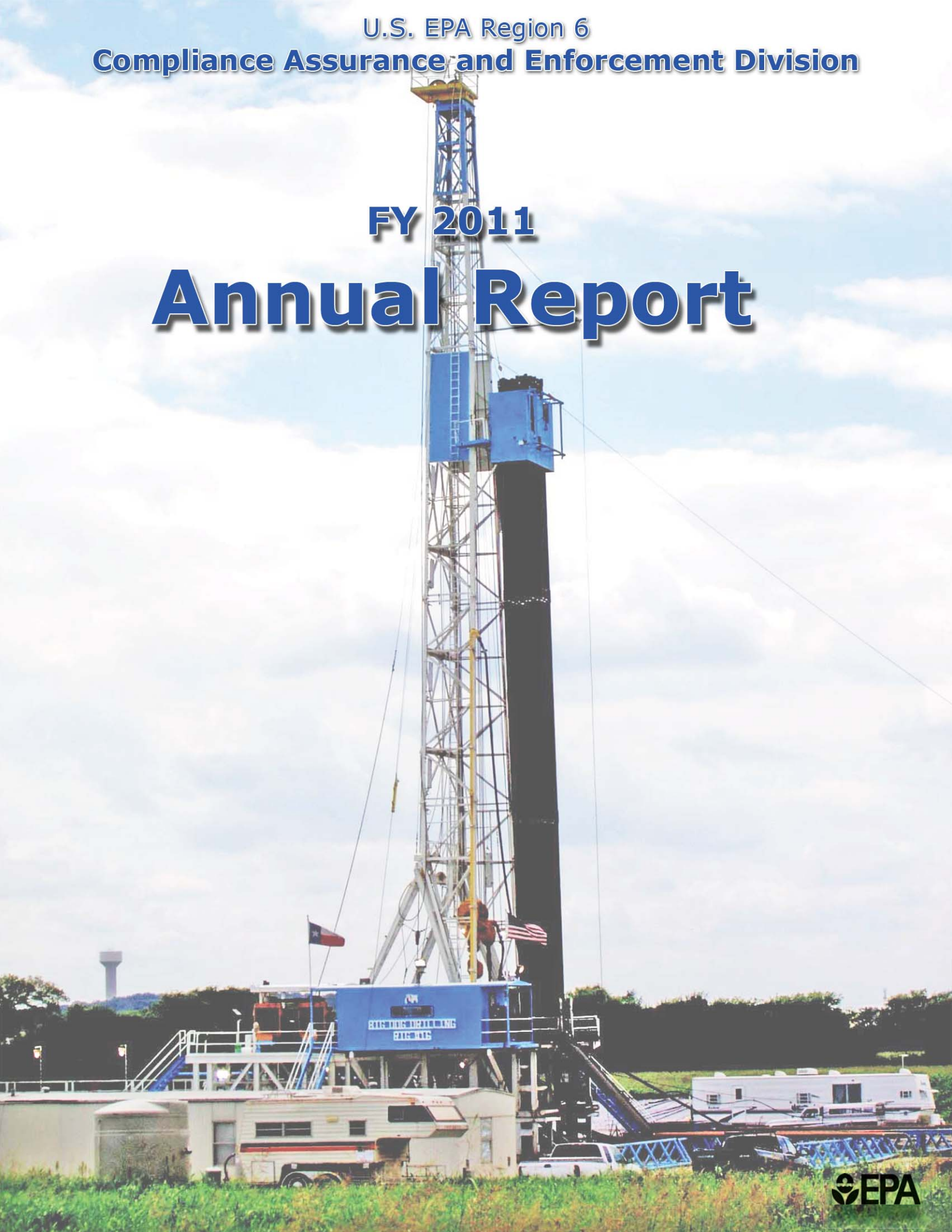


U.S. EPA Region 6
Compliance Assurance and Enforcement Division

FY 2011
Annual Report



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Mission

To promote compliance with Federal environmental regulations in partnership with our states and tribes

Vision

To make environmental compliance commonplace and establish a culture that promotes going beyond compliance through collaboration, innovation and partnership

Values

Teamwork

Open Communication

Professionalism

Integrity

Creativity

Fairness

Arkansas - Louisiana - New Mexico - Oklahoma - Texas



Message from the Director



As I looked over the numbers in this year's report, the words billions and millions kept showing up: more than 3.1 billion pounds of hazardous waste will be treated, minimized, or properly disposed of; 137.5 million pounds of air and water pollution will be reduced; and 3.6 million cubic yards of contaminated soil will be cleaned up. These large totals are not unusual—for years we have taken on some of the most difficult environmental issues in the nation and have been successful—but I think we sometimes get used to seeing these large numbers and do not fully appreciate their meaning.

We are making a difference.

Working with our many partners at EPA and other federal, state, tribal, and local agencies, we are improving lives in the communities we serve. Whether it's our continued enforcement presence at chemical manufacturing facilities, our increased activities at concentrated animal feeding operations, or our new efforts related to gas production, the people we serve are looking to us to protect them from pollution.

We are making sure water is safe to drink and air is safe to breath.

We are also making sure that businesses, in addition to being the economic engine that powers our region, are responsible neighbors. We are ensuring a level playing field by assisting the regulated community in complying with our nation's laws, and by enforcing those laws when needed.

We are saving lives and preventing illness.

Our efforts are producing cleaner air, water, and soil—and healthier communities. This is the true measure of our success.

Our tag line for this last year was "sharpen the saw," and given the new challenges we faced in emerging areas, it was as important as ever to build upon our skills and knowledge as well as improve how we carry out our core work.

For FY 2012, our tag line is "start with the why." As we respond to shrinking resources, especially travel funds, we need to further prioritize our work so that we are addressing the most critical human health and environmental issues. Asking why will ensure that we make the best use of our limited resources—and can communicate these priorities to our partners and the people we serve.

I want to close by thanking our employees and all the individuals and agencies who work with us on our important mission here in Region 6. I am proud of our work and humbled by our successes. I am looking forward to greater achievements in the year ahead, and healthier communities in the states we serve.

John Blevins
Director



Results at a Glance



Using a full range of compliance and enforcement strategies and tools, we concluded over 600 actions against environmental violators in fiscal year 2011, October 1, 2010 through September 30, 2011.



Direct Environmental Benefits *

Air Pollutants Reduced, Treated or Eliminated (Pounds)	4,362,300
Water Pollutants Reduced, Treated or Eliminated (Pounds)	133,172,900
Hazardous Waste Treated, Minimized, or Properly Disposed of (Pounds)	3,102,500,000
Contaminated Soil to be Cleaned Up (Cubic Yards)	1,848,900
Contaminated Water to be Cleaned Up (Cubic Yards)	1,751,000
Stream Miles Protected or Restored (Linear Feet)	18,790
Wetlands Protected or Restored (Acres)	130
People Protected by Safe Drinking Water Act Enforcement	80,580

Investments in Actions and Equipment to Reduce Pollution and Protect the Environment (Injunctive Relief) \$311,677,000

Investments in Projects that Benefit the Environment and Public Health (Supplemental Environmental Projects) \$1,972,700

Civil Penalties Assessed

Administrative Penalties Assessed	\$3,203,200
Judicial Penalties Assessed	\$25,919,300
State/Local Judicial Penalties Assessed From Joint Federal-State/	
Local Enforcement Actions	\$5,214,600
Stipulated Penalties Paid	\$78,600

Civil Enforcement and Compliance Activities

Referrals of Civil Judicial Enforcement Cases to Department of Justice	17
Civil Judicial Complaints Filed with Court	10
Civil Judicial Enforcement Case Conclusions	14
Administrative Penalty Order Complaints	290
Final Administrative Penalty Orders	269
Administrative Compliance Orders	334
Cases with Supplemental Environmental Projects	6

Compliance Monitoring Activities

Inspections/Evaluations	2,044
Civil Investigations	16

Voluntary Disclosures

Facilities Initiated	100
Facilities Resolved	64
Companies Initiated	57
Companies Resolved	45

Compliance Assistance

Entities Provided with EPA Compliance Assistance	6,910
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* Estimated

National Enforcement Initiatives

Reducing Air Pollution from the Largest Sources



We have addressed air pollution at 40 percent of the coal fired utilities, 94 percent of the cement industry, 85 percent of the nitric/sulfuric acid industry, and 78 percent of the glass industry in our region through investigations or ongoing negotiations

Cutting Hazardous Air Pollutants

For our health-based targeting of air toxics emissions, we use a multi-pronged approach that incorporates emissions modeling and risk assessment, evaluation of process upset data, assessment of permit exceedances, and evaluation of data within the Toxics Release Inventory. Potential targets are prioritized using population data, thereby maximizing potential health benefits.

