**U.S. Department of Justice**

Environment and Natural Resources Division

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TO: ENRD Section Chiefs and Deputy Section Chiefs

FROM: Jeffrey H. Wood, Acting Assistant Attorney General

SUBJECT: Enforcement Principles and Priorities

DATE: March 12, 2018

*"No greater good can be done for the overall health and well-being of our Republic, than preserving and strengthening the impartial rule of law." – Attorney General Jeff Sessions*

As the Environment and Natural Resources Division (ENRD) pursues its vital mission, robust enforcement of our nation's environmental laws remains a high priority. This memorandum sets forth certain principles that should inform and guide the Division's enforcement work and identifies several of the Division's current enforcement priorities.

The enforcement principles articulated in this memorandum are: (1) adhering to the impartial rule of law; (2) enhancing cooperative federalism; (3) exercising pragmatic decisionmaking; (4) employing the full range of enforcement tools; (5) coordinating with agencies; (6) collaborating with the United States Attorneys' Offices; and (7) protecting taxpayers and the public fisc.

The enforcement priorities to which ENRD should give particular attention at this time include cases that align with: (1) advancing the "Back to Basics" focus on clean water, clean air, and clean land; (2) maintaining the integrity of environmental laws and programs; (3) fighting fraud and recovering taxpayer funds; (4) fighting violent and/or organized crime; and (5) protecting America's workers, competitiveness, and infrastructure.

This memorandum is not intended to be a comprehensive restatement of all considerations that should go into the exercise of our Division's enforcement discretion. But as a concise summary of the views of Department leadership about current enforcement principles and priorities, the memorandum should guide ENRD attorneys as they continue to vigorously enforce the nation's environmental laws. Please share this memorandum with the attorneys in your respective Sections.

As always, ENRD attorneys should confer with their Section managers to ensure alignment of enforcement activities and decisions with broader Departmental priorities and policies. ENRD Deputy AAGs, in coordination with ENRD Section Chiefs, should review the ENRD enforcement docket and related activities in light of the information herein for appropriate

adjustment of resources and priorities. These reviews should be part of the prioritizing that ENRD carries out with the federal agencies that refer matters to ENRD for enforcement.

This memorandum provides guidance to ENRD attorneys and is not intended to be, and may not be, relied upon to create any rights, substantive or procedural, enforceable at law by any party in any civil or criminal matter. This memorandum is administered by the Division as a matter of enforcement discretion, and its provisions are not intended to be applied by a court.

## ENRD ENFORCEMENT PRINCIPLES

### Enforcement Principle #1
### Adhering to the Impartial Rule of Law

Federal environmental laws are only effective if our nation, including our Division, adheres faithfully to the Constitution and the fundamental principle of the rule of law.[1] Like all law enforcement activities in our system of justice, federal environmental enforcement is focused on the pursuit of the truth of a case wherever the facts may lead. ENRD is fortunate to have exceptional attorneys and professional staff who conduct their enforcement duties under law with integrity, prudence, and diligence, all of which are crucial to ensuring the rule of law. Deputy Attorney General (DAG) Rod Rosenstein recently explained it this way:

> *The rule of law is not just about words on paper. The words mean nothing without people who apply them. The rule of law depends upon the character of the people who enforce the law. If they uphold it faithfully, the result will be a high degree of consistency and predictability. Those features are among the primary reasons our nation has thrived.*[2]

The imperative to advance and maintain the rule of law, more than any other, should direct ENRD's work. For instance, when making enforcement decisions, ENRD attorneys must enforce the law as Congress has written it and within the limits that Congress has established. This also means that civil or criminal charges must be premised on the violation of federal statutes and regulations, not upon agency guidance documents. *See* AG Sessions, Memorandum: Prohibition on Improper Guidance Documents (Nov. 16, 2017) ("guidance may not be used as a substitute for rulemaking" to create binding standards enforced by the Department). In this regard, former Associate Attorney General (ASG) Rachel Brand recently announced a new Department policy expressly prohibiting attorneys from using civil enforcement authority to convert agency guidance documents into binding rules. *See* ASG Brand, Limiting Use of Agency

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[1] The Division has long recognized the important connection between environmental enforcement and the rule of law. *See* John C. Cruden & Bruce S. Gelber, *Federal Civil Environmental Enforcement: Process, Actors, and Trends*, ABA Natural Resources & Environment, Vol. 4, No. 4 at 18 (Spring 2004) ("Environmental enforcement and dedication to the rule of law are necessary to ensure the protection and improvement of human health and the environment.").

