscal year 2014, we obtained almost \$6.3 billion in corrective measures through court orders and settlements, which will go a long way toward protecting the nation's air, water, and other natural resources. We are also committed to ensuring that American taxpayers receive a substantial return on their investment by securing significant monetary recoveries through litigation. For example, in fiscal year 2014, we secured more than \$270 million in civil and stipulated penalties, cost recoveries, natural resource damages, and other civil monetary relief, including more than \$162 million recovered for the Superfund. We concluded 48 criminal cases against 77 defendants, obtaining more than 37 years in confinement and more than \$63 million in criminal fines, restitution, community service funds, and special assessments. Finally, by comparing claims made with the amounts ultimately imposed, we estimate that the handling of defensive and condemnation cases closed in fiscal year 2014 saved the United States more than \$2 billion.

In this 21<sup>st</sup> year since the signing of Executive Order 12898, which directed each federal agency to make achieving environmental justice part of its mission, the Department of Justice and the Division remain staunchly committed to the pursuit of environmental justice. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental and natural resources laws, regulations, and policies. We have done this in many ways, including by working closely with other federal agencies to coordinate environmental-justice efforts, by engaging communities to an unprecedented degree, and by achieving meaningful results for vulnerable communities in our cases.

Looking forward, I have five goals for the coming year:

- **Goal 1:** Enforce the nation's bedrock environmental laws that protect air, land, and water for all Americans.
- **Goal 2:** Vigorously represent the United States in federal trial and appellate courts, including by defending EPA's rulemaking authority and effectively advancing other agencies' missions and priorities.
- **Goal 3:** Protect the public fisc and defend the interests of the United States.
- **Goal 4:** Advance Environmental Justice through all of the Division's work and promote and defend tribal sovereignty, treaty obligations, and the rights of Native Americans.
- **Goal 5:** Provide effective stewardship of the nation's public lands, natural resources, and animals, including fighting for the survival of the world's most protected and iconic species and marine resources, and working across the government and the globe to end the illegal trade in wildlife.

## **RECENT DIVISION LITIGATION**

For purposes of today's hearing, I will highlight a few cases across ENRD's work.

### **A. Deepwater Horizon**

The Division's top civil enforcement priority remains the Deepwater Horizon—Macondo Well oil spill. On April 20, 2010, an explosion and fire destroyed the Deepwater Horizon offshore drilling rig in the Gulf of Mexico and triggered a massive oil spill amounting to millions of barrels. The discharge continued for nearly 90 days. Eleven people aboard the rig lost their lives, and many others suffered injury. The spill seriously impacted natural habitats, wildlife, and human communities along coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

In December 2010, the United States brought a civil suit against BPXP, Anadarko, MOEX, and Transocean for civil penalties under the Clean Water Act and a declaration of liability under the Oil Pollution Act, as part of multidistrict litigation in the U.S. District Court for the Eastern District of Louisiana. In February 2012, the Department announced a partial settlement agreement in which MOEX agreed to pay \$70 million in civil penalties to resolve alleged violations of the Clean Water Act and to spend at least \$20 million to facilitate land-acquisition projects in several Gulf States that will preserve and protect in perpetuity habitat and resources important to water quality. In January 2013, Transocean Deepwater, Inc., agreed to plead guilty to violating the Clean Water Act and to pay a total of \$1.4 billion in civil penalties and criminal fines for its conduct relating to the Deepwater Horizon disaster, including a then record-setting \$1 billion penalty to resolve Clean Water Act civil claims.

The Division is now more than four years into hard-fought litigation against BPXP and the remaining defendants. We have continued to work closely with other Departmental components, a host of federal client agencies, and the five Gulf States in this action. Federal claims involve billions of dollars, both in Clean Water Act penalties and natural resources damages under the Oil Pollution Act.

The Department tried the first phase of the U.S. case (addressing the cause of the disaster and liability) for nine weeks from February through April 2013, as part of a mass trial in which thousands of private plaintiffs also tried parts of their cases relating to liability and fault. The district court then ruled that BPXP and Anadarko were liable under the Clean Water Act as owners of the well from which oil was discharged. BPXP and Anadarko filed an interlocutory appeal in the Fifth Circuit. In June 2014, a Fifth Circuit panel upheld the district court's liability ruling against BPXP and Anadarko. On January 9, 2015, the Fifth Circuit denied rehearing en banc; and BPXP and Anadarko have petitioned the Supreme Court for review of that judgment. We also tried the second phase of the U.S. case addressing how much oil was discharged into the Gulf of Mexico in September and October 2013.

