

**UNITED STATES
DEPARTMENT OF JUSTICE**

**2012 IMPLEMENTATION PROGRESS REPORT
ON ENVIRONMENTAL JUSTICE**

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U.S. Department of Justice

Foreword

I am pleased to present the Department of Justice's 2012 Annual Implementation Progress Report on Environmental Justice. This report details the work and achievements of the Department of Justice in carrying out its Environmental Justice Strategy and Executive Order 12898.

All communities across this nation – regardless of their race, ethnicity, or income status – deserve to live in a healthy environment and to know that law enforcement will respond as fully as possible to deal with the human health and environmental issues they face. The Department is deeply committed to ensuring that every community receives full protection under the nation's laws, including environmental and civil rights laws. We recognize that low-income, minority, and tribal Americans are often disproportionately burdened with pollution, resulting in disproportionate health problems, greater obstacles to economic growth, and a lower quality of life. This report illustrates some of the ways we have continued to achieve meaningful results for these, and all, communities. The Department is building upon the groundwork we previously laid to ensure environmental justice principles inform the way we perform our work and lead to even greater outcomes for communities in the future.

To showcase a few of the Department's accomplishments:

- Interagency collaboration is a fundamental aspect of successfully addressing environmental justice issues. To further this collaboration, the Department continues to play an active role in the Federal Interagency Working Group on Environmental Justice (IWG) created by Executive Order 12898. The IWG facilitates coordination among the federal agencies to guide, support and enhance federal environmental justice and community-based activities. The Department has also taken significant steps to meet its obligations under the interagency Memorandum of Understanding on Environmental Justice (MOU), which was signed by seventeen federal agencies. The MOU, which the Department helped develop in 2011, enhances interagency collaboration and increases public access to information about agency work on environmental justice.
- Community engagement is one of the cornerstones of environmental justice. The Department continued its unprecedented efforts to ensure communities have the opportunity to participate meaningfully in environmental decision-making that may affect them. Representatives from the Environment and Natural Resources Division, the Civil Rights Division, and U.S. Attorneys' Offices met with communities affected

by pollution around the Nation, as well as environmental justice advocates and other stakeholders. The Department's Community Relations Service continued to use its mediation and conciliation expertise to facilitate meaningful participation in environmental decisions by community leaders. The Department also conducted outreach in the context of cases to give communities a meaningful opportunity for input in the consideration of appropriate remedies to resolve violations.

- The Department continues to achieve meaningful results for communities in its cases. For example, in fiscal year 2012 the Environment and Natural Resources Division brought additional cases throughout the nation to improve aging municipal wastewater and stormwater collection and treatment facilities. Settlements in these cases addressed the impacts of violations on disproportionately burdened communities, and, when fully implemented, will significantly improve public health and the environment for the entire affected community. This report provides numerous other examples of how the Department has achieved discernible positive outcomes in disproportionately burdened communities through its litigation and negotiation work.

While we have made significant progress integrating environmental justice principles into the daily work of the Department, there is still more to be done to meet the challenge of achieving environmental justice. The Department is committed to consistently make progress towards achieving this goal. To that end, we continue to build a strong foundation within the Department and to engage key stakeholders – communities, other federal agencies, business and industry, and state, local, and tribal governments – in this important work. Your input on the Department's environmental justice activities, strategy, and guidance is always welcome.



Tony West
Acting Associate Attorney General

Introduction

The Department of Justice joined 16 other federal agencies in signing a Memorandum of Understanding on Environmental Justice (MOU) in August 2011. The Department played an important leadership role in the conception and development of the MOU and continues to play an important role in its implementation. The MOU builds upon the foundation laid by Executive Order 12898 – the federal government’s first statement of an environmental justice policy – and embodies the government’s renewed commitment to environmental justice. The MOU promotes interagency collaboration and public access to information about agency work on environmental justice, and specifically requires each agency to publish an environmental justice strategy, to ensure that there exists an opportunity for public input on those strategies, and to produce annual implementation progress reports.

This report – the Department’s second annual implementation progress report – highlights the work and achievements of the Department in implementing its Environmental Justice Strategy and Executive Order 12898 during fiscal year 2012. The Department is deeply committed to the principles of environmental justice and ensuring that those principles are considered in all aspects of our work. The Department continues to achieve meaningful environmental justice results and to work on many fronts to ensure that environmental justice goals and principles are fully integrated into the mission of the Department. All Americans – regardless of income or race – should breathe clean air, drink clean water, and be free from exposure to hazardous waste and toxic substances. Environmental justice does not mean special treatment, but equal treatment and full protection under the nation’s laws, including environmental, civil rights, and health laws. The burden of pollution often falls disproportionately on low-income and minority communities. Sources of pollution are frequently located in or near these areas, and such communities have often expressed a concern that they do not have sufficient say in the decisions that affect their health and livelihood. The same is true for tribal communities. The principles of environmental justice can help tribes tackle the unique challenges that pollution poses for tribal culture, land use, and subsistence rights.

This report is divided into three sections. First, we describe the Department’s continued interagency collaboration on environmental justice issues. Working primarily through the Interagency Working Group on Environmental Justice (IWG), the Department is acting with other agencies to promote a coordinated federal response on environmental justice issues. Second, we summarize selected accomplishments of the Department to further environmental justice through its own work and litigation docket. The Department continued to focus its efforts on increased community outreach regarding our litigation work and tangible results for communities. Third, we discuss two public comments received regarding the Department’s Environmental Justice Strategy and Environmental Justice Guidance.

Part One: Interagency Collaboration

Actively Participating in the Interagency Working Group on Environmental Justice (IWG)

Working primarily through the IWG, the Department has played a leadership role in ensuring that there is a coordinated federal response to environmental justice issues. The IWG, which was originally established in 1994 under Executive Order 12898 and reinvigorated under this Administration, is charged with providing guidance to federal agencies on environmental justice issues; coordinating the development of agency environmental justice strategies; coordinating research, data collection, and analysis; holding public meetings; and developing interagency model projects on environmental justice. The creation of the IWG underscores the importance of federal agencies working collaboratively to address environmental justice issues.

Representatives from the Department's Environment and Natural Resources Division (ENRD) and Civil Rights Division (CRT) regularly attend IWG senior staff-level meetings and identify how the Department can support and further the IWG's work. As discussed below, the Department has been actively involved in the work of the IWG this year.