We conducted 33 inspections and closed out 18 “no further action” cases. We exceeded our national commitment for compliance evaluations by 11 (for a total of 33), and our commitment for addressing actions by 10 (for a total of 16).

Keeping Raw Sewage and Contaminated Stormwater Runoff Out of Our Nations Waters



Addressing Sanitary Sewer Overflows is a high priority for us because the most significant surface water quality impairments in Region 6 are excessive bacteria and/or pathogens.

Currently, Region 6 has 74 wastewater treatment facilities with average daily flows of more than 10 million gallons per day, which are the primary focus of the SSO national initiative. More than 45 of these facilities have been addressed through the review of existing municipal implementation plans, issuance of orders by Region 6 or its state partners, and negotiated civil judicial settlements. We supported development and negotiation of over ten civil judicial referrals during fiscal year 2011. We will continue to work with municipalities and our state partners to address the remaining facilities.

Preventing Animal Waste from Contaminating Surface and Ground Water

We implemented a compliance assistance and enforcement program with concentrated animal feeding operations in FY 11. The region negotiated the largest national civil judicial enforcement settlement involving a

CAFO, working with other state and federal agencies. (See *Nation's Largest CAFO Settlement* on page 16)



Our CAFO program also provided training on the documentation and application of animal waste to over 100 participants from industry and federal regulatory agencies. (See *Outreach Materials Created for Dairy Farmers in Northeast Texas* on page 17.) Region 6 CAFO inspections were focused on areas of concern in northwest Arkansas, Hopkins and Bosque Counties in Texas.

Assuring Energy Extraction Compliance with Environmental Laws

In 2011, we conducted 83 oil and gas production inspections, utilizing Clean Air Act 112(r)(1), the general duty clause. We issued 23 administrative orders, for a total of \$108,743 in injunctive relief, and emission reductions of 133,694 pounds of hydrocarbons.



In a nationally unprecedented case, an imminent and substantial endangerment order was issued to Range Resources pursuant to Section 1431 of the Safe Drinking Water Act on December 7, 2010, to address contamination of drinking water wells by natural gas production activities. The order is currently under review by the Fifth Circuit Court of Appeals. Other actions in support of the energy extraction national initiative include inspections of underground injection wells in natural gas production areas to ensure proper construction and maintenance of injection wells to protect underground sources of drinking water.

Reducing Pollution from Mineral Processing Operations



This year we settled a large case, Air Products, which resulted in the reduction of over three billion pounds of waste, paid over \$1.3 million in penalties, and will build a \$60 million regeneration plant that will stop the acid waste stream altogether.

(See *Texas Chemical Manufacturer Reduces Risk of Toxic Releases* on page 13.)

Senior Management Measures

The Senior Management Measures are a limited set of outputs and outcomes that the agency uses to measure the effectiveness of the program and its management team. Below are the five measures that the Office of Enforcement and Compliance Assurance is currently monitoring. These measures show that as a result of Region 6's enforcement of the environmental laws and regulations, the regulated community is making investments to bring facilities back into compliance, and pollution is being reduced, which decreases exposure to communities.

Senior Management Measures	FY11 Results
Civil Referrals to DOJ	17 Total
Large concluded cases meeting one or more of the following criteria <ul style="list-style-type: none"> • 10M lbs. pollution reduced • 1M lbs. hazardous waste • 200K lbs. Hazardous Air Pollutants • 1M cubic yard contaminated media • \$100M injunctive relief • \$1M penalty • \$5M Cost Recovery or PRP 	15 Total 10 Regulatory, 5 Superfund
Dollars invested in environmental performance or improved EMP as a result of concluded enforcement (Injunctive Relief and SEPs)	\$311.7M
Pollution reduced by audit agreement or concluded enforcement	137.5M lbs. plus 3.1B lbs. (hazardous waste)
Contaminated media addressed (soil and water)	3.6M cubic yards

Regional Priorities

Air Enforcement

Real-Time Enforcement

In 2011, we inspected 83 oil and gas facilities in Region 6, including a number in the highly active Barnett Shale formation in the Dallas-Fort Worth area. Using an innovative new tool, an infra-red camera, we identified numerous emissions of hazardous air pollutants from poorly maintained or open storage tanks. The camera allows enforcement officers to see emissions that are otherwise not visible to the human eye. As a result of these inspections, EPA required facilities to immediately fix, repair, or replace equipment and certify compliance with the Clean Air Act-issued citations. The citations utilize the CAA's general duty clause and risk management program requirements to address unpermitted oil and gas air releases.



Refinery Consent Decree Compliance

We have been tracking and responding to consent decree deliverables from flaring events at 44 refineries located throughout the region. Since 2002, the start of

the National Refinery Initiative, we have responded to over 300 root cause failure analysis reports for acid gas, tail gas, and hydrocarbon flaring events. This resulted in the collection of over \$1 million in stipulated penalties. In addition, we have pending enforcement cases addressing other consent decree non-compliance that are projected to conclude in FY 12.



Nonattainment Targeting

We target criteria pollutants primarily through cumulative assessment of state emissions inventory data in nonattainment counties within Region 6. Our primary targets in 2011 were coal-fired power plants, carbon black, and calciner plants. We conducted 35 evaluations of facilities in or affecting nonattainment areas, initiated three enforcement actions at facilities in or affecting nonattainment areas, and issued two enforcement actions at facilities affecting impacted communities.



Regional Priorities

Risk Management Plans (CAA 112r)



We conducted 13 inspections at CAA Title V facilities to assess compliance with CAA requirements regarding risk management plans and the general duty clause and also to investigate those that had major accidents, and we are in the process of evaluating those inspection results and preparing enforcement actions where appropriate.

Chlorofluorocarbons (CFCs)

We conducted 20 CFC inspections and issued three enforcement actions for violations.

Hazardous Waste Enforcement

Surface Impoundments



In 2011, we continued our investigations to identify facilities that may be misusing surface impoundments. As part of this effort, we inspected nine facilities with known or suspected surface impoundments and are in the process of

evaluating the results of those inspections. We are concerned about air emissions in communities, water discharges of hazardous materials, and potential contamination of soils and groundwater. In addition, these units may be inaccurately identified as part of a facilities wastewater treatment system.

Centralized Waste Treatment Facilities



In 2011 we conducted four inspections at known or suspected CWTs. Those inspections results are currently under review. In addition, we identified waste generators that were sending their wastes to these types of facilities

and will be taking a closer look at them in 2012 to ensure sham recycling is not taking place. In particular, as part of our investigation into one CWT, we sent information request letters to over 200 generators that sent waste to that facility. From the review of those responses, we have identified those generators that warrant additional evaluation in 2012. (see

US Oil Recovery, LLC and MCC Recycling, LLC on page 13)

Corrective Action



In accordance with the National Enforcement Strategy for Corrective Action, we evaluated sites on the Government Performance and Results Act

baseline, and identified those which have stalled in making progress towards reaching remedy construction complete by the year 2020. We worked with our permitting and state counterparts to identify eight to ten facilities that may benefit from enforcement review and/or involvement. We conducted a site visit at one facility and utilized our information request authority to gather additional information from a couple of sites to determine if additional action is needed to move the facilities toward completion. We issued enforcement actions to two facilities on the list requiring sampling and analysis to determine the nature and extent of contamination.

Lead-Based Paint Renovation, Repair, and Painting Rule



We conducted 10 lead-based paint inspections, and gathered information that was used by other agencies to protect children from fugitive lead exposure at a pre-school.

Water Enforcement

Small Sewerage Treatment Package Plants



We inspected 18 wastewater treatment and package plants operated by small municipalities or private entities. The typical discharge of a minor facility is less than one million gallons a day. We issued 14 administrative orders in FY 11. We are working in partnership with the states to promote regionalization of these facilities.

Supplemental Environmental Projects Highlights

Supplemental Environmental Projects are environmentally-beneficial projects that a violator voluntarily agrees to undertake as part of the settlement of an enforcement action. SEPs secure significant environmental or public health protection improvements beyond those achieved by bringing the violator into compliance. These projects must protect or reduce risks to public health or the environment and have a relationship with the violation.

