

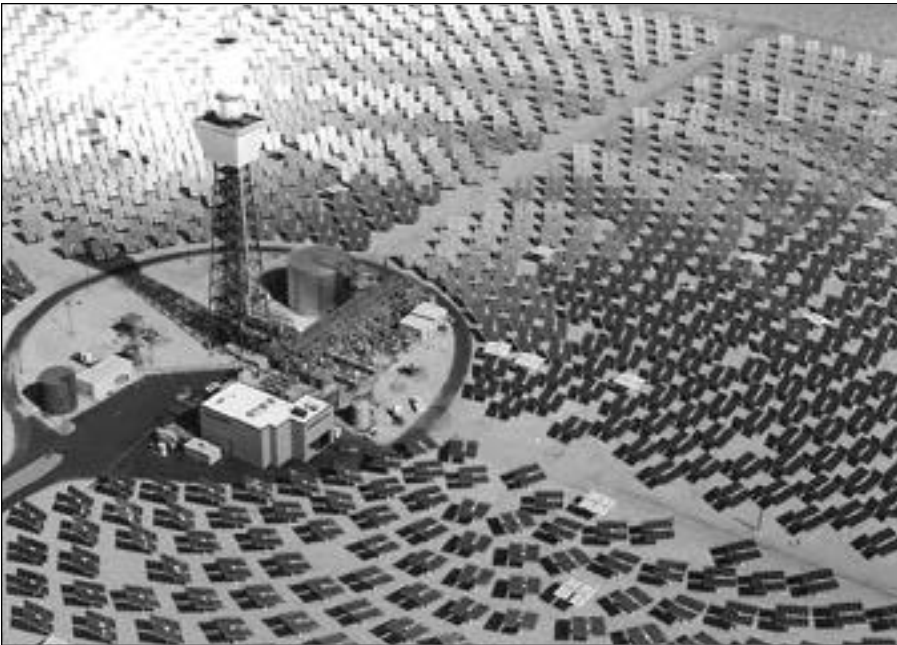


Fall 2001

Green Fire Report

A Publication of the New Mexico Environmental Law Center, a non-profit, public interest law firm.
 The mission of the New Mexico Environmental Law Center is to protect New Mexico's natural environment and communities.

Sandia National Laboratory and the National Renewable Energy Laboratory



Solar One solar furnace, Barstow, CA, which produces 10 megawatts of power.

Making the Right Energy Choices

By Jennifer Taylor, Environmental Advocate, New Mexico Public Interest Research Group (NMPIRG)

The last time our country faced skyrocketing gasoline prices, everyone talked about ensuring that we had a sustainable energy plan for the long haul. You may be wondering why we are going through the same problems once again, plus facing rolling blackouts in places like California. The answer is that we are still too reliant on dirty, unsustainable and unreliable sources of energy.

Eighty-nine percent of U.S. energy production comes from dirty sources of energy (coal, oil, gas and nuclear). In New Mexico, 87 percent of electricity generated comes from dirty, coal-fired power plants. Over the last 50 years, federal subsidies to these polluting energy sources have outpaced investments in efficiency and renewable energy sources by more than 4 to 1.¹

We know a lot more now than we used to about the harmful effects of dirty energy

production. Tens of thousands of American lives are cut short each year from the pollution that comes from coal-fired power plants. U.S. energy production is responsible for 82% of global climate change pollution and 95% of highly radioactive waste.²

Having a sustainable energy plan no longer just means having enough to last into the future; it means being able to live with the consequences of the energy that we use. Producing our energy from coal, oil, gas and nuclear damages public health and the environment, and results in unstable prices and supplies, leading to outrageous energy bills and threats of blackouts. That is not sustainable.

President Bush and some in Congress are working with the oil, coal and nuclear lobbyists in Washington to push a harmful energy plan. This plan would further increase our

Continued on page 2



CASE UPDATES

The Battle for Grant County Heats Up

What began as a promising demonstration of the public process has turned into a bleak reminder of how things once worked in New Mexico.

Background

The Law Center represents the Gila Resources Information Center (GRIP), a grassroots organization in Silver City that has been fighting to protect the groundwater and surface water of the region from mine pollution. Currently, three copper pit mines owned by Phelps Dodge Mining Co. subsidiaries are

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dependence and spend more taxpayer money on the energy while giving short shrift to clean and sustainable sources of energy. New Mexico, rich in both clean and dirty energy resources, has become a battleground state in the debate over this energy plan. Rep. Heather Wilson (R-NM) attached amendments to the House Energy Bill that call for \$30 million in subsidies for in-situ leach uranium mining companies, and an extended moratorium on the sale of U.S. government surplus uranium. (Ed. note—The Senate is addressing this legislation as this issue of the Green Fire Report is going to press.)

There's simply no reason to destroy wilderness areas for drilling, roll back clean air protections or waste our tax dollars on coal and nuclear when we can increase energy efficiency and shift to clean, sustainable and renewable sources such as solar and wind.

- Energy efficiency is the quickest, cheapest, cleanest way to save energy and money and reduce pollution. According to analysis of the California energy by the State PIRGs, had the utility companies not cut back on efficiency programs since deregulation, and if the legislature had more quickly invested in efficiency programs this year, the state could have avoided energy blackouts this summer.³
- The potential power output of wind, solar and geothermal resources in the United States is many times greater than our total electricity consumption. New Mexico has some of the largest of these renewable resources in the country. The Department of Energy estimated New Mexico's wind resources alone could provide several times the state's current electricity needs. Wind power in Colorado and other states is as cost-effective as gas-fired plants, is easier and quicker to get on line, and doesn't emit dangerous air pollutants.⁴
- Increased efficiency in cars and trucks save us money at the pump and cut back on global warming pollution. Rather than drilling in the Arctic Refuge, the Rocky Mountains and the Great Lakes, we could simply increase the miles per gallon standards on new cars and trucks to 40 miles per gallon and save 15 times the amount of oil the Arctic National Wildlife Refuge could produce.⁵

The same reasons we made energy choices in the past are the powerful forces that are pushing us even further towards over dependence on dirty and unsustainable forms of energy. The industry lobbyists that are trying to craft our national energy decisions have been heavily invested in the political process. During the last election, the federal campaign cash register was ringing loudly with dirty energy money: oil and gas companies contributed \$32,424,802; utility companies donated \$18,434,621; the auto industry donated \$17,571,016; the coal companies donated \$3,823,287. That rings up to a \$72 million investment in federal campaigns in the last election alone.⁶

How damaging can this kind of involvement be when it comes to our energy decisions? The two major utility holding companies in California spent \$53,745,147 on lobbying and campaign contributions to enact and defend the California deregulation law. That law is the single greatest reason that California has been struggling under skyrocketing energy prices and rolling blackouts. Luckily, New Mexico has chosen to delay deregulation for 5 years. Unfortunately utilities were not absent from this process and were able to attach amendments, which allowed utilities to build as many power plants as they want regardless of the need for them. These amendments also approved collection of \$115 million from of the Public Service Company of New Mexico ratepayers for cleaning up a coal mine.⁷

We can't keep making the same bad energy choices. New Mexico is perfect place to provide the transition to a cleaner, smarter energy plan.