Implementing the Interagency Memorandum on Environmental Justice

The Department continues to make significant progress in fulfilling its own obligations under the MOU and furthering the efforts of the IWG:

- The MOU identified four focus areas for the IWG as agencies implement their environmental justice strategies: (1) implementation of the National Environmental Policy Act (NEPA); (2) implementation of Title VI of the Civil Rights Act of 1964, as amended (Title VI); (3) addressing impacts from climate change; and (4) addressing impacts from commercial transportation and supporting infrastructure (called "goods movement"). The IWG formed committees for NEPA, Title VI, and, more recently, goods movement. The Environment and Natural Resources Division actively participates in the NEPA committee and the Civil Rights Division chairs the Title VI committee.
- In February 2012, the Department released the Department of Justice 2011 Implementation Progress Report on Environmental Justice, its first annual report on the work and achievements of the Department in this area.
- In April 2012, ENRD Assistant Attorney General Ignacia Moreno and Deputy Assistant Attorney General Bruce Gelber attended the IWG Deputies' Meeting chaired by White House Council on Environmental Quality Deputy Director Gary Guzy and EPA Deputy Administrator Robert Perciasepe. Among other topics, each agency shared its views on proposed initiatives.
- During fiscal year 2012, ENRD took further steps to institutionalize its commitment to the principles of environmental justice and weave them into the permanent fabric of the Division's work. ENRD selected a career Deputy Assistant Attorney General to lead the Division's EJ portfolio; created a new Senior Level EJ Coordinator position for the

Division responsible for coordinating environmental justice issues throughout the Division and representing the Division on the IWG; and appointed a Division Community Liaison for the IWG. Each of ENRD's nine Sections has designated an EJ Coordinator and has developed a Section-specific plan for integrating EJ considerations into their day-to-day work. The Section Plans have been finalized and distributed to ENRD staff.

Increasing Communication and Awareness Across Federal Agencies

The Department also continued to collaborate directly with other federal agencies to increase the dialogue on and awareness of environmental justice issues. In fiscal year 2011, ENRD, along with EPA's Office of General Counsel, organized a group of career attorneys from agencies across the federal government to discuss legal issues that arise with respect to environmental justice. In fiscal year 2012, the group continued to serve as an important forum for open dialogue, continuing education, and informal counseling among the federal agencies. The discussions fostered by this effort improve each agency's ability to understand not only how to implement environmental justice initiatives, but also how to respond to environmental justice concerns within the parameters of existing law.

ENRD attorneys and staff assist in training staff of other federal agencies regarding environmental justice issues. This past year, ENRD participated in training sessions for personnel from the Department of Energy, for example.

CRT conducted several presentations during federal agencies' training programs and environmental justice activities. In particular, CRT attended programs organized by the Department of Transportation and the Environmental Protection Agency as well as the Department of Energy. The discussions addressed the role of civil rights enforcement and compliance efforts in achieving environmental justice goals.

Participating in Community and Other Outreach

The IWG continued to conduct listening sessions in communities around the United States. These sessions provide community members; state, tribal, and local government representatives; business leaders; academics; and other interested persons the opportunity to hear about federal initiatives and speak directly to federal agency representatives about environmental issues that affect them. These meetings are often held in conjunction with other environmental and public health-related meetings to maximize the opportunities for reaching a broad spectrum of stakeholders.

These regional IWG sessions allow us to hear first-hand from communities so that we can continuously improve how we address environmental justice concerns in the work that we do. For example, this fiscal year, ENRD representatives participated in tours and listening sessions in Corpus Christi, Texas and Richmond, California. We gain valuable feedback from these sessions, and look forward to continuing our participation in more of them.

Part Two: Environmental Justice Accomplishments

The Department's internal Environmental Justice Workgroup, chaired by the Associate Attorney General's Office, continues to play an important role in Department-wide efforts to consider environmental justice in our work. Affected components of the Department continue their efforts to increase awareness of environmental justice and environmental enforcement issues among their staff.

The Department's environmental justice public website (www.justice.gov/ej), launched in September 2011, provides information about DOJ policies, case resolution, and contact information for the public. The site also provides the public access to view and comment on the Department's Environmental Justice Strategy and Environmental Justice Guidance. The public comments received during the last fiscal year are addressed in Part Three of this report.

The remainder of this section of the report focuses on four areas of the Department's work as it relates to environmental justice: (1) civil rights issues; (2) environmental issues; (3) access to justice issues; and (4) mediation and conciliation assistance. While the Department's accomplishments in these areas continue to be substantial, there remains much more to be done. The Department will continue to seek out ways to promote environmental justice in all that we do. The Department's ongoing commitment and these achievements establish a firm foundation to ensure environmental justice work across the Department continues in the future.

Civil Rights Issues

The Department remains committed to upholding civil and constitutional rights. The majority of the Department's work in this area is conducted by the Civil Rights Division (CRT), which enforces federal statutes prohibiting discrimination on the basis of race, color, sex, disability, religion, familial status, and national origin. CRT is led by Assistant Attorney General Thomas Perez, and its work is carried out by twelve sections based in Washington, D.C.

CRT's key tool in environmental justice enforcement continues to be Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the ground of race, color, or national origin by recipients of federal financial assistance. Executive Order 12250, "Leadership and Coordination of Nondiscrimination Laws," gives the Department authority to ensure consistent and effective enforcement of Title VI across all federal agencies. The Attorney General has delegated that authority to the Civil Rights Division, and it is the key function of the Federal Coordination and Compliance Section (FCS).

FCS ensures that all federal agencies consistently and effectively enforce civil rights statutes and Executive Orders that prohibit discrimination in federally conducted and assisted programs and activities. Each federal funding agency has the ultimate responsibility for resolving its Title VI administrative complaints. To the extent any agency funds programs and activities that impact the environment or human health, there is the potential for a Title VI complaint to raise environmental justice issues. The Civil Rights Division has aggressively executed its coordination authority to address adverse environmental impacts on low-income communities and communities of color through a number of ongoing activities, a few of which are listed below:

- CRT leads the Title VI Committee of the Environmental Justice Interagency Working Group. During FY 2012, the committee identified the need to improve the distribution of information on the intersection of Title VI and environmental justice issues across federal agencies and to the public. The committee has gathered resources from various agencies and will post these resources on the EJ IWG's website. In the upcoming year, the committee will work with the IWG's Public Participation Committee to ensure outreach activities address communities' Title VI concerns.
- CRT provided significant assistance to the Federal Transit Administration (FTA) as it revised its Title VI Circular. This guidance document is a critical resource for recipients of funding from FTA. Many recipients of FTA funding operate programs that impact the environment of minority communities. CRT's assistance to FTA ensures its guidance is robust and effective in achieving Title VI compliance by its recipients.
- In coordination with staff from the Department of Homeland Security and the Department of Health and Human Services, the Civil Rights Division met with stakeholders on civil rights concerns in emergency preparedness, response, and recovery. The two meetings included discussions on challenges to civil rights compliance, the role of federal agencies in addressing civil rights in emergency management, and strategies

employed by nongovernmental organizations working with local governments and communities to protect the rights of vulnerable populations.