Reducing Toxic Air Emissions Murphy Oil, Meraux, Louisiana



Under a February 2011, consent decree, Murphy Oil USA, Inc., agreed to pay a \$1.25 million civil penalty to resolve allegations of Clean Air Act violations at its petroleum refineries located in Superior, Wisconsin, and Meraux, Louisiana. The settlement included provisions to resolve an action against the Meraux Refinery filed by the Concerned Citizens Around Murphy.

Murphy will also perform injunctive relief to reduce emissions of volatile organic compounds by approximately 44 tons per year and sulfur dioxide and nitrogen oxide by 1,400 tons per year; reduce flaring events, which will cut emissions of VOCs, hydrogen sulfide, and sulfur dioxide; and implement projects which will provide environmental and community benefits.

A SEP, valued at \$1.5 million, will be implemented to reduce odors and VOC emissions, including benzene, at the Meraux waste water treatment plant by 1780 pounds per year.

Ambient Air Monitoring Marathon Petroleum, Texas City, TX

In June 2011, a consent agreement and final order was entered with Marathon Petroleum Company in Texas City, Texas, which will replace its Texas Commission on Environmental Quality Subchapter G Flexible Permit with a federally enforceable subchapter B permit.

The CAFO includes a civil penalty of \$29,050 and requires Marathon to spend approximately \$100,000 per year for three years on an Ambient Benzene Air Monitoring Project off-site. The data will be uploaded to TCEQ's Leading Environmental Analysis Display System. The monitor will notify Marathon if there is a reading above 20 parts per billion of benzene so that it can investigate the source of the emission and begin possible reduction activities.



Building a Health Clinic Valero Refinery, Port Arthur, Texas



In September 2011, the City of Port Arthur, Texas, announced that a new health clinic is planned for the city's westside to provide treatment of respiratory, cardiopulmonary, and other illnesses that may be caused or exacerbated by exposure to air pollutants.

As part of its settlement for CAA violations, Valero (at that time Premcor) agreed to spend not less than \$1 million to construct the Gulf Coast Health Center as a SEP. The community served by the GCHC is impacted by several industries, including chemical plants, tank farms, oil terminals,

and three refineries. The population within three miles of the Valero refinery is 97 percent minority. Approximately 50 percent earn less than \$15,000 per year and 38 percent have less than a high school diploma.

State Highlights

We truly value our working relationships with our states. Regular face-to-face meetings with the state enforcement directors and management, as budgets and schedules allow, have proven invaluable in terms of planning and coordinating activities as well as addressing issues.

Arkansas



The Arkansas Department of Environmental Quality air, hazardous waste, and water enforcement programs issued 160 orders in FY 11, including penalties totaling over \$1.5 million. This includes a consent administrative order against Preformed Line Products with penalties and SEPs totaling \$196,000 for violations of the Clean Air Act. These actions also include 20 consent orders and over \$60,000 in penalties addressing violations at oil and gas operations in the Fayetteville Shale.

ADEQ also took a leadership role in the national Sanitary Sewer Overflow initiative, bringing the cities of North Little Rock and Hot Springs under compliance schedules to address sewer overflows. Each of the compliance agreements included penalties of \$105,000.

This year, we completed a review of ADEQ's air, hazardous waste and water enforcement programs under the State Review Framework. A copy of the full report is available at www.epa-echo.gov. The SRF report describes how ADEQ is administering successful air, water and hazardous waste enforcement programs. ADEQ meets most of the national program goals, excelling at many including hazardous waste enforcement, where the state is a national leader in issuing timely enforcement actions.

Louisiana

The Louisiana Department of Environmental Quality's air, water, and hazardous waste enforcement programs issued over 300 actions, including penalties totaling over \$1.7 million. This includes a settlement agreement with Placid Refining in Port Allen, Louisiana, which calls for reductions of 150 tons per year of nitrous oxides, 845 tpy of sulfur dioxide, and 30 tpy of volatile organic compounds. In addition to a civil penalty of \$675,000, Placid will provide \$225,000 to bolster community emergency preparedness.



This year, we began LDEQ's second enforcement program review under the State Review Framework. The review will conclude in FY 12.

New Mexico

The New Mexico Environmental Department's Air Quality Bureau issued 84 formal actions including penalty actions totaling over \$880,000. This includes the Western Refining settlement agreement of \$350,000 which addressed nitrogen oxides and carbon monoxide emissions at its plant near Gallup.



NMED administers the hazardous waste enforcement program state-wide and shares jurisdiction with the city of Albuquerque Health Department for the air enforcement program. The enforcement programs for both agencies were last reviewed under the State Review Framework in 2009 and will be reviewed again after FY 12.

Oklahoma

The Oklahoma Department of Environmental Quality air, hazardous waste, and water programs issued over 40 orders with penalties totaling over \$1.8 million. This includes a \$950,000 penalty action against Wynnewood Refining Company for air violations. ODEQ air enforcement actions also reflect an emphasis in improving compliance in the oil and gas sector with 14 formal actions and over \$189,000 in penalties.

We worked closely with ODEQ conducting aerial surveillance to identify toxic air emissions from an industrial area near Tulsa, Oklahoma. Data collected was reviewed by both agencies and seven enforcement actions were issued as a result. This effort represents a unique partnership between ODEQ and Region 6, in which we issue the orders and assist ODEQ inspectors who provide the field data.



ODEQ has historically provided leadership and support for the State Review Framework and in FY 2011 provided senior level support in preparing for 2012-2015 reviews. ODEQ's last SRF review was in 2009, and the next review will be some time after 2012.

Texas

The Texas Commission on Environmental Quality generated over 1628 final orders with penalties totaling over \$12.5 million. Air quality actions included \$5 million in Supplemental Environmental Projects directed at a set of pre-approved projects including school bus retrofits and energy conservation. These enforcement actions include a \$841,000 penalty action against Port Arthur Chemical in Port Arthur, Texas.



FY 11 was the final year of a three-year pilot study of TCEQ's Risk Based Investigation Strategy. TCEQ uses RBIS to develop annual investigation plans. The pilot provided an opportunity to analyze how RBIS works and how results compare with EPA compliance monitoring strategies.

In fiscal year 2012, we plan to evaluate the TCEQ air, water, and hazardous waste enforcement programs using the State Review Framework.

Air Enforcement

We responded successfully to competing priorities this year. We issued over 20 information request to assist with our New Source Review and air toxics investigations, addressed fundamental flaws in the Texas air permitting program, and implemented real-time enforcement at oil and gas facilities. We also issued over 100 alternative monitoring plan responses and explored new enforcement initiatives including carbon black NSR permitting compliance and benzene NESHAP compliance at chemical plants. In addition, we devoted resources to address new rules and regulations, such the Greenhouse Gas rules, Cross State Air Pollution Rule, and the new National Ambient Air Quality Standard for NOx and SOx.

Our staff also conducted inspections at facilities for compliance with the CAA Title V risk management plan requirements to reduce the risk of chemical accidents, explosions, and spills, and conducted inspections at several facilities after major accidents. Our goal is to provide a federal presence to prevent and reduce the potential for accidents, explosions, and releases. In addition, we conducted inspections and pursued enforcement for illegal use of chlorofluorocarbons and illegal importation of CFCs.

Largest Civil Penalty for Chemical Accident Prevention Violations

In November 2010, we assessed the largest civil penalty ever for violations of the Clean Air Act chemical accident prevention regulations and excess emissions at an individual facility. British Petroleum Products North America Inc., Texas City, Texas, Refinery has agreed to pay \$15 million for failure to identify regulated hazardous air pollutants used in risk management plans that were

sub-
mitted
to EPA.
Two
fires,
on
March
30,
2004,
and
July 28,
2005,
and a
leak on
August



10, 2005, were the basis for the penalty. Each incident resulted in shelter-in-place orders for the surrounding community as thousands of pounds of flammable and toxic air pollutants were re-

leased into the atmosphere. BP has already performed approximately \$1.4 billion in corrective actions and will spend an additional \$500 million to improve safety at the refinery. This includes the EPA criminal plea agreement following the fatal March 23, 2005, explosion. The Federal government will recover approximately \$137 million in criminal, civil, and administrative fines.

Illegal Imports of Ozone-Depleting Substances

We issued consent agreement and final orders to ASAA Incorporated and Strata Enterprises LLC this year. ASAA illegally imported two shipments of HCFC-22 into the United States through the Port of Houston, Texas, between July 2007 and February 2008. The combined shipments contained 2,280 cylinders (31,108 kilograms) of HCFC-22. Strata illegally imported eight shipments of HCFC-22 into the United States through the Port of El Paso, Texas, between February 2008 and April 2008. The combined shipments contained 4,200 cylinders (57,120 kilograms) of HCFC-22. To date, three of six illegal HCFC-22 import cases have been settled in the Region.