On September 4, 2014, the court held that the discharge of oil was the result of BPXP's gross negligence, its willful misconduct, or both on the well as it neared completion and also in BPXP's central, and often controlling, role in a number of imprudent decisions that were part of the construction of the well.

On January 15, 2015, the district court ruled on the second phase of trial, finding that some 3.19 million barrels of oil discharged into the Gulf of Mexico. Rulings from the first two trial phases are now on appeal to the Fifth Circuit.

During January and February 2015, we litigated the third and final phase of our penalty claim in the district court. That trial addressed all statutory factors relevant to civil penalty under the Clean Water Act, not addressed in the first two phases of trial. We now await the district court's ruling on the third phase, which we expect to include assessment of a civil penalty against BPXP and Anadarko. As the Deepwater Horizon litigation progresses, the United States will take whatever steps are necessary to hold accountable those responsible for the explosion, fire, and oil spill.

## **B. Other Civil and Criminal Environmental Enforcement**

The Division's many other civil and criminal environmental enforcement efforts have immeasurably protected human health and the environment through significant reductions in emissions and discharges of harmful pollutants. The cases discussed below—*A&E Salvage*, *ExxonMobil*, *Lehigh*, and *Tronox*—are illustrative.

In January 2015, five owners and managers of salvage operations at a former textile plant in Tennessee were sentenced to prison terms for conspiring to commit Clean Air Act offenses in connection with the illegal removal and disposal of asbestos-containing materials. A&E Salvage had purchased the former Liberty Fibers Plant in Hamblen County, Tennessee, out of bankruptcy in order to salvage metals which remained in the plant. The United States alleged that the defendants engaged in a multi-year scheme in which substantial amounts of regulated asbestos-containing materials were illegally removed from the plant without properly removing and disposing of the asbestos or providing workers with the necessary protective equipment. Asbestos has been determined to cause lung cancer, asbestosis, and mesothelioma, and EPA has determined that there is no safe level of exposure to asbestos.

After a three-day sentencing hearing that included expert testimony that the exposures of the A&E Salvage workers to asbestos resulted in a substantial likelihood they would suffer death or serious bodily injury, the district court sentenced all five defendants to prison terms. The former manager was sentenced to five years in prison, to be followed by two years of supervised release. Two other managers were sentenced to 37 months and 28 months, respectively. Two other employees also received sentences of six months in prison. The judge ordered all the defendants to pay restitution of more than \$10.3 million to clean up the plant site contamination.

On April 22, 2015, we announced a consent decree with ExxonMobil Pipeline Company and Mobil Pipe Line Company (ExxonMobil) related to a pipeline oil spill in Mayflower, Arkansas, on March 29, 2013. ExxonMobil owns and operates the Pegasus pipeline, a 20-inch-diameter pipeline that transports Canadian heavy crude oil over 850 miles from Patoka, Illinois, to Nederland, Texas. The pipeline ruptured and oil spilled directly into a residential neighborhood and then into nearby waterways, including a creek, wetlands, and Lake Conway, which is a tributary of the Arkansas River. Residents of 22 homes were forced to evacuate due to the hazardous conditions in the neighborhood and most people never moved back home. Remediation efforts are nearing completion. In the complaint, filed in June 2013, we sought civil penalties and injunctive relief under the Clean Water Act. The State of Arkansas brought multiple claims for penalties under state law related to the spill and cleanup. Under the consent decree, ExxonMobil will pay a Clean Water Act civil penalty of \$3.19 million, which equates to

\$1,000 per barrel discharged, and will perform injunctive relief to help prevent and minimize future spills. ExxonMobil will also pay a penalty to the State in the amount of \$1 million.

On April 28, 2015, the United States filed a complaint and consent decree under the Clean Water Act against Lehigh Southwest Cement Company and Hanson Permanente Cement, Inc., operator and owner of a rock and aggregate mining and cement manufacturing facility in Cupertino, California. The State of California, on behalf of the California Regional Water Quality Control Board, is a co-plaintiff. Lehigh and Hanson violated two previous Clean Water Act National Pollutant Discharge Elimination System permits by routinely discharging excessive selenium and solids, and occasionally discharging excessive mercury, hexavalent chromium, and other pollutants. The settlement requires Lehigh and Hanson to pay a civil penalty of \$2.55 million and to reduce its selenium discharges to levels that will be protective of a selenium-impaired creek. The facility will also be making major technology changes, spending over \$5 million to build a new treatment system for selenium and other metals. The consent decree provides a strict schedule for the facility to complete construction and come into full compliance by 2017, as well as interim limits and deadlines that will ensure the process remains on track. Even before formal lodging of the settlement, the facility had already made approximately 50 percent reductions in its selenium discharges as a result of our enforcement efforts. The biologic treatment system that Lehigh will be putting in is an innovative new technology that may have applications to other facilities and industries. Selenium is a difficult pollutant to remove and it is fitting that in Silicon Valley a state-of-the-art technology will help protect Permanente Creek and the San Francisco Bay.

