



Compliance and Enforcement Annual Results: Enforcement Highlights

FY2006 Air Case Highlights

Air pollution threatens human health and damages the environment. EPA continues to enforce our nation's environmental laws and to ensure compliance with the Clean Air Act nationwide, making our air cleaner. While often invisible, pollutants in the air create smog and acid rain and cause cancer or other serious health effects. The air pollutants addressed by these settlements can cause serious respiratory problems and exacerbate cases of childhood asthma. As a result of cases concluded in fiscal year 2006, 583 million pounds of pollution will be reduced, eliminated or properly managed.

Coal-Fired Electric Utilities

Since 1999, EPA and the Department of Justice have filed a number of lawsuits against coal-fired electric utilities alleging that these companies made major modifications to their plants without installing equipment to control pollution that causes smog, acid rain and soot and that contributes to severe respiratory problems and childhood asthma in violation of the New Source Review provisions of the Clean Air Act.

EPA has litigated and resolved several of these lawsuits and negotiated settlements with 11 companies: Tampa Electric Company; PSEG Fossil; Southern Indiana Gas and Electric Company; Virginia Electric Power Company; Alcoa; Wisconsin Electric Power Company; Santee Cooper; Illinois Power and Dynegy Midwest Generation; Ohio Edison; Alabama Power Company James H. Miller, Jr. Plant; and Minnkota Power Cooperative and Square Butte Electric Cooperative. These settlements will result in the removal of approximately one million tons of pollution from the air annually and an expenditure of about \$5.8 billion to install state-of-the-art air pollution controls.

The major settlements concluded in 2006 are:

Alabama Power Company James H. Miller, Jr. Plant will spend more than \$200 million to install state-of-the-art pollution control equipment to reduce air pollution by nearly 34,000 tons per year. The company will also pay a \$100,000 civil penalty.

Minnkota Power Cooperative and Square Butte Electric Cooperative will spend more than \$100 million to install state-of-the-art pollution control equipment to reduce harmful air emissions by more than 33,000 tons per year and will fund \$5 million in renewable energy development projects, including wind power projects in their service

area of North Dakota and Minnesota. The cooperatives will also pay an \$850,000 civil penalty.

Petroleum Refineries

Petroleum Refineries have proved to be one of the largest, most comprehensive and successful enforcement and compliance national priorities ever undertaken by EPA. EPA's investigations of petroleum refineries focused on the four most significant Clean Air Act compliance challenges for the industry and the emissions units that are the source of most of their pollution: New Source Review/Prevention of Significant Deterioration - fluidized catalytic cracking units, heaters and boilers; New Source Performance Standards – flares, sulfur recovery units, fuel gas combustion devices (including heaters and boilers); Leak Detection and Repair requirements; and Benzene National Emissions Standards for Hazardous Air Pollutants. EPA selected refineries as a national priority because of the high rate of violations and rate of air emissions from petroleum refineries. EPA initiated over 150 issue-specific investigations at more than 100 refineries and, beginning in fiscal year 2000, embarked on a process of “global” settlements, which address each issue of concern at all of a company’s refineries. The settlements under the this priority require state-of-the-art controls and the implementation of enhanced programs to ensure continuing compliance with applicable requirements.

Through the end of fiscal year 2006, EPA has entered into “global” settlements with seventeen refiners affecting 85 refineries in 25 states, representing more than 77 percent of domestic refining capacity, to reduce emissions of harmful air pollutants by approximately 315,000 tons per year at a combined cost of \$4.4 billion. They will also perform supplemental environmental projects costing approximately \$60 million. EPA is in ongoing negotiations with nine additional refiners affecting 15 refineries representing over 11 percent of domestic refining capacity.

The following are major settlements concluded this fiscal year 2006.

ConocoPhillips will reduce harmful air emissions by more than 47,000 tons per year at a cost of more than \$525 million and will spend more than \$10 million on environmental projects to reduce emissions further and to support activities in the communities where it operates. The company also will pay a \$4.5 million civil penalty.

Exxon Mobil Corporation will reduce emissions of air pollutants by more than 53,000 tons annually at a cost of more than \$570 million. Exxon will pay an \$8.7 million civil penalty and will spend more than \$9.7 million on environmental projects in communities around the company’s refineries.

Sunoco, Inc. will reduce emissions of harmful air pollutants by more than 23,900 tons annually at a cost of approximately \$285 million and will spend more than \$3.9 million on further emission controls and environmentally beneficial projects. Sunoco will pay a \$3 million civil penalty.

Valero Refining Company will install emission control technologies at a cost of more than \$700 million to reduce air pollution by more than 20,500 tons annually and will spend more than \$5.5 million on further emission controls and environmentally beneficial projects. Valero will pay a \$5.5 million civil penalty.

Ethanol Producers

Ethanol production facilities are major sources of harmful air pollutants such as volatile organic compounds, carbon monoxide, nitrogen oxides, particulate matter, and other hazardous compounds. In addition to contributing to smog, volatile organic compounds can cause serious health problems such as cancer; carbon monoxide is harmful because it reduces oxygen delivery to the body's organs and tissues. As a result of EPA's enforcement activities, approximately 80 percent of the ethanol production capacity has adequate pollution controls or is in the process of installing controls. Major settlements to date with 27 ethanol producers and grain processors will reduce emissions of harmful air pollutants by over 100,000 tons per year at a combined cost of over \$384 million.