- CRT has provided significant input on emergency management frameworks developed pursuant to Presidential Policy Directive 8: National Preparedness. CRT successfully incorporated civil rights protections in critical documents including provisions to ensure individuals with limited English proficiency have access to information and that local emergency management agencies are aware of the obligations to comply with Title VI and other civil rights laws in emergency situations.
- CRT continues to work closely with the Environmental Protection Agency to strengthen its Title VI program and its Office of Civil Rights. The ongoing assistance to EPA provides vital support and resources that will lead to the effective application of Title VI to environmental justice matters involving recipients of EPA funds.
- Coordination among and within the relevant DOJ components is a fundamental aspect of successfully implementing the Executive Order. The Civil Rights Division has conducted several presentations to attorneys in the Environment and Natural Resources Division. This collaboration is critical to helping attorneys understand the potential for the overlap of EPA's Title VI enforcement activities with environmental enforcement efforts and the Civil Rights Division's Title VI coordination authority.
- In October 2011, CRT launched the new Federal Interagency Working Group on Title VI. This working group further supports coordination among agencies whose programs impact the environment and human health.
- CRT has also met with advocates from environmental justice and transit equity organizations concerned about agencies' Title VI enforcement and environmental justice activities.

In fiscal year 2013, the Civil Rights Division will pursue new interagency initiatives to address adverse environmental and health impacts in violation of civil rights statutes. Additionally, CRT will continue its outreach efforts through participation in environmental justice programs and listening sessions with stakeholders.

Environmental Issues

The Department remains committed to the strong enforcement of our nation's environmental and natural resources laws. This work is principally handled by ENRD. The Division was founded in 1909, and is led by Assistant Attorney General Ignacia S. Moreno. The Division is organized into nine Sections and an Executive Office. It is principally located in Washington, D.C., with field offices located in Denver, Colorado; Sacramento, California; San Francisco, California; Seattle, Washington; Boston, Massachusetts; and Anchorage, Alaska.

ENRD's core mission includes:

- Strong enforcement of civil and criminal environmental laws to ensure clean air, water, land and other resources for the protection of human health and the environment for all Americans;
- Vigorous defense of environmental, wildlife and natural resources laws and agency actions;
- Effective representation of the United States in matters concerning the stewardship of our public lands and natural resources;
- Vigilant protection of tribal sovereignty, tribal lands and resources, and tribal treaty rights; and
- Protection of the public fisc.

Therefore, ensuring that environmental justice is considered in all aspects of our work is a core mission of ENRD. ENRD strives to ensure that all communities are protected from environmental harms, including low-income and minority communities that too often are disproportionately burdened with pollution. ENRD works closely with U.S. Attorneys' Offices and in concert with other federal agencies to ensure that affected communities have a meaningful opportunity for involvement in environmental decision-making that affects them, including the consideration of appropriate remedies for violations of the law. In fiscal year 2012, the Department took further steps to make environmental justice a routine and fully integrated part of its work and that of its client agencies.

Conducting Outreach on Environmental Justice Issues

ENRD and U.S. Attorneys' Offices have continued to undertake an unprecedented level of community outreach over the last year to ensure that the Department understands and is responding to community concerns. This has taken many forms, including community visits by ENRD and U.S. Attorneys' Offices, participation in IWG listening sessions (described above), participation in environmental justice conferences, and outreach in conjunction with specific cases in litigation. ENRD and U.S. Attorneys' Offices worked directly with other components in the Department, federal agency partners, state and local officials, and community representatives to organize direct outreach on environmental justice issues. For instance:

- In June 2012, ENRD Assistant Attorney General Moreno met with U.S. Attorney Thomas G. Walker (E.D. N.C.) and U.S. Attorney Anne Tompkins (W.D. N.C.) to discuss environmental and natural resource issues within the state of North Carolina.
- In August 2012, EPA Region 6 hosted a Strategic Planning Meeting in Dallas, Texas co- led by EPA, ENRD Assistant Attorney General Moreno and U.S. Attorney Sara Saldana (N.D. Tex.), and attended by U.S. Attorneys Malcolm Bales (E.D. Tex.), Ken Magidson (S.D. Tex.) and Robert Pittman (W.D. Tex.) to discuss the challenges to enforcement of environmental laws, as well as ensuring that communities will not be burdened disproportionately by environmental and/or health hazards.
- In August 2012, Assistant Attorney General Ignacia Moreno, U.S. Attorney Kenneth Gonzales (D. N.M.) and U.S. Attorney Michael Cotter (D. Mont.) held a listening session on environmental and natural resources issues affecting New Mexico tribes in Albuquerque, New Mexico.
- In September 2012, U.S. Attorney Tim Purdon (D. N.D.) hosted 20 plus U.S. Attorneys and senior staff from ENRD in Bismarck, North Dakota to meet with the North Dakota tribes for listening sessions. Department attorneys from ENRD and the United States Attorneys’ Offices continue to follow up on comments and concerns received from tribes at this session, as well as other sessions convened in other regions of the country during 2012.
- In November 2012, Assistant Attorney General Moreno and U.S. Attorney James Santelle (E.D. Wis.) held listening sessions with the tribes in the Eastern District of Wisconsin to discuss the challenges to enforcement of environmental laws, as well as ensuring that communities, including those on tribal lands, will not be burdened disproportionately by environmental / health hazards.

Assistant Attorney General Ignacia Moreno and other ENRD senior staff also spoke about environmental justice on a number of occasions. Examples include:

- December 7, 2011 New York City Bar Association event
- April 12, 2012 National Environmental Justice Conference and Training Program in Washington, D.C.
- April 25, 2012 Hispanic Bar Association of the District of Columbia event
- April 26, 2012 ALI-ABA Conference on Criminal Enforcement of Environmental Laws
- May 15, 2012 D.C. Bar event, “Environmental Justice and Federal Environmental Policy—A Conversation”

- July 5, 2012 World Bank “Colloquium on Environmental Justice: Access to Information and Public Participation”
- July 24, 2012 National Environmental Justice Advisory Council meeting in Crystal City, Virginia

ENRD, partnering with EPA, also has fostered a dialogue with the corporate community regarding environmental justice. In July 2012, with Cynthia Giles, EPA’s Assistant Administrator for Enforcement and Compliance Assurance, Assistant Attorney General Ignacia Moreno convened the first in a series of sessions with representatives from the corporate community to discuss environmental justice in enforcement matters. The listening session provided a forum for a fruitful discussion that would, among other things, raise awareness within the corporate community of the importance of environmental justice and encourage consideration of environmental justice as a basic component of enforcement and compliance matters. The corporate community has an essential role to play in the conversation on environmental justice and ENRD will continue to look for appropriate ways to engage the corporate community in a productive dialogue on these important matters.