For more information, please see www.nmpirg.org.

1 www.nmpirg.org, under Clean Energy Campaign link.

2 <http://nmpirg.org>, New Energy Future link to Energy Fact Sheet (<http://newenergyfuture.com>).

3 Heavner, Brad, et. al. A New Energy Future: Options for a Smarter, Cleaner Energy Future. Produced by the U.S. PIRG Education Fund and the State PIRGs' Campaign for a New Energy Future. www.pirg.org/energy/Energypaper.pdf, pp. 4-5. May, 2001.

4 A New Energy Future, pp. 20-21.

5 A New Energy Future, p. 15.

6 www.opensecrets.org.

7 www.nmpirg.org. ■

under deadline to have Closeout and Closure Plans (CCPs) approved by the State by December 31, 2001.

In order to approve the CCPs for the Chino, Tyrone and Cobre mines, the State is holding a series of public hearings near Silver City to hear testimony by residents and expert witnesses for and against the reclamation plans submitted by Phelps Dodge. These plans will not be implemented immediately; rather they will take effect when the mines shut down in twenty to thirty years when the operations are no longer profitable. The first hearing, held by the New Mexico Environment Dept. (NMED) in Bayard, NM, was held in August. The dates for subsequent hearings are currently in limbo due to the maneuvers of the NMED and Phelps Dodge.

Timeline

- Fall, 2000—GRIP invites Phelps Dodge to discuss reclamation possibilities. Phelps Dodge declines the offer.
- March, 2001—Phelps Dodge releases its draft permit application, including a CCP for its Chino and Tyrone mines. **Phelps Dodge's reclamation bond estimate for Chino: \$150 million.**
- June 28, 2001—With technical experts from the Center for Science and Public Participation (CSP2), a non-profit consulting organization that has worked on several mine reclamation efforts across the West (including Molycorp), GRIP releases a reclamation plan in response to Phelps Dodge's Chino CCP. **GRIP's reclamation bond estimate: \$989 million for Chino, \$729 million for Tyrone.**
- Early August, 2001—The NMED Groundwater Bureau releases a 90 page Fact Sheet that outlines numerous deficiencies in Phelps Dodge's Chino CCP. **The State's reclamation bond estimate: \$749 million for Chino.**
- August 4–12—The NMED Groundwater Discharge Permit Hearing is held in Bayard, near Silver City. Present are GRIP and Steel Workers Local 890 of the USWA, represented by Doug Wolf and Robin Cooley (Western Environmental Law Center[WELC]), Phelps Dodge, and the NMED. Local residents are given time to speak. GRIP and the USWA give testimony and technical testimony that the Chino



CCP is inadequate, and will not prevent Phelps Dodge from polluting the groundwater.

NM Secretary of the Environment Pete Maggiore recuses himself as the authority for approving the discharge permit. The responsibility for approving or disapproving the permit is transferred to NMED Hearing Officer Felicia Orth.

When the hearing ends, the Law Center feels it has proven GRIP's case that the Chino CCP is inadequate, and if the plan is accepted, it could result in the contamination of the Mimbres Aquifer on a major scale.

- September 4—We are notified by the NMED that the *State has been holding secret negotiations with Phelps Dodge throughout the public hearing*. We are invited to join the negotiations under the conditions that it sign a confidentiality agreement and that several important issues such as mixing zones and outslope grading are off the table. Supported by the Law Center and WELC, GRIP declines the invitation.
- September 12-22—GRIP alerts state legislators to the State's attempts to circumvent the public process mandated by the State Mining Act and the Water Quality Act.
- September 25—the NMED and Phelps Dodge jointly file a request for an extension of time to submit findings of fact and conclusions of law to the NMED Hearing Officer.
- September 26—the Law Center, on behalf of our clients, files two pleadings: 1) a response opposing the State's request for an extension of time to file findings of fact; and 2) a motion to dismiss the Hearing Officer due to a conflict of interest.
- October 1—the NMED Hearing Officer grants NMED and Phelps Dodge an extension until November 14 to turn in its findings of fact and conclusion of law. She gives the Law Center and our clients until December 14 to submit our findings of fact and conclusions of law, so that we can examine and respond to the deal made by Phelps Dodge and the State. ■



The Santa Rita Pit at the Chino Mines.

Picuris Update

Unfortunately, the Law Center has recently learned that the State Court of Appeals ruled against our client, the Pueblo of Picuris, in its attempts to continue its citizen suit under the New Mexico Mining Act. The state Supreme Court has also denied our request to hear the case. The Pueblo began its suit after the State Mining and Mineral Division granted a permit for the substantial expansion of a mica mine owned and operated by Cleveland (OH)-based Oglebay Norton Specialty Minerals. The permit allows the company to increase the size of the mine from less than ten acres to more than sixty acres.

The mine is located on the Pueblo's ancestral lands, where Pueblo potters once gathered the clay needed to make traditional micaceous pottery. The Law Center is also working with the Pueblo and several cultural experts and co-counsel to research the valley and create an archive of information about Picuris that will be housed at the Pueblo. The Pueblo is also working with Los Vecinos del Rio, a

citizens' group that is fighting expansion of Oglebay Norton's mica mill in Velarde. ■

El Cajete Update

In 1999, the Law Center and our client, the Rio Grande Chapter of the Sierra Club, scored a major victory when Judge Art Encinias of the state District Court ruled that El Cajete pumice mine could not be classified as a new unit of an existing mine. El Cajete, located in the Jemez Mountains, is located over a mile away from the Los Conchas mine, an "existing" mine that was closed and reclaimed in 1996.

Immediately, Copar Pumice (the mining company, owned by Richard Cook) and the State Mineral and Mining Division (MMD) appealed the decision. In a move that could weaken the Mining Act of 1993, the New Mexico Court of Appeals overturned Judge Encinias' ruling this Spring when it decided that El Cajete could be permitted as a new unit of an existing mine. On behalf of our client, Doug Wolf will argue this case before the state Supreme Court early in 2002. ■



The first major strike of uranium in New Mexico occurred in 1948, outside of Grants. By the early 1950s, corporations such as Kerr McGee and United Nuclear had moved in, using Navajo labor in massive underground mines.

