

# Fifteen Years of Victory for the Environment!

The New Mexico Environmental Law Center | 1987 - 2002

written by Don Goldman

## Why Public Interest law firms?

---

We citizens used to elect officials to government office, and they would appoint professional staff and hire public employees. Together, they passed laws and wrote regulations and ran the courts. They managed airports and controlled rivers and took care of the forests. We citizens just watched, and occasionally complained.

Shortly after World War II there was a growing consciousness that those were our airports and rivers and forests, that we were not satisfied with the way government was dealing with racial matters and conservation and women's rights, and then Vietnam. The 1960s and succeeding decades brought great change between citizens and government, and the effects of those changes are enormous. Citizens began to demand things of government and industry, not request them.

Old assumptions that forests had to be clear-cut for the benefit of lumber companies and mills, that wildlife was only an impediment to progress or prey for hunters began to be contradicted by the post-war conservation-environmental movement. Within 20 years, an apathetic public began to take a very active and increasingly informed role in the management of its land, as well as in many other areas of public concern.

Now, our forests and public lands, the disposal of waste, the siting of contaminating factories were too important to leave to the politicians and government employees any longer.

And government came along, grudgingly responding to the ferment. Public laws were passed by Congress and the states that intended for our environment to be something more than boardfeet and subdivisions, laws like the National Environmental Policy Act, the Resource Conservation and Recovery Act, the

Endangered Species Act, the Air Quality Control Act, the Clean Water Act, and dozens more. But the most revolutionary concept that came out of this era was the idea that what happened in government offices was our business, that we had a right to know how things were decided and to have a say in them.



Tailings piles that leach acid and metals tower over community members who survey the Molycorp molybdenum mine, Questa, NM

A member of Picuris Pueblo stands at the entrance to an industrial mica mine, protesting its devastation of the traditional clay pits of the Picuris People, 2002.

A far-reaching result of such radical notions was the Freedom of Information Act. With this legislation, ordinary citizens could now find out what happens in the bureaucracy. It made government truly accountable to the citizens, and it became one of conservation's most effective tools. But, not surprisingly, the people who most needed to make the government follow its laws lacked the money and lawyers to do so. Out of this turbulence was born the non-profit, public interest law firm.

By the 1980s, national groups like the Sierra Club, National Resources Defense Council, and the Environmental Defense Fund had developed powerful and effective legal programs to challenge environmental wrong-doing by governments and industries. But these organizations were not yet very active in New Mexico and there were no local public law firms. The 1986 election brought Garrey Carruthers to the governorship and Hal Stratton to the office of attorney general. Both were very conservative and unfriendly to the conservation movement, so it became clear that the state would not be effectively enforcing its environmental-conservation laws.

## The Beginning

---

Douglas Meiklejohn had been an attorney in the New Mexico attorney general's office for the 9 years preceding Carruthers, most recently under the strong environmental law enforcement of Governor Toney Anaya and Attorney General Paul Bardacke. Prior to coming to New Mexico, Doug had worked for six years in legal aid for the poor in Arizona, first on the Tohono O'odham (formerly the Papago) reservation and then on consumer and domestic issues in Flagstaff. The recent innovation of local public law firms, especially the Southern Environmental Law Center in Charlottesville, Virginia, provided models of how New Mexico lawyers might provide effective assistance to the public during what was shaping up as an anti-environmental administration.

Doug was joined by Susan Tixier and Sharon Murray in establishing the New Mexico Environmental Law Center, a non-profit public interest law firm that was to protect the landscapes, streams, and wildlife of our state and the citizens' rights to a safe environment. Susan, the other half of the new firm's legal staff, was a long-time environmental activist and had been an environmental policy advisor to Governor Anaya. Sharon was a community and regional planner.

From the start, the Law Center did not charge its clients for its legal services, and it would be a while before Doug received a salary. Harriet Meiklejohn, a professional librarian who had been at home with their three kids, went back to work, and Doug did contract legal work on the side. It must have been the most hanging-by-a-thread law firm in New Mexico! Clearly, these lawyers would not be among the high earners!



Law Center Director Douglas Meiklejohn overlooks a mesa in Crownpoint, NM

Unsustainable grazing practices, such as overgrazing, have a terrible impact on public lands.

Fortunately, the Center was invited to share office space and coffee with LightHawk, "The Environmental Air Force," which certainly helped stretch those early dollars. About the most optimistic thing that could have been said in that first year or two is that they got by! It was a great step when they received a small grant to hire Consuelo Bokum as a fund-raiser and – when some generous donations came in – Doug was able to give up moonlighting and receive a salary. By 1989 Sharon and Susan moved over to the new advisory council, so Doug and Conci were the entire staff for a year.