The major settlements concluded in 2006 are:

AGP Corn Processing will spend more than \$5.5 million to install pollution control equipment to reduce emissions of harmful air pollutants by 975 tons per year and will pay a \$40,000 civil penalty.

Cargill, Inc. one of the nation's largest producers of corn sweeteners, and a producer of domestic vegetable oils and fuel-grade ethanol, will reduce emissions of harmful air pollutants by nearly 25,000 tons per year from 27 corn and oilseed-processing plants in 13 states at an estimated cost of \$130 million. Cargill will pay a \$1.6 million civil penalty and will spend \$3.5 million on supplemental environmental projects.

MGP Ingredients of Illinois, Inc. will install air pollution control equipment and replace its existing feed dryers at its Pekin, Ill. facility to reduce emissions of volatile organic chemicals and carbon monoxide by over 1,700 tons per year at a cost of over \$1 million. MGP will pay a \$171,800 civil penalty.

Motor Vehicles (On-highway)

Mobile source pollutants include smog-forming volatile organic compounds and nitrogen oxides, toxic air pollutants such as cancer-causing benzene, and particulate matter or "soot" that are responsible for asthma and other respiratory illnesses. EPA enforces the Clean Air Act provisions governing motor vehicles and engines, including emissions standards for manufacturers of new motor vehicles, passenger cars and light trucks, and heavy duty motor vehicle engines. The requirements are designed to limit harmful emissions from these vehicles.

The following major settlement was concluded this fiscal year.

DaimlerChrysler Corporation entered into the largest mobile source settlement in an emission-related defect reporting case. DaimlerChrysler will repair defective emissions controls on nearly 1.5 million Jeep and Dodge vehicles from model years 1996 through 2001 at an estimated cost of \$90 million under the March 2006 settlement. The settlement resolves Clean Air Act violations in which the company failed to properly disclose defective catalytic converters. The company also will pay a \$2 million civil penalty and spend at least \$3 million to implement a supplemental environmental project to reduce emissions from diesel engines currently in use.

Animal Feeding Operations

Participating animal feeding operations entered into over 2,500 Air Compliance Agreements in fiscal year 2006 covering nearly 14,000 farms – swine operations, dairy operations, egg-laying operations, and broiler chicken (meat-bird) operations. Under these agreements, the participating animal feeding operations will take part in a nationwide monitoring study to evaluate air emissions from such operations and EPA will use this data to develop a method for estimating air emissions. The monitoring is expected to begin this winter. Primary goals of the Air Compliance Agreement are to reduce air pollution and ensure compliance with applicable Clean Air Act, Comprehensive Environmental Response, Compensation and Liability Act, Environmental Planning and Community Right-to-Know Act requirements. Additionally, EPA is settling liability for certain past and current potential violations against these animal feeding operations. Under these Agreements, violators will pay nearly \$2.9 million in civil penalties.

Criminal Enforcement Cases

Reporting Violations

State and federal regulators rely on comprehensive and accurate reporting of pollutant data from regulated entities in order to ensure protection of the public and the environment. Individuals or companies that knowingly fail to file required reports or who falsify those reports are subject to criminal prosecution.

The following are major cases concluded this fiscal year.

Pacific States Pipe Company

Charles Matlock, an executive with Pacific States Cast Iron Pipe Company, was sentenced to 12 months and one day in prison and a \$20,000 fine after pleading guilty to violations of the Clean Air Act which involved a rigged stack emissions test. Pacific States, a division of McWane Inc., located in Springville, Utah, manufactures cast iron pipe for the water and sewer industry. McWane, Inc. also pled guilty to violating the Clean Air Act and was sentenced to pay a fine of \$3 million, the largest criminal environmental fine in Utah, and serve a three year period of probation. In 2001, 2002 and 2003, McWane submitted “Emission Inventory” documents that were based on the rigged

stack test and falsely reported to the State of Utah that Pacific State's emissions were at a level that McWane employees knew to be inaccurate.

Asbestos

Asbestos is a human carcinogen. Under federal and state law, individuals who work on asbestos and lead abatement projects are required to take an extensive training course instructing them how to properly and safely remove asbestos, lead and hazardous waste without contaminating either themselves, co-workers, or members of the public. The failure to properly follow the regulations regarding the safe removal of asbestos (so called "rip and run" violators), including the use of workers who have not received required asbestos removal training or been given the necessary protective equipment to avoid exposure, can result in criminal prosecution.

The following are major cases concluded this fiscal year.

ACS Environmental Services

ACS Environmental, Inc. and Air Power Enterprises, Inc., were sentenced to five years probation and Air Power was fined \$500,000 for conspiracy to defraud the Environmental Protection Agency, the Occupational Safety and Health Administration and the Small Business Administration (SBA). James Schaubach, president of ACS and vice president of Air Power, was sentenced to 21 months in prison, to be followed by 3 years of supervised release, and fined \$1.5 million. Nicanor Lotuaco, president of Air Power, was sentenced to five months in jail, followed by five months home detention and three years supervised release, and fined \$1 million. All defendants pled guilty to buying false training certificates for their employees working in the asbestos, lead abatement, and hazardous waste industries and fraudulently obtaining set-aside contracts for minority-owned companies by submitting false statements to the SBA. ACS, located in Chesapeake, VA, and Air Power, located in Portsmouth, VA, received \$37 million in federal contracts, under the SBA's program for minority owned businesses. ACS and Air Power falsely certified that the workers had taken the required courses, passed the exams and were otherwise entitled to work on such projects. The untrained workers conducted asbestos, lead, and hazardous waste abatement at schools, hospitals, and other public and governmental facilities.

