Regional Enforcement Examples

EPA Region 1

Boston Harbor, Boston, MA: The clean up of Boston Harbor took years but resulted in a clean harbor where the surrounding real estate has become highly valuable and has been developed into an expensive location to work and live. In this case, the state of Massachusetts was an adversary since they did not want secondary treatment. The treatment was ultimately approved, along with a miles long outfall tunnel and the creation of a whole new authority to manage the whole thing.

Boston Harbor, from 1985 (when filed) to 1995. During those years, our efforts led to the ending of sludge discharges - that had been going on since 1952! - and then the construction of a modern sewage treatment plant to serve the Boston area - which replaced run down primary only treatment plants which had removed as little as only 15 - 30% of incoming pollution. Later, the case also resulted in the elimination of, or treatment at, over 97% of all combined sewer overflows in and around Boston Harbor - the highest level of progress in the country. This case was filed over local political opposition at the time, but there was consistent support of the Ruckleshaus administration, under Republican President Ronald Reagan. The cleanup is now widely supported in the Boston area, having ended beach closures, massively reduced fish cancers, and helped lead to the revitalization of the Boston waterfront, where there are now multiple business offices, quality apartments, and hotels, in what used to be a wasteland.

EPA Region 2

DeLonghi America, Inc., Saddlebrook, NJ: EPA entered and enforced a consent agreement, under TSCA, with DeLonghi America Inc. in 1988, fining the company $500,000 for importing and exporting oil-filled radiator heaters contaminated with polychlorinated biphenyls (PCBs). Additionally, DeLonghi was required to take other actions as part of the agreement, including placing an article in Consumer Reports about the risks associated with these space heaters and how to safely handle and dispose of any leaking heaters. The company also voluntarily replaced control panels on some of its oil-filled heaters manufactured between 1980 and 1988 due to potential safety concerns, according to a notice from the Consumer Product Safety Commission (CPSC). DeLonghi also offered a replacement program for affected heaters, allowing owners to return their old heater and receive a new one.

HOVENSA Oil Refinery in St. Croix, **US Virgin Islands**: In 2012, Hovensa declared bankruptcy and shut down. Originally built by Hess Oil in the 1960s, it was the largest refinery in the Western Hemisphere and one of the largest in the world. In 2016, the Lime Tree Bay company bought the refinery. After spending billions to rehabilitate the plant, it restarted operations in February 2021. However, on multiple occasions during the following three months there were serious operational problems creating excess emissions incidents that sent high levels of dangerous hydrogen sulfide spreading into

nearby residential communities. Many residents were sickened and had to leave their homes during these incidents; some needed medical attention.

In mid-March, 2021, EPA learned of the first several of these incidents and began enforcement investigations. Then, on the afternoon of April 14, a giant fireball erupted atop the refinery's flare stack. The flare is supposed to burn hydrogen sulfide into less dangerous sulfur dioxide, but this flare was wildly out of control. On April 16 - less than two days later - EPA Region 2 issued an emergency administrative order under Section 303 of the Clean Air Act (CAA) directing the refinery to immediately cease operations while the causes of the various excess emissions incidents could be determined by outside experts, and necessary repairs made under EPA's supervision.

As required under the CAA, the EPA administrative order was replaced in early July with a federal lawsuit in U.S. District Court, along with an interim settlement providing for the corrective work called for by the order to be continued before the refinery reopened. (In fact, the refinery did not reopen; it was sold in 2022 to Port Hamilton Refining, which pledged to bring it into compliance so it can operate safely, an effort that is purportedly still underway.)

EPA Region 3

Hart Senate Office Building, Washing, D.C.: EPA conducted a fumigation of Senator Daschle's suite in the Hart Senate Office Building (HSOB) following the 2001 anthrax attacks. Cleanup of other contaminated areas of the building also occurred. Senators were unable to use the building until fumigation was performed and follow up environmental sampling was negative for anthrax spores.

