

THREAT



VISION

You may notice that this year's annual report is longer than usual. This is due to the fact that it represents 17 months, rather than 12, as we have changed our donor reporting to coincide with the calendar year. Our next report will come out in spring 2005 and we anticipate it will be back to its usual size. We encourage you to visit our website for the most up-to-date information about our work: www.earthjustice.org.

Cover Photograph: "Mesa Arch" by Bruce Dale

A window in the sky at Canyonlands National Park, Utah, the Mesa Arch stands some 2,000 feet above the Green and Colorado rivers.

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MESSAGE FROM THE EXECUTIVE DIRECTOR AND CHAIR

While the year 2003 was not, by any measure, a good year for the environment, Earthjustice has continued to anticipate changing times by developing new and creative ways to defend the laws that protect our natural heritage and health.

The executive branch of the federal government is committed to promoting the business interests of contributors who pollute, exploit public lands for private gain, and have no vested interest in the conservation of natural resources. The current Congress has been little more than a rubber stamp.

The role we play within the greater environmental community has never been more critical or well defined. Increasingly, courts offer the only mechanism with which to effectively counter these threats. With many vacancies on the federal bench, there is the potential for an extreme, ideological reshaping of the judiciary by the administration. For this reason we are spearheading a project to conduct research and advise the environmental community on the importance of lifetime federal judicial appointments.

Over the last year we have successfully defended against efforts to roll back clean air and clean water regulations and halted attempts to reverse the protection of millions of acres of wilderness. We have also fought the invasion of our national forests for oil and gas exploration.

Defending against this administration's determination to reverse the enormous gains of the last 30 years requires vigilance and resolve. Earthjustice plays a unique and particularly important role in this battle now, when so much is at risk. Your support enables us to protect what we all value.

For all you do to help protect the earth and its treasures, thank you from the staff, board, and volunteers of Earthjustice.



Vawter "Buck" Parker, EXECUTIVE DIRECTOR



Dianne Stern, CHAIR

ROADLESS RULE

Shortly before the Bush administration took office, the Forest Service adopted a package of rules, collectively called the “Roadless Rule,” that generally prohibits the construction of new roads (and thus logging, mining, and other activities that require roads) on 58.5 million acres of still-undeveloped National Forest System lands. Most of these remaining roadless lands are in the West and Alaska’s Tongass National Forest. The rulemaking process took more than 18 months, gathered the overwhelming support of more than 1.6 million public comments, and survived two rounds of industry lawsuits attempting to derail it.

The Bush administration came into office intent on ridding industry of the rule. Rather than tackling it head-on, however, and incurring the wrath of public sentiment, the new administration hoped that a series of lawsuits brought by the logging, mining, and oil and gas industries and their political allies would take care of the problem for them. The Justice Department did its part by only half-heartedly defending the rule against these challenges and by refusing to appeal any rulings against the Roadless Rule. Earthjustice lawyers intervened in all nine of the cases to do the work the Justice Department would not.

Earthjustice’s vigorous defense of the rule has so far blocked the Bush administration’s perverse legal strategy. The litigation is far from over, but the Roadless Rule has yet to suffer a lasting setback and currently has been upheld by the Ninth Circuit Court of Appeals, the highest court to consider it. Whether we can prevail in every case—the validity of the state of Wyoming’s challenge to the rule will be argued before the Tenth Circuit Court of Appeals in 2004—the fact remains that after nearly three years, not one road has been built in any of the areas protected by the rule, nor has any timber in them been sold.



Stymied in court, the administration is now trying to undermine the Roadless Rule through administrative rule changes and new legislation. In a holiday gift to the pulp and paper industry on Christmas Eve 2003, the administration adopted a new rule exempting Alaska’s Tongass and Chugach national forests from the original rule. Earthjustice lawyers have already filed suit challenging six timber sales on the Tongass being pushed by the administration. The administration has also proposed a new rule that would allow it to waive the Roadless Rule in the Lower 48 states at the request of a governor.

Legislatively, the Bush administration pushed its misnamed “Healthy Forests Initiative” through Congress. The new legislation does not repeal the Roadless Rule but attempts to give the Forest Service very broad discretion to permit logging of up to 20 million acres of national forests it deems to be at risk of fire, wind, insects, disease, and even ice-storm damage. Logging permitted under the legislation would be exempt from many provisions of the National Environmental Policy Act, which means that the Forest Service need not evaluate the environmental consequences of logging, consider other fire risk reduction possibilities, or listen to the public. The public’s right to ask higher-ups in the Forest Service to review logging decisions or challenge them in court could be severely curtailed. One of the many tasks facing Earthjustice lawyers and legislative experts will be confining this new law to the concern for private property that stampeded Congress into passing it.

ENERGY

The “National Energy Policy” unveiled in May 2001 was written by a secret industry-dominated task force and was an energy industry wish list. It included some familiar items: opening up the Arctic National Wildlife Refuge to drilling and removing restrictions on industry access to public lands in the Lower 48 that have been protected for wildlife, water quality, and other environmental values. It also included some new ones, such as eliminating Clean Air Act requirements that protect public health in urban areas by requiring old power plants to install modern controls when they are expanded

To justify these concessions, the National Energy Policy resurrected the theme of energy crisis. High prices driven by market forces (or perhaps market manipulation) for natural gas and electricity in late 2000 were claimed to presage imminent resource shortages and economic disruption. To avoid that, the industry task force claimed there must be an all-out effort to expand energy supplies by producing and burning more fossil fuels. Energy efficiency wasn’t a priority because it had been done already; global climate change was just conjecture.

For public lands in the Lower 48, the National Energy Policy’s priority is exploration and development of natural gas fields. According to the NEP, natural gas production is constrained because millions of acres of energy-rich public lands have been put off-limits to development by overzealous federal land management. The NEP’s remedy is to make energy development the dominant use of federal lands in the Rocky Mountain states and to enshrine the energy industry as the most favored land user.

Energy companies obtain the right to explore for and develop oil and gas through long-term leases so the government’s decisions about what to lease, and when and on what conditions, are profoundly important. Once a lease is issued, the government’s ability to regulate road construction, drilling, and other mineral activity is limited by the lease terms—the decision to



lease is irrevocable for practical purposes. Leasing decisions are frequently made on a broad scale, covering hundreds of thousands of acres at a time.

The National Energy Policy’s premise that increased leasing and reduced environmental protection will significantly increase gas supplies and keep prices low for consumers is false. Even the Department of Energy concluded in 2000 that leasing more of the Rocky Mountain states would increase gas supplies very little—no more than an extra 1.5 percent of annual consumption. The Department of the Interior admitted that all but 12 percent of the potential gas resources were already unavailable for leasing.

In 2003, Earthjustice challenged leasing in grizzly habitat in the Shoshone National Forest, seismic exploration in Colorado’s Canyon of the Ancients National Monument, and on two million acres of public land in northeastern Utah, as well as the approval of more than 50,000 coalbed methane wells in the Powder River Basin of Wyoming and Montana. In defending the National Forest Roadless Rule, described elsewhere in this report, Earthjustice held off energy development on unspoiled national forest lands throughout the West.

The cases are ongoing and will be difficult because federal land management laws allow the Bureau of Land Management and the Forest Service wide discretion about leasing and the trade-offs between energy and the other resources involved. We have taken up this challenge before, though, during the James Watt era, and succeeded.

AIR

The Clean Air Act has produced some remarkable gains in the past three decades. Many of them, however, have come only as the result of lawsuits that required the federal Environmental Protection Agency to issue regulations that cut emissions and step in where local agencies fail to act. But the fact remains that most Americans—more than 146 million, according to EPA—still breathe air that is often harmful to their lungs, their hearts, and ultimately to their lives. Those risks are even greater for children, the elderly, and those suffering from medical problems. That collective threat has grown as we understand more about the effects of air pollution on people and on the environment.

The sources of the Executive Branch's long-term reluctance to make our air clean enough to be healthy are political, not technological. We know that to reduce the pollutants emitted from large sources like factories, pulp mills, or coal-fired power plants (whose owners are frequently large campaign contributors), industry must install control equipment. **However, we also know from a survey conducted by the administration's own Office of Management and Budget that the benefits of investing in such pollution-control equipment far outweigh their costs.** In aggregate, the estimated benefits of all the rules fell between \$146 billion and \$231 billion, with costs estimated to fall between \$36.6 billion and \$43 billion.

Cars, trucks, and buses must be re-engineered and used more wisely so that the air quality gains already achieved are not swamped by rising levels of motor vehicle traffic. Local agencies must adopt their own requirements for cuts in air pollution, even from sources that are economically and politically powerful, while many key EPA actions take the form of national rules.

This year, Earthjustice helped bring the final defeat of industry's legal battle to block the implementation of the updated national air quality standards for smog adopted by EPA in 1997. After six years in legal limbo, the tougher



new standards will finally be put into effect around the country. This is a particularly important victory for public health in light of new scientific information showing that low levels of smog, over time, are more dangerous than previously thought. Even as the new standards are poised to go into effect, Earthjustice has brought suits where EPA or states and local agencies have failed to take actions required by the Clean Air Act to achieve even the previous air quality standards for smog and airborne particles. We have also joined the legal fight against new loopholes for the oldest and dirtiest coal-fired power plants that have avoided installing modern pollution control technology.

EPA has consistently failed to meet statutory deadlines to adopt new control requirements for the sources already identified as the biggest emitters of toxic air pollution. Frequently, our legal strategy involves several lawsuits—a first one to enforce EPA's duty to adopt a rule, then a second challenging the resulting rule because it does not meet the Clean Air Act's requirements. The process is long and slow, much like trench warfare, but we are making progress.