Decades later, the federal government is making payments to sick miners and Navajo families, in an attempt to make small and belated amends for the tragic legacy that underground uranium mining has left the Navajo people. Starting in the 1970s, uranium companies devised a supposed "solution" to the devastating health effects of underground mining: in situ leach (ISL) mining. But this method is not without a terrible price—a price too steep for the people of Crownpoint and Church Rock.

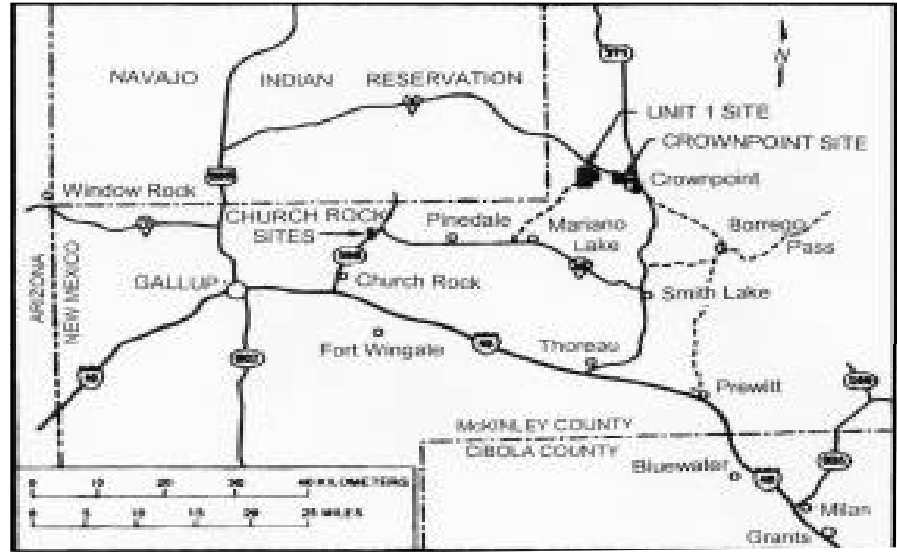
Since 1996, the Law Center has dedicated a full-time attorney to work with the Eastern Navajo Diné Against Uranium Mining (ENDAUM) and the Southwest Research and Information Center (SRIC) in a fight to defeat proposed in-situ leach uranium mining in the Crownpoint-Church Rock area. In 2001, uranium has come to the forefront of several other arenas that will affect our ENDAUM case: the current Administration's push for a nuclear-focused energy policy, and proposed changes to New Mexico's groundwater uranium standards. ■

HRI Update

Background

Hydro Resources, Inc. (HRI), a subsidiary of Texas based Uranium Resources, Inc.,(URI), was granted a license by the Nuclear Regulatory Commission (NRC) in 1994 to open four uranium mine sites and a uranium milling facility in the Navajo communities of Crownpoint and Church Rock. That same year, residents formed ENDAUM and joined with SRIC to fight the licensing. Two years later, the Law Center entered as lead counsel (Diane Curran of Harmon, Curran, Spielberg & Eisenberg in Washington, D.C. is co-counsel.)

The problem: HRI is proposing ISL mining, a process where an alkaline solution is injected into the aquifer to dissolve the uranium in surrounding rock strata. The resulting "pregnant" solution of uranium-rich groundwater is then pumped to the surface, where theoretically the uranium and other heavy metals that are



mobilized during the process are removed. The "clean" water is then reinjected into the aquifer. Unfortunately, in the thirty years that companies have been conducting ISL mining, no mine has ever been able to reclaim water to pre-mining condition. In fact, the only way that mines have ever been able to meet permit requirements is for those requirements to be relaxed by regulators (as has happened in Texas and Wyoming.)

For that very reason, ISL mining has never been performed so near a human population center as Crownpoint or Church Rock, or been performed in an aquifer as pure as the Westwater Aquifer—except, of course, for the Mobil Oil pilot-scale project sited near Church Rock in 1979. This pilot project, on which ENDAUM co-founder Mitchell Capitan worked, failed miserably in its attempts to restore the aquifer, leaving a contaminated mess behind. It is no wonder that the vast majority of the residents of Crownpoint and Church Rock are leery of seeing their main drinking water source impregnated with one of nature's most potent toxins.

What's Next

GFR readers will recall that the Law Center and our clients have had several significant victories over the past two years. Reversing an earlier decision, NRC commissioners ruled that although the NRC has granted a license to HRI for these sites, HRI must first present a bonding estimate and financial assurance for each site before the company

could commence operations at that site. Reversing a second decision, the NRC ruled that HRI cannot bifurcate, or split up, its license. In other words, HRI must submit and defend Restoration Action Plans (RAPs) including bonding requirements for all four mine sites before it could begin mining at Section 8.

Church Rock Section 8—Our expert witnesses found tremendous shortcomings in the Section 8 RAP submitted by HRI last November. For instance, the company claims it will cost \$9 million to reclaim Section 8. Our experts—experienced ISL mine regulators—estimate that the partial cleanup that could be possible will cost at least \$20 million.

The Law Center will represent our clients in a clarification session before Judge Thomas Moore, NRC Presiding Officer, in Washington D.C. on November 8, 2001. Members of ENDAUM will attend the session. We anticipate a ruling on the adequacy of the Section 8 RAP this winter.

Crownpoint, Unit 1 and Church Rock Section 17—The Law Center has received the RAPs for Unit 1 and Section 17, and we expect to receive the RAPs for Crownpoint in November. The NRC has 30 days to approve or disapprove each plan. Then, the Law Center's expert witnesses will have 45 days to examine and comment upon the adequacy of these plans. We will file our responses to the three RAPs this winter.



URANIUM DRINKING WATER STANDARDS

Legislative Update

This summer, New Mexico's Heather Wilson (R-1st Dist.) introduced two amendments to the House Energy Bill that could have devastating effects on New Mexican citizens while aiming to prop up the uranium mining industry. Similar amendments introduced by Senator Pete Domenici (R-NM) in March, 2001 are pending in the senate.

One amendment calls for \$30 million in subsidies to be made available to four eligible mining companies (including URI, HRI's Dallas-based parent company) to subsidize research on ISL mining reclamation. While Heather Wilson lauds ISL mining because it does not create tailings piles, our clients contend that if reclamation research capabilities are so inadequate as to require \$30 million from the government, ISL mining cannot be safe enough to perform in close proximity to human populations.