Training and Increasing Awareness

ENRD has continued to increase awareness and understanding of environmental justice issues among its attorneys and staff. For example, in 2012, ENRD’s Environmental Enforcement Section conducted highly successful environmental justice training for attorneys at its Advanced Civil Environmental Enforcement Seminar at the National Advocacy Center in Columbia, South Carolina. Several U.S. Attorneys’ Offices also attended the training, which focused on incorporating the principles of environmental justice into civil environmental enforcement work and, more specifically, on how to identify and address environmental justice issues that arise. The Section collaborated with the Department’s Civil Rights Division and Community Relations Service, the U.S. Attorney’s Office for Montana, and EPA to conduct the training. Because community engagement is one of the cornerstones of environmental justice, a veteran environmental justice policy analyst who works on behalf of communities and an expert from academia also were included among the seminar faculty. These participants brought an invaluable perspective to the environmental justice conversation, helping to enhance the attending attorneys’ understanding of community concerns. The training was repeated in Washington, D.C. and attended by staff from EES, other ENRD sections, and EPA who were unable to attend the South Carolina seminar.

Other sections within ENRD have also worked to raise the Division’s awareness and understanding of environmental justice issues. The Natural Resources Section has worked with other Sections to hold discussions on a wide range of issues such as a tool developed by the Indian Resources Section to more effectively characterize demographics in Indian Country.

ENRD and U.S. Attorneys’ Offices have collaborated to increase their awareness of regional environmental justice issues. For example, in January 2012, ENRD Assistant Attorney General Moreno, U.S. Attorney James Santelle (E.D. Wis.), and U.S. Attorney Michael Cotter

(D. Mont.) held meetings with federal officials and state officials to discuss environmental and natural resource issues within the Eastern District of Wisconsin.

To facilitate environmental enforcement in Indian Country, in October 2012, Assistant Attorney General Moreno and ENRD staff hosted a week long training session in Columbia, South Carolina focused on “Tribal and Federal Training on Wildlife and Pollution Enforcement Issues Affecting Tribal Lands.” ENRD worked with other parts of the Department, EPA, and the U.S. Department of the Interior to develop this training in response to tribal requests for additional training for both federal and tribal officials who are involved in enforcing the wildlife and pollution laws that protect tribal lands and resources. The training included subject matter experts from ENRD, the U.S. Department of Interior, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, U.S. Attorneys Offices and Tribal Environmental Program Directors. More than 60 different tribes signed up to participate as students and faculty. The course was designed to promote federal-tribal partnerships in this area and to help tribes develop the capacity to assume a greater role in enforcement of laws affecting tribal lands, consistent with the Department’s focus on strengthening tribal self-governance.

Integrating Environmental Justice Principles into ENRD Litigation and Outcomes

Through enforcement of the nation’s environmental and natural resources laws, ENRD seeks to ensure that all communities enjoy the benefit of a fair and even-handed application of the law, and have a meaningful opportunity for input in the consideration of appropriate remedies for violations of the law.

We continue to see the Division’s commitment to environmental justice demonstrated in litigation results. For example, the following cases concluded by ENRD in fiscal year 2012 have furthered the principles or goals of environmental justice:

- *United States v. Metropolitan St. Louis Sewer Dist.* (“MSD”) (E.D. Mo.) is one of the largest environmental enforcement settlements in the nation’s history. Under the terms of a consent decree resolving claims of violations of the Clean Water Act (CWA), MSD agreed to make extensive improvements to its sewer systems and treatment plants, at an estimated cost of \$4.7 billion over 23 years, to eliminate overflows of untreated raw sewage, including basement backups, and to reduce pollution levels in urban rivers and streams. The injunctive relief, historic in its scope and importance to the people of St. Louis, also will significantly advance the use of large-scale green infrastructure projects to control wet weather overflows by requiring MSD to invest at least \$100 million in an innovative green infrastructure program, focused in environmental justice communities in St. Louis.
- Residents in Memphis, Tennessee, will see significant public health and environmental benefits as a result of the comprehensive CWA settlement reached in *United States and State of Tennessee v. City of Memphis* (W.D. Tenn.) to address overflows of untreated sewage. The City of Memphis will spend an estimated \$250 million to make improvements to its sewer systems as well as maintenance-and-repair programs. The parties conducted community outreach and incorporated environmental justice considerations into the remedy. For example, the settlement requires Memphis to consider "community input" as a factor in

prioritizing preventative maintenance and the long-term assessment of its sewer system. Memphis is required to assess 70% of its sewer system, 10% of which must be done in the first year of the settlement. Of the 10% of the system assessed, nearly all of the assessment will be in neighborhoods with environmental justice concerns. The city also will prioritize rehabilitation of approximately six percent of its system and nearly all of this rehabilitation work will be done in neighborhoods with environmental justice concerns.

- The United States filed a complaint in *United States, et al. v. Town of Fort Gay* (S.D. W. Va.) alleging an “imminent and substantial endangerment” to public health presented by the discharge of untreated sewage into a tributary upstream of the intake for drinking water supplied by the Town of Fort Gay. Fort Gay is a very small, low-income municipality in West Virginia. In a consent order, the town agreed to halt the discharge of untreated sewage and make urgently needed repairs to its sewage pumping stations. When Fort Gay subsequently violated the order, ENRD negotiated a consent decree entered in January 2012 to resolve CWA and Safe Drinking Water Act violations at the town’s waste water and drinking water treatment plants. The decree provides for \$1.8 million in injunctive relief in the form of extensive capital improvements and other measures to ensure proper operation, maintenance, and reporting relative to the plants. The decree also appoints the Wayne County Commission as receiver over both facilities until the capital improvements are completed to ensure that the settlement brings lasting health and environmental benefits to Fort Gay residents.
- In the *United States v. Sterling Suffolk Racecourse, LLC* (D. Mass.) CWA settlement, Sterling Suffolk will spend more than \$3 million to prevent polluted water from entering nearby waterways from its Suffolk Downs racetrack facility, a concentrated animal feeding operation (CAFO), in Revere and East Boston, Mass. Sterling Suffolk is completing construction of a wastewater collection system, is making improvements to its stormwater collection system and has applied for a National Pollutant Discharge Elimination System permit. The company will also pay a civil penalty of \$1.25 million and perform three Supplemental Environmental Projects (SEPs) worth approximately \$742,000. (A SEP is an environmentally beneficial project that a defendant agrees to undertake in settlement of a civil penalty action that has a sufficient nexus to the alleged violation, but that the defendant is not otherwise legally required to perform.) The SEPs, developed through outreach to the affected communities with environmental justice concerns, will provide water quality monitoring and habitat protection efforts for more than 123 square miles of watershed. Suffolk will work with the Mystic River Watershed Association (MyRWA) to conduct monthly baseline and targeted water quality sampling throughout the Mystic River watershed and will work with the Saugus River Watershed Council (SRWC) to conduct a Saugus River watershed sampling program. Both the Mystic River watershed and Saugus River watershed data will be available to the public for free on the MyRWA and SRWC websites. Suffolk will also construct a habitat protection boardwalk in the Belle Isle Marsh, which is immediately downstream of the Suffolk Downs facility and represents one of the largest remaining areas of salt marsh in Boston Harbor.
- Under the settlement in *United States v. BP Products North America, Inc.* (N.D. Ind.), BP will invest more than \$400 million to install state-of-the-art pollution controls and cut