ENDANGERED SPECIES

The Endangered Species Act is arguably the strongest environmental law on the books anywhere in the world. At a time when the rate of extinction is rising dramatically due to human activity, it is more important than ever.

The statute was enacted by a huge bipartisan majority and signed into law by President Nixon in 1973. It differs from many environmental statutes in its very clear prohibition of certain activities, such as harassing, killing, or otherwise “taking” a listed species, and any action by a governmental agency that interferes with the ability of a species to survive and recover.

This fierceness of purpose, the absence of weasel words that leave room to wiggle out from under the act’s proscriptions, and the fact that Earthjustice and others can get court orders enforcing the statute when government officials won’t, have won the act enemies in high places that now include the White House.

Precisely because the act is so effective, its opponents have long sought to blunt the ESA’s central purpose, claiming that the statute is “broken” and must be “fixed.” For years, Congress has considered bills that would explicitly subordinate the survival of imperiled species to economic concerns or local political influence. Earthjustice has led the fight that defeated those efforts one by one, backed by strong public support for the act.

The situation changed in 2003 when the ESA’s foes finally took their first bite out of the act by passing a provision of the 2003 Defense Appropriations Act that eliminates the authority of the U.S. Fish and Wildlife Service to protect habitat essential to the recovery of a listed species on land owned or controlled by the military. The provision has a certain superficial appeal until one understands that the Endangered Species Act already contains several provisions allowing for the exemption of the military but on a case by case basis. This new provision will amount to



a blanket exemption, and the military will no longer have to demonstrate to the public or anyone else why protecting endangered species is incompatible with military needs.

In 2003, Earthjustice lawyers continued to make the Endangered Species Act work to protect all living creatures and their habitats, humans included. We forced the government to take steps toward adding wolverines, Puget Sound orcas and the Pacific fisher to the endangered species list. Earthjustice fended off attacks on conservation measures adopted to keep manatees from being killed by speeding boaters and to keep salmon from dying if all the water is diverted from national forest streams.

The year also saw courtroom successes enforcing the act’s consultation mechanism to ensure that listed species aren’t consigned to extinction by the federal government itself. Our lawsuits made federal agencies reconsider:

- commercial fishing on the West Coast that hooks and kills sea turtles,
- the ten-year operating plan for the Klamath Irrigation Project that caused the deaths of more than 33,000 salmon,
- pesticide applications that contaminate streams and poison salmon,
- a program to restore salmon and steelhead on the Columbia River based on vague promises rather than changes in the way federal hydroelectric projects are run,
- and a recreational development on the Snake River that would damage bald eagle habitat.

More congressional attempts to weaken the ESA are coming, billed not as wholesale changes but simply as refinements. The goal of those refinements, however, is still to cripple the Endangered Species Act and the public’s ability to implement it when the government chooses



not to. Those efforts will go forward under different banners: • “sound science” (meaning every possible uncertainty should be resolved against the species), • “local flexibility” (meaning state politics should trump biology), • and the “logjam of litigation” (meaning federal wildlife agencies should enjoy judicial immunity when they refuse to fulfill their obligations under the act).

In 2004 we will continue to enforce the act, to defend it in Congress, and to inform the public of the attempts being made to weaken the strongest and most popular of all environmental laws.

JUDGING THE ENVIRONMENT

President George W. Bush has already nominated 25 percent of all lifetime federal judges, including over 25 percent of all appellate court judges, in his 2001-2005 term. This is an extraordinarily high number of judges for any President to nominate, made possible by the Senate’s refusal to act on many judicial nominations made by former President Clinton and the resulting large number of court vacancies.

Historically, Earthjustice has stayed out of judicial confirmation battles. Neither party’s nominees have had a monopoly on upholding the law or ensuring citizen access to the courts.

Many of President Bush’s nominees, however, are far out of the judicial mainstream, nominated precisely to impose their own ideological agendas rather than to decide cases fairly.

Responding to this abuse of the judicial selection process, Earthjustice has led the environmental community in opposing nominees so ideologically driven that they threaten constitutional principles and environmental statutes. Among the issues which the courts must regularly decide are whether the public can bring suit to enforce environmental laws, even against the government; what are the constitutional limits

on the power of Congress to protect endangered species, clean air, and clean water; the extent of the authority of federal and state agencies to implement environmental laws; and whether taxpayers must pay polluters not to pollute the air we breathe and the water we drink.

Few predicted that Earthjustice and the environmental community would have any impact on judicial confirmations in 2001, when we began educating ourselves, our environmental colleagues, the media, and the Senate as to what was at stake. Two years later, senators, editorial writers, and reporters routinely discuss the record of individual nominees in interpreting environmental laws and allowing citizens to bring suits for violations of those laws. Now, senators consider those views in deciding whether some of the President’s nominees should be confirmed. Further, a number of the worst nominations have been stopped.

The work of the environmental community in opposing some truly outrageous judicial nominations has been one of the few areas in which the environmental movement has been successful in the Congress since the Bush administration took office.

You can examine the records of many of the President’s nominees and our reasons for opposing them by going to the Earthjustice website and the Judging the Environment part of the Policy and Legislation section. It can be found at <http://www.earthjustice.org/policy/judicial/nominees>.

OUR CLIENTS



Photo: Amy Norquist

Earthjustice provides free legal representation to hundreds of clients, ranging from national organizations like the National Wildlife Federation to local groups such as the Klamath Forest Alliance.

AIDA
Alaska Center for the Environment
Alaska Clean Water Alliance
Alaska Conservation Alliance
Alaska Rainforest Campaign
Alaska Wilderness League
Alaskans for Responsible Mining
Alliance for the Wild Rockies
Amazon Alliance
American Bird Conservancy
American Canoe Association
American Fisheries Society
American Lands Alliance
American Lung Association
American Oceans Campaign
American Rivers
American Wildlands
Anacostia Watershed Society
Animal Protection Institute
Animal Protection of New Mexico
Arizona Wildlife Federation
Asia Pacific Environmental Exchange
Basel Action Network
Bay Institute
Bayview Hunters Point Community Advocates
Bighorn Forest Users Coalition
Biodiversity Conservation Alliance
Biodiversity Legal Foundation
Biodiversity Northwest
Blackfoot Tribes
Blue Ridge Environmental Defense League
Bluewater Network
Bones Brothers Ranch
Border Power Plant Working Group
Cabinet Resource Group
California Sportfishing Protection Alliance
California Trout
California Wilderness Coalition
Caribbean Conservation Corporation
Carson Forest Watch
Cascadia Wildlands Project
Center for Biological Diversity
Center for Environmental Law & Policy
Center for Food Safety
Center for International Environmental Law
Center for Native Ecosystems
Center for Science and Public Participation
Center for Sierra Nevada Conservation
Chassahowitzka River Restoration Co.
Chester Residents Concerned for Quality Living
Citizens Coal Council
Citizens for Responsible Growth
Citizens for Teton Valley

“These boys live with their families on the banks of the Tortuguero Lagoon on the East Coast of Costa Rica. Pesticide runoff from banana plantations upstream causes illness in families like theirs, and kills the fish that are their primary source of food. A group of Earthjustice supporters traveled to Costa Rica to see examples of the organization’s international work and to meet local environmentalists with whom we have collaborated.”

Martin Wagner, Managing Attorney International Program

Citizens Preservation Council
Clean Air Council
Clearwater Biodiversity Project
Coast Action Group
Coast Range Association
Coastal Alliance on Plan Expansion
Coastal Coalition
Cochabamba Federation of Irrigators’ Organizations
Colorado Environmental Coalition
Colorado Mountain Club
Colorado Wild
Comanche Tribe
Committee Against Heliport Construction,
Save Life Society
Committee for Idaho’s High Desert
Communities for a Better Environment
Communities Organized to Improve Life
Concerned Citizens for Nuclear Safety
Conservation Law Foundation
Crow Indian Tribe
Crowley Museum and Nature Center
Defenders of Wildlife
Delta Fly Fishers
Delta Land Trust
Desert Citizens Against Pollution
Desert Protective Council
Desert Survivors
Dubois Wildlife Association
Dugong Network Okinawa
Earth Island Institute
Ecology Center
Environmental Association of St. Thomas-St. John
Environmental Confederation of Southwest Florida
Environmental Council of Sacramento
Environmental Defense
Environmental Defense Center
Environmental Protection Information Center

“After diverting water for 80 years, Hawai‘i State was presented with an historic opportunity to restore these waters to Waiāhole and Waikane streams, but was in bed with large landowners who wanted to continue the diversion. It has taken the exceptional skill and grace of the Earthjustice staff to pull the covers off that bed and put music back in the streams.”

