



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Edward J. Markey
United States Senate
Washington, DC 20510

Dear Senator Markey:

This letter responds to your letters to the Department of Justice (Department), dated July 25 and 31, 2023, regarding the Department's response to violations of environmental laws, and specifically its efforts to combat harms caused by greenhouse gas emissions and climate change. In your communications to the Department, you have expressed support for the use of the Racketeer Influenced and Corrupt Organizations Act to bring a civil racketeering case against fossil fuel companies. The Department is closely reviewing the concerns you have raised and will take such further action on these allegations as the facts and the law support. We are sending identical responses to the other Members who joined your letter.

The Department shares your concern about the serious threat of climate change, and is committed to using all of the tools at its disposal to address this threat. The Department's Environment and Natural Resource Division (Division) has prioritized efforts to combat climate change, including by using existing civil and criminal authorities under the Clean Air Act to reduce emissions of greenhouse gases such as methane. For example, the Division announced settlements in April 2023 with the Williams Companies, MPLX LP, and WES DJ Gathering LLC, requiring these companies to pay a combined \$9.25 million in penalties and to make improvements to prevent leaks and emissions at 25 natural gas processing plants and 91 compressor stations in 12 states and Indian Country.¹ Once fully implemented, these agreements will reduce greenhouse gas emissions by more than 50,000 tons per year, the equivalent of taking more than 11,000 gasoline-powered passenger vehicles off the road for one year.²

In March 2023, the Division settled a case with the Matador Production Company that will result in reducing greenhouse gas emissions by more than 31,000 tons, the equivalent of

¹ In these actions, we partnered with the Southern Ute Indian Tribe, and the States of Alabama, Colorado, Louisiana, North Dakota, West Virginia, and Wyoming. U.S. Dep't of Just., Justice Department and EPA Announce Clean Air Act Settlements with Three Natural Gas Processors (Apr. 20, 2023), <https://www.justice.gov/opa/pr/justice-department-and-epa-announce-clean-air-act-settlements-three-natural-gas-processors>.

²*Id.*

taking more than 6,000 cars off the road for one year.³ As part of the settlement, the Matador Production Company agreed to pay a \$1.15 million penalty; spend at least \$2.5 million to implement extensive design, operation, maintenance, and monitoring improvements at all 239 of the company's production facilities in New Mexico; and spend no less than \$1.25 million on a supplemental environmental project for replacement of high polluting diesel engines.

In August 2023, the Department announced a settlement with Mewbourne Oil Company, which has agreed to pay a \$5.5 million penalty and to spend at least \$4.6 million for projects to ensure 422 of its oil and gas battery pads in New Mexico and Texas comply with state and federal clean air regulations, which would result in the elimination of 11,000 tons of harmful air pollutants annually.⁴ Furthermore, the Department also defends pollution-control measures, including challenges to Environmental Protection Agency's (EPA) greenhouse gas emission standards for new light-duty vehicles and EPA's decision to restore California's authority to establish emission standards that are more stringent than EPA's standards.

As part of the Department's efforts to combat climate change, we have worked closely with our federal agency partners that oversee consumer protection statutes, including the Federal Trade Commission (FTC). The Department, in partnership with the FTC, is policing deceptive efforts to leverage consumers' interest in purchasing environmentally friendly products. In May 2022, Kohl's and Walmart agreed to pay \$2.5 million and \$3 million in civil penalties, respectively, to resolve allegations that Walmart and Kohl's made deceptive claims that their products, supposedly made of bamboo but in fact made of rayon textile, were environmentally friendly.⁵ Kohl's further claimed such products were produced free of harmful chemicals, when in fact rayon is produced using a chemical process that requires toxic chemicals and results in the emission of hazardous pollutants.

Finally, the Department is engaged in the climate change fight alongside our interagency partners as part of the "Government-Wide Approach to the Climate Crisis as described by Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*.⁶ As part of that effort, the Department has established a new Methane Enforcement Interagency Working Group (IWG), which held its first meeting in July 2023 with representatives from the EPA, Department of the Interior, Department of Transportation's Pipeline and Hazardous Materials Safety Administration, the Federal Energy Regulatory Commission. Coordinating as appropriate with

³ U.S. Dep't of Just., United States Orders Matador Production Company to Reduce Unlawful Air Pollution from its Oil and Gas Wells in New Mexico, Eliminating 16,000 Tons of Harmful Air Pollutants (Mar. 27, 2023), <https://www.justice.gov/opa/pr/united-states-orders-matador-production-company-reduce-unlawful-air-pollution-its-oil-and-gas>.

⁴ U.S. Dep't of Just., United States Orders Mewbourne Oil Company to Pay \$5.5 Million and Reduce Unlawful Air Pollution from Oil and Gas Wells in New Mexico and Texas, Eliminating More than 11,000 Tons of Harmful Air Pollutants Annually (Aug. 8, 2023), <https://www.justice.gov/opa/pr/united-states-orders-mewbourne-oil-company-pay-55-million-and-reduce-unlawful-air-pollution>.

⁵ U.S. Dep't of Just., Kohl's and Walmart Agree to Pay \$5.5 Million in Combined Penalties for Alleged Deceptive Violations of the Textile Act and Rules and FTC Act Around the Use of Bamboo (May 5, 2023), <https://www.justice.gov/opa/pr/kohl-s-and-walmart-agree-pay-55-million-combined-penalties-alleged-deceptive-violations>.

⁶ The White House, Executive Order on Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

the White House Methane Task Force, the IWG seeks to integrate new datasets and the latest technologies into enforcement activities related to the venting, flaring, leaking, and catastrophic releases of greenhouse gases including methane. Member agencies will identify complementary methane management authorities, share information and training of inspectors, and seek to coordinate responses to large emissions events. The IWG's initial area of focus will be on the oil and gas sector. The Department has engaged and will continue to engage with a range of agencies as the government collectively fights climate change and its impacts.

Your ideas on potential enforcement actions have been shared with the appropriate Department components and they will receive appropriate review. While longstanding policy and practice prevent us from providing non-public information about potential litigation, please know that we appreciate your interest in this subject and leadership in support of the Department's mission.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

CARLOS
URIARTE

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Date: 2023.10.31
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Carlos Felipe Uriarte
Assistant Attorney General