Rep. Wilson also attached an amendment that extends the moratorium on sales of federal stockpiles of uranium for energy purposes from 2004 to 2009. Local and national groups, including the Law Center, our co-counsel and clients in this case, the Mineral Policy Center, NM Public Interest Research Group (PIRG), the National Resources Defense Council, the Nuclear Information and Resource Service, US PIRG, and Taxpayers for

	Micrograms per Liter
World Health Organization	2
Environmental Protection Agency	30
New Mexico*	5,000
<i>*groundwater standard</i>	

Based solely on kidney toxicity, the World Health Organization recommends that drinking water should not exceed 2 micrograms of uranium per liter of water; also based upon health concerns, the University of New Mexico Health Services has submitted a report to the New Mexico Environment Department which recommends a standard of 7 micrograms of uranium per liter of groundwater. Combining health factors with economic factors, the U.S. EPA issued National Primary Drinking Water Regulations in 2000 that stipulate a maximum of 30 micrograms/liter. Current New Mexico groundwater regulations, which were originally enacted in 1979, place a maximum cap of 5,000 micrograms of uranium per liter of groundwater. This standard will be examined in late 2001 or early 2002.

Toxic—Pertaining to the poisonous nature of a substance on a person. In this case, ingested uranium found in food and water and its effects on the kidneys.

Radiologic—Pertaining to the radioactive effects of a substance on a person. Radioactivity is primarily of concern when a person inhales Iuranium, such as the radioactive dust breathed in by underground uranium miners. Radioactivity is not of primary concern regarding groundwater standards.

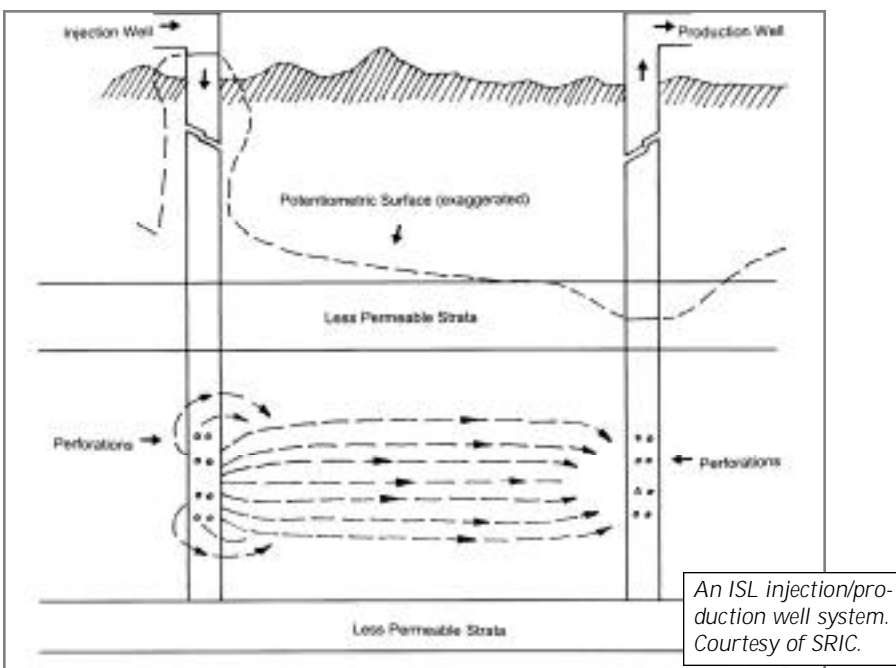
Common Sense, banded together to protest these amendments on two grounds. First, these amendments constitute corporate welfare, which Rep. Wilson has admitted. Second, uranium is worth approximately \$9 per pound currently; if artificial restrictions continue to be placed on the market, the price could rise to \$15 per pound, which would give HRI incentive to begin mining as soon as it could get approval from the NRC. ■

New Mexico Uranium Groundwater Standards

Meanwhile, back on the homefront, the State of New Mexico is revisiting groundwater standards for uranium. In 1979, in a move heavily lobbied by uranium interests, the state passed a standard of 5000 micrograms (5 grams) of uranium per liter of water as an acceptable groundwater standard.

However, during the past 25 years, environmental and health organizations and agencies around the world have come to the conclusion that uranium is one of the most dangerous nephrotoxins produced in nature. In other words, scientists are not as concerned about the radioactivity of uranium in groundwater as they are about the highly toxic effects of ingested uranium on human kidneys.

The University of New Mexico Center for Population Health, led by Dr. Johnnye Lewis, has submitted a report to the Groundwater Bureau of the New Mexico Environment Department (NMED) recommending a health-based ground water standard of 7 micrograms of uranium per liter of water. The NMED is currently beginning a peer review of the study, and will make a recommendation to the Water Quality Control Commission to set the revised standards early next year. The Law Center and our clients will be following the proceedings and fighting for a standard that is safe for all New Mexicans. ■





The Need for Public Participation in Regulatory Processes and The Sound Science Principle

As has been pointed out before in this column, decisions about environmental issues that affect communities are frequently made by agencies of state and federal government. Most often, these agencies act on the basis of information that is presented to them by entities such as local governments and private corporations that are seeking licenses or permits for their proposed activities or are seeking approval for reclamation and other plans. These activities can include items that are relatively benign, such as playgrounds and parks, and items that have serious environmental impacts, such as mines, landfills, and incinerators.

The prevailing wisdom among most federal and state agencies is that so long as their decisions are based on "sound science," those decisions are valid, and communities that are not affected by them should not object to them. There are at least four reasons why this is not accurate.

Communities should be able to participate in decisions that affect them.

The first and most compelling reason is that communities should be able to affect what happens to them. The residents of communities where polluting facilities are located, or where facilities are proposed to be located, are the people who are affected by those facilities. Therefore, those residents should have a voice in determining what happens with such existing or proposed facilities.

The real problem is that our political system allows those with political power to defend their back yards, but does not afford the same opportunity to people without political power. Because of this inequity, polluting facilities are most likely to be located in minority and low income communities, and pollution is less likely to be cleaned up in such communities.

Sound science depends upon who is paying the bill.

The second problem with the sound science approach is that well-qualified and reasonable scientists can, and do, reach different

conclusions about the same proposals. The proceedings in which decisions are made about clean up of such contamination and proposed facilities are usually decided on the basis of questions such as the nature of the contamination, the emissions from a proposed incinerator, whether a proposed landfill's liner will leak, or how badly water in a mine pit will contaminate groundwater.