ENRD also files claims to protect environmental obligations owed to the United States when a responsible party goes into bankruptcy. From the beginning of fiscal year 2009 through the second quarter of fiscal year 2015, we obtained agreements in 43 bankruptcy proceedings, under which debtors committed to spend an estimated \$3.75 billion to clean up hazardous-waste sites, reimburse the Superfund more than \$2.45 billion plus an additional \$88 million in interest, and pay more than \$154 million in natural resource damages.

Recent developments in an adversary proceeding arising out of a bankruptcy case, *Tronox, Inc. v. Anadarko Petroleum Corp.*, are particularly noteworthy. There, the United States and its co-plaintiff won an award against defendant “New” Kerr-McGee Corporation and certain related defendant companies, all of which are subsidiaries of the Anadarko Petroleum Corporation. In December 2013, the bankruptcy court in New York concluded that the historic Kerr-McGee Corporation fraudulently conveyed assets in 2005 to evade its debts, including its liability for environmental cleanup at toxic sites nationwide. Subsequently, the parties entered into a \$5.15 billion settlement, the largest recovery for the cleanup of environmental contamination in American history, which the district court approved on November 10, 2014. Under the settlement, approximately \$4.4 billion will be paid to fund environmental cleanup and for environmental claims at numerous contaminated sites around the country, including radioactive uranium waste on the Navajo Nation’s reservation; radioactive thorium in Chicago and West Chicago, Illinois; creosote waste in the Northeast, the Midwest, and the South; and perchlorate waste in Nevada.

### **C. Increasing Domestic Energy Supplies**

One component of the continuing efforts to increase domestic energy supplies is expansion of cleaner domestic sources of energy like wind and solar power. The Division has defended challenges to permits and rights-of-way in nearly 40 cases involving solar and wind projects across the country. Our recent successes included favorable rulings on summary judgment in cases involving the Ivanpah Solar Project, the Genesis Solar Project, the North Sky River Wind Energy Project, the Ocotillo Wind Energy Project, the West Tennessee Solar Farm Project, the Deerfield Wind Project, the Cape Wind Project, and the Steens Mountain Wind Project. These victories have enabled substantial development of renewable energy resources across the country.

#### **D. Other Clean Air Act Litigation**

Through a settlement approved by the district court in January 2015, the Division obtained its largest Clean Air Act penalty in *United States v. Hyundai Motors Co.*, for violations related to testing and certification of close to 1.2 million vehicles that will emit approximately 4.75 million metric tons of greenhouse gases in excess of their certification to EPA. Automakers Hyundai and Kia will pay a \$100 million penalty, spend approximately \$50 million on measures to prevent future violations, and forfeit 4.75 million greenhouse gas emissions credits estimated to be worth over \$200 million.

On April 22, 2015, we announced a consent decree with Noble Energy, Inc., and simultaneously filed a complaint to support the lodging of the decree. The settlement covers Noble's natural gas production operation in the Denver-Julesburg Basin north of Denver, an area that fails to attain the National Ambient Air Quality Standards for ground level ozone. At issue were emissions of vapors from hydrocarbon liquids, which contain volatile organic compounds, methane, and hazardous air pollutants such as benzene. EPA and State of Colorado inspectors observed emissions from storage tanks using state-of-the-art optical imaging and thermal infrared cameras. Under the terms of the settlement, Noble will conduct an engineering evaluation of vapor systems, undertake corrective actions as needed, and verify the adequacy of the actions at over 3,400 tank batteries. In addition, Noble will retain a third party to audit the performance of this work, and install next-generation pressure monitoring on tank batteries. The total value of the civil penalty being split between the United States and the State of Colorado, plus Supplemental Environmental Projects, is \$8.95 million.