Helicopter Inspections of Oil and Gas Facilities

During May 2011, Region 6 conducted aerial surveillance to identify toxic air emissions from an industrial area near Tulsa, Oklahoma, and natural gas well sites near Oklahoma City. We worked closely with Oklahoma Department of Environmental Quality and all aerial surveillance data collected was reviewed by both agencies.

In June 2011, follow-up inspections were performed at eight locations identified as having leaking components during flyovers. ODEQ and EPA issued administrative compliance orders under the CAA's general duty clause to seven of the facilities. This effort represents a unique partnership between ODEQ and Region 6, in which we issued the orders and assisted ODEQ inspectors who provided the field data. Oklahoma does not have a state regulation that is equivalent to CAA Section 112(r)(1). These facilities were issued orders within 30 days of the inspections as a result of these innovative approaches. Ordinarily these actions would take six months or more.

Facility	Owner	Date
Mabel T No. 2 Well	Chesapeake Energy	7/15/11
Carmelite No. 1-19H Well	DCP Midstream	7/15/11
DCP Midstream Reno Booster Station	Spess Oil Company	7/15/11
Bohlmann B-1 Well	Chaparral Energy, Inc.	7/13/11
Jenson No. 1-34 Well	Atlas Operating	7/13/11
Croze "A" Well	Atlas Operating	7/13/11
Tanner "A" #1 Well ODEQ/EPA collaboration	Atlas Operating	7/27/11

Facilities that received orders after inspections in Oklahoma

Air Enforcement

National Refinery Initiative Western Refining, El Paso, Texas

In September 2011, a consent decree was entered for Western Refining, a 116,000 barrel-per-day refinery in El Paso, Texas, based on the National Refinery Initiative. The decree covers violations associated with New Source Review/Prevention of Significant Deterioration, New Source Performance Standards Subpart J, acid gas flaring, benzene in wastewater, and leak detection and repair.



Significant environmental benefits are anticipated from this settlement. Emission reductions of nitrogen oxide are expected from installation of LoN-Ox burners and other changes at the heaters and boilers. Eventual compliance with NSPS Subpart J

at all refinery fuel gas combustion devices, including flares, heaters, and boilers, will result in lower emissions of sulfur dioxide. Western has already installed one flare gas recovery system to reduce or eliminate certain continuous sources of gas to the flares.

When the injunctive relief included in the agreement is fully implemented, total emission reductions are estimated to be 509 tons per year of NO_x , and 381 tpy of SO_2 , with additional reductions of volatile organic compounds. The total cost of the injunctive relief to the company is expected to be about \$60 million, of which a substantial portion has already been expended. The decree also includes a civil penalty of \$1.45 million payable to the United States.

Ensuring Permits are Enforceable



A significant Region 6 priority continues to be ensuring that permits issued by our states are both legally and practically enforceable. In 2011, we focused substantial

resources to address Texas air permitting programs that are not consistent with Federal requirements and lack the practical enforceability to ensure that they are both transparent and understandable to regulatory agencies as well as the public. This practical enforceability issue is of particular concern when the permits involve plant-wide emissions caps

because of the challenges associated with evaluating plant-wide caps at complex facilities with deficient monitoring, recordkeeping, and reporting of emissions.

Since the mid 1990's, Texas has issued Flexible Permits to over 125 of the most complex and largest facilities in the nation. Such facilities include refineries and petrochemical plants located along the Gulf Coast near Houston, Port Arthur, Beaumont, and Corpus Christi, Texas. In September 2009, EPA Region 6 formally disapproved the flexible permitting program and began working with companies to develop a process to "de-flex" these permits and establish unit specific emission limitations. The involvement of our enforcement staff in this process has been critical in providing regulatory certainty for the regulated community.

In addition to tracking the transition of flexible permits, we also initiated investigations into several recent permitting actions at electric utilities. The focus of these investigations was to ensure that these permitting actions were fully consistent with Federal laws and the approved State Implementation Plan. Several concerns were identified that are in direct conflict with Federal Prevention of Significant Deterioration regulations. We issued several information requests, findings of violation, and opportunity to confer letters to engage electric utilities in technical discussions to remedy these concerns.



ADEQ Takes Lead on Title V Case: Preformed Line Products, Rogers, Arkansas

When contacted by EPA in 2009 regarding its emissions report as part of Toxic Release Inventory, Preformed Line Products in Rogers, Arkansas, confirmed its emissions and was determined to be a major air pollutant source rather than a minor source as previously classified. They did not have a Title V air permit, required of all major air sources.

During settlement discussions, the company agreed to go through the Title V permitting process. Soon thereafter, ADEQ approached EPA and requested to take the lead on the enforcement case. EPA referred the case with the agreement that the final resolution be comparable with EPA's proposed resolution. In February 2011, ADEQ settled a consent agree-

Air Enforcement

ment order. Parties agreed on a penalty of \$127,400 and a Supplemental Environmental Project of \$68,600. ADEQ, the Region, and Preformed are currently reviewing SEP opportunities to identify a project that would benefit the community.

The region is exploring similar opportunities for referrals to states to achieve “win-win” results. Referrals not only help states to fund their programs but they enable EPA to shift valuable resources to other enforcement matters.

Sharpening the Saw

A Closer Look At Hydraulic Fracturing

In May 2011, we met with industry representatives in Krum, Texas, to conduct a field tour of well sites operated by Conoco Phillips. The purpose was to provide insight on gas drilling and the hydraulic fracturing process. Staff were able to observe routine functions at well sites and ask questions of facility personnel. This was a unique opportunity to examine gas drilling operations and determine applicability to the Clean Air Act. Conoco Phillips provided information on best management practices aimed at reducing environmental impacts that could be shared with other gas drilling companies.



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Natural Gas Extraction and Production Training

In June 2011, we provided multi-media training to personnel from EPA Regions 3 and 5 on a number of critical issues related to land-based natural gas extraction and production. Portions of Regions 3 and 5 are located over the Marcellus Shale, one of the largest gas shale plays in the country, where concerns regarding pollution and impacts to human health have been raised. Classroom presentations were supplemented with onsite visits to various local natural gas extraction facilities in Region 6. Classroom topics focused on real-time enforcement processes, and included flowback and produced water discharge treatment, recycling/re-use/disposal, and hazardous air pollutant emissions from well pads, compressor stations, condensate tanks, and gas production plants.

Measuring Methane Admissions from Oil/Gas Production

We assisted the Office of Research and Development in a study to develop a method to measure methane emissions from oil and gas production activities utilizing the gas finder infrared camera. The measurement method is intended for any type of facility or site associated with oil and gas production, including wells, condensate and product storage tanks, compressor stations, and natural gas processing facilities. If this method proves to be practicable, it will be published as an EPA method and transferred to state enforcement programs to allow comparison of actual measured emissions to permitted emissions.

Region 6 Presents Webinar on Oilfield Compressor Basics

In June 2011, Region 6 Enforcement staff presented a webinar to the National EPA Oil and Gas Task Force Air Technical Workgroup on the basics of oilfield compressors, highlighting the experiences of Region 6 personnel inspecting compressors in the field for leaks using an infrared camera.

Basic Inspector Training Course

We hosted the Basic Inspector Training Course in June 2011. The course is required for all federal inspectors under Executive Order 3500.1. There were 35 attendees from EPA, state, tribal and other federal agencies.

National Flare and LDAR Conference

In June 2011, EPA Region 6 and the Texas Commission on Environmental Quality hosted the National 2011 Flare and LDAR Conference at TCEQ headquarters in Austin, Texas. Representatives from EPA and state and local agencies participated in the conference. Presentations from industry leaders, such as John Zink, Marathon Petroleum, and Encompass/EA, discussed innovative Leak Detection and Repair and flare technologies. Additionally, topics related to collaborative efforts to reduce LDAR and flare related emissions were discussed.



Hazardous Waste Enforcement

During FY 2011 we continued to pursue large mineral processing cases, settled the Air Products case which resulted in the treatment, reduction, or elimination in excess of three billion pounds of hazardous waste, and moved the Agrifos case near settlement, which has already resulted in the reduction or removal of phosphates from wastes generated.

We pursued corrective action at several facilities through three orders and several information requests and helped move towards meeting GPRA corrective action goals (remedy construction complete). In addition, we developed training modules for basic inspector training to help focus attention on important corrective action components, and provided input on several national work groups.