It is no secret that the scientific experts employed by a company seeking a permit for a proposed facility will present evidence indicating that the facility will comply with applicable laws and regulations, just as the experts for groups opposing the facility will present evidence indicating that the same facility will violate those laws and regulations. This is not to say that scientific experts are dishonest or that they will say just what their clients want to hear. It is to say, however, that scientific experts disagree, and that they are advocates just as the lawyers involved in these proceedings are.

Government agencies are subject to industry influence.

The third problem with an approach based only on scientific issues is that federal and state government agencies are frequently heavily influenced by the industries that they regulate. The staff of the Nuclear Regulatory Commission is a good example: its approach in the matter involving Hydro Resources, Inc.'s proposal to mine uranium in Crownpoint and Church Rock has been to advocate for that mining throughout the proceeding. As another example, the Air Quality Bureau of the New Mexico Environment Department has supported the Intel Corporation's efforts to obtain the permit that it wants for emissions from its computer chip plant in Rio Rancho.

These examples are typical. A community that is opposing a plan for a proposed facility or advocating for the clean up of contamination, will usually find that it is up against both the company that operates or is proposing the facility and the staff of the federal or state agency that has regulatory control over the facility. Often those agencies will refer to the industries that they regulate as their customers, raising the obvious question of how they regard communities and the environment.

Government agencies' science can be influenced by politics.

The final problem with the sound science approach is that government agencies' science is frequently determined by politics. Agency staff members answer to the heads of those agencies; those agency heads are usually appointed by elected officials, and are therefore subject to the influence of the people who helped the officials get elected. In many cases, there are situations in which an agency's staff arrived at a position based upon scientific factors only to be informed that the position would have to be changed because of political considerations.

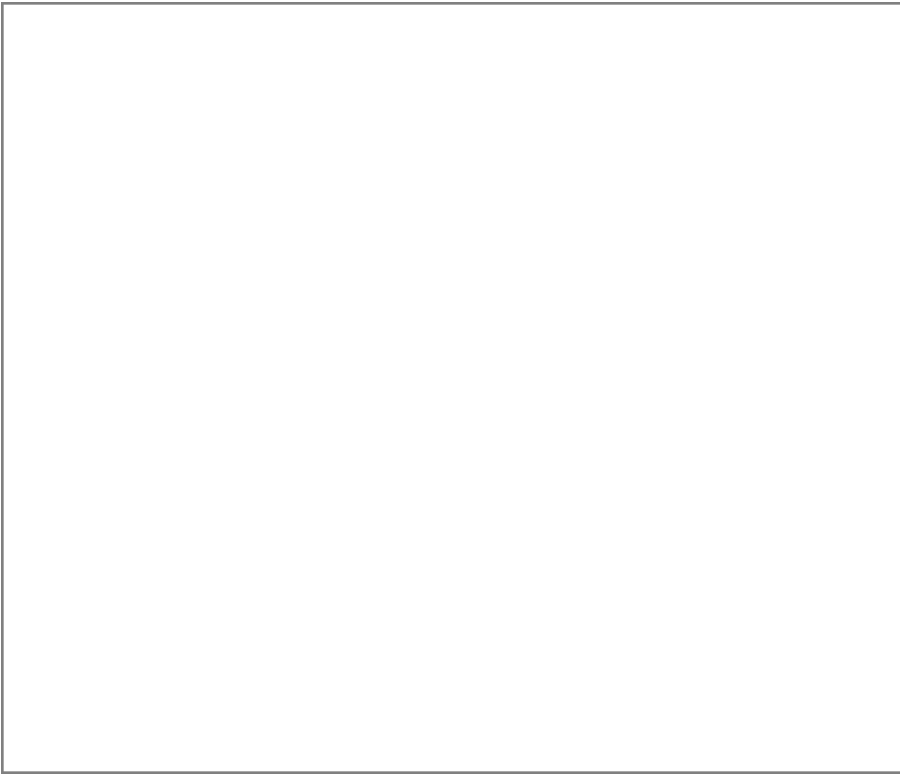
One on-going example involves the Solid Waste Act of 1990. Currently, the City of Roswell is seeking to expand its landfill. However, because the landfill would violate the State's limit on how far a landfill must be located from groundwater (100 feet), the City has requested that the State change the limit to 80 feet, since Roswell's landfill is proposed to sit 85 feet above groundwater.

Conclusion

Sound science has an important role in decisions about how to deal with pollution that exists and whether to permit proposed facilities that may pollute. Such science is not the only consideration that should be taken into account, however, especially given the fact that science is not always as exact as it may seem. Decisions also should be based on the impacts of existing or proposed facilities on the lives of residents of communities, on what the residents want done with existing facilities, and on whether the residents want the proposed facilities. The ability to influence those decisions should be available to all communities, not only those that can make it happen through the political process. ■

*By Douglas Meiklejohn,
Executive Director*







BOARD AND STAFF

Welcome to New Board Members

The Law Center is pleased to welcome **Joanna Hurley** to our Board of Directors. Introduced to us by board member Clare Hertel, we have had the pleasure of working with Joanna for nearly a year as she has donated her extensive talents to making our public events successful.

When she first moved to New Mexico in 1977, Joanna lived in Grants, where she witnessed the ravages of uranium mining and other kinds of mining firsthand. In her nearly nine years with the University of New Mexico Press as marketing manager, she worked with authors on a wide variety of books on subjects ranging from issues ranging from history and culture of the Southwest to art, photography, Native American and Latin Studies, and anthropology.



Joanna Hurley

Joanna has also seen the beauty of the state firsthand during frequent rock climbing, skiing and river-running junkets.

Although she left for New York during the 1980's, she was soon drawn back to the beauty of Santa Fe to open her own business, Hurley Media. She now has over twenty-five years of experience in book publishing and publicity, working with clients from around the country, many of whom are noted environmentalists.

"I joined the Board of the Law Center because I've always had an interest in the environment and in how

legal advocacy can serve to protect our natural world. The Law Center provides a great balance between environmental writing and direct action. In the literary field, we work to change opinions over time; the Law Center gives me an avenue to more immediately impact what happens in this state."

We are also very pleased to welcome another ardent protector of New Mexico's environment to our Board, **Renee Ingold**. Renee 'cut her teeth' on New Mexico environmental issues when she became involved in the citizen movement to demand clean-up of the LAC Gold Mine in the Ortiz Mountains, a highly-successful case handled by Doug Wolf that resulted in a model mine cleanup.