emissions from its petroleum refinery in Whiting, Indiana. The United States was joined in this settlement by the state of Indiana as well as by several environmental organizations and citizens who had asserted claims against BP. As a result of the direct participation of the environmental groups and citizens in the settlement negotiations and input provided by the local community, BP agreed to perform a SEP. The SEP requires BP to install, maintain, and operate a \$2 million fence-line emission monitoring system at the refinery and to make the data available to the public weekly on a public website. This information will allow the local community to monitor future emissions from the facility. The environmental groups and citizens also sought reductions in facility greenhouse gas emissions and, as a result, BP is required to spend an additional \$9.5 million at the refinery on projects to reduce the emission of greenhouse gases.

- Suiza Dairy Corporation agreed to make significant upgrades to two dairy facilities in Puerto Rico, and conduct community emergency drills, as part of a Clean Air Act (CAA) settlement lodged in *United States v. Suiza Dairy Corporation* (D. P.R.). The case stems from violations involving Suiza's use of anhydrous ammonia, an extremely hazardous substance, at both facilities. The proposed consent decree is the product of extensive community outreach and will have significant health and safety benefits to the communities surrounding Suiza's facilities. DOJ and EPA conducted community meetings near both facilities in August 2011, which led to an agreement by Suiza to conduct emergency drills and train residents and responders in the adjacent communities. Suiza has also agreed to implement over 40 compliance measures at each facility, and will also spend approximately \$3.75 million on projects to reduce the amount of anhydrous ammonia used in the refrigeration process, improve alarm and ammonia release notification procedures, and provide medical training and equipment. Additionally, Suiza has agreed to pay a \$275,000 civil penalty.
- In *United States v. Donald Fillers, et al.* (E.D. Tenn.) salvaging company Watkins Street Project, L.L.C., and three individuals were convicted by a jury of conspiracy, CAA violations, obstruction of justice, and false-statement offenses related to the illegal demolition of a Chattanooga, Tennessee, factory which contained large amounts of asbestos. During the demolition of the factory, visible asbestos dust emissions engulfed surrounding businesses, residences, and a daycare center. Asbestos removed from the factory was left in open piles on the property. Defendants attempted to conceal their illegal activities by falsifying documents, lying to federal authorities, and using low-paid day laborers to remove the material. Donald Fillers, an owner of Watkins Street Project, L.L.C., was sentenced to 48 months of incarceration, followed by a three-year term of supervised release, and ordered to pay a fine of \$20,000. David Wood, a supervisor for Watkins Street Project, L.L.C., was sentenced to serve 20 months of incarceration, followed by a three-year term of supervised release. James Mathis, an owner of Mathis Construction, Inc., was sentenced to serve 18 months of incarceration, followed by a three-year term of supervised release. The company was ordered to pay a fine of \$30,000. In addition, defendants were held jointly and severally liable for \$27,899 in restitution for the costs associated with the emergency response and cleanup of the former plant.

In fiscal year 2012, ENRD also handled environmental enforcement matters that benefitted Indian tribes. For example:

- Under the consent decree entered in *United States v. Questar Gas Mgmt. Co.* (D. Utah), Questar paid a \$3.6 million penalty under the CAA to resolve violations at five natural gas compressor stations on the Uintah and Ouray Reservation in Utah. Questar also paid \$350,000 into a Tribal Clean Air Trust Fund to be established by tribal member intervenors. The consent decree requires Questar to reduce its emissions by removing certain equipment, installing additional pollution controls, and replacing its natural gas powered instrument control systems with compressed air control systems. The actions required in the settlement will eliminate approximately 210 tons of nitrogen oxides (NOx), 219 tons of carbon monoxide, 17 tons of hazardous air pollutants, and more than 166 tons of volatile organic compounds (VOCs) per year. It also will conserve 3.5 million cubic feet of gas each year, which could heat approximately 50 U.S. households. The reduction in methane emissions (a greenhouse gas that is a component of natural gas) is equivalent to planting more than 300 acres of trees.

More than half of ENRD's work consists of defending the environmental or natural resources actions of federal agencies. The Division is incorporating the principles of environmental justice into our handling of these cases as well. Several examples of this aspect of ENRD's environmental justice effort in fiscal year 2012 are described below:

- Recent amendments to federal transportation law underscore the need to ensure that transit systems serve lower-income communities. A major goal of federal transportation planning and funding decisions made by the Department of Transportation is to further such "transportation equity." In *Honolulu Traffic.com v. Federal Transit Admin.* (D. Haw.), the Division vigorously defended the Federal Transit Administration's decision to approve the city of Honolulu's rapid rail project, which will serve lower-income communities in western Oahu and reduce traffic congestion in and out of Honolulu.
- In *Crenshaw Subway Coal. v. Federal Transit Admin.* (C.D. Cal.), the Division supported the President's number-two infrastructure priority project to bring light rail from Los Angeles International Airport through the minority and low-income Crenshaw neighborhood to intersect with another rail line in Los Angeles. The project will provide the broad benefits of public transportation, and we are working closely with the federal and local agencies involved to ensure that they have fully considered and addressed community impacts from building an above-ground light rail instead of a subway.
- In *Latin Americans for Social and Economic Dev. v. Federal Highway Admin.* (E.D. Mich.), we defended a challenge to the Detroit River International Crossing project. Community-, ethnic-, and business-based organizations challenged the proposed construction of a new crossing in the Delray area of Detroit connecting Detroit, Michigan, and Windsor, Ontario. Plaintiffs claimed that the Department of Transportation illegally targeted the primarily Hispanic and poor community in siting the project in Delray. We closely scrutinized the claims and determined that the agencies had developed comprehensive mitigation measures and done extensive work to consider the impacts on the Delray area and the potential impacts

to other environmental justice communities from different siting options. We also concluded that much of the impacted community welcomes the expected employment and economic opportunities from the project. The district court found that the agency considered community issues, noting that throughout the NEPA study process, the Federal Highway Administration took a careful look at impacts to low-income and minority communities. Moreover, the district court held that there was no evidence in the administrative record that the agency downgraded the mitigation measures or that it otherwise misled the community.