[2] DAG Rosenstein, Remarks at the 2017 North American International Cyber Summit (Oct. 30, 2017), *available at* https://www.justice.gov/opa/speech/deputy-attorney-general-rosenstein-delivers-remarks-2017-north-american-international.



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Guidance Documents in Affirmative Civil Enforcement Cases (Jan. 25, 2018). As ASG Brand explained, "Consistent with our duty to uphold the rule of law with fair notice and due process, this policy helps restore the appropriate role of guidance documents and avoids rulemaking by enforcement."[3] ASG Brand's memorandum also sets forth certain proper purposes for agency guidance documents. A commitment to the rule of law also means that our attorneys must remain mindful of, and do our utmost to respect, constitutional protections for our citizens, including due process.

Likewise, ENRD attorneys must continue to file only complaints and indictments that are well-founded in law and fact and that seek relief permitted by the law. ENRD enforcement actions should not be premised on novel liability theories that lack such a basis. Furthermore, settlements in ENRD cases should impose only remedies consistent with applicable statutory authorities and controlling law. For example, an important constraint on settlement authority is the Miscellaneous Receipts Act, 31 U.S.C. § 3302(b), which requires that all civil and criminal fines be deposited in the United States Treasury absent Congressional direction to the contrary. *See also* 31 U.S.C. § 1341(a)(1)(A). ENRD will adhere strictly to the June 5, 2017 memorandum from the Attorney General entitled "Prohibition on Settlement Payments to Third Parties" that applies to ENRD enforcement actions and disallows settlement payments to third-party non-governmental organizations that were neither victims nor parties to the lawsuit, but continues to allow "an otherwise lawful payment … that … directly remedies the harm that is sought to be addressed, including, for example, harm to the environment." *See also* ENRD Memorandum, Settlement Payments to Third Parties in ENRD Cases (Jan. 8, 2018). And while mitigation can be an important remedy obtained in some environmental cases, it is not a penalty. Therefore, mitigation should be calculated to address the extent of actual harm and must not be used as an additional means of penalizing a defendant.

As we seek to advance the rule of law through our enforcement work, we must do so impartially, without special treatment for, or animus against, any particular person, industry, group, or interest. In the words of DAG Rosenstein:

> *The Department of Justice does not choose sides because of the identity of a party. We do not enforce the law against some people, and ignore others, based on our own biases or other inappropriate considerations. We follow neutral principles. Under the rule of law, the people tasked with enforcing the law must do so impartially.*[4]

We must be careful to not single out, or overlook, a particular industry or economic sector for enforcement based on other than appropriate enforcement criteria.

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[3] DOJ Press Release No. 18-96, Associate Attorney General Brand Announces End to Use of Civil Enforcement Authority to Enforce Agency Guidance Documents (Jan. 25, 2018), *available at* https://www.justice.gov/opa/pr/associate-attorney-general-brand-announces-end-use-civil-enforcement-authority-enforce-agency.

[4] DAG Rosenstein, Remarks at "A Constitution Day Address" hosted by the Heritage Foundation (Sept. 14, 2017), *available at* https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-delivers-remarks-constitution-day-address-hosted.



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**Enforcement Principle #2**
**Enhancing Cooperative Federalism**

Cooperative federalism is a cornerstone of federal environmental law and is a principle that must guide ENRD enforcement activities. Under most federal environmental statutes, states and tribes share responsibilities with the United States as co-regulators. We are committed to full and robust engagement with states and tribes in fulfilling our joint environmental enforcement mission. In fact, many kinds of environmental violations can be, and often are, addressed and resolved without federal involvement. In cases in which we intend to pursue federal civil enforcement, ENRD attorneys should still seek and consider input from affected states and tribes.

Some civil statutes require notification to affected states prior to the initiation of federal enforcement action. Beyond such legally mandated coordination, ENRD policies and practices call for coordinating with affected states and tribes as much as practicable. We also should consider filing joint civil complaints. Indeed, joint federal-state enforcement actions are commonplace and have proven effective. Reflecting our Division's strong commitment to joint actions, ENRD partnered with the National Association of Attorneys General to prepare guidelines for how to conduct joint civil environmental enforcement litigation.[5] ENRD attorneys should continue to consult these guidelines. If a joint civil filing is not feasible, ENRD attorneys should endeavor to be transparent with, and seek the views of, the relevant state or tribal regulatory agencies, where practicable.