Charlie Reppun, Makawai Stream Restoration Alliance

Environmental Working Group
Eyak Preservation Council
Federation of Fly Fishers
Florida Keys Citizens Coalition
Florida Wildlife Federation
Forest Conservation Council
Forest Guardians
Friends of Admiralty
Friends of Castle Rock State Park
Friends of the Clearwater
Friends of the Earth
Friends of Glacier Point
Friends of Hope Valley
Friends of Living Oregon Waters
Friends of the Nevada Wilderness
Friends of the River
Friends of the San Juans
Friends of Suisun Marsh
Friends of Swainson’s Hawk
Gallatin Wildlife Association
Gifford Pinchot Task Force
Gila Watch
Grand Canyon Trust
Great Old Broads for Wilderness
Greater Ecosystem Alliance
Greater Yellowstone Coalition
Greenpeace
Group Against Smog and Pollution
Gulf Islands Conservancy
Gulf Restoration Network
Hakipu‘u `Ohana
Hayward Area Planning Association
Headwaters
Heal the Bay
High Country Citizens’ Alliance
Hui Ho`opakele `Aina
Hui Mālama i Koholā

Humboldt Watershed Council
Idaho Conservation League
Idaho Rivers United
Idaho Steelhead and Salmon Unlimited
Idaho Watersheds Project, Inc.
Institute for Fisheries Resources
InterTribal Bison Cooperative
Jackson Hole Conservation Alliance
Japan Environmental Lawyers Foundation
Jumping Frog Research Institute
Kahalu‘u Neighborhood Board
KAHEA
Kentucky Resources Council
Kilauea Neighborhood Board
Kingman Park Civic Association
Klamath Forest Alliance
Klamath-Siskiyou Wildlands Center
Klamath Tribes
La Coordinadora para la Defense del Agua y Vida
Latino Issues Forum
League to Save Lake Tahoe
Limu Coalition
Lynn Canal Conservation
Malama Makuā
ManaSota-88, Inc.
Maui Meadows Homeowners Association
Medical Advocates for Healthy Air
Mineral Policy Center
Montana Council of Trout Unlimited
Montana Environmental Information Center
Montana Wilderness Association
Mossville Environmental Action Now
Mount Shasta Bioregional Ecology Center
Muckleshoot Indian Tribe
National Audubon Society
National Environmental Trust
National Parks & Conservation Association
National Trust for Historic Preservation
National Wildlife Federation
Native Coalition for Medicine Lake Highlands Defense
Native Ecosystems Defense Council
Native Fish Society
Native Forest Network
Natural Resources Council of Maine
Natural Resources Defense Council
New Mexico Wilderness Association
NOAA Fisheries
Northcoast Environmental Center
Northern Alaska Environmental Center
Northern California Council of the
Federation of Fly Fishers
Northern Plains Resource Council
Northwest Coalition for Alternatives to Pesticides
Northwest Ecosystem Alliance
Northwest Environmental Advocates
Northwest Sport Fishing Industry Association
NW Energy Coalition
Oceana
Okanogan Wilderness League
Orca Conservancy
Oregon Natural Resources Council
Our Children’s Earth Foundation



Photo: Kapua Sproat

“One in six children in Fresno has asthma, a rate triple the national average. Big agriculture exemptions permitted gross polluters to dirty the air that we and our children breathe. Earthjustice played a pivotal role in bringing legal action to help change this. We hope these new regulations will reduce the number of children rushed to emergency rooms each summer in the Central Valley gasping for air.”

Dr. David Pepper, an asthma expert and member of Medical Advocates for Healthy Air

Pacific Coast Federation of Fishermen's Associations
Pacific Rivers Council
Park County Environmental Council
Pennsylvania Dept. of Environmental Protection
People for Puget Sound
Pesticide Action Network-North America
Pit River Tribe
Planning and Conservation League
Powder River Basin Resource Council
Predator Conservation Alliance
Protect Our Water
Public Citizen
Public Employees for Environmental Responsibility
Redrock Forest
Rock Creek Alliance
Rocker Six Cattle Ranch
Sacramento River Preservation Trust
Salmon For All
San Bruno Mountain Watch
San Joaquin Raptor Rescue Center
San Juan Citizen Alliance
Save the Dugong Foundation
Save Our Creeks
Save the Manatee Club
Save San Francisco Bay Association
Sea Turtle Restoration Project
Selkirk Conservation Alliance
SEMAPA Sur
Sierra Club
Sierra Nevada Forest Protection Campaign
Sioux Tribes
Siskiyou Regional Education Project
Sitka Conservation Society
Society for American Archaeology
Soda Mountain Wilderness Council
South Dakota Resources Council
Southeast Alaska Conservation Council
Southern Utah Wilderness Alliance
Southwest Center for Biological Diversity

Southwest Environmental Center
Superior Wilderness Action Network
Surfrider Foundation
Swan View Coalition
Swinomish Indian Tribal Community
T & E
The Lands Council
The Ocean Conservancy
The Sea Turtle Survival League
The Wilderness Society
Transportation Solutions Defense and Education Fund
Tri-Valley Communities Against a Radioactive Environment
Trout Unlimited
Trustees for Alaska
Tule River Conservancy
Turtle Island Restoration Network
Umpqua Watersheds
United Anglers of California
U.S. Public Interest Research Group
Urban Protectors
U'wa Traditional Authority
Voices of the Wetlands
Waipi'o Community Association
WaterKeeper Alliance
WaterWatch of Oregon
Washington Environmental Council
Washington Toxics Coalition
Western Colorado Congress
Western Organization of Resource Councils
Western Resource Advocates
Western Slope Environmental Resource Council
White Mountain Conservation League
Wilderness Watch
Wildlands CPR
Wyoming Outdoor Council
Wyoming Wilderness Association
Wyoming Wildlife Federation



PROGRAM HIGHLIGHTS

Using the law to protect our environment.

From *eight regional offices* across the country, Earthjustice attorneys take on powerful special interests and win.

Earthjustice *policy experts* in DC work to halt legislative backlash and protect environmental laws.

The *International Program* addresses trade, human rights, and the environment, and helps build environmental law in other countries.

Earthjustice also runs an *Environmental Law Clinic at Stanford University*, training students in the practice of public interest environmental law.

BOZEMAN, MONTANA



THREAT



VISION

Snowmobile use in Yellowstone National Park has created severe air pollution and chronic harassment of wildlife. Earthjustice is fighting in court for a more peaceful environment.

The Bozeman office protects national forests in the Northern Rockies from logging and road building, safeguarding some of America's last remaining grizzly bears and gray wolves and restoring Montana's rivers, streams, and native fish runs.

VICTORY IN YELLOWSTONE

In March 2003, Earthjustice filed suit to challenge the Bush administration's reversal of an earlier decision to phase out most snowmobile use in Yellowstone and Grand Teton national parks. In fact, the Park Service's new rules would have actually increased snowmobile use in Yellowstone, despite air pollution that clouds Old Faithful, noise pollution that carries across more than 150,000 acres of parkland, ongoing wildlife harassment, and health risks to employees and visitors (especially to people with respiratory problems).

In December, responding to our arguments, a federal district court judge in Washington, DC, struck down the Bush administration plan and reinstated the earlier plan to phase out snowmobile use in Yellowstone and Grand Teton by substituting less polluting snowcoaches. This helps ensure that Yellowstone will be protected for the enjoyment of this and future generations. Earthjustice is now in the DC and Tenth Circuit Courts of Appeals, fighting to keep that victory in place.

HOLDING THE LINE ON UNDEVELOPED FORESTS

The Bozeman office has played a leading role in defending 58.5 million acres of undeveloped national forest land protected by the Roadless Rule. The timber industry, joined by several western states, challenged the Roadless Rule in nine separate cases. In 2001, when a federal judge in Idaho ruled that there were procedural flaws in the rule (and the Justice Department chose not to appeal), Earthjustice argued the appeal before the Ninth Circuit Court of Appeals. The Roadless Rule was given new life in December 2002, when the appeals court reversed the lower court and reinstated the rule.

After the Ninth Circuit ruling, attention turned to the lawsuit challenging the Roadless Rule brought by the state of Wyoming, where Earthjustice again argued its defense. Unfortunately, in July 2003, the federal district court judge in Wyoming struck down the Roadless Rule. Working with the Denver office, the Bozeman office is appealing this ruling to the Tenth Circuit Court of Appeals in Denver, where we hope to repeat the successful result we obtained in the Ninth Circuit.

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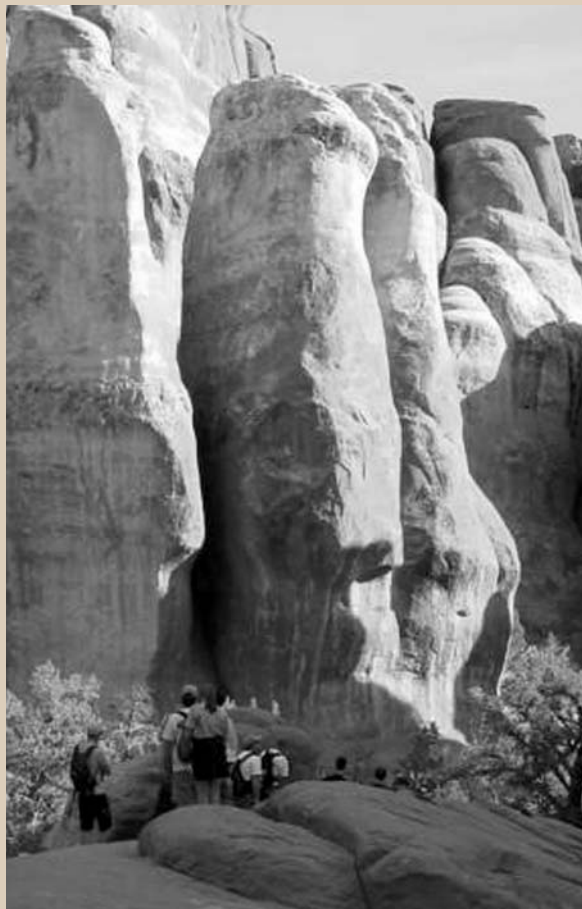
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LITIGATION ASSISTANT

DENVER, COLORADO



THREAT



VISION

Motorized vehicles driven off designated roads and trails destroy wildlife habitat, pollute air and water, and damage pristine wildlands. As a result of Earthjustice's lawsuit, the Bureau of Land Management is required to protect Utah's wilderness from off-road vehicle damage.

The Denver office protects the public lands, waterways, and plants and animals of the Southern Rockies, Colorado Plateau, and Desert Southwest through a series of cases aimed at limiting overgrazing on public lands, protecting wilderness areas, and saving native species in peril.