Climate Change

ENRD expects to continue to play a central role in the implementation of the MOU on Environmental Justice, which includes working with federal agencies in the Interagency Working Group on Environmental Justice to address impacts from climate change, one of the four focus areas identified in the MOU. In carrying out its core mission, ENRD has furthered federal agency efforts to generally address impacts from climate change by successfully defending EPA administrative action. Over the past several years, EPA has developed a regulatory program under the CAA to regulate greenhouse gas emissions that contribute to global climate change. In one of the most significant environmental regulatory decisions of the past decade, a unanimous panel of the D.C. Circuit in *Coalition for Responsible Regulation v. EPA* upheld EPA's four principal greenhouse gas-related regulatory actions. Through a series of regulations, EPA had (1) found that emissions of greenhouse gases from motor vehicles may reasonably be expected to endanger public health and welfare (known as the "endangerment finding"); (2) set standards for greenhouse gas emissions from motor vehicles; (3) specified how, and to what extent, regulation of greenhouse gas emissions from motor vehicles would trigger stationary source CAA permit requirements; and (4) established the measures that states and EPA must take to effectuate such stationary source requirements.

Access to Justice Issues

The Department is also working to ensure that those who are exposed to toxic substances have equal access to the justice system tools available to address impacts to human health and the environment. As Hurricane Katrina and other disasters have demonstrated, the environmental and health impacts of such disasters can fall disproportionately on vulnerable and disadvantaged segments of the population.

The Department's Access to Justice Initiative (ATJ), established in 2010, works to help the criminal and civil justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. The Initiative's staff works within the Department, across federal agencies, and with state, local, and tribal justice system stakeholders to increase access to counsel and legal assistance and to improve the justice delivery systems that serve people who are unable to afford lawyers.

ATJ is guided by three principles:

- Promoting Accessibility — eliminating barriers that prevent people from understanding and exercising their rights.
- Ensuring Fairness — delivering fair and just outcomes for all parties, including those facing financial and other disadvantages.
- Increasing Efficiency — delivering fair and just outcomes effectively, without waste or duplication.

During fiscal year 2012, ATJ has continued its efforts to, among other things, improve access to legal services for low- and moderate-income people in high-stakes civil proceedings. For example:

- *Gulf Coast Claims Facility*: ATJ worked with the Associate Attorney General's office to be sure that those affected by the BP oil spill received clear explanations of the legal right to compensation and that the Gulf Coast Claims Facility (GCCF) provided for free legal assistance to individuals and businesses submitting claims to the GCCF. Ultimately, the GCCF recommended that practice be adopted by claims facilities addressing losses from future catastrophic events.
- *9/11 Victim Compensation Fund*: ATJ worked with other components within the Department, the New York City Bar, law schools throughout the New York region, the private bar, and advocacy organizations to help make sure that potential claimants for the 9/11 Victim Compensation Fund, including first responders and those who participated in the cleanup, could easily understand their rights and secure needed assistance. The website for filing claims was translated into Spanish, Mandarin Chinese, and Polish. Legal clinics were set up at law schools in the New York area to offer free assistance to individuals in filing their claims.

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. Created by the Civil Rights Act of 1964, CRS is a specialized Federal mediation and conciliation service available to community leaders and organizations and state and local officials to help resolve and prevent community tension associated with allegations of discrimination on the basis of race, color, or national origin. CRS also works with communities to employ strategies to prevent and respond to alleged violent hate crimes committed on the basis of actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion or disability. Through mediation, conciliation, technical assistance, and training, CRS offers services that can enable community members to participate meaningfully in environmental decision-making that may affect them. The following are examples of these services provided during the last fiscal year:

- In December 2011, CRS worked in collaboration with ENRD attorneys to provide technical assistance to minority communities impacted by an environmental issue in Detroit, MI. CRS helped bring conflicting parties together along with local community members, school officials, advocacy officials, church leaders, and other local organization leaders. It was reported that over 35 community members attended the event. CRS provided conciliation services and facilitated a community dialogue to encourage and engage community partners.
- As mentioned in Part One of this report, CRS conducted training sessions for attorneys in ENRD as part of the 2012 Advanced Civil Environmental Enforcement Seminar. The training was conducted pursuant to a CRS and ENRD Memorandum of Understanding aimed at assisting DOJ's handling of environmental issues by providing training and supporting ENRD attorneys in conducting community outreach. During the training CRS programs, trainings, and services were discussed as well as CRS' role related to environmental issues.
- CRS helped resolve a conflict regarding a water project by facilitating discussions between the U.S. Department of the Interior Bureau of Land Management (BLM) and the Southern Tribes of Utah, which included the Confederated Tribes of Goshute, Skull valley Goshute, and the Paiute Tribe. It was reported that the State of Nevada was allowing water to be diverted from the Colorado River causing concern to Utah tribes. In particular, the tribes were concerned that the 300 mile pipeline would disrupt the sacred burial site of Swamp Cedar and have drastic impacts to ancestral roaming lands. In addition, tribal members believed that the water project would have a threatening impact to tribal water supply and deplete the aquifer. Tensions were further exacerbated after tribal members learned that BLM did not participate in the Southern Nevada Water Authority Project. It was reported that a total of 15 Utah and Nevada tribes objected to the water project.

CRS contacted the Southern Tribes of Utah and the BLM to address the perceived lack of communication between the parties. After conducting an assessment, CRS learned that

tribal leaders were particularly concerned that ethnography information provided to the BLM contained inaccurate information regarding the impact to sacred sites and roaming lands. In addition, tribal leaders were concerned that they were given insufficient time to review and comment on the Final Environmental Impact Statement. CRS assisted the parties in creating a formal consultation process to develop guiding principles during the Record of Decision. In addition, tribal communities were granted an additional 30 days to review the statement.