Longley Jones Management Corporation

Longley Jones Management Corporation, which manages commercial and residential real estate, including numerous apartment buildings throughout central and upstate New York State, pled guilty to one count of conspiracy to violate the Clean Air Act, commit mail fraud, and seven counts of violating the Clean Air Act. Longley Jones will pay a \$4 million dollar fine, \$3 million of which will be suspended for asbestos clean up at various Longley Jones facilities that the company has already initiated (where it has spent more than \$3 million). The suspended portion of the fine shall also be used to implement an Environmental Compliance Plan, which has been approved by the EPA. EPA criminal investigators who worked jointly with investigators of the New York State Department of Environmental Conservation found that employees of Longley Jones Management

Corporation illegally removed and disposed of regulated amounts of friable asbestos in 98 buildings owned, managed or otherwise controlled by Longley Jones over the past 20 years.

FY2006 Water Case Highlights

Aging municipal sewer systems and urban storm water runoff are significant sources of pollutants causing problems to our nation's waterways. Overflows of raw sewage from sanitary sewer systems contribute to contamination of drinking water sources and other environmental and health concerns and cause beach and shellfish bed closures. In addition, urban storm water runoff from municipal separate storm sewer systems and construction sites can introduce a variety of harmful pollutants including bacteria, organic nutrients, pesticides, hydrocarbons, sediment, oil and grease into rivers, lakes and streams. Ensuring effective and enforceable solutions to these problems has been an EPA enforcement priority since 1998. In FY2006, EPA concluded numerous enforcement actions eliminating and preventing millions of gallons of polluted overflows and run-off from entering waters.

Combined Sewer Overflows and Sanitary Sewer Overflows¹³

Many older municipalities' systems depend on single-pipe "combined sewer systems" designed to carry both storm water runoff and sewage to the treatment facility. When the capacity of combined systems is exceeded during heavy rainfall or snow melt, a mixture of storm water, household sewage and industrial wastewater overflows untreated through sewer outfalls (CSOs) into rivers and lakes. These overflows may also back up through storm water drains onto streets, yards and into basements. Most municipalities depend on "sanitary sewer systems" which transport sewage and industrial wastewater to sewage treatment plants and have separate storm water collection systems. Like combined systems, sanitary sewer systems can become overwhelmed during wet weather events and experience overflows (SSOs). Both combined sewer overflows and sanitary sewer overflows can occur frequently in some municipal systems, reflecting chronic problems.

Often working with states, EPA has concluded major settlements with dozens of the nation's cities bringing critical systems back into compliance and protecting communities from future harm. In the past ten years, EPA has entered into nearly fifty judicial settlement agreements with municipalities to address CSO and SSO violations. States have participated as co-plaintiffs in almost 70% of these actions. The settlement agreements, when implemented, will result in the reduction of billions of gallons of sewage overflows into the nation's waters. These results are achieved through consent decree provisions requiring comprehensive plans to improve the maintenance and operation of systems to reduce overflows, and through long-term capital construction projects that expand capacity to ensure proper treatment. As a result, EPA achieved a 26 million pound reduction in pollution and an 879 million dollar investment in continued pollution reduction .

The following are major cases concluded during fiscal year 2006:

Hartford Metropolitan District will evaluate its sewer collection system and take measures to eliminate raw sewage discharges to the Connecticut River and its tributaries at a cost of \$120 million. Hartford Metropolitan District will pay an \$850,000 civil penalty, of which \$425,000 can be used under Connecticut law to fund environmental projects.

Massachusetts Water Resources Authority (MWRA) will implement additional controls to further reduce overflows to the Charles River. Ongoing construction projects along with newly proposed work will reduce the planned volume of discharges into the Charles from 28 million gallons to a future total of approximately 7.8 million gallons per year.

Washington Suburban Sanitary Commission (WSSC) will reduce raw sewage discharges by more than 26 million gallons per year and eliminate basement backups caused by inadequate capacity or poor operation and maintenance at a cost of \$200 million. WSSC must also implement emergency response and cleanup programs to address all overflows and will undertake a monitoring program in the Anacostia River. WSSC will pay a \$1.1 million civil penalty and also will spend over \$4 million on supplemental environmental projects.

Storm Water Discharges

The discharge of storm water runoff from construction activities (e.g., land development, road construction) can significantly impair the water quality of rivers, lakes, and wetlands. During construction, earth is compacted, excavated and displaced, and vegetation is removed. These activities increase erosion and runoff, thus increasing the amount of sediment transported to receiving waters. Sediment/siltation is the second leading cause of impairment in assessed rivers and streams, the third leading cause of impairment in assessed lakes, ponds and reservoirs, and the leading cause of degrading wetland integrity. In addition to sediment, as storm water flows over a construction site, it can pick up other pollutants like debris, pesticides, petroleum products, chemicals, solvents, asphalts and acids which may also contribute to water quality problems. Storm water discharges from Municipal Separate Storm Sewer Systems (MS4) in urbanized areas are a concern because of the high concentration of pollutants they carry. Storm water picks up and transports pollutants into the MS4 where it is discharged (untreated) to waterways. Urban storm water runoff and discharges from storm sewers are a primary cause of impaired water quality in the United States, contributing 13 percent of impaired rivers and streams, 18 percent of impaired lakes, 55 percent of impaired ocean shorelines, and 32 percent of impaired estuaries. In 2006, over 280 million pounds of sediment were reduced from discharging into waterways as a result of federal enforcement actions.