We also placed as a priority, investigation of centralized waste treatment facilities, treatment, storage, and disposal facilities, and large quantity generators. In general, our inspections did not find significant violations. As a result, we redesigned our targeting strategy using a variety of different data systems in an effort to use our inspection resources more strategically.

In our Toxic Substances Control Act programs, we emphasized the new lead-based paint rules for renovation and repair of residential buildings. Utilizing blood lead levels data from the Centers for Disease Control and health departments, we partnered with other Region 6 staff to target our inspection efforts. Our inspection reports and sampling data were used for actions by state health agencies and Child Protective Services to suspend the license of a Dallas pre-school until fugitive lead could be abated, protecting the lives of nearly 100 children.

We continued to coordinate federal facility enforcement activities for our region and hosted a federal facility environmental management conference in our regional office to provide compliance assistance to this sector.

Mineral Processing Initiative First Closure Order Completed

A RCRA 3008(a) Order issued to Agrifos was completed this year. A hazardous waste injection well permit, (no-migration petition) for the second underground injection well used by ExxonMobil in the Corrective Action for the gypsum stacks at the Agrifos facility was finalized and approved. The structure has dewatered more quickly than originally anticipated because of a dry summer. This action is the first order completed under the national phosphoric acid mineral processing initiative. Both Agrifos and



ExxonMobil have cleanup responsibilities for the Houston, Texas, site.



Agrifos, Houston, TX - Gypsum stacks

US Oil Recovery, LLC and MCC Recycling, LLC

In 2010, it was determined that the US Oil Recovery and MCC Recycling facilities in Pasadena, Texas, were posing imminent and substantial endangerment to the public due to overflowing and leaking waste containers and containment areas. The two facilities were operating together as a centralized waste treatment facility. A RCRA 7003 Order was issued to the owner of the facilities requiring characterization and removal of all wastes, and contamination assessment and remediation. The Superfund Removal Program conducted an emergency response to alleviate the overflowing wastes. In 2011, RCRA 3007 information request letters were mailed to over 200 companies that sent waste to these facilities to verify and evaluate the amounts and types of wastes received. The information responses are also being used to identify those companies that sent waste which USOR and MCC were not authorized to receive. The facility has since been proposed for inclusion on the Superfund National Priority List.



Illegal storage of hazardous waste at a centralized waste treatment facility

Hazardous Waste Enforcement

Texas Chemical Manufacturer Reduces Risk of Toxic Releases

Air Products, LLC paid over \$1.3 million in penalties and agreed to measures that will improve the management of and reduce the risk of the release of a billion gallons of toxic waste waters from its Pasadena, Texas, facility and a neighboring facility into the Houston Ship Channel, groundwater, and the surrounding area. The nearby community has a minority population of approximately 67 per cent, with more than 16,000 persons living below the poverty level, and one third of the population under the age of 17. The consent decree resolves Air Products' Resource Conservation and Recovery Act violations at its Pasadena chemical manufacturing facility for transferring spent acid to the neighboring Agrifos fertilizer manufacturing plant. The agreement directs Air Products to continue to manage the spent acid on-site and not ship it to other facilities not authorized to accept it. In addition, the company will institute modifications to reduce the toxic levels of contamination in the spent acid and will build a \$60 million regeneration plant that will stop the acid waste stream altogether.



tion and Recovery Act violations at its Pasadena chemical manufacturing facility for transferring spent acid to the neighboring Agrifos fertilizer manufacturing plant. The agreement directs Air Products to continue to manage the spent acid on-site and not ship it to other facilities not authorized to accept it. In addition, the company will institute modifications to reduce the toxic levels of contamination in the spent acid and will build a \$60 million regeneration plant that will stop the acid waste stream altogether.

Lead Battery Recycling Plant

On August 1, 2011, EPA issued a unilateral administrative order to Exide Technologies located in Frisco, Texas, to address apparent releases of hazardous constituents to the environment. EPA identified lead concentrations exceeding 5,000 ppm near the of Stewart Creek, which runs through the facility.



The order requires Exide to characterize the nature and extent of contamination associated with various waste management areas and releases at the facility, particularly as they impact Stewart Creek both on- and off-site, and also to identify corrective/remedial action options. Immediately downstream of the facility the City of Frisco plans to develop a park which includes recreational areas along the creek.

Illegal Cathode Ray Tube Export

Honga Company Limited of Carrollton, Texas, exported cathode ray tubes with a description on the bill of lading as "metal scrap, office equipment" or "scrap metal" or "scrap plastic." EPA issued a complaint



and notice of opportunity for hearing for the illegal export of approximately 2,000 CRTs by Honga containing approximately 8,000 pounds of lead. The complaint requires a penalty payment of \$26,910 and prevents continued illegal export by requiring proper disposal. Illegal exports involve issues including unsafe work environment practices, improper electronic disassembly, and improper material content separation methods.

Lead-Based Paint Rule Enforcement



On September 14, 2011, a complaint and notice of opportunity of hearing was filed against Statewide Remodeling, Inc. of Grand Prairie, Texas, for alleged violations of the Lead-Based Paint Residential Property Renovation Rule. Our inspection determined that the company failed to comply with the RRP Rule. The complaint alleges 40 violations of the RRP Rule and proposes a civil penalty of \$70,720.

23 Years of Oversight at BFI-CECOS Landfill

A consent decree filed in 1988 was completed in 2011 and the facility, BFI - CECOS, ceased operation as a permitted hazardous waste landfill. Under the decree, BFI installed barrier walls to restrict the movement of hazardous waste contami-

Hazardous Waste Enforcement

nants; moved contaminated soils into appropriately engineered and constructed cells on the property; installed a leachate collection system at the new landfill cells; installed groundwater recovery and monitoring wells; and constructed a groundwater remediation system as instructed by the decree. Environmental benefits resulting from 23 years of oversight include proper disposal of approximately 7,125 tons of hazardous landfill leachate, 20 million gallons of remediated groundwater, and sequestration of 140 acres of contaminated soils from groundwater to a maximum depth of 60 feet below grade surface with a slurry wall.

EPA and LDEQ required long-term groundwater recovery and monitoring in the post closure permit.

Response to Citizen Concerns

EPA and the Texas Commission on Environmental Quality jointly inspected Numo Manufacturing Inc. in Kaufman, Texas. In response to a citizen complaint alleging that hazardous waste was being "dumped out of the back door." During the inspection, releases of hazardous waste were found due to a leaking auxiliary drain pipe connected to the emulsion removal tank, and a make shift screen box that was open to the ground. Under TCEQ's orders, the facility is conducting an on-going soil investigation and removal action. To date, 20 drums of contaminated soil from the affected area has been removed.



Sharpening the Saw

Compliance Assistance for Federal Facilities

A conference was held at the EPA regional office on April 26-27, 2011 for Federal Facilities. The conference included presentations on federal facility compliance and enforcement, such as complying with the Section 608 Refrigerant Recycling Rule; Significant New Alternatives Policy Program; sovereign immunity and the Clean Air Act; and Superfund strategy, policy, and guidance. There were also presentations on materials management case studies; Superfund reuse tools available for Federal facilities; RCRA green perspective and case studies; Underground Storage Tanks; and many other important topics. The conference concluded with a presentation by Dr. Steven Bernhardt from Honeywell Global Director Regulatory Affairs, on "HFO - 1234yf: A Global Sustainable solution for Mobile Air Conditioning." The conference was attended by 50 State and Federal representatives.

Top Ten University Violations Presentation at HBCU Symposium

Dillard University's Deep South Center for Environmental Justice hosted an Environmental Health & Safety Compliance Symposium for Historically Black Colleges and Universities on April 25-27, 2011, in New Orleans, Louisiana. EPA provided a speaker for the plenary session and discussed the topic, "Top Ten University Violations." The discussion included proper disposal and handling of hazardous materials and chemicals, and inter-



pretation of federal regulations to ensure a safe working environment for personnel and the campus community.

Water Enforcement

Our highest priority is to provide quality drinking water that meets national health-based standards, working closely with our state partners and tribal drinking water systems. This year, we issued 171 administrative orders to protect the health of approximately 86,000 people. The orders required monitoring and reduction or elimination of bacteria, arsenic, nitrate, and disinfection byproducts (haloacetic acid and trihalomethanes) from drinking water systems.

The protection of drinking water aquifers was also a high priority. We developed an imminent and substantial endangerment order that was issued to Range Resources in Parker and Hood Counties, Texas. This is the agency's first enforcement action to protect drinking water from methane contamination. The case is currently pending before the Fifth District Circuit Court of Appeals.