Division cases frequently involve challenges to regulations promulgated to implement other aspects of the Clean Air Act. The Department recently successfully defended two sets of important rules involving power-plant emissions. In April 2014, the Department obtained a victory in the D.C. Circuit concerning EPA's Mercury and Air Toxics Standards rule, which was the first rule limiting emissions of mercury and other hazardous air pollutants from the nation's fossil-fuel-fired electric power plants. One aspect of the D.C. Circuit's decision has been briefed and argued before the Supreme Court, and we expect a decision shortly. Also, in April 2014, the Supreme Court upheld EPA's Cross-State Air Pollution Rule, which limits emissions of nitrogen oxides and sulfur dioxide that contribute to the formation of ozone and particulate-matter pollution that drifts from state-to-state. The Supreme Court found that the rule reflected a "permissible, workable, and equitable" approach to this complex interstate pollution problem.

#### **E. Management of Public Lands and Resources**

A substantial portion of the Division's work includes litigation under dozens of statutes and treaties related to the management of public lands and associated natural and cultural resources. Cases involving the U.S. Department of Agriculture's Forest Service, for example, are a significant part of the ENRD docket. The Forest Service is responsible for forests and grasslands totaling 193 million acres. The agency manages those lands according to the multiple-use mandate given to it by Congress. Forest Service lands are important for timber production, watershed protection, non-motorized and motorized outdoor recreation, and wildlife management. Management of Forest Service lands may result in litigation by industry groups, timber companies, environmental organizations, tribes, states, counties, and individuals. Litigation over the management of these lands arises at all levels, ranging from challenges to nationwide rules to small, site-specific timber-harvest projects. Currently, more than a hundred of these cases are pending in the district and appellate courts.

ENRD recently successfully defended the Forest Service's 2012 Planning Rule, which governs the Forest Service's development of individual land and resource management plans for 155 national forests and 20 national grasslands covering over 180 million acres of forest and rangeland throughout the United States. In *Federal Forest Resource Coalition v. Vilsack*, plaintiffs, a coalition of trade associations representing the timber industry, grazers, and motorized recreational interests, brought a facial challenge to the rule. On April 28, 2015, the district court issued a comprehensive opinion explaining that it was dismissing the case because plaintiffs lacked standing to challenge the rule.

ENRD also handles a variety of cases involving federal onshore and offshore oil and gas programs. Typically, these cases challenge decisions by the Interior Department that make federally managed lands or discrete tracts of the Outer Continental Shelf available for lease, exploration, and development by the oil and gas industry. We also handle litigation concerning the amount of royalties that are owed to the United States for oil and gas produced from federal sources, and cases involving the apportionment of oil and gas royalties between the United States and states located along the Gulf Coast.

## **F. Indian Tribal Work**

The Division handles a broad range of matters affecting Indian tribes and their members. We have been actively engaged with the Interior Department and tribes to protect tribal interests such as tribal water rights; tribal hunting, fishing, and gathering rights; reservation boundaries; and tribal jurisdiction and sovereignty. The United States has a government-to-government relationship with each of the 566 federally recognized Indian tribes, and we seek to work collaboratively with them in carrying out this work wherever possible.

We assert water-rights claims for the benefit of tribes to secure safe and reliable drinking water for tribes, as well as water for sanitation, economic development, and other purposes. For example, during this Administration, ENRD contributed to six landmark Indian water-rights settlements and corresponding statutes which, when fully implemented, will resolve complex and contentious water-rights issues in Arizona, Montana, Nevada, and New Mexico.



ENRD is also charged with representing the United States in civil litigation brought by tribes and their members against the United States, including claims that the United States has breached its trust responsibility. Over the past several years, the Division has sought to resolve, without protracted litigation, dozens of Indian tribal “breach of trust” lawsuits. In these cases, numerous federally recognized Indian tribes allege that the United States, principally the Departments of the Interior and the Treasury, violated the federal government’s trust duties and responsibilities to the tribes by failing to provide full and complete historical trust accountings and failing to properly manage the tribes’ trust funds and non-monetary trust assets or resources. The tribes seek declaratory and injunctive relief, as well as monetary compensation for their financial injuries. From 2002 until today, some 128 Indian tribes and tribal entities filed over 100 such “breach of trust” lawsuits in federal district courts and in the Court of Federal Claims. To date, the United States has settled the trust-accounting and trust-management claims of 87 tribes in 64 cases. The United States will continue settlement discussions in other pending cases and is committed to resolving these matters in a manner that is fair and reasonable to the tribes and the United States.