City of Dallas will spend more than \$3.5 million to fill staff positions, inspect industrial facilities and construction sites, and improve management systems at several facilities. Dallas also will construct two wetlands, one along the Trinity River and one near the zoo, at an estimated cost of \$1.2 million as supplemental environmental projects and will pay an \$800,000 civil penalty.

Hawaii Department of Transportation will change its operations to reduce storm water runoff by over four tons per year at a cost of \$50 million and will pay a \$1 million civil penalty. The settlement also includes a supplemental environmental project expected to cost over \$1 million.

Idaho Department of Transportation will pay an \$895,000 civil penalty for violations of the Clean Water Act during construction activities and will implement new construction and inspection management practices to prevent future discharges.

James Pflueger will prevent erosion and restore streams at areas damaged by construction activities on Pflueger's property at a cost of \$5.3 million. Pflueger will pay a \$2 million civil penalty and spend \$200,000 to implement a supplemental environmental project to replace cesspools with improved wastewater systems at residences in a nearby coastal community. Pflueger had previously incurred both civil and criminal penalties under Hawaii law.

Criminal Enforcement Cases

Wetlands

Wetlands are a critical natural resource which both promote wildlife and serve as a "buffer zone" to reduce damage from coastal flooding. Extreme violations of wetlands regulations involving illegal dredging and filling or development can result in criminal prosecution.

The following major case was concluded this fiscal year.

Big Hill Acres

In one of the most significant wetlands criminal enforcement prosecutions in United States history, Robert J. Lucas, Jr., Robbie Lucas Wrigley, M. E. Thompson, Jr., and two affiliated corporations, Big Hill Acres, Inc., and Consolidated Investments, Inc., were sentenced for defrauding their customers and destroying wetlands. Robert Lucas was sentenced to nine years in prison followed by three years of supervised release and ordered to pay a \$15,000 fine. Robbie Wrigley and M.E. Thompson were each sentenced to 87 months in prison followed by three years of supervised release and ordered to pay a \$15,000 fine. Big Hill Acres, Inc. was fined \$4.8 million and sentenced to five years probation. Consolidated Investments, Inc. was sentenced to 5 years probation and ordered to pay a \$500,000 fine. All the defendants were also liable for a total of \$1.4 million in restitution for wetlands mitigation credits to offset the wetlands destroyed. All five defendants were convicted after trial on Clean Water Act violations for illegally filling hundreds of acres of wetlands during the development of a 2,600 acre subdivision on property in Vancleave, Mississippi known as Big Hill Acres. All of the defendants were also convicted of conspiracy and mail fraud for then selling hundreds of home sites on the filled-in wetlands despite warnings from public health officials that they were illegally installing septic systems in saturated soil that would contaminate the property. Despite warnings and cease and desist orders from the Corps and the EPA, the defendants

continued to improperly install systems that did not conform to state health department regulations in lots that they continued to develop and sell. More than 600 families moved into Big Hill Acres and within several years, a large number of the septic systems failed, causing raw sewage to seep up from the ground and flow across the development. A number of the homes in Big Hill Acres also suffered from slow drainage; brown, foul-smelling water backing up into bathrooms, kitchens, laundries and sinkholes; and standing water on the lots with debris rising to the surface.

Reporting Violations

State and federal regulators rely on comprehensive and accurate reporting of pollutant data from regulated entities in order to ensure protection of the public and the environment. Individuals or companies that knowingly fail to file required reports or who falsify those reports are subject to criminal prosecution.

The following major case was concluded this fiscal year.

Wayne County Airport

Wayne County Airport Authority, which operates Detroit Wayne County Metropolitan Airport, pled guilty to a misdemeanor violation of the Clean Water Act for negligently failing to report a 2001 discharge of turbid water containing airplane de-icing wastes into the Frank and Poet Drain, a waterway that leads to the Detroit River, in violation of the airport's discharge permit. The Airport Authority will pay a fine of \$75,000. An additional \$25,000 will be paid as community service to Friends of the Detroit River, a non-profit organization dedicated to conserving, preserving, and restoring the watershed of the Detroit River. The Airport Authority will also serve a four-year term of probation. In April, 2001, the valve connecting the pond to the sanitary sewer became clogged and storm water mixed with de-icing materials. Airport personnel allowed some 25 million gallons of wastewater to flow directly to the Frank and Poet drain. The discharge was not reported to the state of Michigan, as required. The discharge was discovered after a fish kill was observed where the water entered the Detroit River. As a special condition of probation, the airport will undertake and complete a "Force Main" project, which involves construction and use of a force main to connect a pond at the Airport to sanitary sewer lines leading to the Detroit Water and Sewerage Department's treatment plant in Detroit. The planning of this project has been underway for a number of months, and its cost currently is estimated at approximately \$8.5 million.

Ocean Dumping

During the last decade, EPA, along with the U.S. Coast Guard, FBI and other components of DOJ, has undertaken an extensive initiative to protect the oceans and coastal waters of the United States from illegal dumping of waste oil, sludge, and other hazardous wastes. The initiative began with an investigation of the cruise ship industry and has extended to other commercial vessels such as cargo ships. In addition to violations of environmental legislation such as the Oil Pollution Act, companies have

also been charged with U.S. Criminal Code violations such as conspiracy and obstruction of justice.