With regard to surface waters, significant actions including 100 administrative orders and 48 administrative penalty complaints were issued to address water quality problems caused by sewage treatment facilities, animal feeding operations, industrial facilities, inadequate storm water control, and land-based oil and gas production facilities. A total of 44 administrative orders were cease and desist orders, issued shortly after inspection, to immediately improve operations of package sewage treatment plants or to remove and prevent stream contamination from produced water discharges associated with oil and gas production.

We had a significant national impact upon the control of animal waste discharges from concentrated animal feeding operations this year. Working with our partners, the Oklahoma Department of Agriculture, Food and Forestry, Texas Commission of Environmental Quality, and the Department of Justice, we settled the largest civil case against a CAFO nationally. The joint settlement against Mahard Egg, one of the largest egg producers in the nation, is described below.

Overall, the year was successful even though our budget for travel, personnel, and case development was significantly reduced. Our effective working relationships with our state partners, usage of the Environmental Targeting Tool for drinking water systems, usage of the watchlist for wastewater treatment systems, and the commitment of staff and counsel continued to make Region 6 a better place to live.



Nation's Largest CAFO Settlement



In 2011, U.S. EPA Region 6 assessed the largest civil penalty paid in a Federal enforcement action involving a concentrated animal feeding

operation. Mahard Egg Farm, Inc., one of the largest egg producers in the U.S., agreed to spend \$3.5 million on measures to reduce more than 110 million pounds of pollutants, including potassium, nitrogen, phosphorus, and total solids, and pay \$1.9 million in Federal and state penalties. The settlement resolves claims that the Texas company violated the Clean Water Act at its egg production facilities in Texas and Oklahoma. As part of this settlement, which resulted from extensive cooperation between the states of Texas and Oklahoma and the Federal government, Mahard Egg committed to comprehensive changes to bring its seven CAFO facilities into compliance with applicable state and Federal laws, permits, and regulations and to restore the lands to prevent future discharges to area waterways.

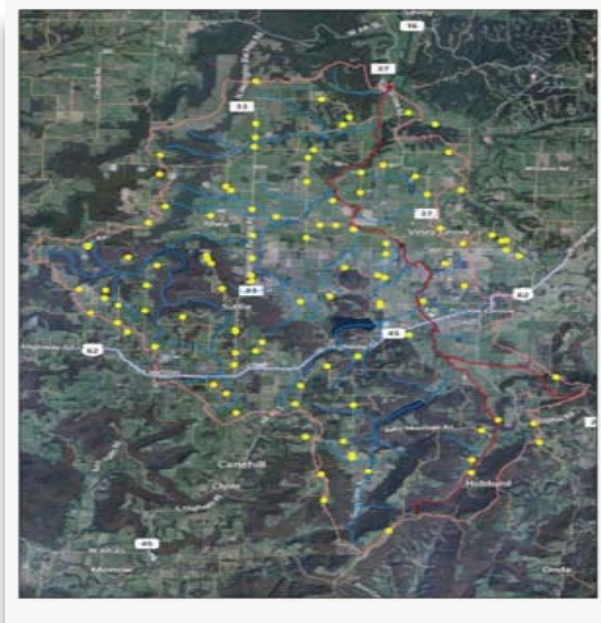
Innovative Use of GIS Tools to Investigate Impaired Waters

The universe of concentrated animal feeding operations is constantly changing. Many facilities that were once in operation have gone out of business and new ones seem to pop up in relatively short periods of time, especially in the poultry industry. This required us to come up with an efficient and reliable tool to identify the locations of potential CAFOs and use that information to prioritize our field activities. The use of high resolution aerial imagery and Geographic Information System technology to identify CAFO operations, as well as providing other critical information, provides an effective, innovative solution.

We have successfully performed this type of activity in the Muddy Fork Watershed in northwest Arkansas, which includes over 72 square miles. This area was selected because of known high density of CAFOs and impaired waters consistent with that of CAFO discharges (bacteria and nutrients). Following a review of the high resolution aerial imagery, staff spent three days in northwest Arkansas ground-truthing information to verify information obtained from

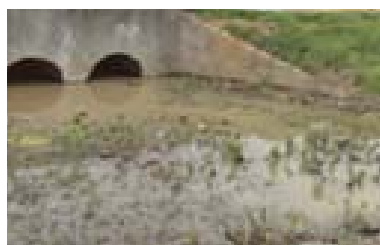
Water Enforcement

the aerial images. In the desktop review of the aerial images of Muddy Fork Watershed, EPA identified approximately 85 CAFO facilities. Following field investigations, approximately 50 percent were identified as currently being in operation. EPA is in the process of inspecting the Arkansas facilities on a priority basis to minimize the elevated bacteria and nutrient concentrations reaching the streams and rivers in the watershed.



Aerial image of Muddy Fork Watershed

Sanitary Sewer Overflows



We continue our focus on reducing discharges of raw sewage and contaminated storm-water into our nation's rivers, streams and lakes. Older urban areas in particular

have aging sewer systems that are not designed to handle heavy rainfall and snowfall, growing urban populations, and industrial discharges. As a result, untreated sewage too frequently overflows from sewers into waterways, or backs up into city streets or basements of homes. Raw sewage contains pathogens that threaten public health, leading to beach closures and public advisories against fishing and swimming.

The City of Corpus Christi, Texas, has experienced excessive sanitary sewer overflows throughout their entire collection system. In September 2011, six ad-

ministrative orders were issued under the authority of the Clean Water Act for unauthorized discharges of wastewater resulting in impaired receiving waters due to bacterial contamination. The orders require the city to immediately address their overflows on a system-wide basis and submit a repair and rehabilitation plan for the sewer system.

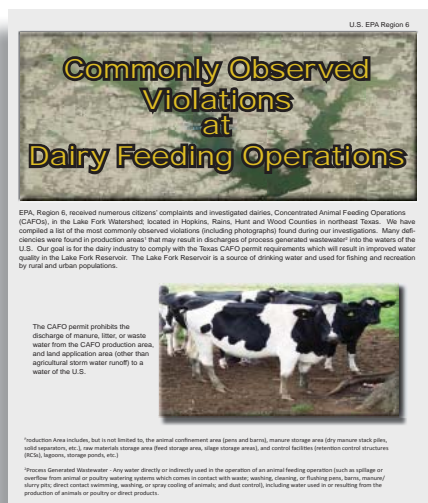
Criminal Trial Returns Guilty Verdict



In 2011, our staff testified during a criminal trial at the District Court in Monroe, Louisiana. The criminal case involved the Louisiana Land & Water Company and LWC Management Company, Inc. The criminal case ensued as the result of Clean Water Act inspections conducted at numerous minor wastewater treatment plants operated by LLWC in the Western District of Louisiana. A guilty verdict was returned by the jury on January 25, 2011, against J. Jeffrey Pruett, owner and operator of LLWC, and LWC. Mr. Pruett was sentenced to 21 months in prison and fined \$850,000.00 for seven felony violations of the CWA on June 8, 2011.

Outreach Materials Created for Dairy Farmers in Northeast Texas

We received numerous citizens' complaints and began investigating dairies in the Lake Fork Watershed area: Hopkins, Rains, Hunt, and Wood Counties in northeast Texas. A pamphlet was created describing the most commonly observed violations found during our investigations, especially discharges of process generated wastewater into the waters of the U.S. The Lake Fork Reservoir is a source of drinking water, and is used for fishing and recreation by rural and urban populations.



EPA, Region 6, received numerous citizen complaints and investigated dairies. Concentrated Animal Feeding Operations (CAFOs), in the Lake Fork Watershed, located in Hopkins, Rains, Hunt and Wood Counties in northeast Texas. We have compiled a list of the most commonly observed violations (including photographs) found during our investigations. Many deficiencies were found in production areas that may result in discharges of process generated wastewater into the waters of the U.S. Our goal is for the dairy industry to comply with the Texas CAFO permit requirements which will result in improved water quality in the Lake Fork Reservoir. The Lake Fork Reservoir is a source of drinking water and used for fishing and recreation by rural and urban populations.

The CAFO permit prohibits the discharge of manure, litter, or waste water from the CAFO production area, and land application area (other than agricultural storm water runoff) to a water of the U.S.

*Reduction Area includes, but is not limited to, the animal confinement area (pens and barns), manure storage area (dry manure stack piles, windrow piles, etc.), raw materials storage area (feed storage area, silage storage areas), and animal facilities (breeding control structures (BCE), lagoons, storage ponds, etc.).