Renee Ingold

In addition to joining the Law Center's Board, Renee has recently become a charter member of Rachel's Network, which brings women environmental donors from around the country together to advocate for more women environmentalists in leadership positions, and to support women environmentalists who are running for seats in Congress.

Even prior to joining the Law Center Board, Renee jumped in as a volunteer member of the Law Center's Capital Campaign Committee, and also sponsored our Painted Pony.

"A strong environmental law organization, like the New Mexico Environmental Law Center, is critical to New Mexico citizen's efforts to protect our environment. And the hard work of making certain that the laws we have are fully enforced is never finished; we

have to fight the battles over and over, for each community that is threatened, and at every level of government. If the Law Center had not been here for the last 14 years, New Mexico would look very different than it does now!"

Thanks and welcome Joanna and Renee! ■

Thanks to Departing Board Member

The Law Center would like to thank **Carol Romero Wirth**, who stepped down from our Board of Directors this Spring, for her dedication and hard work. Good luck with your other endeavors, Carol. ■

Law Center Welcomes New Attorney

Staff Attorney **Eric Jantz** joined the Law Center in September of 2001. He moved from Crownpoint, New Mexico where he worked for the Navajo Nation Judicial Branch.

Originally from Tennessee, Eric moved west to complete his undergraduate degree in Anthropology at the University of New Mexico. At UNM, he became involved with the New Mexico environmental community and spent three summers working for the New Mexico Public Interest Research Group. After graduating from UNM, Eric moved to the village of South Royalton, Vermont to attend Vermont Law School. He received his J.D. from VLS in 1998 and returned to New Mexico to begin his legal career at DNA-People's Legal Services, Inc. in Crownpoint.

At DNA, Eric served low income clients in the Eastern Navajo Agency on a variety of issues. *"Working for DNA in the Eastern Agency was both a challenging and rewarding experience. It was challenging because DNA, like most public interest organizations, had very few financial and personnel resources at its disposal which made it very difficult to challenge interests that had massive resources. It was rewarding because I really felt like I was helping to make a difference in people's lives. That's something I think many legal jobs lack."*

At the Law Center, Eric will be working primarily on the litigation involving community challenges to proposed uranium mining in Church



Rock and Crownpoint, New Mexico. "I'm really excited to be working on this issue. I worked on this case when I was at DNA and was involved with ENDAUM, one of the community organizations opposing the proposed mining operations. Although most of the attention in this case has been devoted to the mining operation's questionable safety, for me, it's fundamentally an issue of democracy. The proposed operations could be the safest mining operations in the history of humanity, but if the majority of the people in the communities affected by the mines don't want them, for whatever reason, that decision should be respected."

Eric divides his time away from the Law Center between Santa Fe and Crownpoint, with his wife and dogs. ■

Fettus Bids Farewell to Law Center

Ed. Note: **Geoff Fettus** served as Staff Attorney for the Law Center for nearly two years, devoting the majority of his time to the HRI-ENDAUM case. In September, Geoff took a position as Staff



Geoff Fettus and Daisy

Attorney in the Nuclear Weapons and Waste Program at the Natural Resources Defense Council. He and Daisy, his Bernese Mountain Dog, can now be found in Washington, D.C.

The decision to leave the Law Center was extraordinarily difficult for me. I have

been privileged to work for such a wonderful organization. I believe in the work of the Law Center and have been proud to participate in the quality legal representation our clients receive. In addition, the growing and vital role the Law Center plays in the protection of New Mexico's environmental statutes makes it even harder for me to leave. The public visibility of the Law Center is increasing, and with that higher profile, I am confident that the Law Center will take even greater strides for New Mexico's environment and communities.

The current staff is simply excellent. Important cases will be effectively litigated. Thoughtful statutory and regulatory proposals will be supported and brought to fruition. Bad statutory and regulatory efforts will be quashed. And most importantly, communities and individuals will be given a strong voice with which to speak out for New Mexico and the environment.

Finally, a heartfelt thanks to those who have contributed their talents and expertise to my cases and to my clients who are fighting for their futures. Thank you as well to the members of the Law Center and the funders who have made my work, and the work of my colleagues, possible.

*Sincerely,
Geoffrey H. Fettus*

Law Clerks Spend Summer at Law Center

Once again, the Law Center was fortunate to host law students this summer who, in spite of everything we threw at them,



Danielle Visaño



continued to come back day after day, ready for more. **Danielle Visaño**, a third-year student at the University of Vermont Law School, originally hails from Utah and is interested in returning to the Southwest once she graduates. She spent three months clerking for Doug Wolf and Heather Green on cases such as the Phelps Dodge copper mining case to U.S. Highway 70 expansion.



Madeleine Hensler

Madeleine Hensler grew up in East Coast cities, and is currently a third-year student at New York University Law School in NYC. Still, she quickly made the transition to working with Heather Green and our client, the Valley Community Preservation Commission, in the rural Hondo Valley. Madeleine worked on interviews with residents to prepare affidavits and helped to write the motion to intervene. Madeleine also researched issues pertaining to Picuris Pueblo's work to stop the mica mine expansion. ■



LAW CENTER EVENTS

New Mexico 2001 Environmental Awards Celebration

"Torts and Tarts"

Thursday, Nov. 29th • 7 pm to 9 pm
El Museo Cultural, Santa Fe.
\$25 per ticket

KARL SOUDER
WATER PROTECTION AWARD

GRIFF SALISBURY
ENVIRONMENTAL PROTECTION
AWARD

BEAR MOUNTAIN LODGE
COMMUNITY ENVIRONMENTAL
ADVOCACY AWARD

and introducing:
THE TOXIC TURKEY

Mark your calendar for **Torts & Tarts**, this year's annual environmental awards ceremony sponsored by the Law Center. This year we will be enjoying desserts from Santa Fe And Albuquerque as we fete the winners of this year's Karl Souder Water Protection Award, the Griff Salisbury Environmental Protection Award, and the Community Environmental Advocacy Award, sponsored by the Nature Conservancy's Bear Mountain Lodge this year.

We will also be unveiling the Toxic Turkey, a dubious acknowledgement bestowed upon an individual, organization or agency that greatly harms the environment of this state.

If you would like to volunteer, or purchase tickets, please contact Allison Dellinger or Shelbie Knox at (505) 989-9022. See you there!



"Whoa, Nellie!" The Law Center Bets on "Lightning Bolt Colt" to be a Winner."

This year, the Law Center is betting on the ponies. **The Painted Ponies**, that is. The **"Trail of Painted Ponies"** is a state-wide initiative which has dozens of life-size painted and "artistically enhanced" fiberglass ponies prancing through the streets and buildings of New Mexico.