PEACE AND QUIET IN UTAH

As the use of off-road vehicles has skyrocketed in recent years, so has the threat to public lands and Earthjustice's work to keep roads out of wilderness areas. In a victory for Utah's stunning and remarkable red rock landscape, the Tenth Circuit Court of Appeals ruled that the Bureau of Land Management is required to protect Utah's wilderness-quality lands from being decimated by ORVs. This ruling could set a precedent in the rest of the country that the BLM can be held accountable for its failure to protect such lands. The Supreme Court, however, has agreed to hear an appeal by the Bush administration arguing that it is not required to protect wilderness landscapes throughout the West. The court will hear oral arguments in spring 2004.

PROTECTING WILDERNESS, PARKS, AND MONUMENTS

In March, Earthjustice joined with the BLM to bring an end to the increased off-road vehicle abuse that has been degrading New Mexico's Robledo Mountain Wilderness Study Area and efforts to turn a trail into a public highway. This victory protects the high limestone peaks and vistas, deep canyons, caves, streams, and habitat for bald eagle, peregrine falcon, and mule deer.

Over the past few years, state and local politicians, off-road vehicle enthusiasts, and development interests have resurrected Revised Statute 2477, enacted in 1866, claiming they are still entitled to build highways or operate off-road vehicles anywhere on BLM lands where a trail or cow path existed before the statute was repealed in 1976. Since the New Mexico victory, off-road interests have appealed to the Tenth Circuit Court of Appeals, and we will be defending our lower court

ruling. Earthjustice is also monitoring claims to some 20 additional R.S. 2477 rights-of-way soon to be filed in Utah and will challenge those not meeting legal requirements.

SECRET ABANDONMENT OF WILDERNESS PROTECTIONS

In the spring of 2003, the state of Utah resurrected a 1998 suit in which it argued that the Bureau of Land Management lacked authority to protect the wilderness values of lands that Congress has not yet placed in the National Wilderness Preservation System and that millions of acres of BLM land must be released for development. Lawyers for the state of Utah and the Department of the Interior settled the case by stripping the BLM of its authority to identify wilderness lands or to protect them as Wilderness Study Areas anywhere in the country. This settlement opens for business more than 200 million acres of BLM land from the waterfalls of the Roan Plateau in Colorado and the desert grasslands in New Mexico to the forest lands of Oregon. In 2003, Earthjustice began appealing the settlement.

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HONOLULU, HAWAI`I



THREAT



VISION

Streams in Hawai`i continue to be diverted for agribusiness, urban development, and resorts—these diversions threaten the native Hawaiian way of life that Earthjustice is committed to protecting.

The Honolulu office defends the natural and cultural resources of Hawai`i and the mid-Pacific—fragile island ecosystems, streams that support native Hawaiian practices, plants and animals found nowhere else, and the rich marine environment.

PRESERVING MAUI'S `IAO AQUIFER

The `Iao Aquifer system on Maui is the principal source of domestic water for the island. However, after many years of overpumping to enable development, the `Iao Aquifer is at a dangerously unsustainable level. As a result of a suit filed by the Honolulu office, the aquifer was designated a groundwater management area in July 2003. This designation transfers control of the `Iao Aquifer from the county to the Hawai'i State Water Commission and means that future withdrawals from the aquifer will be permitted only if they are consistent with the public interest. Earthjustice is actively working for the designation of other aquifers in Hawai'i as groundwater management areas.

PROTECTING ENDANGERED SEA TURTLES

In early 2002, the National Marine Fisheries Service (now NOAA Fisheries) issued a permit in the Pacific north of Hawai'i authorizing a test of longline fishing methods that might reduce the number of sea turtles accidentally caught and drowned by standard commercial fishing methods—the sea turtle “bycatch.” The experiment required the deaths of more than 100 critically endangered turtles in order to obtain statistically relevant results, and NOAA conceded that it would likely contribute to the extinction of one or more turtle species. Earthjustice filed suit under the Endangered Species Act for NOAA's failure to assess the experiment's impacts properly. The Honolulu office obtained an injunction against the experiment while the case was being heard, and as a result, NOAA withdrew its permit, announcing it would postpone the testing until it completed its environmental impact statement.

CRITICAL HABITAT FOR HAWAII'S ENDANGERED PLANTS

In 1998, the Hawai'i office won a court order requiring the U.S. Fish and Wildlife Service to make new critical habitat decisions for 245 endangered and threatened plant species native to the Hawaiian Islands. These critical habitat decisions provide vital protection in order for the species to survive and recover. A follow-up lawsuit added ten more plant species from Maui, Moloka'i, Lana'i, and Kaho'olawe, and in June 2003, the FWS announced final critical habitat designations for 99 of O'ahu's most unique and fragile plant species. However, several of the other FWS designations represent drastic reductions from the original proposals, so Earthjustice is determining further legal action.

NO CRUISE SHIPS TO MOLOKA'I

Moloka'i, population 7,000, maintains an exceptionally strong traditional Hawaiian culture—it is sometimes called “The Last Hawaiian Place.” When cruise ships began to schedule visits to Moloka'i in 2003, the island's residents were concerned about the commercialization of their culture and prospective environmental damage. Earthjustice filed suit on their behalf to force the cruise lines to abide by environmental laws and to require state agencies to evaluate the potential environmental and cultural consequences. Our clients also requested the cruise lines participate voluntarily in a public review rather than litigate. In September, the cruise industry announced that “cruise ships are not coming to Moloka'i, period.”

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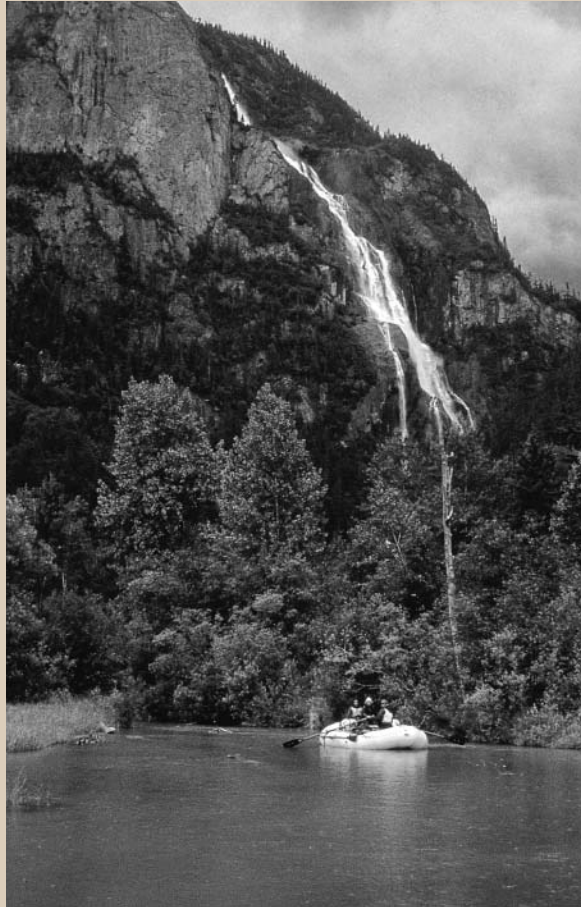
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JUNEAU, ALASKA



THREAT



VISION

The timber industry is eager to resume clearcutting in Alaska, while Earthjustice is just as determined to preserve this wilderness where caribou, brown bears, and wolves still roam free and huge populations of migratory birds come to breed.

The Juneau office preserves the Tongass National Forest from logging and road building, the sea lions, seals, and sea birds in the North Pacific from the devastation of ocean trawling, and Alaska's still-pristine lands from oil exploration and development.

VICTORY FOR STELLER SEA LIONS

The spring of 2003 marked the end of a successful lawsuit brought by Earthjustice in 1998 that changed the way the ocean off the coast of Alaska is managed. The federal court's several rulings in the case directed the government to protect sea lions and their habitat and to assess fully the impacts of fisheries on the entire North Pacific ecosystem. These decisions were a victory for Steller sea lions, seals, sea birds, and other marine creatures.

The initial suit against the National Marine Fisheries Service (now NOAA Fisheries) was brought in response to the almost 90 percent decline in Steller sea lion populations in western Alaska over the past several decades that coincided with the rise of industrial fishing in these same waters. As a result of the case, NOAA determined that the overfishing of groundfish has contributed to the sea lions' decline and imposed new protective measures.

The fishing industry prepared a new, less protective fishing plan in early 2001, and the Bush administration approved it. Earthjustice challenged this rollback of protections and the court sent the plan back to NOAA, ruling the agency hadn't justified the revisions or evaluated their effects on sea lions and their habitat. The court also ordered NOAA to prepare an environmental impact statement to assess the impact of the North Pacific fisheries on the region's ecosystem as a whole.

PROTECTING ALASKA'S FORESTS

The Juneau office is working hard to fend off aggressive efforts by the timber industry and Bush administration to resume clearcutting in the Tongass National Forest in southeast Alaska. The administration eliminated specific prohibitions on logging in the virgin, unroaded areas of the Tongass and also agreed to exempt the Tongass from the nationwide rule safeguarding roadless areas. The Forest Service has plans for almost 50 large timber sales for Tongass roadless areas in coming years. On top of this, Alaska Senator Ted Stevens forced a law through Congress that makes it harder for citizens to challenge timber sales by setting a 30-day deadline for legal actions.

In 2003, Earthjustice responded to these threats by initiating several new lawsuits on behalf of local and national conservation groups, asserting among other claims that the plans fail to protect key wildlife habitat for brown bears, wolves, and other old-growth dependent species. Earthjustice will actively pursue every opportunity to enforce the law and protect this magnificent part of America's natural heritage.

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OAKLAND, CALIFORNIA



THREAT



VISION

Although developers aggressively challenged the urban growth initiative in the hills east of San Francisco, Earthjustice successfully defended it, preserving more than 400 square miles of farmland and open space.

The Oakland office works to address air quality and the impacts of rapid population growth and unrestrained development on the quality of life in Northern California's urban centers, on agricultural lands in the Central Valley, and on forests and wildlife in the Sierra Nevada.