The following are major cases concluded in FY2006:

Atlantic Breeze

Wallenius Ship Management Pte, Ltd., a Singapore shipping company, pled guilty to seven felony counts and will pay a \$5 million criminal fine and an additional \$1.5 million community service payment for conspiring to obstruct justice, making false statements, and violating the Act to Prevent Pollution from Ships through the use of a concealed "magic pipe" to illegally discharge oil sludge and oil-contaminated waste from one of its ships. The community service projects, to be administered by the National Fish & Wildlife Foundation, will fund environmental projects in New Jersey. \$2.5 million dollars of the fine will be divided evenly among four former crew members who served as "whistleblowers" to bring the violations to the attention of federal authorities.

M/V Friendship

Karlog Shipping Company Ltd., of Piraeus, Greece pled guilty to obstructing justice by concealing the release of oil into the ocean from the Motor Vessel Friendship. Karlog Shipping was ordered to pay a \$1 million fine, develop a fleet-wide court-monitored environmental management system and serve three years' probation. In addition, Panagiotis Kokkinos, the ship's chief engineer, and Athanasios Chalkias, the ship's fitter, have also each pleaded guilty in connection with their role in ordering crew members to make false statements to the Coast Guard regarding discharges of oil from the ship. Each man was sentenced on October 6 to 30 days in prison and three years probation. In November 2004, a routine Coast Guard investigation discovered evidence that a bypass pipe had been used on the M/V Friendship to route oil around the ship's oil-water separator. Evidence also indicated that the pollution was concealed by maintaining a false oil record book that made it appear that the ship was being operated properly.

Discharges into Water Bodies

EPA's National Pollution Discharge Elimination System (NPDES) regulates the amount of treated and untreated wastewater that can be discharged into the rivers, lakes, streams or other water bodies of the United States.

The following are major cases concluded in FY2006.

The first two cases involved facilities of McWane, Inc. The privately held McWane, Inc. and its divisions are among the largest manufacturers in the world of ductile iron pipe with more than a dozen plants in the United States and Canada. McWane's products are used primarily for municipal and commercial water and sewer installations.

Atlantic States Pipe Company

Following a seven month trial (the longest environmental trial in history) a New Jersey cast iron pipe manufacturer, Atlantic States Cast Iron Pipe Co. (a division of McWane,

Inc.) and four company officials were found guilty of committing flagrant abuses of environmental and worker safety laws including, among others, the regular discharge of oil into the Delaware River, concealing serious worker injuries from health and safety inspectors, and maintaining a dangerous workplace that contributed to multiple severe injuries and the death of one employee at the Phillipsburg, New Jersey plant. The jury returned guilty verdicts against five of the six defendants. Sentencing is scheduled for January 2007.

McWane, Inc.

McWane, Inc., was sentenced to pay a \$5 million criminal fine, perform a \$2.7 million community service project and serve five years probation in a case involving illegal discharges to surface waters. Three individual defendants also were assessed fines ranging from \$90,000 to \$2.5 million along with probation and/or house detention. The defendants were found guilty of environmental crimes connected with the operation of McWane Cast Iron Pipe Company in Birmingham, Alabama, including conspiracy to violate the Clean Water Act by discharging industrial wastewater through storm drains into Avondale Creek in Birmingham in violation of their permit. In a related count, McWane Inc., and one defendant were convicted of making a false statement to the EPA.

PRASA

The Puerto Rico Aqueduct and Sewer Authority (PRASA) pled guilty to an indictment charging 15 felony counts of violating the federal Clean Water Act (CWA) through the illegal discharge of pollutants from nine sanitary wastewater treatment plants and five drinking water treatment plants. Under the plea agreement, PRASA is expected to pay a \$9 million criminal fine – the largest fine ever paid by a utility for violating the CWA. In addition, a comprehensive civil settlement was reached between PRASA and the United States of America to resolve repeated environmental violations at 61 wastewater treatment plants throughout the Commonwealth. The case is still awaiting formal sentencing by the court.

Southeastern Louisiana Water and Sewer

Southeastern Louisiana Water and Sewer (SELA), operates at least 40 sewage treatment facilities throughout St. Tammany Parish, Louisiana. SELA repeatedly violated its NPDES permits, and certain plants were operating without a permit. The discharges from SELA's plants ultimately flowed into Lake Pontchartrain through various streams and rivers. Despite knowing its plants were overburdened and over-capacitated, thus exceeding their permit limits, SELA continued to add more homes and services to the plants. SELA pled guilty to a felony violation of the Clean Water Act and was sentenced to pay a fine of \$2.1 million and serve five years probation. SELA has already expended approximately \$12 million additional dollars since the investigation began to correct the violations.

FY2006 Land Case Highlights

Under EPA's preventative programs, such as the Resource Conservation and Recovery Act (RCRA) Subtitle C (hazardous waste) and Subtitle I (underground storage tanks), EPA utilizes a regulatory framework establishing provisions to fully protect human health and the environment. EPA's clean up enforcement program establishes environmental cleanup liability to encourage the clean up and sustainable reuse and redevelopment of property, such as brownfields. EPA uses a number of laws and regulations, including Superfund and RCRA Corrective Action, independently and in combination, to address specific cleanup situations.

Superfund Enforcement

The Superfund statute (officially the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA") provides EPA with multiple authorities to achieve cleanup and payment for cleanup at Superfund sites. EPA reaches cleanup agreements through negotiation with parties that have been identified as having had association with the site and potentially have liability as a result of that association.