It was a major undertaking to fumigate the Senator's office. When post-fumigation environmental sampling was negative for anthrax spores throughout the building, Senators, their staff, and other workers in the building were able to return to work. This event was a high visibility issue and appeared on national news reports. A successful outcome was imperative, particularly since the anthrax attacks came right after the 9/11 attacks. Representatives from numerous Washington, DC, agencies were involved in the cleanup.

EPA Region 5

City of Detroit Water and Sewerage Department (DWSD), Detroit, Michigan: The DWSD publicly owned treatment works (POTW) discharges to the Detroit River which flows into the Western Basin of Lake Erie. This POTW treats sewerage from all 3 counties from the entire Detroit Metro area. The POTW was in a major state of disrepair and was not able to operate its phosphorus removal system due to design deficiencies in the final clarifiers and the inability to process the quantity of sludge generated by the treatment process. A federal District Court judge and a Special Master took a very active role in facilitating an agreement between all the parties to upgrade the POTW. The phosphorus removal system was put back into operation, all final clarifiers were modified to meet the suspended solids effluent limits, and a contract was approved to truck sludge to an off-site disposal facility.

Following a 2-year construction period, the POTW was in compliance with its NPDES permit phosphorus limit, and the impact on Lake Erie was immediately noticed over the next several years. Algae blooms were significantly reduced, dissolved oxygen levels increased, and fish kills were greatly reduced. This enforcement action had a major positive impact in improving water quality in the Great Lakes basin. An offshoot from this enforcement action was a major upgrade to the entire stormwater collection for the Detroit Metro area, with the reduced amount of wastewater sent to the Detroit POTW further improving its performance. The EPA Construction Grant program was an essential partner to fund the POTW upgrades and the stormwater system upgrades.

The State of Michigan was a co-plaintiff in this lawsuit. Although at times the State had different opinions on the technical solutions to correct the upgrades to the plant to meet its NPDES permit effluent limits, the State ultimately supported EPA's position and agreed to the Court's Consent Order. The State was cooperative in implementing the Consent Order over the next several years.

Rebecca and Rachel Toone, Layton Utah: The Toone family discovered a persistent rodent problem at their home in Layton, Utah. They called Bugman Pest and Lawn, Inc. to treat it. Coleman Nocks, who was a licensed commercial applicator of pesticides and employee of Bugman Pest and Lawn, Inc., applied Fumitoxin, a restricted use pesticide, at the Toone home. Nocks failed to follow the law by applying an excessive dose of the pesticide too close to the home. The poison then seeped into the Toone's home and caused the death of 4-year old Rebecca Toone and 15-month old Rachel Toone. The defendants received probation in this case. Federal law only authorizes the use of misdemeanor charges to combat the unlawful use of pesticides, even when such unlawful use results in death. The act does not provide for felony prosecutions. However, the misdemeanor charges in this case carry the same penalty as the crime of negligent homicide available under state law.

U.S Steel, Gary, Indiana
In one of the most significant precedent setting cases under the Clean Water Act, U.S. EPA and State of Indiana resolved enforcement actions against U.S. Steel in Gary, Indiana in 1977 resulting in about a 90 percent reduction in ammonia, cyanide, and phenols and other pollutants discharged to Lake Michigan. The case spanned the Nixon, Ford, and Carter administrations and helped establish the prominence and effectiveness of the Clean Water Act in protecting the nation's waters. In addition to resolving the water enforcement case, the consent decree resolved an expansive challenge by US Steel's to its Clean Water Act permit that mandated the pollution reductions. Along with the resolution of the water pollution case, there was a simultaneous settlement of a Clean Air Act criminal contempt action brought against US Steel for its nearby Universal Atlas Cement facility.

U.S. Steel estimated that it would invest $70 million in 1977 dollars to achieve the pollution reductions required. In addition, the Company paid a penalty of $3.5 million to the United States and the State of Indiana, as well as $750,000 to research the impact

of pollution on Lake Michigan. U.S. Steel also paid $250,000 to settle the Clean Air Act case.