*Prohibited General Disposal: Any water directly or indirectly used in the operation of an animal feeding operation (such as spillage or overflow from animal or poultry watering systems which comes in contact with waste, bedding, sludge, or feeding pens, barns, manure) dairy pens, areas contain manure, bedding, or any feeding of animals, and dust control), including water used in or resulting from the production of animals or poultry or direct products.

Water Enforcement

Imminent and Substantial Endangerment to Public Health

Several potential health threatening deficiencies were identified at three public water systems on the Mescalero Apache Tribal reservation that serve the Mescalero community, the Bureau of Indian Affairs hospital, and the Silver Lake recreational area vehicle park. Concerns noted include: bacteriological contaminants from decaying rodents in the spring boxes, lack of adequate disinfection, and deplorable conditions of the spring boxes. We acted quickly to collaborate with Mescalero Tribal leaders to address these imminent health threats. This effort increased Tribal awareness to the operation and maintenance of the water systems on the Reservation. As a result, a preventive maintenance program was initiated providing drinking water protection to over 2,300 residents of the Mescalero community, 250 patients at the BIA hospital, and 200 elementary school children.



Drinking Water Enforcement in Texas and Louisiana

In Louisiana, where EPA is the direct implementation authority under the Safe Drinking Water Act for the Stage 2 Disinfection By-Products Rule, 109 administrative orders were issued for violations associated with this rule. We continue to work closely with other offices in the region and the State of Louisiana to bring these facilities into compliance with this rule.

Working in coordination with Texas, we have moved forward with issuance of administrative orders for multiple maximum contaminant level rule violations where the state had expired enforcement agreements. We issued 49 AOs for violations of the arsenic standard, four orders for violation of the nitrate standard, and four orders for violation of the fluoride standard. These orders assure public health protection through compliance with MCLs and support the National Enforcement Response Policy.

Real-time Enforcement

Brine Discharges in Osage Territory and Arkansas

We continued our oil and gas enforcement efforts by issuing 26 real-time orders for brine discharges on the Osage Mineral Reserve and southwestern Arkansas. Eleven new Administrative Penalty Orders were issued and 13 conclusions were reached on other APOs.



Real-time Enforcement Actions Issued to Wastewater Collection and Treatment Facilities

In June 2011, 17 high priority wastewater collection and treatment system sites were inspected. Due to the severe operation and maintenance issues identified during these inspections, 14 real-time enforcement actions were pursued to ensure that the sites are operated and maintained in a manner that will allow them to stay in compliance with all applicable Clean Water Act regulations.

Sharpening the Saw

Leadership through Training

In 2011, the agency initiated an Energy Extraction Enforcement Strategy focused on the onshore natural gas industry, and we led the development of a hands-on course to provide training to over 40 EPA inspectors and staff from nine regions and Headquarters. We also provided technical training to Regions 3 and 5.



Other Enforcement in the Region

Oil Pollution Act Enforcement

In FY 11, the OPA program launched its off-shore initiative, which focused on the prevention and prepared-



ness of high risk facilities subject to the Spill Prevention, Control, and Countermeasure and Facility Response Plan regulations. The program conducted the first Government-Initiated Unannounced Exercise in the region. During the exercise, EPA evaluated the deployment of response resources to a simulated discharge of oil. The program also stepped up its coordination efforts with state and Federal partners and outreach efforts to the regulated community.

Wetlands Enforcement

In 2011, the wetlands enforcement program issued a total of 25 formal actions. The program was also able to resolve 14 new or ongoing cases. In addition, 44 site inspections were conducted. These efforts led to the direct protection of over 214 acres of wetlands and 5,400 linear feet of streams. The program collected \$243,000 in penalties and required the expenditure of approximately \$971,000 to return destroyed or damaged aquatic habitats back to compliance with the Clean Water Act.



The focus of the wetlands enforcement program this year was on addressing compliance issues in the oil and gas industry, including surface issues associated with shale field development. Fifty percent of the cases resolved involved oil and gas development and 90 percent of the penalties collected were from oil or gas drilling operations that failed to obtain or comply with permits issued by the U.S. Army Corps of Engineers.

Underground Storage Tanks Enforcement

There are currently 90 underground storage tank facilities located in Region 6 Indian country, comprised of 309 tanks, each of which require an EPA regulatory compliance inspection no less than every three years. Twelve of those facilities require inspections annually due to drinking water risks. The tribes in Region 6 typically have entities assigned to the operation of UST systems. Frequently, these operators have a high rate of personnel turnover, which in turn leaves only a moderate level of experience at any particular time.



The Region 6 UST program initiated a special effort in 2000 to improve contact with these UST operators. This included one-on-one consultation and program training opportunities. This on-going effort has achieved positive results. EPA found a compliance rate of less than 10 percent during the first year of inspections. For the three-year period of 2009-2011,

the compliance rate improved to 77.4 percent. These compliance rates are greater than the national average.

Pesticides Enforcement

In 2011, through the implementation of Lean principles, the Pesticides Enforcement Team continued to improve its efficiency. The team decreased processing time from incident to case close-out by 50 percent, which resulted in doubling the number of formal enforcement actions from last year. This also gave the team the ability to conduct 50 percent more inspections in the same period. Among the notable cases, the team prevented the importation of over 250,000 pounds of illegal pesticides into the United States from foreign countries.

In one unusual case over 500 pounds of footwear with illegal mosquito repellent devices were refused entry and returned to the country of origin, with the assistance and supervision of personnel from the U.S. Customs.



National Environmental Policy Act

Applying the Lean Process to NEPA Section 309 EIS Reviews



Lean Process for NEPA 309 EIS Reviews

Working Smarter for Environmental Protection

The regional National Environmental Policy Act Team streamlined the Clean Air Act 309 Environmental Impact Statement review process during a Lean Kaizen event held on May 17 – 19, 2011. Section 309 of the Clean Air Act directs EPA to review certain proposed actions of other Federal agencies in accordance with NEPA and to make those reviews public. Process improvements focused on the following categories: completeness review of National EIS database; creating an electronic repository for NEPA documents; improving internal and external communication/coordination; additional training/guidance; and improved utilization of resources. Staff completed Lean/Six Sigma training provided by the Department of Defense at Fort Belvoir, Virginia, in January 2011. Lean is a collection of principles and tools that improve the efficiency of a process by identifying and eliminating non-value added activities.

NEPA Coordination/Reviews

- 42 Environmental Impact Statements
- 15 Environmental Assessments
- 8 Environmental Assessments/Findings of No Significant Impacts
- 11 Categorical Exclusions
- 16 Scoping Requests
- 316 Project Notifications for Grants
- 9 Agreements to serve as Cooperating Agency
- 271 NEPA consultations

Energy Projects and Clean Air Act Section 309

NPDES Permit for the Territorial Seas of Texas

EPA proposed to re-issue the National Pollutant Discharge Elimination System General Permit for Discharges from the Offshore Subcategory of the Oil and Gas Leasing in the Territorial Seas of Texas. For this GP, a Supplemental Information Report was completed. We reviewed and provided comments on the SIR. According to the SIR, impacts are minor or insignificant and the GP should be issued with a reference to the 2004 EIS and the SIR.



National Environmental Policy Act

Energy Projects and Clean Air Act Section 309

Proposed Pipeline Reversal Project, Texas: Magellan Midstream Partners, L.P. (formerly known as Longhorn Pipeline)

The Pipeline and Hazardous Materials Safety Administration requested that EPA become a Cooperating Agency, and is preparing a Supplemental Environmental Assessment for a proposal by Magellan Midstream Partners, L.P. to convert certain segments of Magellan's existing Longhorn Pipeline into a crude oil pipeline and reverse the current flow to transport West Texas crude production to the Gulf Coast. These segments include those from Houston, Texas, to Crane, Texas; from Wink, Texas, to Odessa, Texas; and from Odessa to Crane. Magellan is also proposing a new crude oil pipeline from Midland to Crane. We reviewed and provided comments on preliminary chapters of the draft SEA, and anticipate the SEA to be completed and sent for public notice in 2012.