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

To accomplish these objectives, the President’s 2016 budget request includes a \$3 million increase to hire attorneys and procure contract litigation support and expert consultant services. We expect to hire hydrologic experts to assess the impact of water depletion and water quality degradation. These expert consultants will also assist in collecting and/or interpreting air-emission and water-quality data to develop civil and criminal cases for potential violations of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act in Indian Country.

## **G. Wildlife Trafficking**

The Department, principally through ENRD, has long been a leader in the fight against illegal wildlife trafficking. In the past decade, wildlife trafficking has escalated into an international crisis. Beyond decimating the world’s iconic species, this illegal trade threatens international security. Reports from the State Department and elsewhere indicate that transnational criminal organizations, including some terrorist networks, armed insurgent groups, and narcotics trafficking organizations, are increasingly drawn to wildlife trafficking due to the exorbitant proceeds from this illicit trade. These criminal groups breed corruption, disrupt the peace and security of fragile regions, and destabilize communities and their economies, thus undermining not just wildlife laws and international agreements, but the rule of law itself.

Over the last several years, the Department has engaged fully in the Administration’s redoubled effort to combat wildlife trafficking through the Presidential Task Force on Wildlife

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

The Task Force agencies have been working in coordination to implement the Strategy since its issuance, and in February of this year, the Task Force released an Implementation Plan that builds upon the Strategy. The Implementation Plan provides a robust, focused reaffirmation of the nation's commitment to stopping wildlife trafficking, and sets out specific steps to achieve each strategic priority.

The Division works with U.S. Attorneys' Offices around the country and federal agency partners (such as the U.S. Fish and Wildlife Service, U.S. Immigration and Customs Enforcement, and the National Oceanic and Atmospheric Administration) to combat wildlife trafficking under the Endangered Species Act and the Lacey Act, as well as statutes prohibiting smuggling, criminal conspiracy, and related crimes. The Department has successfully prosecuted numerous cases of illicit wildlife smuggling involving trafficking of rhinoceros horns, elephant ivory, South African leopard, Asian and African tortoises and reptiles, and many other forms of protected wildlife and protected plant species. Through enforcement efforts like "Operation Crash"—which is focused on the lucrative and often brutal trade in rhinoceros horns—we work to bring traffickers to justice. This operation has resulted in 20 successful prosecutions thus far, and we are continuing to unravel the sophisticated international criminal networks that engage in these crimes.

Last March, I had the honor of leading the U.S. delegation to the Kasane Conference on the Illegal Wildlife Trade, in Kasane, Botswana, where representatives from more than 30 nations gathered to follow up on the commitments made at last year's London Conference.

To support these efforts, the President's 2016 budget includes a \$2 million increase and serves three purposes. First, ENRD seeks two attorney positions to support the additional case and capacity building work that is developing. Second, the Division will retain consulting experts to assist in analysis of a variety of issues important to the development of our cases, including plant and animal identification. In particular, such expert assistance will help us in conducting complex investigations into the operations of multinational corporations involved in the global trade in illegal wildlife and timber and the tracking of proceeds from this trafficking. Third, we will consult with experts to develop a detailed analysis of the domestic ivory markets and supply chain that will help identify targets in this area and prioritize enforcement resources.

## **H. Land Acquisition**

Another portion of the Division's caseload consists of eminent domain litigation. This important work, undertaken with Congressional direction or authority, involves the acquisition of land for projects such as national parks or the construction of federal buildings and for national security-related purposes. Consistent with the mandate of the Fifth Amendment to the U.S. Constitution to pay just compensation when the United States must acquire private property, ENRD works to ensure that all landowners receive fair-market value, while taxpayers are not required to pay in excess of fair-market value. Great efforts are made to resolve disputes without litigation where feasible. As an example of our litigation in this area, we exercised the federal government's power of eminent domain to condemn nearly 276 acres of land in Somerset County, Pennsylvania, where United Airlines Flight 93 crashed on September 11, 2001. The land was acquired to construct the Flight 93 National Memorial. In December 2013, following a week-long trial, the Land Commission issued a report finding that the fair-market value of the property was \$1,535,000, which was \$21,765,000 less than the amount sought in the litigation. The federal district court in Pennsylvania adopted the Land Commission's report in March 2014. Through this litigation, American taxpayers saved tens of millions of dollars in obtaining the land necessary to develop a national memorial to the passengers on United Airlines Flight 93, who tragically lost their lives on September 11, 2001.

## **CONCLUSION**

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