Lightning Bolt Colt is the Law Center's contribution to the field, thanks to a generous donation by Board Member Renee Ingold. Artist Dyanne Strongbow, a Native American painter who now lives in Corrales, used her unique style of negative space and ethereal billowing colors to define Lightning Bolt Colt.

Unless it is sold first, Lightning Bolt Colt will be auctioned off this fall in Bernalillo, NM. 80% of the proceeds will be donated to the Law Center. ■

Law Center's Evening with Dave Foreman a "Howling" Success

Nearly one hundred people packed Cloud Cliff Bakery & Café on Thursday, May 10, to hear legendary eco-activist, conservation biologist and author Dave Foreman speak about The Wildlands



Dave Foreman

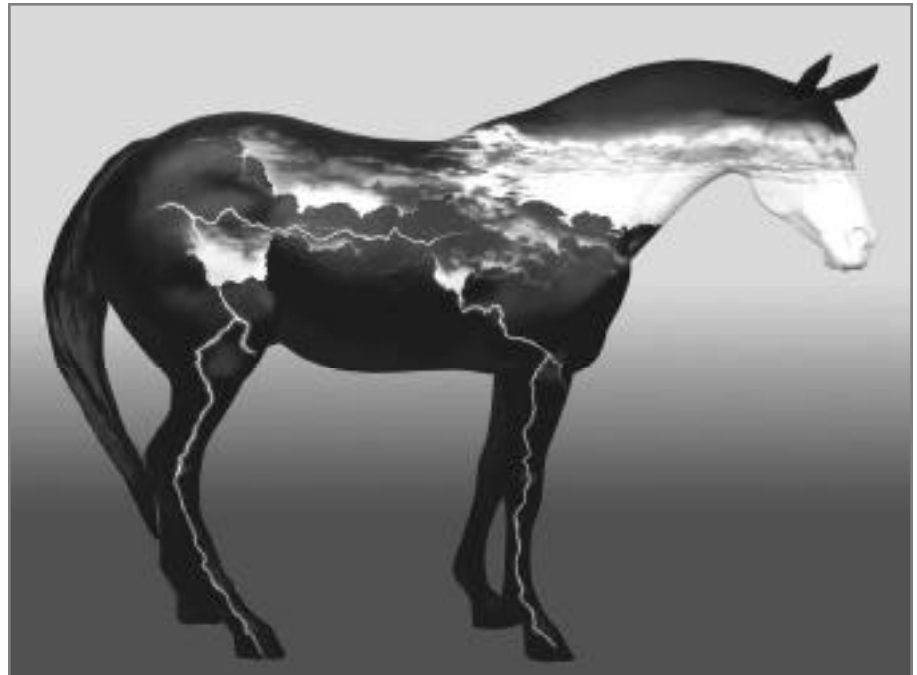
Project (TWP). TWP is a visionary program to restore thirty large mammal habitat areas—each covering millions of acres—from Mexico to the Yukon.

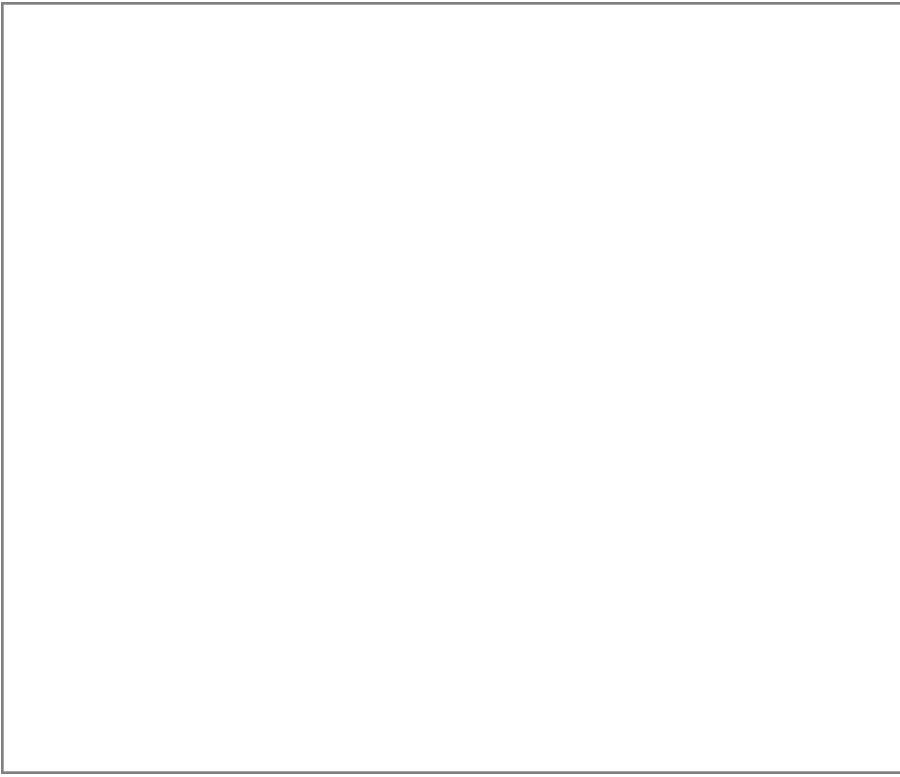
In addition to speaking about TWP, Dave read selections from his first work of fiction—*Lobo Outback Funeral Home*, a novel set in southwestern New Mexico. Afterwards, he signed copies of his book, with \$10 from each sale donated to the Law Center.

And of course, Dave ended his talk with his famous wolf howl....

Copies of *Lobo Outback Funeral Home* are still available from the Law Center for \$25 plus S&H. Makes a great gift!

Thank you to Cloud Cliff Bakery & Café and The Marketplace for their gracious support of "An Evening with Dave Foreman".







Continued from page 3

Triassic Park Hazardous Waste Landfill

Attorney Heather Green is working with Conservative Use of Resources and Environment (CURE), a citizens' group from Roswell, Tatum and surrounding areas, to fight a proposed hazardous waste landfill 43 miles east of Roswell. This is Gandy Marley Inc.'s second

attempt to permit this landfill to include hazardous waste, i.e. chemicals that endanger public health such as benzene, arsenic and cadmium. Currently there are no hazardous waste landfills in New Mexico.