**Enforcement Principle #3**
**Exercising Pragmatic Decisionmaking**

The sound exercise of enforcement discretion is a defining responsibility for ENRD, and is one that will be governed by the law, the facts of the case, and common sense.[6] Decisions by ENRD attorneys to bring federal cases must spring from an independent and searching review of the facts and the law and a sound and careful consideration of relevant factors, including the strength of the evidence; the basis for assertion of federal jurisdiction; the nature, importance and impact of the violations; the environmental and law enforcement benefits expected to be gained through enforcement action; and the objectives and priorities of the referring agency. With regard to evidence, environmental cases often involve complex scientific or technical issues. In such contexts, ENRD attorneys must be careful to rely upon sound scientific data and evidence.

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[5] Guidelines for Joint State/Federal Civil Environmental Enforcement Litigation (Jan. 2017), *available at* https://www.justice.gov/file/928531/download.

[6] In the context of criminal prosecutions, DAG Rosenstein has described our responsibility for prudent decisionmaking as follows: "The ideal prosecutor is dogged, but not an automaton who proceeds at all costs. Nor is the ideal prosecutor a zealot who demands criminal punishment for every arguable violation of the law." Remarks at "A Constitution Day Address" hosted by the Heritage Foundation (Sept. 14, 2017), *available at* https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-delivers-remarks-constitution-day-address-hosted. Similar sentiments should guide our work in the civil enforcement context.



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Even though many cases are complex, ENRD enforcement attorneys should always be mindful of pragmatic concerns. And when choosing which violations of law to pursue and how to pursue those violations, our attorneys should weigh whether the contemplated enforcement action is calculated to achieve a just result.

**Enforcement Principle #4**
**Employing the Full Range of Enforcement Tools**

When federal enforcement is warranted, we must apply it in a manner that is proportionate to the violation of law. In the environmental statutes that ENRD enforces, Congress has given federal agencies (and by extension, the Department of Justice) a wide range of options to enforce the law. Depending on the statute, the options for addressing violations may include any (or all) of the following: formal or informal administrative action by the agency (for example, participation in compliance assistance programs, or issuing a notice of violation, compliance order, or administrative complaint); civil judicial enforcement; or criminal prosecution where circumstances warrant.

*Administrative Enforcement and Compliance Assistance*: When compliance issues arise, administrative agencies such as EPA may be able to resolve some issues informally through compliance assistance programs and self-audit and self-reporting policies that they administer. While ENRD's role is distinct from that of the regulatory agencies, ENRD supports the use of such programs. Indeed, these agency-led, informal policies for resolving compliance issues support ENRD enforcement interests. Regulated entities have an incentive to participate in such programs to expeditiously resolve their compliance issues directly with the agency, thus avoiding a referral to ENRD in the first place. To the extent requested by the agencies, ENRD attorneys should support efforts to achieve early resolution of matters. As Attorney General Sessions has observed: "Our Department would much rather have people and companies obey the law and do the right thing, so we don't have to see them in court."[7]

If the agency's compliance assistance efforts prove unsuccessful, the agency may utilize more formal administrative tools short of seeking judicial enforcement. These include issuing, in a manner consistent with law, administrative compliance orders or initiating a formal administrative action with an administrative law judge (including actions for administrative penalties). This range of enforcement options promotes the efficient use of federal resources and can expedite the resolution of compliance issues.

*Judicial Civil Enforcement*: When, however, an agency is unable to address adequately a violation or determines that judicial enforcement is otherwise appropriate, it will refer the matter to ENRD for judicial enforcement. Determining the form of enforcement—civil or criminal—must be undertaken carefully. The vast majority of enforcement cases referred to ENRD are most appropriately addressed through civil enforcement. In general, the goals of ENRD's civil enforcement cases are to: require violators to come into compliance with the law and take

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[7] AG Sessions, Remarks at Ethics and Compliance Initiative Annual Conference (Apr. 24, 2017), *available at* https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-ethics-and-compliance-initiative-annual.



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measures to abate ongoing violations; achieve cleanup or natural resource damages restoration relating to releases of hazardous substances and other materials; compensate the government for its cleanup costs or for injury to natural resources; remove economic benefits obtained through noncompliance; remedy harm to public health or the environment; and punish and deter violations through civil penalties.