Keystone XL Pipeline Project



EPA completed the review of the Supplemental Draft Environmental Impact Statement for the Keystone XL Project in June of 2011. EPA believes additional analysis is necessary regarding the impacts of transporting oil sands crude from Canada to Oklahoma and Texas, and ways to mitigate those impacts. EPA has requested further

analysis of oil spill risks, environmental justice concerns, greenhouse gas emissions associated with oil sands crude, as well as impacts to wetlands and migratory bird populations. In September 2011, the State Department held townhall meetings in Austin and Port Author, Texas, and Midwest City, Oklahoma. The pipeline would transport crude oil from the Western Canadian Sedimentary Basin to existing markets in the Texas Gulf Coast area. The project consists of approximately 1,707 miles of new, 36-inch-diameter pipeline; 1,380 miles of this pipeline will be located in the U.S., in the states of Montana, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

(Note: On November 10, 2011, the State Department issued a statement that it has determined it needs to under take an in-depth assessment of potential alternative routes in Nebraska.)

Outer Continental Shelf Oil and Gas Leasing: NPDES Permitting

We are responsible for issuing National Pollution Discharge Elimination System permits for oil and gas platforms in the Gulf of Mexico Outer Continental Shelf. Because EPA regulates point source



discharges for OCS oil and gas platforms, EPA works closely with the Bureau of Ocean Energy Management, Regulation and Enforcement in the preparation and review of the Environmental Impact Statements relating to oil and gas lease sales as a cooperating agency for the projects. BOEMRE issued a supplemental EIS for both the Western Planning Area and the Central Planning Area. We prepared and issued a comment letter for both draft SEISs. The 2012-2017 Multi-Sale Programmatic EIS is expected November 2011 and the Final Preliminary EIS is expected June 2012. A NEPA document will determine whether re-issuance of the proposed GP is a major Federal action significantly affecting the quality of the human environment.

Federal Agency Coordination: Supporting Energy Development and Safeguarding Air Quality

In response to President Obama's strategy to expand domestic oil and gas production safely and responsibly, the U.S. Department of the Interior, the U.S. Department of Agriculture, and EPA developed an interagency approach to address air quality issues associated with onshore oil and gas development on public lands. The collaborative approach established in the memorandum of understanding will increase efficiency, certainty, and transparency in the process, benefitting industry, Federal agencies, states, and tribes. Previously, agencies used different approaches which often resulted in project delays. The MOU outlines a number of steps the agencies will take to ensure that federal laws protecting air quality, human health, and the environment are balanced with the nation's energy needs. The MOU will alleviate delays and improve interagency coordination.

The Year Ahead

Air/Toxics Enforcement

We will actively support the national enforcement New Source Review, air toxics, and oil/gas priorities. We will maintain a strong presence in these areas as we target, investigate, and enforce these priorities in nonattainment areas and areas adversely impacting nonattainment areas or nearby communities. Applying the appropriate enforcement resources to these priority areas will result in significant emission reductions, injunctive relief, and ultimately a cleaner air shed for the public to breathe.



We will increase the number of new coal-fired power plant NSR investigations while decreasing the number of investigations in the cement and acid plant sectors. In addition to traditional NSR investigations, we will expand our presence in NSR enforcement reviews of pending permitting actions and state regulations.

With respect to air toxics, we will maintain our focus on leak detection and repair and industrial flares in nonattainment areas as both initiatives remain productive enforcement targets.

We will continue to develop and increase our inspection and enforcement capability to address risk management plan issues at Title V facilities in an effort to prevent accidental releases and explosions, and minimize consequences to the environment and public when releases do occur.



For our new oil/gas priority, we will utilize innovative technology, such as the IR camera, to evaluate CAA compliance. When noncompliance is observed, we will utilize real-time enforcement, administrative authority, or refer cases to the Department of Justice depending upon the severity of noncompliance. In FY 2012 we will continue to issue the majority of the division's referrals to DOJ as well as increase the number of administrative actions issued.

Hazardous Waste Enforcement

This year, the region will strive to be a national leader in the enforcement of hazardous waste programs by identifying facilities that are operating "under the radar" (i.e., not currently in our databases) to keep hazardous waste out of commerce and the environment. We will focus our resources on key areas, including RCRA compliance at specific targeted sectors and RCRA corrective action to achieve significant environmental benefits and improved public health.

We will focus our compliance inspections and enforcement on those sectors or facilities that we suspect should be regulated because of significant potential for environmental harm. We will continue to look for compliance issues at petrochemical facilities with surface impoundments and centralized waste treatment facilities that are operating under local discharge permits that could have large environmental impacts due to mismanagement of wastes. We will increase our use of RCRA corrective action enforcement authorities to address contamination at active facilities, particularly those on the GPR 2020 list and those with groundwater contamination in areas where drinking water sources are scarce or there is the potential for off-site exposures.



We will ensure that there is an enforcement presence for the Lead Renovating, Repair, and Painting rule by continuing to conduct inspections and enforcement to protect public health, focusing on major renovation and repair companies which will result in the greatest environmental benefit from our actions. We will also work to develop state capacity where possible to reduce our activities in these areas over the next several years.

Water Enforcement

The protection of drinking water will be our highest priority in FY 2012. We will work with our state partners to ensure that all public water supply systems provide drinking water consistent with national drinking water standards and the implementing rules, and with Tribal PWSS and other EPA offices to ensure that tribal drinking water systems attain compliance. It is anticipated that the water enforcement program may need to issue over 100 administrative actions during the fiscal year to protect drinking water.



Of additional importance is the need to address sanitary sewer overflow discharges to surface waters. We will focus efforts on resolving existing SSO civil judicial cases and dedicate resources to evaluating previously unaddressed systems, with average flows greater than 10 million gallons per day. With the support of the Office of Enforcement and Compliance Assurance and the Department of Justice, we will evaluate or resolve problems with four to six large municipal sanitary sewage collection systems.

The Year Ahead



The water quality problems posed by concentrated animal feeding operations in northwest Arkansas and east Texas will remain the focus of regional inspection and enforcement activities.

Citizen's complaints will also focus resources to ensure water quality problems are addressed. We will continue to work with Arkansas and Louisiana to develop effective mechanisms for identifying and addressing water quality problems caused by CAFOs. Finally, we anticipate that our work with the Oklahoma Department of Agriculture, Food and Forestry will result in program assumption by the ODAFF in FY 2012. It is anticipated that several outreach efforts with various producer groups, over 20 inspections, and eight to ten enforcement actions will be issued during this fiscal year.

We will place increased emphasis upon inspection and enforcement of National Pollutant Discharge Elimination System permits in New Mexico to protect stream quality from excessive sewage or industrial discharges. Sanitary sewage sludge reports will be submitted from facilities in Arkansas and Louisiana to ensure that sewage sludge is properly handled and treated. Underground injection of oil and gas production wastes will be monitored and enforced to ensure un-

derground sources of drinking water on tribal lands are adequately protected. Small drinking water systems in Oklahoma and Louisiana will be protected from disinfection byproducts which can form in drinking water. Unauthorized discharges of produced water or flow back water from oil and gas production activities will be investigated and enforced to the extent that resources allow. All of these non-delegated functions will require over 200 inspections and result in 40 or more enforcement actions.

Finally, addressing municipal, industrial, or construction-related storm water problems will remain a priority, where water quality problems develop or need to be prevented.

National Environmental Policy Act

In FY 2012, the NEPA program will continue to implement process improvements for the NEPA Section 309 review process resulting from the Lean Kaizen event held in 2011.

Significant progress has already been made in the implementation of these improvements and additional process improvements are anticipated to continue to occur throughout 2012. We will monitor the process improvement implementation progress as it is a critical component to ensure the program implementation sustains the Lean Kaizen gains over the long term.

U.S. EPA, Region 6 Compliance Assurance and Enforcement Division

John Blevins, Director
Steve Gilrein, Deputy Director

Air, Toxics Inspection and Coordination Branch

David Garcia, Associate Director
Steve Thompson, Chief, Air Enforcement Section
Esteban Herrera, Chief, Toxics Enforcement Section
Samuel Tates, Chief, Surveillance Section
Richard Gigger, Team Leader

Hazardous Waste Enforcement Branch

Mark Hansen, Associate Director
Troy Stuckey, Chief, Multimedia Enforcement Section
Guy Tidmore, Chief, Compliance Enforcement Section
Sunita Singhvi, Chief, Corrective Action & Compliance Inspection Section

Water Enforcement Branch

Jerry Saunders, Associate Director
Paulette Johnsey, Chief, NPDES Compliance Section
Willie Lane, Chief, Water Resources Section
Carol Peters-Wagnon, Chief, NPDES Industrial & Municipal Section

Office of Strategic Planning and Analyses

Debra Griffin, Associate Director
Rhonda Smith, Chief Planning & Coordination

SHARPEN THE SAW