The following are major cases concluded in FY2006:

EaglePicher Multi-Regional Bankruptcy Settlement The United States Bankruptcy Court for the Southern District of Ohio approved several settlement agreements totaling over \$16 million with EPA and the states of Michigan, Oklahoma, Illinois, Kansas, and EaglePicher, to address environmental concerns at four contaminated properties in Michigan, Ohio and Illinois. EaglePicher, which owns numerous plants throughout the country, filed for bankruptcy on April 11, 2005. Under these agreements, EaglePicher will transfer title of the contaminated properties to a custodial trust and set aside \$16.5 million to fund the trust. The affected properties and their cleanup will be administered by a court-appointed trustee.

Many Diversified Interests (MDI) Superfund Site, Houston, Texas EPA entered into an administrative agreement with Clinton Gregg Investments, Ltd, to perform all remedial design/remedial action work at the Many Diversified Interests (MDI) Superfund Site located in Houston, Texas. As a result of this agreement, lead contamination on the site will be cleaned up to residential use standards. This is the first agreement in which a bona fide prospective purchaser, a purchaser who is protected from prosecution under the Comprehensive Environmental Response, Compensation and Liability Act, will perform the work at a Superfund Site. EPA has spent \$4.4 million at the MDI Site. The estimated cost of the future on-site work to be performed pursuant to the record of decision for operable unit one, is approximately \$6.6 million. The proposed new use of the site,

following completion of all work in the Agreed Order, will be mixed residential/commercial use development.

San Gabriel Valley (Area 4) City of Industry Superfund Site, Puente Valley, California¹⁵ Carrier Corporation and its parent company, United Technologies, Inc., will clean up contaminated groundwater at the Puente Valley Operable Unit of the San Gabriel Valley Superfund Site in Southern California. Carrier Corp. will spend an estimated \$26.5 million to build a groundwater cleanup system that will involve the installation of wells to pump out contaminated groundwater and prevent it from continuing to migrate. As part of the settlement, Carrier Corp./United Technologies will spend an additional \$1.5 million for past response costs and civil penalties, a supplemental environmental project associated with the contaminated groundwater at the site, and to monitor upgradient contamination for a total commitment of \$28 million.

Sheboygan River and Harbor Superfund Site, Sheboygan, Wisconsin A settlement was reached with Tecumseh Products Company to cleanup a portion of the Sheboygan River and Harbor Superfund Site. This site is a complex polychlorinated biphenyls contaminated river consisting of three portions: the “Upper River,” “Lower River” and “Harbor.” Tecumseh is the sole party responsible for the Upper River portion of the Site, which is being addressed pursuant to this settlement. Cleanup work at the Upper River portion is estimated to cost approximately \$30 million. This innovative agreement is a work-party substitution settlement that is expected to be a model for future settlements. Under this agreement, Pollution Risk Services and an insurance company, Chubb Corporation, assume Tecumseh’s responsibility to clean up the upper portion of the river.

Upper Columbia River Remedial Investigation and Feasibility Study, Washington State EPA, DOJ and Teck Cominco entered into an agreement to fund a remedial investigation and feasibility (RI/FS) study of the Upper Columbia River Site, to be conducted under EPA oversight and with the participation of the U.S. Department of Interior, Washington State, the Colville Confederated Tribes and the Spokane Tribe of Indians. The purpose of the RI/FS is to investigate the nature and extent of contamination at the Site, provide information for EPA's Baseline Risk Assessment, and develop and evaluate potential remedial alternatives. A large swath of the Columbia River in Washington State has been contaminated by the company’s operations just over the border in Canada. Some provisions in the agreement include \$20 million in escrow to ensure there are sufficient funds to finance the study, dispute resolution and judicial review, upfront payment for EPA oversight and monies for the involvement of Washington State, the Colville Tribes, the Spokane Tribe, and the Department of Interior.

White King /Lucky Lass Superfund Site, Lakeview County, Oregon On January 20, 2006, a Consent Decree with Kerr McGee Corporation, Western Nuclear Corporation and Fremont Lumber was entered for the White King/Lucky Lass Superfund Site. The site includes two abandoned uranium mines, and is contaminated with arsenic and radionuclides. The settling defendants agreed to perform the cleanup work and pay most of EPA's past costs and future oversight costs associated with clean up of the site. The estimated cost of the remedy is \$7.9 million. The settling defendants agreed to pay the

U.S. Forest Service \$2.7 million toward its claim of more than \$5 million. Also, the settling defendants agreed to pay a \$50,000 penalty and perform a supplemental environmental project benefitting wetlands with an estimated cost of \$299,000.

RCRA Corrective Actions

The Resource Conservation and Recovery Act (RCRA) regulates hazardous and non-hazardous wastes. The law establishes a system for controlling hazardous waste from the time it is generated until its ultimate disposal. Facilities that generate, treat, store, or dispose of hazardous waste are regulated under RCRA. RCRA also mandates when action is needed to clean up contamination at a facility.

The following major case was concluded this fiscal year.