The Fox River in Wisconsin Superfund Enforcement and Cleanup
U.S. EPA brought enforcement actions under Superfund in cooperation with the State of Wisconsin in the late 1990's against a group of seven pulp and paper companies to require a cleanup of 39 miles of the Fox River in Wisconsin for removal and management of more than 6.5 million cubic yards of PCB contaminated sediment. The companies agreed to pay about $600 million to help pay for the cleanup, including a settlement by two companies in 2019 to pay $70 million for long-term monitoring and restoration. The cost of the entire project exceeded $1 billion. With natural resource restoration managed by the U.S. Fish and Wildlife Service and the Wisconsin Department of Natural Resources, the Fox River is returning to one of the best walleye fisheries in the world and a home for abundant wildlife.

EPA Region 7
Nahant Marsh Superfund Site, Davenport, IA: Nahant Marsh was used as a trap and skeet shooting range by a former gun club, resulting in an estimated 243 tons of lead shot being deposited on a 70-acre portion of the marsh. The US Fish and Wildlife Service contacted EPA after finding dead migratory waterfowl in the marsh. EPA, after investigations showing high lead levels, designated the marsh as a Superfund site, and required cleanup under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA, Fish and Wildlife Service, River Action, Quad City Audubon Society, and the Iowa Department of Natural Resources, worked together to remove the lead-contaminated marsh bottom sediments and shoreline soil. Currently, Nahant Marsh preserve is one of the largest urban wetlands on the Upper Mississippi River. It comprises of marshy areas, mesic, wet and sand prairie, and bottomland forest. A spring-fed quarry, known as Carp Lake, and the surrounding grounds, are part of the Nahant Marsh preserve as well. The 382-acre preserve is owned by the City of Davenport and the Nahant Marsh Board, a 501(c)(3) nonprofit organization. Conservation and restoration efforts on the preserve are directed by the Nahant Board. The educational programming is overseen by Eastern Iowa Community Colleges.

Sunflower Army Ammunition Plant, Desoto, KS: The former Sunflower Army Ammunition Plant (SFAAP) is a 9,065-acre tract in DeSoto, Kansas, a suburb of Kansas City. The SFAAP was commissioned by the U.S. Army in 1942 to produce military-grade gun powder and propellants. Beginning in 1991, the plant has been a Resource Conservation and Recovery Act (RCRA) facility for areas where hazardous wastes were generated, treated, or disposed of. The plant was declared excess in 1998 by the Army and the property was sold to Sunflower Redevelopment, LLC, a private developer, in 2005.

In 2022, Panasonic Energy and Kansas Governor Laura Kelly announced the development of a $4 billion electric vehicle battery manufacturing facility on the former SFAAP, employing 4,000 workers in the construction phase, with an estimated 4,000 permanent well-paying production jobs, and 4,000 indirect jobs created by suppliers and community businesses. This is the largest development project in Kansas history, and the largest EV plant in the U.S.

Scheduled to open this Spring, the Panasonic project is the result of a federal-private party cleanup that has been jointly administered by EPA and the Kansas Department of Health and the Environment (KDHE) under a RCRA hazardous waste management permit involving the
investigation of releases from over 100 Solid Waste Management Units and Areas of Concern. Soil contamination affecting remaining areas at the plant is to be completed in 2028. This cleanup, and resulting transformative development for northeast Kansas, was made possible, in large part, by the combined and coordinated efforts of KDHE and EPA. Sunflower Redevelopment has gifted land to local universities and government units for walking trails and research purposes, creating an attractive setting for additional development.

National Geospatial-Intelligence Agency West facility, St. Louis, MO: Construction of the new National Geospatial-Intelligence Agency West facility, or Next West, in North St. Louis is expected to be completed in 2026. With a price tag of $1.7 billion, the new campus will include a 700,000-square-foot office building, two parking garages, and a visitor center. Over 3,100 people will work at the complex, bringing life and activity to a corner of the city that had long been economically depressed. Without the coordination between the city of St. Louis, Missouri Department of Natural Resources, and EPA, the new campus might still be an underdeveloped brownfields site. It was a long road and a lot of work just to get to the first shovelful of dirt at the groundbreaking. The first step in the journey from eyesore to economic boon came in 2012.