The Law Center is arguing that the public was not adequately notified of public hearings, nor given proper access to pertinent documents regarding the draft permit for Phase I of the landfill. At a hearing that began on October 15,

CURE presented three technical witnesses and evidence to show that the draft permit does not consider the impacts of the facility on the Lesser Prairie Chicken and the Sand Dune Lizard, and has inadequate financial assurance, personal financial disclosure statements and inadequate preparation for emergency response. A recommendation on the permit will be made early in 2002 ■

U.S. 70 Highway Expansion

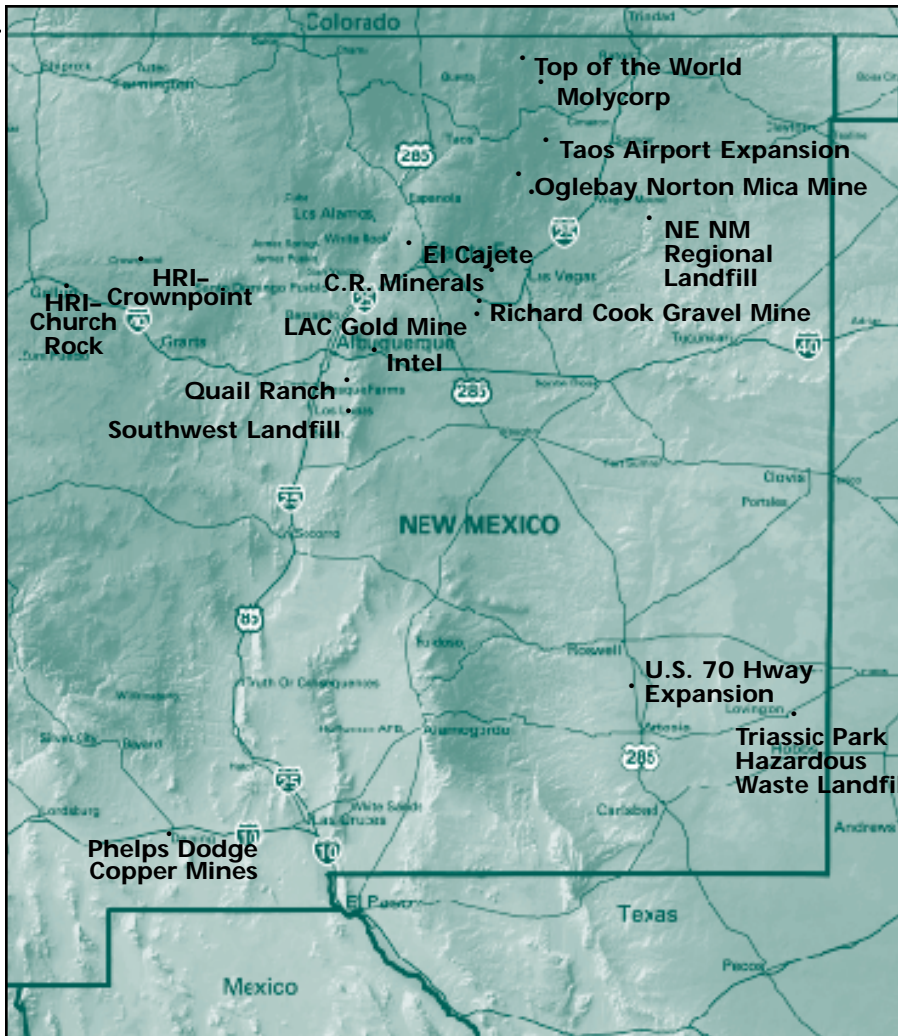
Attorney Heather Green is representing the Valley Community Preservation Commission (VCPC), an organization of residents who live in the rural Hondo valley, between Roswell and Ruidoso.

The New Mexico Highway Transportation Department proposes to widen the two-lane U.S. 70 to four lanes, with few left-hand and right-hand turn lanes. The citizens of the VCPC are working to stop the proposed expansion on the grounds that the planned expansion would be unsafe, would harm water quality, and would destroy the rural character of the valley as well as individual homes and businesses.

The state and federal Highway departments are using a "design build" concept which allows the contractor to make decisions about construction during construction, so the road is currently being rapidly expanded between Roswell and the eastern edge of the Hondo Valley. Our clients have joined another plaintiff in contending that the segmentation of the highway violates the National Environmental Policy Act, the National Historic Preservation Act, the Department of Transportation Act and the Administrative Procedure Act.

The Law Center has also filed a motion for a preliminary injunction to stop construction from Roswell. The Judge has not yet ruled on the motion; expansion of the highway to the Hondo Valley will continue unless the injunction is granted. ■

Illustration Credit: © Zi Pinsky



Site of current Law Center work in New Mexico.

In addition to the cases shown above, the Law Center is also working on the following state-wide initiatives:

- Proposed Changes to New Mexico Solid Waste Regulations
- Proposed Changes to New Mexico Uranium Groundwater Standards
- Proposed Changes to New Mexico Air Quality Regulations
- Proposed Changes to rule-making procedures of the New Mexico Water Quality Control Commission



Law Center Goes Virtual

Check Us Out at www.nmenvirolaw.org! The Law Center is excited to (finally!) unveil our new website at www.nmenvirolaw.org. On this site, you'll be able to keep up to date with breaking news, case updates, news articles, and membership information. Check it out! ■

The Law Center would like to acknowledge foundation funding for the current fiscal year that makes our work possible:

- THE BELDON FUND
- THE EDUCATIONAL FOUNDATION OF AMERICA
- THE ETTINGER FOUNDATION
- THE JOSEPH C. AND ESTHER FOSTER FOUNDATION
- THE GENERAL SERVICE FOUNDATION
- THE ROBERT HASPEL AND LYNDA TAYLOR FUND FOR SOCIAL AND ENVIRONMENTAL JUSTICE
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- THE M.A. HEALY FOUNDATION
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- THE BENJAMIN SPENCER TRUST
- THE SURDNA FOUNDATION
- THE TURNER FOUNDATION
- THE WEEDEN FOUNDATION



The NEW MEXICO ENVIRONMENTAL LAW CENTER

is a non-profit, public interest law firm that provides free and low cost legal services on environmental matters throughout New Mexico. The mission of the New Mexico Environmental Law Center is to protect New Mexico's natural environment and communities. Founded in 1987, the Law Center works with clients — often individuals, neighborhood associations, environmental organizations, Tribes and Pueblos— seeking to protect the environment. The work of the Law Center is made possible by tax-deductible contributions from individuals and businesses, foundation grants, and limited earned income.

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**“We reached the old wolf in time to watch
a fierce green fire dying in her eyes.**

**I realized then, and have known ever
since, that there was something new to me
in those eyes—something known only to her
and to the mountain.”**

**—Aldo Leopold
A Sand County Almanac**

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For more information, see page 9 inside.

The Green Fire Report
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