Giant Yorktown, Grafton, Virginia EPA entered an Administrative Order with Giant Yorktown, Incorporated. Giant is the current owner/operator of a hazardous waste management facility in Grafton, Virginia. The plant produces unleaded gasoline, diesel fuels, liquefied petroleum gas, butane, furnace oil, petroleum coke, and sulfur and has the capacity to refine approximately 56,000 barrels of crude oil per day. The Order requires Giant to design and implement the remedial action selected by EPA for the facility. Giant Yorktown must prepare a detailed written cost estimate of the total costs of the corrective action required by the Order and to establish and maintain a performance guarantee in the amount of the estimated cost of the work. It is one of the first corrective action orders based on the new model financial assurance language which requires the facility owner to establish and maintain financial assurance for the total cost of completing the remedy.

Underground Storage Tanks

Resource Conservation and Recovery Act (RCRA) Subtitle I regulates underground storage tanks that store petroleum and hazardous substances which can leak into the soil and groundwater, in addition to underground structures, such as basements and subways in densely populated areas causing serious environmental harm and threatening public health.

The following major cases were concluded this fiscal year.

Carroll Independent Fuel (Carroll) settled self-disclosed violations of the underground storage tank provisions of RCRA at 32 facilities under a September 2006 administrative agreement. Carroll will pay a \$280,000 civil penalty and spend \$480,000 on supplemental environmental projects. In exchange for Carroll's performance of a third party audit and disclosure to EPA, violations were resolved through reduced penalties. This settlement is the last in a series which addresses more than 60 Carroll facilities in Maryland.

City of New York resolved violations of the underground storage tank provisions of RCRA for its over 1,600 underground storage tanks in over 400 locations throughout the

City and will bring all its storage tank systems into compliance under a March 2006 settlement. The City will pay a \$1.3 million civil penalty and spend an estimated \$500,000 or more to implement a centralized monitoring plan. The centralized monitoring plan would monitor from a centralized location the release detection for all the underground storage tank systems operated by the City's Police, Fire and Transportation Departments. This Plan goes beyond what is required by EPA's regulations.

Tanana Oil was ordered to permanently close tanks, perform a site assessment and take corrective action for contamination caused by Tanana/Tri-Angle at their abandoned gas station facility located in Edgemere, Maryland under an April 2006 Judicial Default Order and Judgment. Tanana must also pay a \$745,000 penalty.

Federal Facilities Enforcement

EPA holds the federal government accountable for compliance with environmental laws and regulations. This includes federal legislative branch organizations as well as federal executive branch departments and agencies.

The following major case was concluded this year:

Architect of the Capitol Settlement In settling a RCRA enforcement action with the Architect of the Capitol, EPA established that federal legislative entities are accountable for compliance with environmental laws and regulations. The Architect is responsible for maintaining and preserving the U.S. Capitol, the Library of Congress, the U.S. Supreme Court and surrounding buildings. The Architect agreed to operate as a RCRA large quantity generator and to improve training of its employees. The Architect will send information to other organizations operating in the U.S. Capitol complex to either apply for their own RCRA identification numbers or use the Architect's waste management services. The Architect will also pay a \$58,500 penalty.

This demonstrates that legislative entities' need to adhere to environmental laws and regulations like other regulated entities. Second, it shows that EPA is sensitive to the security needs of governmental agencies by respecting the U.S. Capitol Police's requests to keep certain information confidential.

Criminal Enforcement Cases

Hazardous Waste Disposal

Federal and state governments have regulatory systems in place to help ensure the safe handling and disposal of hazardous wastes, which can, if not dealt with properly, cause fires, explosions and contamination of both groundwater and surface waters.

The following major cases were concluded this fiscal year.

Behzad Kahoolyzadeh

Behzad Kahoolyzadeh was sentenced to 37 months in jail and \$1.29 million in cleanup costs for conspiracy to improperly store and transport dangerous chemicals, primarily the dry cleaning solvent perchloroethylene (PERC). Kahoolyzadeh was associated with AAD Distribution and Dry Cleaning Services, Inc., one of the largest handlers of dry cleaning waste in California until it was shut down in January 2001. The company charged dry cleaners to pick up, treat and arrange for the disposal of a hazardous dry cleaning compound known as PERC, a cancer-causing chemical that is the number one contaminant of groundwater in Southern California. In order to hide permit violations from city and state inspectors, Kahoolyzadeh and his partners conspired to load drums filled with PERC waste onto trucks before inspections, ship them off-site, and then store them at other facilities that were not permitted to store hazardous wastes. The manifests for these shipments were falsified to conceal these illegal shipments.

Pyramid Chemicals

Joel D. Udell and two affiliated businesses, Pyramid Chemical Sales Co. and Nittany Warehouse LP, were sentenced to pay more than \$2 million in restitution and fines for mishandling hazardous wastes in Pottstown, Pennsylvania., and in Rotterdam, the Netherlands, between 1998 and 2000. In addition, Udell must spend six months in home confinement under electronic monitoring and perform 500 hours of community service. The defendants pled guilty to storing hazardous waste without a permit at the former Nittany Warehouse in Pottstown, Pennsylvania., from May 1998 to early 2001, exporting hazardous waste outside the United States without consent of the receiving country, and transporting hazardous waste without manifests and to unpermitted facilities in 2000. Local authorities attempted to get Udell to improve storage of thousands of containers of chemicals, including flammable, corrosive and toxic material stored in deteriorated or broken containers and bags. EPA wound up forcing the defendants to perform a Superfund clean up from July, 2000 to early 2001. During that period, the defendants shipped 29 forty-foot containers of aging chemicals to Rotterdam. The containers stayed at the port for three years when the Dutch refused to permit them to be reshipped because of their poor condition, and the defendants refused to have them repackaged and returned to the United States. The restitution imposed as part of the sentences covers the port operators costs for storing the chemicals for three years, the Dutch government's costs in incinerating almost 300 tons of chemicals at the end of 2003, and EPA's costs in overseeing the warehouse clean up in Pottstown.