Notwithstanding the agency's referral of a matter for civil enforcement, in accordance with ENRD policies and practice, as well as Executive Order 12988 on Civil Justice Reform (1996), ENRD typically will file a civil complaint only after it has provided a prospective defendant with an opportunity to resolve its violation of law (or its debt to the federal government arising from an environmental obligation) prior to commencement of a civil action.[8]

Once ENRD receives an agency referral, ENRD attorneys should seek to timely and efficiently resolve the matter, either through settlement or through a litigated judgment. Timely and efficient resolution of civil enforcement actions creates tangible health and environmental benefits, conserves limited federal law enforcement resources, and allows defendants to resolve past violations of the law and to come more rapidly into compliance to avoid future violations.

Resolution of a civil judicial enforcement matter through settlement may take into account several aspects of the defendant's pre-filing conduct, including: cooperation with the agency (including any self-reporting or self-auditing); efforts to come into compliance; participation in an agency compliance assistance program; and environmental compliance history. If a matter can be settled pre-filing, then the settlement will be lodged with the court, and, where appropriate, made available for public comment, simultaneously with the filing of the civil complaint. If, following public comment, the settlement is entered by the court, then the defendant need not answer the complaint and the matter will be resolved with a minimum of litigation effort and resources.

*Judicial Criminal Enforcement.* While less common, criminal enforcement of federal environmental laws is a key component to the overall enforcement scheme. Criminal prosecution, as opposed to civil enforcement, is most likely where the facts show a requisite criminal intent, and the conduct creates a serious danger or risk of danger, has severe environmental effects, disregards human safety or the environment, involves dishonest or false conduct that undermines the statutory scheme, or involves repetitive significant violations notwithstanding administrative and civil enforcement efforts to obtain compliance. Criminal prosecution also may be needed to secure restitution for victims or to recover assets that represent proceeds of, or were used to facilitate, a federal offense. The imposition of criminal sanctions also serves a vital deterrence function, expresses society's disapproval of the underlying conduct, and demonstrates the seriousness of environmental crimes.

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[8] On occasion, ENRD may return a referral for civil judicial enforcement to the referring agency. ENRD thoroughly reviews such referrals and, following such review, may determine that the matter is more appropriately addressed through administrative, as opposed to judicial, enforcement.



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In criminal cases, the United States Attorneys' Manual (USAM) provides substantial guidance for the reasoned exercise of prosecutorial discretion. *See* USAM 9-27.230 (addressing prosecutorial discretion generally) and USAM 9-28.300 (addressing prosecutorial discretion with respect to business organizations). Among the factors that inform such discretion are a defendant's cooperation, voluntary disclosure, the existence of compliance programs, and subsequent compliance efforts. As set out in ENRD guidance in July 1991, these specific mitigating factors are and will continue to be important factors in the decision whether to pursue criminal enforcement.

**Enforcement Principle #5**
**Coordinating with Agencies**

Agencies entrusted with administering programs created by Congress generally will identify the areas of law warranting the attention of civil enforcement and initially play a lead role in developing potential civil enforcement targets. Historically, ENRD enforcement priorities have closely followed priorities established by its referring agencies, and we will continue to follow this practice. ENRD will support agency priorities and generally will look to the agency with respect to science and technical matters. But ENRD is also responsible for deciding whether the United States should pursue a given case and, if so, on what terms.[9] As such, prior to filing a civil complaint, ENRD will undertake an independent and careful review of an agency request for judicial enforcement to satisfy itself that the proposed action is well-founded in law and fact and is consistent with Department and agency policies, as well as broader government interests.[10] Finally, once an action is initiated, ENRD lawyers should continue to ensure that all relevant agencies are kept apprised of progress in the case.

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[9] *See* Assistant Attorney General for the Office of Legal Counsel Theodore Olson, OLC Memorandum for the Attorney General, The Attorney General's Role as Chief Litigator for the United States (Jan. 4, 1982) ("[T]he Attorney General is better able to coordinate the legal involvements of each 'client' agency with those of other 'client' agencies, as well as with the broader legal interests of the United States overall. Yet, while the 'client' agencies may be involved, to varying degrees, in carrying out the litigation responsibilities necessary to assist the Attorney General in representing the agency's particular interests, it is essential that the Attorney General not relinquish his supervisory authority over the agency's litigation functions, for the Attorney General alone is obligated to represent the broader interests of the Executive.").

[10] *Id.* (stating that the Department "will accommodate the agency's policy judgments to the greatest extent possible without compromising the law, or broader national policy considerations"); *see also* Memorandum of Understanding between the Department of Justice and the Environmental Protection Agency (June 15, 1977), providing that the Attorney General shall retain control over the conduct of all cases to which EPA is a party, while also promoting a "close and cooperative relationship" between the Justice Department and EPA.