The NGA was considering moving from its old outdated facility which was established for the U.S. Cavalry in 1827. The facility desperately needed upgrades as the infrastructure was aged. After running the numbers, NGA realized that it would make more sense, both logistically and economically, to build a new facility rather than upgrade the old one. NGA was considering moving out of the St. Louis area altogether, taking thousands of high-paying jobs and tax dollars with them. But the St. Louis Development Corporation (SLDC), in coordination with the city of St. Louis, saw an opportunity to preserve the NGA's footprint there. These partners had painstakingly acquired 97 acres of underdeveloped brownfields land that was big enough to house the NGA facility. The property had been a mix of commercial and residential use, including businesses that contributed to contamination in the area including former dry cleaners, service stations, junk yards, and chemical facilities.

While the brownfields site was an ideal location for NGA's new facility, it had to be cleaned up and prepared for redevelopment, which was a huge undertaking considering the size and history of the site. The NGA required that the site be assessed and

remediated through the Missouri Department of Natural Resources' (MoDNR's) Voluntary Cleanup Program and be issued a Certificate of Completion before the NGA would begin construction.

After conducting some initial assessments, MoDNR requested EPA's assistance through its Targeted Brownfield Assessment program, which helps states, tribes, and municipalities minimize the uncertainties of contamination often associated with brownfield sites. Additionally, the U.S. Air Force, which would ultimately operate the facility, required that EPA provide a No Further Remedial Action Planned (NFRAP) determination for construction to begin. EPA Region 7 worked with the SDLC and MoDNR to complete Phase I and II Environmental Site Assessments for the property. The ESAs identified numerous underground storage tanks and elevated levels of arsenic and lead in the site soil, as well as polycyclic aromatic hydrocarbons (PAHs) and volatile organic compounds (VOCs) in the groundwater. After assessment, cleanup activities to prepare the site for construction included removal of buried construction and demolition waste, digging up and hauling away underground storage tanks, and removing over 700,000 tons of contaminated soil.

The collaboration between the partners paid off, and on Oct. 17, 2018, EPA officially notified the city of St. Louis that it had made the needed NFRAP determination and that the plans for the new NGA West site could go ahead.

TC Energy Mill Creek, Washington County, Kansas: On December 8, 2022, TC Energy reported a pressure drop in a 36-inch crude oil pipeline, part of the Keystone pipeline system near Washington, Kansas. The oil discharged overland and into Mill Creek, a nearby perennial stream. TC Energy estimated the total oil volume discharged as 588,000 gallons (14,000 barrels). Two EPA Region 7 On-Scene Coordinators (OSC) mobilized to the response the morning of Dec. 8, 2022, integrating into Unified Command with the Kansas Department of Health and Environment (KDHE) and TC Energy. TC Energy enacted its pipeline response plan and commenced oil containment and recovery activities mobilizing numerous resources including oil containment booms, vacuum trucks, frac tanks, light stands for night operations, and heavy equipment. Impacts to Mill Creek initially extended approximately three miles downstream. To provide containment and prevent downstream migration of oil on Mill Creek, an underflow dam was constructed on the creek at a low water crossing road approximately four miles downstream of the pipeline rupture.

Operations were performed 24/7 during the initial bulk oil recovery phase. This phase was completed on Jan. 29, 2023 when the recovery of bank-to-bank oil on Mill Creek was complete. Following substantial construction and engineering projects, response personnel were able to access submerged oil impacts in Mill Creek when the creek was dewatered to recover oil-impacted debris, sediment, and vegetated shoreline. Oil recovery within Mill Creek continued until May 11, 2023, when response crews shifted their focus to stream restoration. In May, under the U.S. Army Corps of Engineer's (USACE's) Nationwide Permit 27: Aquatic Habitat Restoration, Enhancement, and Establishment Activities, restoration to Mill Creek began. Through this permit, the

restoration work occurred to allow for Mill Creek to be restored to its original condition, form, and functions. Additional response-related tasks, such as the disposal of oil-impacted soil and sediment and response-generated waste, and the restoration of lands impacted by the response, remained ongoing during this timeframe.