FY2006 Crossmedia Highlights

Chemicals

Chemicals have become a pervasive and enduring part of our environment. They are used in our manufacturing processes, and they are essential components for consumer and industrial goods. EPA assures that chemicals made available for sale and use in the United States do not pose any adverse risks to human health or to the environment.

The following major cases were concluded this year.

3M¹³ voluntarily disclosed all of the violations covered by this settlement under the terms of a Toxic Substance Control Act (TSCA) corporate-wide audit agreement. 3M performed a comprehensive management systems review of 28 separate business units and facilities to determine the compliance status of all TSCA-regulated chemicals and processes. As a result of the audit, 3M corrected a number of violations, including failures to notify EPA on new chemicals, late reporting on substantial risk information, and other reporting violations. During the course of the audit, 3M produced valuable, previously unreported information that will help the scientific community to better understand the presence of toxic substances in the environment. Under the April 2006 settlement, 3M agreed to pay an approximately \$1.5 million penalty for those disclosed violations that did not meet all applicable conditions of the Audit Policy.

DuPont¹⁴ agreed to resolve violations that the company failed to report substantial risk information about the synthetic chemical Perfluorooctanoic Acid (PFOA) under the Toxic Substances Control Act. Perfluorooctanoic Acid is used in the manufacturing process of fluoropolymers, including some Teflon® products. DuPont will pay \$10.25 million - the largest civil administrative penalty EPA has ever obtained under any federal environmental statute. DuPont also will perform two supplemental environmental projects expected to cost \$6.25 million that will produce valuable information for the scientific community to better understand the presence of PFOA in the environment and any potential risks it poses to the public.

Cross-Media Emissions - Vinyl Chloride

In 2002, EPA developed a multi-media chemical targeting approach utilizing public health and environmental data to identify potential candidates for enforcement. Using this approach, EPA selected six chemicals, one of which was vinyl chloride - a known carcinogen and an ozone precursor. The polyvinyl chloride manufacturing industry was an appropriate candidate for enforcement because it was responsible for the majority of vinyl chloride emissions in the United States. Most vinyl chloride is used to make polyvinyl chloride plastic and vinyl products. Exposure to vinyl chloride emissions has been linked to adverse human health effects and cancer. As a result of three EPA enforcement settlements, the vinyl chloride initiative has reduced vinyl chloride emissions by a total of approximately 128,000 pounds.

The following major cases were concluded this fiscal year.

Formosa Plastics Corporation¹ agreed to resolve multi-media violations at its Delaware plant and to reduce 36,000 pounds of permitted vinyl chloride emissions – a known human carcinogen, and up to 20,000 additional pounds through a unique incentive program. Formosa will pay a \$450,000 civil penalty and will perform supplemental environmental projects expected to cost \$843,000.

Oxy Vinyls, L.P.¹ North America's largest poly vinyl chloride resin supplier agreed to reduce vinyl chloride emissions by over 40,000 pounds a year and to resolve multi-media violations. Oxy will pay a \$140,000 federal civil penalty to be divided equally with the

Louisville Metropolitan Air Pollution Control District and a \$200,000 state-only penalty to New Jersey for New Jersey state-only violations. Oxy also will spend \$1,244,000 to implement supplemental environmental projects.

Supplemental Environmental Projects¹⁷

Supplemental Environmental Projects (SEPs) are environmentally beneficial actions that a violator agrees to perform as part of an enforcement settlement. SEPs go beyond compliance and provide significant benefits to public health and the environment. EPA enforcement settlements concluded in fiscal year 2006 include 220 cases requiring violators to implement SEPs with a value of over \$78 million. The following settlements are examples of fiscal year 2006 cases that include SEPs with substantial environmental or public health benefits.

Airgas¹⁸ a national industrial gas supplier agreed, as part of an administrative settlement for violations relating to the Emergency Planning and Community Right-to-Know Act, to properly dispose of more than 1,500 cylinders recovered by EPA and the Louisiana Department of Environmental Quality during the Hurricane Katrina cleanup. These projects contribute to the hurricane clean up effort in Louisiana and are expected to cost over \$118,000. More information about EPA's response to Hurricane Katrina is available at: [More Information¹⁸]

City of Sunland Park (Santa Teresa Waste Water Treatment Plant) agreed, as part of an administrative settlement resolving Clean Water Act violations, to provide medical treatment to indigent individuals suffering health impacts associated with contacting contaminated Rio Grande River water. The cost of the SEP is \$30,510.

Motiva¹⁹ as part of a settlement resolving multi-media violations, agreed to conduct several SEPs: purchase hybrid busses for the Delaware Transit Corporation, place a conservation easement on approximately 1,410 acres of land to prevent further development, restore and create a shellfish habitat, purchase and donate emergency response equipment to the community located near the facility, construct a meteorological station near the refinery, and install and operate a water quality monitoring station in the Delaware River. The total cost of these projects is almost \$6.4 million.

Raritan Brunswick, L.P. agreed, as part of an administrative settlement for violations relating to Toxic Substances Control Act 1018 requirements, to replace approximately 221 windows with lead-free, vinyl windows to eliminate the potential hazards of lead-based paint at a cost of more than \$53,000.