- CRS facilitated discussions between an Indian Tribe in Wyoming and the Department of Energy Legacy Program to resolve community concerns and allegations of disparate treatment regarding the scope of groundwater testing being performed. CRS learned that the EPA, the State of Wyoming, the U.S. Geological Survey began groundwater testing in the non-reservation community of Pavillion, Wyoming intended to address the possibility of pollutants as a result of fracking. The Northern Arapahoe Office of Tribal Health indicated that in contrast, the Wind River Indian Reservation communities of St. Stephens and Arapaho, approximately twenty-eight (28) miles south of Pavillion, which were also experiencing community fears and concerns over mill tailing and water contamination, were not included in the testing. Tribal leadership indicated to CRS that community perception was that Wind River Reservation communities with greater representation of American Indians were not given equal access to EPA assistance and were reportedly neglected. The Northern Arapaho Office of Tribal Health and the Wind River Office of Environmental Quality reiterated this concern and perception of disparate treatment. It was reported that the Pavillion community had a high percentage of non-Indian Community members in comparison to the St. Stephens and Arapaho communities which were predominantly American Indian populations.

CRS contacted the EPA Conflict Prevention and Resolution Center and the EPA Environmental Justice Program who indicated that they did not have an active case or National Environmental Policy Act (NEPA) process for St. Stephens and Arapahoe. The EPA assistance to these communities had stopped due to an expired technical assistance grant. However, CRS learned that the tribal community was eligible for an additional grant and technical assistance. CRS forwarded the grant eligibility information to the Wind River Indian Reservation Department of Environmental Quality (WRIR DEQ).

CRS determined that the St. Stephens and Arapaho environment clean up and monitoring was under the jurisdiction of the Department of Energy Legacy Program. CRS helped share this information and assisted in communications between the Department of Energy Legacy Program and WRIR DEQ. From this partnership, the parties are institutionalizing a formal contract and a water sampling program involving the tribe. The WRIR DEQ along with Tribal leadership indicate that tribal community members are satisfied with the progress in resolving water sampling frequency via tribal personnel drawn water samples.

Part Three: Response to Public Comments

As part of its effort to increase community outreach, the Department shared its Environmental Justice Strategy and its Environmental Justice Guidance with the public on September 30, 2011. These documents were initially prepared to implement the Department's commitments following the issuance of Executive Order 12898 on February 11, 1994. Prior to sharing the Strategy and Guidance in 2011, the Department's internal Environmental Justice Workgroup, chaired by the Associate Attorney General's Office, carefully re-evaluated these documents in light of the 2011 Memorandum of Understanding on Environmental Justice and Executive Order 12898. The Department determined that the Strategy and Guidance continued to fully reflect the goals and commitments of the Department of Justice. The Department has continued to solicit comments on the Strategy and Guidance through the DOJ Environmental Justice website (www.justice.gov/ej), as well as through the EPA IWG website and IWG conference calls with environmental justice advocates and community leaders.

To date, the Department has received two sets of public comments regarding its Strategy and Guidance. The Department appreciates the time and resources the commenters committed to reviewing and providing recommendations on the Department's Guidance and Strategy. One commenter submitted comments prior to the Department's publication of its 2011 Implementation Progress Report. Many of the issues raised in the comments were addressed in the 2011 report; nevertheless, the Department includes responses to those comments below.

Summary of Comments Submitted

The following is a brief summary of the two sets of comments submitted on the Department's Strategy and Guidance. The full text of the comments will be posted on the Department's Environmental Justice website.

Comments Submitted by the California Environmental Justice Alliance (CEJA):

CEJA asked the Department to revise its EJ Strategy and Guidance to "reflect persistent environmental racism" and "exhibit a commitment to carrying through the mandate captured in Executive Order 12898." CEJA believes the Strategy for Environmental Justice "fails to capture significant changes in scientific literature and similarly does not address the changing environmental harms facing environmental justice communities." CEJA also asked that the Department "work proactively with other federal agencies to ensure that enforcement efforts further the mandate of Executive Order 12898." "Because DOJ may only bring environmental justice enforcement actions through referrals from other agencies, the Department should work with other agencies to ensure clear lines of communication and adequate training in how to identify and refer environmental justice cases to DOJ." Finally, CEJA asked that the Department "take a stronger leadership role in ensuring the timely adjudication of Title VI complaints related to environmental justice." More specifically, CEJA believes the Department should "ensure that agency staff receive rigorous training and are held accountable for ensuring that Title VI cases are properly investigated."

Comments Submitted by Dylan Kesti:

While the commenter noted that the Department's Environmental Justice Strategy and Guidance "are both strong and well thought out documents that have brought some successes to communities regarding EJ issues," he believed there was still room for improvement to fully promote Environmental Justice for every community. He asked the Department to "hold regional listening sessions that are accessible to the disabled and Limited English Proficient (LEP) populations in all 93 state Attorney offices in the US and in all tribal territories by December 2013 . . . to inform DOJ and the community of EJ priorities and the appropriate avenues of action by both parties to mitigate, mediate, and address EJ issues in communities." It was suggested that a member of the Department's Environment and Natural Resources Division attend each of the listening sessions as a point person and liaison to document the EJ information communicated from and to the community and to work with the Civil Rights Division "to pursue litigation or mediation using all appropriate environmental, civil rights, criminal, and civil laws to achieve fair environmental protection to be initiated by January 2014." The commenter asked that the ENRD liaisons collect the information learned through the 93 listening sessions to establish a "baseline on environmental justice issues in the US." The commenter then suggested that the Department work to improve those issues by 25 percent each year, starting in 2014, so that all issues are addressed by 2018. Finally, noting the Supreme Court decision in *Alexander v. Sandoval* (2001), the commenter stated that, because "plaintiffs no longer have access to the implied private right of action to enforce the disparate impact regulations of Title VI," the Department should "give CRT effective tools to quantitatively and qualitatively improve the situation of communities impacted by environmental injustice in the United States."

Response to Comments Submitted

The Department's 2011 and 2012 Implementation Progress Reports on Environmental Justice speak to many of the issues raised in the public comments received. The following responds to the predominant themes identified in those comments:

Revisiting the 1995 Guidance Concerning Environmental Justice and Environmental Justice Strategy

One set of comments, received before the Department issued its 2011 Implementation Progress Report, stated that the Department's Environmental Justice Strategy and Guidance are out of date and thereby do not demonstrate a commitment to environmental justice. We disagree with the commenter's assessment. As noted in our 2011 Progress Report, the Department's internal Environmental Justice Workgroup carefully re-evaluated the Strategy and Guidance in 2011 in light of the 2011 Memorandum of Understanding on Environmental Justice and Executive Order 12898. The Department determined that the Strategy and Guidance continue to fully reflect the goals and commitments of the Department of Justice. In light of the public comments received, the Department reviewed the Strategy and Guidance again and concluded that they continue to evince the Department's commitment to make environmental justice part of its mission by using the tools at its disposal to ensure all communities benefit from a fair and even handed application of the law.