EPA Region 7 confirmed that the removal of oil was complete during a final visual inspection of the creek completed on Friday, Oct. 13, 2023. Mill Creek is once again flowing naturally. EPA staff worked more than 6,000 hours and took over 83 trips to the scene. EPA personnel from Regions 3, 5, and 6 supported Region 7, along with staff from the U.S. Coast Guard – Atlantic Strike Team. In total, more than 54 million gallons of contaminated surface water were treated and discharged back into Mill Creek. Over 650,000 gallons of oil were recovered, including product remaining in the pipeline following the rupture. Approximately 200,000 tons of oil-impacted soil, sediment, and debris were excavated and sent off-site for disposal.

Omaha Lead Superfund Site, Douglas County, Nebraska. The Omaha Lead Site includes about 27 square miles of downtown Omaha. From the early 1870s to 1997, two lead smelting plants, American Smelting and Refining Company, Inc., (ASARCO) and the Aaron Ferer & Sons Company, later Gould Electronics, Inc., (Gould), operated on the banks of the Missouri River. Plant smokestacks released lead and other heavy metals into the air that settled and contaminated the ground across the site. The Gould plant closed in 1982 and the ASARCO plant closed in 1997. EPA added the site to the National Priorities List (NPL) in 2003.

EPA led the cleanup efforts from 2009 to 2015, which included removing surface soil from residential properties and other high child-use areas with high lead levels. In 2015, EPA approached the city of Omaha to address the remaining phases of the final remedy, including ongoing efforts to collect soil samples, clean up remaining eligible residential properties, conduct exterior lead-based paint stabilization, and develop a public-facing website and a broad public education program. The city of Omaha continues to clean up other residential soils, does exterior lead paint stabilization and educates the public about the health risks of lead exposure, and continues to perform these tasks through a Cooperative Agreement funded and overseen by EPA. EPA also signed a Cooperative Agreement with the Douglas County Health Department in 2015, funding interior lead dust screening, ongoing blood lead screening for children 7 years and younger, and education and outreach efforts to the medical community on the health hazards of lead exposures.

Since 1999, nearly 13,500 properties have been remediated. Cleanup efforts are ongoing. Elevated blood lead levels in children have dropped from 36% above the 1999 action level to <2% above a more conservative, halved action level in 2015, with almost triple the number of children getting tested. With these milestones of remedial progress and protection of human health, the city of Omaha is looking to the future, investing over $7.9 billion in projects focused on community amenities and economic revitalization. Due in part to years of open communication and education about the site with developers, engineers and environmental professionals, Omaha’s development

community does not shy away from redeveloping sites formerly contaminated with lead if the contamination was properly addressed by EPA and the city.

EPA Region 9

Indian Bend Was Superfund Site, Scottsdale and Tempe, AZ: parties responsible for contaminating 10 square miles of groundwater have been actively engaged in cleaning up the aquifers and providing clean treated water to the public water supply since the 1980s through a Consent Decree with EPA.

United States v. Hart, San Diego, CA: Earlier this year, the first criminal case related to the AIM Act was indicted. Michael Hart of San Diego was arrested and charged with illegally smuggling HFCs and HCFCs into the United States from Mexico and selling them for profit. The indictment alleges that Hart purchased refrigerants in Mexico and smuggled them into the United States in his vehicle, concealed under a tarp and tools. Hart posted the refrigerants for sale on OfferUp, Facebook Marketplace, and other sites. Hart has been charged with conspiracy, importation contrary to law, and sale of merchandise importation contrary to law. The maximum penalty for a smuggling charge under 18 U.S.C. § 545 is 20 years in prison and a $250,000 fine. Since March, defendants in four additional cases have been charged with illegally smuggling HFCs contrary to the AIM Act.

Federal Facilities, Nationwide

Department of Defense Military Bases: EPA has been actively working with DOD under federal facilities agreements to clean up contamination at active and closed military installations nationwide and returning decommissioned properties to beneficial use. (I specifically worked on former Williams Air Force Base in Mesa, AZ, which is now the Phoenix-Mesa Gateway Airport; have also worked on McClellan Air Force Base in Sacramento, CA and former Mare Island Naval Shipyard in Vallejo, CA which although primarily a State Superfund cleanup, more than 500 PCB sites were cleaned up under a TSCA Consent Agreement and Final Order, allowing for property reuse there. In particular, the massive submarine assembly shop which had PCB soaked flooring has been completely restored and is now in use by a manufactured home builder. A former coal shed is now a brewery and restaurant.