CLEANER AIR FOR THE CENTRAL VALLEY

- California's Central Valley has one of the highest childhood asthma rates in the nation due, in part, to the air pollution generated by diesel irrigation pumps, farm equipment, and livestock waste from factory farms. These sources enjoyed an illegal state exemption from the federal Clean Air Act until Earthjustice filed suit. As a direct result, a bill removing the exemption passed the state legislature and was signed into law in September.

- In 1993, EPA was required to develop a plan to lower the dangerously high levels of soot, dust, and vehicle exhaust in the San Joaquin Valley to meet national standards. For a decade, EPA failed to control these pollutants, despite the fact that more than 9,000 California residents die annually as a direct result of breathing them. Earthjustice filed suit and as a result EPA is now bound to come up with a plan to bring the valley into compliance with national air quality standards.

MANAGING SPRAWL

- Alameda County's Measure D is a voter-drafted initiative that creates an urban growth boundary to promote infill development and preserve more than 400 square miles of farmland and open space. Developers challenged it on numerous grounds shortly after its passage in 2000. Earthjustice successfully defended the measure all the way to the California Supreme Court, which in October joined the lower courts in entirely rejecting the developers' legal claims.

- In the foothills of California's Coast Range, a 29,500-acre "destination resort and residential community" called Diablo Grande is planned for lands that are also habitat for the endangered San Joaquin kit fox and the threatened California red-legged frog.

Earthjustice has filed suit against the developer and the U.S. Army Corps of Engineers, which has failed to assess adequately the impacts of the project on wetlands and on the fox and frog.

- In the Natomas Basin, northwest of Sacramento, the proposed Metro Air Park project would encompass 2,016 acres of hotel rooms, commercial space, and a golf course. This flat agricultural land with wetlands and canals is habitat for the threatened giant garter snake and Swainson's hawk. Earthjustice is challenging Metro Air Park's permit authorizing the incidental killing of these species.

PROTECTING SIERRA NEVADA FORESTS

- The Sierra Nevada Framework is a plan developed by more than 47,000 citizens over 14 years to reduce the risk of wildfire, particularly near communities, and to protect old forests, watersheds, and wildlife on the eleven national forests in the Sierra Nevada region. The Framework was challenged in court by logging interests and the Bush administration announced plans to completely dismantle the landmark regulation. Earthjustice has intervened to protect it.

- The Oakland office is working to gain listing status under the Endangered Species Act for several Sierra Nevada species whose numbers are in alarming decline: the California golden trout (California's state fish), mountain yellow-legged frog, Yosemite toad, California spotted owl, and Pacific fisher.

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SEATTLE, WASHINGTON



THREAT



VISION

Water diverted for agriculture and irrigation interests led to the deaths of more than 33,000 salmon in 2003. Earthjustice's victory in proving that the diversion was illegal will lead to a more balanced water management plan for all.

The Seattle office works to safeguard protections for threatened and endangered Northwest salmon and steelhead, to reform dam operations and irrigation projects, to halt destructive logging practices, and to limit water pollution.

PESTICIDE-FREE WATERS FOR SALMON

Earthjustice won an important victory in the Pacific Northwest when a federal district court judge imposed buffer zones along salmon streams to protect endangered salmon from pesticides and required that warnings be posted on harmful pesticides in urban home and garden stores. Pesticides can poison fish, impair their swimming ability, cause abnormal sexual development, and interfere with growth and feeding. In 2002, the court ordered the EPA to consult with the National Marine Fisheries Service to establish permanent restrictions to protect salmon from 54 pesticides. The buffer zones and warnings are critical first steps in preventing pollution of salmon streams while EPA carries out these consultations.

BRINGING SALMON BACK TO THE COLUMBIA RIVER BASIN

Salmon and steelhead were once the backbone of a prosperous Northwest fishing and recreation economy. Sadly, the construction of numerous hydroelectric dams on the Columbia and Snake rivers caused these populations to plummet, and all Snake River salmon are threatened, endangered, or already extinct. In May 2003, the Seattle office overturned a weak federal agency plan that called for only small changes in dam operations, relied on voluntary restoration actions, and would have allowed the dams to kill as many as 90 percent of some salmon populations. On the heels of this victory, which came as part of a decade-long campaign by Earthjustice to reform the hydropower system, Earthjustice attorneys Todd True and Steve Mashuda were awarded the Conservation Advocacy Award from the Columbia River Inter-Tribal Fish Commission for the organization's work in this and other cases.

FISH IN THE KLAMATH RIVER NEED WATER

Last year, the long-standing fight over water in the Klamath River basin made national headlines when artificially low flows in the river led to the deaths of more than 33,000 adult salmon. After the tragedy unfolded, the *Wall Street Journal* reported that Bush advisor Karl Rove had intervened behind the scenes to ensure that federal policy favored the water claims of its agriculture and irrigation interest allies. This political favoritism came at the expense of threatened salmon, Native American tribes, and commercial fishermen. Earthjustice filed suit in September 2002, claiming the Bush administration plan for the Klamath failed to leave enough water in the river for salmon and relied on future, speculative actions from the states of California and Oregon to make up for the missing water. The court ruled that the administration's plan fell well short of meeting the requirements of the Endangered Species Act and was illegal. This victory opens the door to a new plan based on science that will save salmon, provide more balanced water use, and help build a sound economic future for all the people in the Klamath Basin.

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TALLAHASSEE, FLORIDA



THREAT



VISION

In Florida, many manatees are killed by collisions with motorboats each year or are severely scarred by propeller blades. Earthjustice persuaded a court to impose and uphold slower boating speed limits and sanctuaries to protect manatees.

The Tallahassee office works to expand protection for marine species and ecosystems, to block renewed legislative attempts to develop Florida's public waterways, and to ensure that state and federal agencies enforce strict water quality standards.

PROTECTIONS FOR MANATEES

Brevard County is the hub of Florida's East Coast manatee population, with large permanent and migratory manatee populations present throughout the year. The county also leads the state in the number of watercraft-related manatee mortalities. In 2002, Earthjustice supported the rules proposed by the Florida Fish and Wildlife Conservation Commission and persuaded the judge to uphold slower boating speed limits and sanctuaries to protect manatees in Brevard. The rules were immediately challenged by boating interests; yet, in March, 2003, the Florida District Court of Appeals upheld the strict speed limits on more than 90 miles of rivers and lagoons that manatees are known to frequent. Beyond increasing protection for manatees in Brevard waters, the rule also sets the standard for measures taken by the FWCC to protect manatees in Florida's other coastal counties over the next two to three years.

SEA TURTLE VICTORY

Loggerhead turtles (endangered) and green and leatherback turtles (threatened) lay eggs on the beaches of Florida. Seawalls and other forms of coastal armoring are built along the beaches to prevent erosion, but sea turtles are unable to dig nests and deposit their eggs in areas where such armoring exists. Armoring can also increase erosion of turtle nesting habitat down the beach. All species of marine turtles are threatened or endangered; thus, any activity that either eliminates or reduces their reproductive success poses a very real threat to their survival. In 1999, the Tallahassee office challenged Indian River County's emergency seawalls permitting program that authorized permits resulting in the death of turtles. In a major victory, the county and affected homeowners signed a settlement agreement whereby the county agreed to develop a habitat conservation plan to protect the turtles under the Endangered Species Act. The HCP is a major step towards survival of these species.

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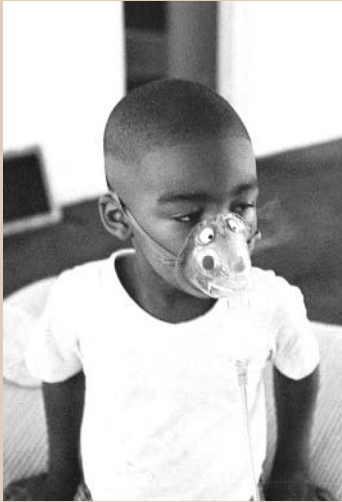
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WASHINGTON, DC



THREAT



VISION

On a typical summer day, smog in Washington, DC, causes breathing difficulties for thousands of people. Earthjustice's victory to reclassify the region as severe for air quality will lead to stronger pollution controls and healthier air.

The Washington, DC, office focuses on ensuring that national clean water and clean air standards are properly set and enforced, including protecting public health specifically in the capital.

IMPLEMENTING NEW, STRONGER ANTI-SMOG STANDARDS

In March 2003, Earthjustice achieved a major victory for clean air and public health when a federal court approved a settlement requiring the Environmental Protection Agency to upgrade smog cleanup plans in communities across the country. By April 2004 EPA must identify the areas where smog levels violate new, stronger national standards. Once these areas are identified, state and local programs must develop and implement plans to reduce emissions. Smog is a powerful irritant that leaves the lungs inflamed. It causes asthma attacks, respiratory pain, and reductions in lung function and is linked to increased use of medicines, hospitalizations, and emergency room visits.

RESTORING AIR QUALITY IN THE CAPITAL

In January 2003, as a result of Earthjustice litigation, EPA reclassified the Washington region as severe for air quality—a step that will trigger stronger pollution controls for industries and motor vehicles and produce cleaner, healthier air for people in the region and downwind. According to some estimates, breathing difficulties during a typical smoggy summer in metropolitan Washington, DC, send more than 2,400 people to the emergency room and cause more than 130,000 asthma attacks. Nevertheless, EPA has repeatedly—and illegally—extended the deadline for Washington-area governments to address this problem.