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**Enforcement Principle #6**
**Collaborating with United States Attorneys' Offices**

It is critical for ENRD to maintain, and where possible enhance, close coordination and consultation with United States Attorneys' Offices (USAOs). ENRD has productively collaborated or partnered with USAOs in all aspects of its docket, including civil and criminal enforcement. To foster this beneficial relationship, ENRD attorneys coordinate with the relevant USAO in accordance with applicable practices and procedures reflected in Division directives and the USAM. Often, the expertise of ENRD attorneys is a valuable resource for AUSAs handling cases within ENRD's purview, including through direct training of AUSAs and training at the National Advocacy Center. Likewise, ENRD values the insights and expertise of AUSAs.

In civil cases, ENRD should continue to consider whether, in accord with applicable requirements, a relevant USAO could be the appropriate arm of DOJ to handle a particular enforcement action. To the extent consistent with DOJ and ENRD directives, ENRD will look for opportunities to delegate cases to a USAO where the USAO indicates that it has a particular interest in, and resources available to handle, those cases. To this end, ENRD should engage proactively with USAOs and, where appropriate, arrange for enforcement cases to be handled by, or in conjunction with, the districts.

In criminal cases, pursuant to USAM 5-11.104, USAOs are responsible for investigating and prosecuting environmental crimes in their districts, and ENRD's Environmental Crimes Section (ECS) is responsible for investigating and prosecuting environmental crimes on a nationwide basis. Cooperation and consultation between the USAOs and ECS can make the most effective use of the Department's resources. ECS will continue to seek the involvement of USAOs in environmental criminal cases.

Regardless of whether a USAO helps to pursue a particular case, the USAO often can provide valuable insights and advice on local practice, personalities, sensitivities and interests.

**Enforcement Principle #7**
**Protecting Taxpayers and the Public Fisc**

ENRD plays an important role in recovering taxpayer dollars expended as a result of environmental incidents or concerns, such as in Superfund and Oil Pollution Act cost recovery actions. Similarly, ENRD is responsible for recovering damages arising from injuries to natural resources that are to be restored, pursuant to law, by federal and state natural resource trustees. Over the past 20 years, ENRD has recovered approximately $30 billion in civil cases on behalf of the federal government and another $8.7 billion in criminal cases. Across all of our enforcement work, our attorneys should remain mindful of the need to be fiscally responsible and litigate in a cost-effective manner, consistent with the objectives of the action, court orders, and the requirements of the applicable Federal Rules.



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## ENRD ENFORCEMENT PRIORITIES

Our Division will continue to follow the law and the facts of each particular case and, consistent with sound principles of enforcement discretion, seek to enforce violations of federal law within ENRD's jurisdiction. The Division must also take action to advance the enforcement priorities identified by the Executive Branch, which periodically adjust from one administration to another. Accordingly, at this time, the following five priorities should be given particular attention and dedication of resources within the Division.

### Enforcement Priority #1
### Advancing the "Back to Basics" Focus on Protecting Clean Water, Clean Air, and Clean Land

ENRD should prioritize enforcement actions that provide concrete environmental benefits for clean water, clean air, and clean land. Pursuit of such pollution-oriented cases aligns tightly with EPA's current priorities, and EPA refers most cases of this nature to ENRD. EPA Administrator Pruitt has emphasized a "Back to Basics" agenda with a pillar of "protecting the environment." Such cases often have as a leading objective protecting the health of our citizens. Cases in this category arise principally, but not exclusively, under CERCLA (particularly cases addressing significant contamination[11]), the Oil Pollution Act (OPA), the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (particularly in areas with more acute air pollution problems), the Clean Water Act (CWA) (particularly pollution of impaired water bodies), and the Safe Drinking Water Act (particularly civil violations of drinking water standards in disadvantaged, low-income, or minority communities).

A "Back to Basics" approach also supports prioritization for time-sensitive incidents that require rapid action to protect human health or the environment or to preserve the United States' claims. For example, EPA recently announced a renewed focus on lead contamination, in light of its potentially devastating effects on human health, especially on children. In January 2018, EPA called upon the President's Task Force on Environmental Health Risks and Safety Risks to Children to develop a new federal strategy to address childhood lead exposures. Children can be exposed to lead by many pathways: ingestion of lead paint in buildings or lead wastes found out-of-doors, and even from contaminated drinking water. These exposures may form the basis for federal enforcement under various statutes (for example, CERCLA, RCRA, CWA, Safe Drinking Water Act). Where referrals include agency-priority issues of this kind, ENRD also will look to prioritize action on those referrals.