DOI/BIA/BIE Tribal Schools Enforcement: In 2011, EPA began providing comprehensive compliance assistance materials and inspections at Tribal elementary and secondary schools and colleges/universities. Inspections found a significant number of serious violations. In many cases, the violations could pose hazards to students or staff.

Some statistics found during inspections:
Drinking Water Violations at 84% of schools with drinking water systems
Hazardous Waste Violations at 76% of schools inspected for RCRA
Asbestos Violations at 65% of schools inspected for AHERA
Emergency Response Violations at 56% of schools inspected for EPCRA

Spill Prevention Violations at 30% of schools inspected for SPCC
Discharges to Water Violations at 27% of schools inspected for Stormwater; 18% of schools inspected for CWA/NDPES
Underground Injection Control Violations at 13% of schools inspected for UIC
Underground Storage Tanks Violations at 7% of schools inspected for UST
Clean Air Act Violations identified at 6% of schools inspected
PCBs Violations at 15% of schools inspected for TSCA

EPA began enforcement by issuing Notices of Noncompliance, Notices of Violations, and an Administrative Complaint. Because of the widespread serious noncompliance, EPA began discussions with the Defendant to establish a comprehensive plan to return to compliance, prevent future noncompliance, corrective actions, and penalties. This resulted in a settlement valued at approximately $7M that included correcting all violations, paying a penalty of $1.2 million, undertaking comprehensive, independent, third-party audits of its facilities and disclosing findings and implementing an environmental management system to prevent future violations, and making significant investments to upgrade two community drinking water systems to ensure safe drinking water, providing clean alternate drinking water to one community until the upgrades are in place. The audits and EMS were collectively valued at $5.3 million. EPA worked collaboratively with DOI/BIA/BIE to monitor implementation of this significant enforcement action for 4 years.
A brief description of state involvement in dealing with the matter: There was very little state involvement because State environmental programs are generally not applicable in Indian country. There was consultation with states on issues where they had primacy, e.g., drinking water. In these cases, the state deferred enforcement action to EPA. There was, however, considerable consultation with Tribal governments, who welcomed EPA's enforcement actions.

International Civil and Criminal Actions
In 2023, EPA developed a new international civil and criminal enforcement program with Mexico, Canada, and Tribal Nations targeting the illegal trade of chemicals, ozone depleting substances, engines, hazardous waste, and pollution from ships. Over 2600 enforcement actions included analysis of more than 600 samples (86% violations), over 500 border and 160 vessel inspections (50% violations), and training over 195 inspectors. More than 40 cases used enhanced targeting and new test equipment. International toxics release information exchanges were improved. Additionally, multi-lingual training was developed and deployed for penalties and imports. These multi-media actions improved international relations and public health across North America.

With funding from the United States Mexico Canada Act (USMCA), EPA and other federal agencies led a series of Import Operations, providing onsite training nationally to Customs and Border Protection Officers on Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Clean Air Act (CAA) import requirements, resulting in real time denials of non-compliant products and pesticide sampling for product integrity.

Other participants in the training included State and Tribal Inspectors, USDA, FDA Officers, and the Bureau of Consumer Protection. EPA trained Customs and Border Control Officers at the Pembina, North Dakota Port of Entry in mobile sampling equipment for pesticide active ingredients. In FY23, this included 14 Import Operations at ports of entry on the US Northern border. In addition to training, these operations also included the inspection of over 400 shipments; denied entry of 36 non-compliant vehicles; and issuance of 110 Notices of Refusal of Admission (NORA), preventing illegal pesticide products from entering the US. EPA expanded this project in FY24 to include ozone depleting chemicals, a priority under a National Enforcement and Compliance Initiative (NECI), and ports of entry on the southern US border.

Although state involvement in these activities was limited, tribal nations with US borders were included in training and targeting operations.