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NEW DIRECTIONS FOR THE MISSOURI ATTORNEY GENERAL'S OFFICE

by TIMOTHY P. DUGGAN, Assistant Attorney General

Keeping his pledge that the Attorney General's Office will play a stronger role in protecting Missouri's environment, Attorney General Jay Nixon has elevated the environmental unit to the highest status: division. The numbers of attorneys has already increased from eight to eleven and may climb to fourteen by July 1994.

The Environmental Protection Division (Division) primarily represents the Missouri Department of Natural Resources (DNR), including agencies such as the Air Conservation Commission, Hazardous Waste Management Commission, Dam and Reservoir Safety Council, and Clean Water Commission. The Division prosecutes both civil and criminal cases and provides defense counsel for the State. Additionally, the Division provides day to day legal advice to the DNR through specially assigned attorneys.

The Division's civil enforcement goals include:

- file more cases in U.S. District Courts for serious or intentional violations where federal statutes provide larger penalties than state law,
- develop and pursue more claims for natural resource damages,
- file suits more swiftly for expedited resolution by trial or settlement, and
- demand prompt compliance in enforcement cases.

The Division's criminal enforcement goals include:

- increase participation in the environmental task force sponsored by the U.S.

Attorney for the Eastern District of Missouri,

- work to establish a similar task force in the Western District of Missouri.

To insure compliance, the Division generally sues for injunctive relief to stop violations, for penalties related to past violations, for recovery of enforcement costs, and for actual damages. In appropriate cases the Division will consider settlement terms such as suspended penalties, stipulated penalties and schedules of escalating penalties to motivate violators to attain compliance as soon as possible. The Division also will consider settlement offers of special environmental projects which go beyond mere compliance and provide a public benefit through health, education, recreation, or greater environmental protection.

"As the Division works with the state's environmental laws every day, it is in a unique position to help the DNR and the General Assembly clarify and strengthen statutes."

The Division also proposes and supports legislation which strengthens state environmental laws. Some laws require clarification; others are difficult to enforce because of unwieldy procedures; still others lack mean-

ingful sanctions for noncompliance. As the Division works with the state's environmental laws every day, it is in a unique position to help the DNR and the General Assembly clarify and strengthen statutes.

The Division also plans to become more involved in bankruptcy proceedings to ensure that remediation of contaminated property under the control of a trustee is given priority. Further, the Division will make greater efforts to recover the state's fair share of proceeds from bankrupt estates for environmental cleanup.

Attorney General Nixon has directed his staff to improve the tracking and reporting of the progress of environmental cases, in terms of both economic and environmental benefits achieved. The Division also is committed to resolving regulatory enforcement cases promptly. Timely responses to enforcement requests by the DNR should increase its confidence in the Division's efforts and add to the desired deterrent effect in the regulated community. The Attorney General also has asked his staff to work with local prosecutors and environmental public interest groups to more monitor more closely the quality of Missouri's natural resources and to find ways to better serve the public, protect human health and improve the environment.

In summary, Attorney General Nixon and his staff have made environmental protection and improvement a cornerstone of their commitment to the citizens of Missouri.

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