The Division also supports federal agencies in their stewardship of our nation's finite resources and public lands. Harm to those resources undermines their value both for current productive use and enjoyment and for future generations. For example, illegal fishing harms the livelihoods of our nation's fishing industry, which depends on the existence of well-managed fisheries; illegal trafficking in wildlife affects populations of wildlife that have recreational and

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[11] For instance, on December 8, 2017, EPA issued a list of 21 "Superfund Sites Targeted for Immediate, Intense Action" that EPA has identified as, among other things, "requiring timely resolution of specific issues to expedite cleanup and redevelopment efforts [and] … to spur action at sites where opportunities exist to act quickly and comprehensively."



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scientific value; and pollution of our nation's oceans with oil and other pollutants impairs the ability of those waters to support economic and recreational activities. Proper enforcement of federal law also helps to ensure that businesses and others who depend on public lands and resources are competing on a level playing field, rather than in a marketplace weakened by illegal conduct. Where referring agencies prioritize these types of violations, ENRD will likewise seek to pursue them.

**Enforcement Priority #2**
**Maintaining the Integrity of Environmental Programs**

Effective environmental enforcement requires attention to the totality of the regime that Congress established. Many environmental statutes, such as the Clean Air Act and Clean Water Act, depend on self-monitoring and self-reporting by regulated entities (typically as a condition of a permit) to evaluate compliance with the law, identify environmental problems before they reach critical proportions, gather data essential to protecting the environment, and promote an overall culture of compliance. Given the centrality of these requirements to the proper functioning of the overall regime, enforcing monitoring and reporting requirements, including against those who violate the public trust through false reporting, is critical to achieving the law's objectives. ENRD plays an important role in rooting out and bringing enforcement actions against those who would undermine the integrity of environmental programs and the public's trust in them. Two examples of this enforcement priority are ENRD's cases involving misrepresentation and fraud in EPA's Renewable Fuel Standard program or other market-based credit programs and ENRD's cases enforcing against defeat devices that cheat on emissions testing requirements of the Clean Air Act mobile source program.

**Enforcement Priority #3**
**Fighting Fraud & Recovering Taxpayer Funds**

ENRD should prioritize cases involving violations of the public trust or fraud against the United States, including cases for potential criminal enforcement involving deliberate or intentional wrongdoing in these contexts, as well as cases that involve recovery of costs expended by the federal treasury (such as CERCLA and OPA cost recovery actions). In these cases, the Division will seek to secure restitution both for the federal fisc and, where possible under applicable law, for consumers, affected natural resources, and others who have been affected by the violation.

**Enforcement Priority #4**
**Fighting Violent and/or Organized Crime**

While not traditionally a central focus of our Division's work, ENRD should give due attention to cases with a connection to violent or organized crime, as has been seen in the area of illegal wildlife trafficking, ENRD's work enforcing federal laws against criminal animal fighting ventures, and illegal drug activities on public lands.



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**Enforcement Priority #5**
**Protecting America's Workers, Competitiveness, and Infrastructure**

ENRD should prioritize cases that protect these vital American interests. ENRD should pursue cases that further the Administration's efforts and ENRD's responsibilities to protect the safety of American workers and to protect the economic competitiveness of American labor and products. This includes giving due attention to cases involving workplace safety as well as cases involving illegally sourced imports (for example, timber products, seafood, etc.). ENRD should also give due attention to efforts, in coordination with other Department components, to investigate and prosecute, where justified, acts of sabotage or damage against domestic energy pipelines and other critical infrastructure, which can both endanger human life and harm the environment.

## CONCLUSION

Established in 1909, our Division has been a powerful force for good for over a century. ENRD's law enforcement mission remains as vital today as ever. In recent months, our Division has announced significant enforcement actions that will eliminate thousands of tons of harmful air pollution, improve water quality in communities throughout the country, and clean up contaminated lands. We also have obtained convictions against criminals engaged in unlawful wildlife trafficking, animal cruelty, and fraud. These are but a few examples of the wide variety of actions and accomplishments that the lawyers and professional staff in our Division have obtained on behalf of the American people. As the important mission of ENRD continues, our Division will keep at the forefront of our minds the impartial rule of law, cooperative federalism, protecting taxpayers and the public fisc, and the other fundamental principles outlined in this memorandum.

ENRD's leadership stands ready to answer any questions that might arise concerning this memorandum. Please direct any inquiries to Justin Smith, Assistant Section Chief, Law and Policy Section.

CC: ENRD Deputy Assistant Attorneys General



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