One commenter suggested that the Department update its Strategy to "capture significant changes in scientific literature" and "changing environmental harms facing environmental justice communities." While the Department's Strategy and Guidance include a range of factors to consider and examples of potential environmental justice matters, they do not attempt to provide an exhaustive list. The Strategy and Guidance in no way limit the Department's ability to address emerging legal or scientific issues. Moreover, the Department intends, as appropriate, to incorporate any such issues into its training and other efforts to increase its staff's awareness of environmental justice issues. Thus, the Department did not see a need for a wholesale redrafting of the Strategy and Guidance. Instead, we focused our efforts on implementing the lasting changes necessary to achieve discernible results through our work, such as the meaningful outreach and outcomes described in this report and the 2011 report.

Prioritizing Environmental Justice through Title VI Coordination Activities

One commenter did not feel that the Department had made environmental justice a priority in its civil rights work. As highlighted in this report, as well as the 2011 Implementation Progress Report, the Department has prioritized environmental justice issues in its work. For example, the Civil Rights Division continues to address environmental justice matters through its Title VI enforcement and coordination activities which include its extensive assistance to federal agencies, the formation of the Title VI Interagency Working Group, and its leadership on the Environmental Justice IWG's Title VI Committee.

One commenter also suggested that the lack of federal agency referrals of Title VI administrative complaints to the Civil Rights Division demonstrates a lack of concern for environmental justice. Pursuant to most agencies' Title VI implementing regulations, matters are

referred to the Division *only* when a voluntary resolution between the investigating federal agency and the federal funding recipient cannot be achieved. The Division has committed a significant amount of resources to assist agencies whose Title VI programs have the greatest impact on environmental justice communities, as highlighted in Part One and Part Two of this report. That assistance has provided much needed guidance to several agencies that have been able to resolve complaints involving environmental justice issues and develop practices to facilitate compliance by recipients and efficient resolution of future complaints.

Both commenters recommended that Title VI training be provided to federal agencies. The Department has continued to provide training to federal agencies' civil rights staff, and has worked closely with agencies to develop their own training programs. Additionally, the Title VI IWG includes a Training Committee which has been committed to supporting agency training efforts as well as developing innovative tools to assist agencies in their enforcement and compliance activities.

Finally, both commenters recommended amending Title VI to provide a private cause of action to enforce agencies' Title VI implementing regulations. The Civil Rights Division recognizes the need for robust enforcement of agencies' implementing regulations, which prohibit both intentional discrimination as well as practices that have an unjustified disparate impact. Private attorneys general could serve a critical role in enhancing federal agencies' own enforcement efforts. Until there is legislative action amending Title VI to allow for private enforcement of agency implementing regulations, the Division will continue to provide guidance and technical assistance to federal agencies to ensure federal funds are not used in a manner that either intentionally discriminates, or has the effect of discriminating, against individuals based on their race, color, or national origin.

Prioritizing Environmental Justice through Collaborative Environmental Enforcement

As highlighted in this report, the Department's commitment to environmental justice is also evident from the numerous ways in which the Environment and Natural Resources Division has integrated the principles of environmental justice into its work. One commenter asked that the Department "work proactively with other federal agencies to ensure that enforcement efforts further the mandate of Executive Order 12898." We agree that federal agency collaboration is an important element in achieving environmental justice. The Department has engaged other federal agencies in a variety of ways.

As one commenter noted, ENRD only handles civil environmental enforcement cases that have been referred to the Division by client agencies.¹ Those cases may raise environmental justice concerns. ENRD worked collaboratively with EPA when the agency revised its Model Litigation Report Guidance for civil referrals, to incorporate environmental justice considerations in the development of potential enforcement actions. ENRD also works closely with client agencies to evaluate referred cases to determine if environmental justice concerns are

¹ Although the commenter made reference to "environmental justice cases," this is a misnomer because there is currently no federal environmental justice statute. Federal agencies refer cases to ENRD that involve violations of environmental statutes, and those cases may raise environmental justice concerns.

raised, what community outreach might be appropriate, and how environmental justice issues might be addressed through the outcomes sought in those cases.

ENRD works with many of the 93 U.S. Attorneys' Offices and other federal, state, and tribal law enforcement partners to establish priorities and address the most egregious violations of the law, including those affecting low-income, minority and Native American communities. As part of the Environmental Justice IWG, ENRD meets regularly with other federal agencies to set strategic goals and share best practices. In 2011, ENRD established a Resource Agency Liaison Committee to facilitate coordination with other federal agencies. Working in partnership with EPA's Office of General Counsel, the committee works to provide a forum for dialogue, continuing education, and general counseling about environmental justice.

Prioritizing Environmental Justice through Community Outreach and Engagement

One commenter suggested that the Department hold regional listening sessions in the 93 U.S. Attorneys' Office² locations and tribal territories. The Department agrees that community outreach is important. Successful community outreach provides valuable feedback which can enhance the effectiveness of the Department's work.³ As discussed in this report and the 2011 report, the Department has conducted an unprecedented level of community outreach in various forms, including participating in stakeholder meetings as part of the Environmental Justice IWG, community visits by ENRD and U.S. Attorneys' Offices, and specific outreach and training for tribal communities. In addition, in both our affirmative and defensive environmental litigation we seek appropriate opportunities for communities to have meaningful input in decision-making that may affect them. The Department believes that engaging in this type of case specific, outcome oriented outreach is a more efficient use of our resources. The Department believes it would be neither efficient nor prudent to duplicate the regional listening session efforts of EPA and the Environmental Justice IWG. Nonetheless, ENRD and CRT will continue to work closely with EPA and other agencies and take a leadership role in facilitating the environmental justice community engagement efforts being spearheaded by the Environmental Justice IWG.

The commenters also suggested that the Department adopt best practices for engaging communities. As described in the Mediation and Conciliation Assistance section of this report, the Community Relations Service has utilized its long history of community outreach to assist in matters raising environmental justice issues. CRS has also provided training to ENRD attorneys regarding community outreach practices and will continue to use its considerable expertise to help facilitate successful community engagement.

The Department continues to welcome comments on its Strategy and Guidance and environmental justice activities. The public can email comments to ejstrategy@usdoj.gov.

² Although the commenter referenced "93 state Attorney General offices in the US," we believe he was referring to the 93 U.S. Attorneys' Offices.

³ Pursuant to Executive Order 13166, the Rehabilitation Act of 1973, and other authorities, the Department has and will continue to ensure its activities, including environmental justice outreach, are meaningfully available to limited English proficient individuals and individuals with disabilities.