CLEANER WATERS AROUND WASHINGTON

During heavy rainstorms, Washington, DC's, antiquated sewer system, which carries sewage and polluted storm water from streets, industrial yards, and businesses cannot handle the combined flow and overflows directly into the District's rivers. More than three billion gallons of overflows occur in an average year, and the resulting bacteria counts in the Anacostia and Potomac rivers and Rock Creek are often thousands of times greater than safe levels. Earthjustice filed suit in federal court and won, requiring the District of Columbia Water and Sewer Authority (WASA) to cut sewer overflows by approximately 40 percent over the next five years. The court decree also provides for WASA to fund \$2 million in greening projects along the Anacostia River, designed to cleanse polluted storm water runoff. These actions begin immediately while settlement talks continue over a long-term plan to address the remaining overflows.

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INTERNATIONAL



THREAT



VISION

Power plants built just south of the U.S.-Mexico border would produce significant air and water pollution, threatening the environment and public health. Earthjustice litigation forced the U.S. to conduct a complete environmental evaluation of the plants.

The International Program works to establish and apply the human right to a healthy environment, to give environmental protection a voice in free trade agreements, and to develop strong environmental protection mechanisms around the world.

PROTECTING BORDER COMMUNITIES

One problem with current international trade rules is that they enable polluters to avoid environmental regulations by moving their operations to countries with weaker standards. Two U.S. companies are taking advantage of this opportunity by building power plants just three miles south of the U.S.-Mexico border to provide power to the United States. These plants will produce air and water pollution that will have serious public health and environmental impacts in California's Imperial Valley and Mexicali, Mexico. The U.S. Department of Energy approved permits for transmission lines from the plants to cross into the U.S. without considering the impacts of the plants themselves. Earthjustice filed suit and in July 2003, a federal district court ruled that DOE's environmental assessment was inadequate as it ignored the health and environmental threats caused by carbon dioxide and other emissions from the plants. And in November, DOE announced it would carry out a full environmental evaluation as demanded by the Earthjustice suit.

A VOICE IN TRADE RULES

The United States is negotiating with other governments to establish new anti-environment trade rules for the Americas. The U.S. Trade representative provided written proposals and preliminary drafts of proposed new trade agreements to foreign governments, but despite the serious impacts of the rules here and abroad, the administration refused to make the documents available to the public. Earthjustice filed suit to force the administration to disclose active negotiation proposals, including those related to negotiations for a U.S.-Chile Free Trade Agreement. In December 2002,

the court ordered the release of all documents produced by or shared with Chile during the negotiations. This decision is extremely valuable in establishing a precedent for ongoing and future trade negotiations.

GHOST FLEET

There were 13 deteriorating ships, known as the "Ghost Fleet," moored in Virginia and laden with 698 tons of PCBs, 1,402 tons of asbestos, and 3,300 tons of old fuel oils. The U.S. Maritime Administration (MARAD) planned to tow these ships across the Atlantic to England for scrapping, despite the fact that it's illegal to export PCBs without a special EPA exemption that MARAD never sought; that the U.S. has the technology to safely recycle the fleet domestically; that jobs are needed in the U.S.; and that such a trip poses severe ecological risks. Earthjustice filed suit to halt the first shipment in September 2003, and a federal district court blocked nine of the 13 dilapidated ships from being towed to England. Subsequently, the United Kingdom's Environment Agency declared the authorizations to dismantle the ships to be invalid, and it is possible that the four ships that MARAD sent will be forced to return to the United States. Earthjustice and other environmental groups have outlined the conditions for a safe return. These ships are just the first of more than 250 decaying, poison-laden U.S. ships awaiting disposal in ports around the country.

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ENVIRONMENTAL LAW CLINIC AT STANFORD



THREAT



VISION

Longline fishing entangled thousands of endangered turtles every year until Earthjustice litigation by the Stanford law clinic resulted in a new proposed rule that will significantly reduce this fishery.

The students at the Earthjustice Environmental Law Clinic at Stanford work under the supervision of practicing environmental attorneys, providing legal and technical assistance to nonprofit organizations on a variety of environmental issues—primarily natural resource conservation, toxics, and pollution issues.

CHALLENGING THE BYCATCH OF SEA TURTLES

After litigation shut down the Hawai'i-based longline fishery for swordfish in 1999, the California-based longline fishery grew rapidly—approximately three dozen longline vessels relocated to southern California, where federal regulators ignored the violations of the Endangered Species Act. This fleet, fishing predominantly for swordfish, uses monofilament lines up to 30 miles long and carries thousands of hooks. Each year, these lines entangle numerous marine mammals, hundreds of seabirds, thousands of sharks, and endangered leatherback, loggerhead, olive ridley, and green sea turtles. Earthjustice's suit against the National Marine Fisheries Service resulted in a Ninth Circuit Court of Appeals ruling in our favor finding that the federal agency had violated the Endangered Species Act by failing to analyze the impacts on endangered sea turtles and seabirds. As a direct result of this ruling, the service has now proposed a new rule that will reduce and regulate this fishery.

NORTHERN GOSHAWK HABITAT VICTORY

The northern goshawk is a large bird of prey that lives in mature and old-growth forests in all western states. Extensive logging of these forests on federal, state, and private lands has caused goshawk numbers to plummet. In 1992, the Forest Service announced that it would prepare an environmental impact statement to establish guidelines for managing northern goshawk habitat in Arizona and New Mexico.

The final EIS stated that goshawks are habitat generalists not requiring old-growth forests specifically

for their survival. State wildlife agencies, other scientific experts, and a number of scientific studies strongly disputed this claim, but the Forest Service never disclosed this dispute to the public. In June 2003, Earthjustice challenged the case in the Ninth Circuit Court of Appeals and won. As a result of the victory, the EIS was remanded to the agency for full consideration of goshawk science.

PROTECTION FOR THE SANTA ANA SUCKER

In March 2003, in response to a lawsuit filed by the Stanford law clinic, a federal judge ordered the U.S. Fish and Wildlife Service to designate critical habitat for the Santa Ana sucker. The court also issued a sweeping injunction—the first in the nation—that prohibits the service from approving any projects that may affect the Santa Ana sucker until critical habitat is designated.

The Santa Ana sucker is a small fish that was once common throughout the Los Angeles basin. However, due to development and water diversions, its numbers have dwindled significantly and it now survives in only three isolated populations and is one of the few remaining freshwater species in southern California. The sucker requires clean water to survive and is consequently considered a prime indicator of the water quality of southern California rivers and streams.

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POLICY AND LEGISLATION



THREAT



VISION

The Environmental Protection Agency planned to eliminate Clean Water Act protections for as much as 60 percent of streams and 20 million acres of wetlands when a public outcry and then Congress forced EPA to abandon the idea.

Earthjustice's policy experts in Washington, DC, work to halt legislative backlash and protect environmental laws such as the Clean Air Act, the Clean Water Act, and the Endangered Species Act.

JUDICIAL NOMINATIONS

Earthjustice's Judging the Environment project has helped prevent the confirmation of extreme anti-environmental nominees to lifetime federal judgeships. Earthjustice has been a central player within the progressive community in convincing the Senate to block the confirmations of U.S. Courts of Appeals nominees Miguel Estrada, William Pryor, Priscilla Owen, Charles Pickering, Sr., Carolyn Kuhl, and Janice Rogers Brown. With the Senate refusing to confirm these lifetime judgeships, Miguel Estrada withdrew from consideration and President Bush bypassed the Senate by giving Pickering and Pryor recess appointments to temporary seats on the courts of appeals.

PROTECTING OUR WATER, AIR, SPECIES, AND PUBLIC LANDS

ENERGY BILL

In partnership with many of our clients, Earthjustice achieved a major victory in persuading the Senate to block the Bush administration's energy bill, even after provisions to drill the Arctic National Wildlife Refuge were dropped. This energy bill is perhaps the most environmentally destructive bill to move through the Congress in decades. It provides tens of billions of dollars in new tax breaks and subsidies to industry; it frees oil and gas construction activities from having to comply with key provisions of the Clean Water Act; it significantly weakens anti-smog requirements of the Clean Air Act for some of the most polluted cities in the nation (thereby threatening the health of children, senior citizens, and people with respiratory disease); and it threatens some of our most sensitive public lands by trying to place oil and gas development above all other uses. It also waives the Safe Drinking Water Act for underground injection of toxic chemicals by oil and gas companies and seeks to protect corporations that manufacture the highly toxic gasoline additive MTBE from liability for damage done to municipal groundwater supplies. Senate leadership plans another

vote in 2004 and Earthjustice policy experts will be there to support clean air, clean water, and public lands.

VICTORY FOR CLEAN WATER

Earthjustice was a lead group in organizing opposition to the Bush administration's attempt to dramatically limit the scope of the Clean Water Act. In November 2003, 218 members of the House of Representatives sent a bipartisan letter to President Bush opposing his efforts to stop regulating the pollution and destruction of waters such as non-navigable streams, creeks, ponds, small tributaries, and wetlands. The House members joined 26 Senators who sent a similar letter to the President earlier. In December, in response to this and overwhelming support from the public for clean water, EPA announced that it will not move forward with the proposed rulemaking to weaken the Clean Water Act.

DEPARTMENT OF DEFENSE EXEMPTIONS

Earthjustice helped defeat the administration's effort in the 2002 Defense Authorization bill to exempt the Department of Defense from the critical habitat provisions of the Endangered Species Act and from the Marine Mammal Protection Act. This year we won a Senate floor vote on these issues during the consideration of the 2003 bill. Unfortunately, however, these provisions were added back into the bill in the conference between the House and Senate.

HEALTHY FOREST INITIATIVE

In 2002, in coalition with other organizations, Earthjustice helped prevent the implementation of the so-called Healthy Forest Initiative. Unfortunately, the bill was passed in November 2003. This bill weakens public participation and environmental review for projects that could lead to logging large, fire-resistant trees in the backcountry rather than requiring federal agencies to focus their hazardous fuel reduction efforts near communities.

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COMMUNICATIONS

Earthjustice has a nine-person communications team that works to support the litigation and policy programs and to raise awareness of the role litigation plays in environmental protection. Here are some of the highlights from the past year.

GETTING OUT THE NEWS

Gaining media coverage is part of an effective litigation strategy. Increasing public support for environmental protection can help influence agency behavior and avoid legislative backlash. When the administration or Congress initiates rollbacks, the communications team works with Earthjustice's Policy and Legislation department to draw attention to these activities.

In 2003, Earthjustice worked with reporters and editorial writers to help draw public attention to environmental issues in newspapers and magazines across the country. Broadcast coverage featured Earthjustice spokespersons on such outlets as National Public Radio, CBS, and The Newshour. Earthjustice also supplied video footage to television stations that was used by NBC, CNN, Earthlink, and others.

Top media stories included national and regional air quality standards; the Bush administration's practice of quietly settling industry lawsuits; the stripping of potential wilderness protection for millions of acres of pristine public lands across the West and in Alaska; the "Healthy Forests" initiative; judicial nominations; defense of the Roadless Rule in court; proposed revisions to the Clean Water Act; halting the transport of ships laden with PCBs bound for Great Britain; endangered species protections for orcas, spotted owls, Klamath Basin salmon, and other species; critical habitat designations in Hawai'i and elsewhere; and the protection of numerous national monuments.



ENDANGERED SPECIES

Two thousand and three marked the thirtieth anniversary of the Endangered Species Act. The communications department produced a Citizens' Guide to the Endangered Species Act that explains the parts of the ESA useful to citizens interested in working to protect wildlife. In addition, Earthjustice produced a video on the role of science in enforcing the ESA to be used with congressional staff and in media outreach and cosponsored a press conference in Washington, DC, to raise awareness of the importance of America's strongest environmental law.

TRADE AND THE ENVIRONMENT

Earthjustice's senior editor Tom Turner traveled to Mexico to report on the World Trade Organization's meeting from an environmental perspective. His daily dispatches were published in *Grist Magazine* as well as on EnvironmentalNewsNetwork.com, Faultline.org, FoodFirst.org, and Earthjustice.org, and helped explain the reasons behind the ongoing protests around WTO meetings.

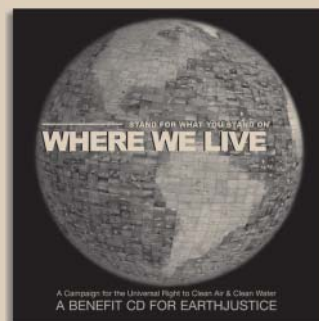
SAVE SUMMER

Working with Earthjustice's policy and legislative team, the communications staff was successful in drawing attention to an obscure rule change to the Clean Water Act through a multimedia campaign. The rule change would have removed protection for seasonal waterways and intermittent streams—in many cases the public's favorite swimming and fishing spots—so Earthjustice's campaign focused on “saving summer” from the proposed rule change. Through a web site and email outreach, Earthjustice generated more than 10,000 public comments. The Bush administration decided not to proceed with the rule change in December 2003.

WHERE WE LIVE

Approximately one-third of Earthjustice's cases focus on protecting public health by enforcing the Clean Air Act and the Clean Water Act. In 2003, Earthjustice launched the Where We Live campaign to raise awareness of this work and to make the point that protecting the environment protects people, too. As part of the campaign, Earthjustice released its second benefit CD, this time featuring Bob Dylan, Bonnie Raitt, Norah Jones, Ry Cooder, Willie Nelson, and many other top artists. The project has generated coverage in media outlets across the country, and in particular on popular music stations where environmental stories are not commonly discussed.

Earthjustice offers a monthly on-line newsletter called e-Brief that is free and more timely than we can be with most printed materials. It provides news, commentary, staff biographies, a photo gallery, and opportunities for action. We encourage you to visit our website and subscribe at www.earthjustice.org.



WHERE WE LIVE CD THANKS

Earthjustice would like to thank Mike Kappus of the Rosebud Agency for the countless hours he donated to produce the Where We Live CD. Mike's dedication to Earthjustice and its mission is inspiring and his ongoing involvement with the organization is greatly appreciated by the staff and board.

In addition, we would like to thank Dean Sheldon Serwin for donating hours of legal services to the Where We Live project. Dean showed great perseverance in handling the numerous licensing agreements needed for the benefit CD.

FINANCIAL REPORT

MANAGEMENT'S ANALYSIS

In the face of difficult economic and political times, supporters of Earthjustice contributed generously in fiscal 2002-2003. As a result, Earthjustice was able to expand its program operations and even rebuild some of its financial reserves.

The financial statements in this annual report reflect Earthjustice and its supporting organization, Campaign for America's Wilderness. (Until June 30, 2002, the Campaign for America's Wilderness was a program department of Earthjustice and was referred to as the Pew Wilderness Center.)

Revenue and Gains in 2002-2003 totaled \$30.2 million, a \$10.5 million increase from the year before. A large portion of this increase (\$6.7 million) was due to special circumstances in the funding schedule of the Campaign for America's Wilderness, which in the prior fiscal year received no support grants. The balance of the increase is attributable to investment gains and to significant growth in contributions. After suffering investment losses in the two years prior, Earthjustice recorded investment gains of \$0.6 million in fiscal 2002-2003. More significant was the strong support of individual donors and foundations for Earthjustice's work. In a year marked by war and economic challenges, people still found a way to support Earthjustice, and they did so in record numbers. Even excluding the special funding for the Campaign for America's Wilderness, contribution revenue increased by \$2.0 million (13%).

The growing financial support for Earthjustice during these difficult times reflects widespread understanding of the importance and effectiveness of Earthjustice and its work in the courts defending the environment. Earthjustice responded by putting the increased contributions directly to work. Program service expenses reached a record \$20.6 million in fiscal 2002-2003, an increase of \$3.4 million (20%) over the year prior. The greatest growth came in our core litigation work, in a new campaign to monitor judicial nominations, and in the continuing efforts to save wilderness areas. Although fiscal 2002-2003 saw tremendous growth in program services, I am glad to report that effective cost controls led to slightly decreased management and general expenses. Program expenses constitute a full 75% of total expenses.

Earthjustice's balance sheet also improved in fiscal 2002-2003. In the two years prior, as the challenges of the Bush administration loomed, Earthjustice chose to maintain and, in some cases, grow its program expenditures in spite of static revenues. During this period, revenue shortfalls and necessary program expansion consumed approximately \$4.9 million of our reserves. In fiscal 2002-2003, Earthjustice recorded a \$2.7 million growth in net assets (a surplus), which contributed to a rebuilding of those reserves. Total Assets on July 31, 2003, were \$31.9 million, an increase of \$3.3 million over last year. The \$2.7 million increase in contributions receivable is reflective of a scheduled but unpaid grant in support of the Campaign for America's Wilderness. The combined \$2.0 million increase in cash, short-term investments, and long-term investments that increased our reserves will make possible swift response to future challenges.

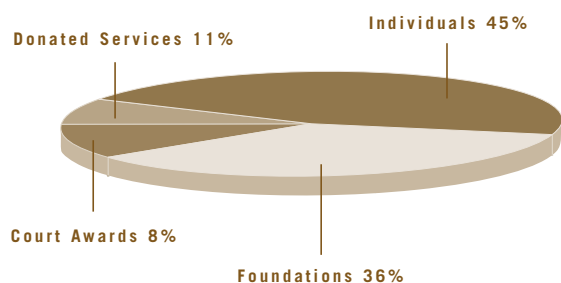
Bruce M. Neighbor, Vice President
Finance & Administration

Note: The condensed financial information on pages 40-41 has been derived from the audited financial statements reported upon by Moss, Adams LLP, Earthjustice's outside audit firm. This information is presented as a summary and, therefore, does not include all the disclosures required by generally accepted accounting principles. Interested parties can obtain a complete copy of the fiscal year 2002-2003 audited financial statements by contacting our headquarters office.

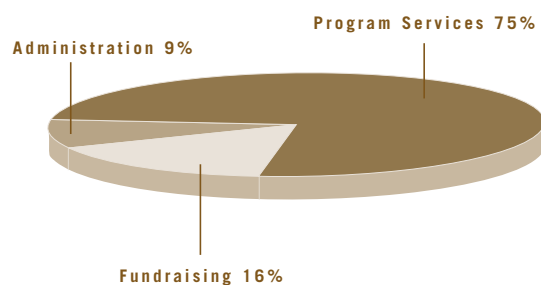
STATEMENTS OF FINANCIAL POSITION

	2003	2002
ASSETS		
Operating cash, including client trust funds	\$ 738,922	\$ 39,726
Short-term investments at market value, including cash equivalents	1,244,400	174,237
Receivables – contributions	7,012,333	4,245,036
Other receivables	68,713	732,980
Court awards receivable	60,784	310,049
Publication inventory	142,593	186,196
Prepaid expenses	285,387	251,583
Long-term investments at market value, including cash equivalents	19,606,231	19,411,038
Property and equipment, net of accumulated depreciation and amortization	2,774,247	3,260,155
TOTAL ASSETS	\$ 31,933,610	\$28,611,000
LIABILITIES		
Outstanding checks	\$ —	\$ 245,568
Accounts payable	1,672,241	722,179
Due to related entity	—	317,000
Accrued vacation payable	473,310	508,365
Other accrued liabilities	29,445	—
Client trust funds	65,188	36,288
Liabilities related to split interest gift agreements	3,178,146	2,927,694
TOTAL LIABILITIES	\$ 5,418,330	\$ 4,757,094
NET ASSETS		
Unrestricted	\$ 21,807,343	\$19,028,944
Temporarily restricted	3,733,757	3,955,333
Permanently restricted	974,180	869,629
TOTAL NET ASSETS	\$ 26,515,280	\$23,853,906
TOTAL LIABILITIES AND NET ASSETS	\$ 31,933,610	\$28,611,000

SOURCES OF SUPPORT



EXPENDITURES



STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS

				2003	2002
	Temporarily Unrestricted	Permanently Restricted	Restricted	Total	Total
REVENUES AND GAINS					
Contributions	\$21,302,763	\$3,023,489	\$33,591	\$24,359,843	\$15,627,820
Bequests	2,068,366	—	—	2,068,366	2,532,036
Court awarded attorney fees and costs	2,243,832	—	—	2,243,832	2,492,530
Change in value of split interest gift agreements	(21,518)	124,558	—	103,040	153,989
Gains/(losses) on long-term investments	426,479	66,421	59,040	551,940	(1,840,506)
Interest and dividend income	475,350	41,803	21,280	538,433	621,388
Other income	341,257	—	—	341,257	83,487
Satisfaction of program restrictions	3,487,207	(3,477,847)	(9,360)	—	—
Expiration of time restrictions	—	—	—	—	—
TOTAL REVENUES	30,323,736	(221,576)	104,551	30,206,711	19,670,744
EXPENSES					
Program services					
Litigation	12,140,990	—	—	12,140,990	11,029,071
Lobbying	534,481	—	—	534,481	345,336
Public information	7,947,959	—	—	7,947,959	5,874,699
Supporting services					
Management and general	2,400,900	—	—	2,400,900	2,401,167
Fund-raising	4,521,007	—	—	4,521,007	3,978,822
TOTAL EXPENSES	27,545,337	—	—	27,545,337	23,629,095
CHANGE IN NET ASSETS	2,778,399	(221,576)	104,551	2,661,374	(3,958,351)
NET ASSETS, Beginning of Year	19,028,944	3,955,333	869,629	23,853,906	27,812,257
NET ASSETS, End of Year	\$21,807,343	\$3,733,757	\$974,180	\$26,515,280	\$23,853,906

CONTRIBUTORS



Photo: Amy Norquist

Thanks to the commitment and generosity of our supporters, Earthjustice protects natural treasures and the health of communities by strengthening and enforcing environmental laws year after year. As a service to donors, Earthjustice is changing the listing period to reflect contributions received on a calendar year basis. For this Annual Report only, donors listed below have provided support in the 17-month period, August 1, 2002, through December 31, 2003.

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The William O. Douglas Society is a group of Earthjustice supporters whose generosity honors the dedication of Supreme Court Justice Douglas to protecting the environment through the legal system.

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“The trip to Costa Rica provided a wonderful opportunity to witness some environmental success stories. As we met with groups and individuals Earthjustice has partnered with I kept thinking how much the organization’s work is about human rights as well as protecting the environment. I was also impressed with the depth of knowledge and commitment of the Earthjustice staff members accompanying us.”

*Cecelia Goodnight and Trustee David Cox
(pictured to left)*

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“Earthjustice does the tough confrontational legal work that is essential for the preservation of our environment. This work is essential and deserving of support.”

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Earthjustice remembers with special gratitude the following friends who passed away and whose wills, trusts, or other estate plans provided us with funds from August 1, 2002, through December 31, 2003. We pay tribute to their memory and their belief in environmental law.

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The following individuals inspired gifts to Earthjustice on their behalf. We are pleased to share this celebration.

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“The ‘Bushies’ don’t appear to want to preserve our natural heritage for their grandchildren, but I do. Earthjustice is appearing in court to enforce environmental laws so, besides contributions, I save them funds by volunteering. When I help with ‘thank you’ letters, I’m encouraged by how many generous donors Earthjustice has.”

Jacob Schonfield

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Earth Friends Wildlife Foundation, a Jackson, Wyoming-based charitable support organization, builds partnerships by leveraging matching opportunities. “We feel Earthjustice knows how to be entrepreneurial in their projects by putting together matching grants from several sources,” says Rick Flory, Founder of Earth Friends and Lee Robert, Executive Director.

“With this administration’s strategy, that uses pro-environmental rhetoric while quietly engineering the demise of a clean and healthy environment, Earthjustice’s work is critical. We are proud of our partnership and feel committed to their important work which includes protecting and restoring the forests and waterways of the Northwest.”

For more information about Earth Friends visit their website at www.earthfriends.com

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Honoring individuals whose life’s work exemplifies stewardship of the environment and special Earthjustice initiatives, the following named funds are part of the Earthjustice cash reserve and endowment.

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PAUL BOWER, 1933-2003

Earthjustice trustee Paul Bower died December 31, 2003.

Paul retired from the practice of law in 1995 after a distinguished career in Los Angeles with the firm of Gibson, Dunn & Crutcher.

Paul joined the Earthjustice board in 1982 and was a staunch friend and supporter for the next two decades. He had taken early retirement so he and his wife, Elreen, could spend more time in their beloved out of doors. Soon after his retirement, Paul suffered a major stroke that left him wheelchair-bound but did nothing to stifle his wit, charm and good-natured curiosity. Nor did it affect his commitment to Earthjustice. He continued to be an active participant at board meetings and on the board's finance committee.

In addition to his interest in environmental law, Paul was dedicated to providing legal services for the poor, serving as president of the Legal Aid Foundation of Los Angeles and chair of the Legal Services Commission of the State Bar of California. "Paul was so bright, so energetic, so full of life," remembers fellow trustee Liz Sutherland, "and so committed to this organization. We will miss his truly indomitable spirit." Paul will be fondly remembered by the entire Earthjustice family.

GIVING OPPORTUNITIES



Dr. William Serat and his dog Raider.

THE WILLIAM O. DOUGLAS SOCIETY

William O. Douglas served on the U.S. Supreme Court from 1939 to 1975 and was perhaps the single most distinguished champion of the environment in American legal history. Membership in the William O. Douglas Society is offered to donors who make an annual contribution of \$500 or more, and entitles them to a wide range of benefits.

For information about the William O. Douglas Society, contact Lynn Bolton at 510-550-6700 or via email at lbolton@earthjustice.org

THE LEADERSHIP COUNCIL

of The William O. Douglas Society begins with gifts of \$5,000 and offers invitations to telephone briefings with program staff, special events, and an Earthjustice liaison to assist donors and provide program information.

For information about the Leadership Council, please contact Amy Norquist, Director of Major Gifts, at 510-550-6700 or anorquist@earthjustice.org

THE EVERGREEN COUNCIL

The Evergreen Council is a special group of supporters who are helping to provide for the future of Earthjustice through planned gifts. These special arrangements allow supporters to fulfill their personal philanthropic and tax planning goals.

Estate Planning: Members of the Council have included Earthjustice as a beneficiary of their wills, living trusts, retirement plans or life insurance policies.

Life Income Gifts: Life income gifts, such as charitable gift annuities, pooled income fund gifts, or charitable remainder trusts provide members of the Council with many tax benefits, including income for life, reduced capital gain taxes, and immediate income tax deductions.

For information about the Evergreen Council, contact Alison Levine or Tracy Donahoe at 510-550-6700 or via email at legacy@earthjustice.org

APPRECIATED SECURITIES

Giving stocks and bonds to Earthjustice can make a measurable difference in the preservation of natural resources, and simultaneously reduce your tax bills. By donating appreciated stocks, bonds, and mutual fund shares that have been owned for more than one year, Earthjustice supporters can completely avoid capital gains tax. They also receive an income tax deduction for the fair market value of their gift.

For information about stock gifts, contact Jory Cunningham at 510-550-6700 or via email jcunningham@earthjustice.org

MEMORIAL AND TRIBUTE GIFTS

Many of our supporters cherish a loved one's memory or honor someone special by making a memorial or tribute gift in his or her name to Earthjustice. When a donation is received, Earthjustice sends a special handwritten greeting card to the individual being honored, or to the person receiving notification of the memorial gift.

Dr. Larry Felkner made a generous memorial gift to Earthjustice to honor his cousin Dr. William Serat, a biochemist at St. Mary's College in California. The publication of Rachel Carson's *Silent Spring* was the impetus for Dr. Serat's most important research on pesticides containing DDT. He was part of a team of investigators whose fieldwork revealed the harmful effects of DDT in the environment, and the analysis and reporting of the research eventually led to the banning of DDT, first in California and then throughout the nation. Dr. Felkner chose Earthjustice as the recipient of this memorial gift, because "my cousin's legacy of helping to outlaw DDT is consistent with the goals of Earthjustice. With man's unrelenting attack on the environment, Earthjustice is the only way for the earth to get its day in court."

TEAM LEGAL

The members of our monthly giving program play a vital role in ensuring that Earthjustice has the resources necessary for all ongoing programs. By giving regular contributions, Team Legal members enable Earthjustice to move quickly when a threat to the environment arises. Members are welcome to make monthly gifts by check, debit or credit card, or electronic funds transfer.

For information on Memorial and Tribute Gifts and Team Legal, please contact Isaac Bowers at 510-550-6700 or via email at ibowers@earthjustice.org

MATCHING GIFTS

Earthjustice donors can make their hard-earned dollars go twice as far through matching gifts. Most employers will match charitable contributions, and some will do more, even if the employee is now retired. Donors should send a contribution accompanied by their company's matching gift forms to Earthjustice, and our staff will do the rest of the work.

WORKPLACE GIVING

Earthjustice is a founding member of Earth Share, a federation of the nation's leading environmental and conservation organizations. Earth Share raises funds on behalf of its members through workplace payroll deduction campaigns.

For information on matching gifts or supporting Earthjustice through the Earth Share Charitable Giving Campaign, please contact David Gorton at 510-550-6700 or via email at dgorton@earthjustice.org

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