## The Making of an Environmental law firm

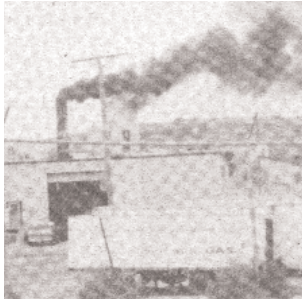
---

About 46% of New Mexico consists of public land, managed by several federal and state agencies and subject to a plethora of laws, regulations, and changing political winds. As many citizens knew from experience, these lands and the resources they contained were as often as not managed by agencies that had strong empathy for those who extracted or used those resources – the ranchers, loggers, and miners – to the point where the agencies often felt that the users' financial success was a part of their mission. Moreover, in their zoning and planning decisions, some county commissions were more eager to attract jobs and increase tax bases than they were to protect public health.

Conservation organizations that were struggling to protect the land knew that, and people who had to live near the polluted results of bad land-use decisions or the noxious factories of unscrupulous corporations, knew it too. Not surprisingly, in its land-use fights over timber sales and the overgrazing of public land allotments. In their early cases, the Center represented conservation organizations such as the Sierra Club, Forest Guardians, the Audubon Society, and the Wilderness Society.

Another early concern was solid waste issues, and the staff worked closely with state senator Roman Maes in the 1990 passage of his Solid Waste Act.

**Audubon Society, Forest Guardians, NM Earth First!, Sierra Club –** One excellent example of the Law Center's public lands work occurred in 1998, when the US Forest Service planned to cut 8.8 million board feet of old growth trees on the pristine Mesa del Medio near Abiquiu. The proposed sale was on steep slopes, which would set a USFS precedent for such destructive steep-slope logging in New Mexico. The area is also critical habitat for several rare and endangered species. The clients said that the USFS had not studied the impacts of the proposed logging, and they filed an administrative appeal under USFS procedures. The Santa Fe National Forest intended to ignore the appeal and approve the sale. The Center went to US District Court, and the judge ordered a delay. In a clear victory for public lands, the Forest reluctantly agreed to follow its own procedures and complete the appeals process before awarding a sale contract. The USFS subsequently decided that the sale could not be conducted because required studies had not been completed.



Logging in the Carson  
National Forest  
*Courtesy of Carson  
ForestWatch*

The Nu-Mex medical waste  
incinerator, operating in  
Sunland Park in 1990.  
Burning plastics and human  
tissues resulted in the  
black smoke.  
*Courtesy of the SouthWest  
Organizing Project*

**Sunland Park** -- In 1991, though, a fundamental change happened when the Center was approached by Concerned Citizens of Sunland Park, a local group that was opposed to a medical waste incinerator close to their homes. The incinerator was close to two schools, had no air pollution control devices, emitted odors, and was causing allergies and rashes among members of the Sunland Park community. The Center represented CCSP in the six-day long permit hearing conducted by the State Environment Department. Arguments presented by the Law Center and others caused the department to deny the permit sought by the company operating the incinerator. (The Center also represented CCSP in a separate case on a landfill, which they lost.)

In retrospect, the Sunland Park case was a turning point for the Center. It revealed a major need for legal representation and assistance among a broad class of New Mexicans who could not pay for it: community and grassroots organizations, pueblos, and tribes that had valid issues against government or industry but had no way of presenting their cases in legal forums. The well-organized conservation groups generally had at least some access to legal aid, and were not so dependent on free assistance, but the poor and grassroots groups did not.

There was in those years the public awakening of a new idea that came to be known as "environmental justice," that society and government had no right to burden poor communities with the industries, landfills, incinerators, and pollution that more affluent communities would not accept. In fact, the 1964 Civil Rights Act and subsequent regulations written by the US Environmental Protection Agency specifically prohibited environmental injustice. The Center would continue to support and represent conservation organizations, but working with community groups and Indians became the Center's mainstay. Both the substance of the Law Center's cases and its clientele changed.



Oil pumpjacks are popping up across New Mexico.

Residents of the Crownpoint region draw their water from the community well; if the aquifer is opened to uranium mining, this water supply could be permanently contaminated.

The opening of governments at all levels, the new access to previously concealed government information, reports, decisions, and reports, and the federal and state laws that mandated real change, had made something new happen: citizens could now play an active, informed role in public affairs. But all of these great improvements were of no avail if the citizen lacked a lawyer to guide him through the administrative and court proceedings. Without professional help through the legal complexities (that government agencies and private corporations were fully able to handle), citizen and community groups were no better off than had all those changes never occurred. Although the objectives and philosophy of the Center coincided perfectly with the conservation organizations, they also coincided with those of the grassroots groups, and those groups' need for free legal aid was clearly greater.

Filling this vacuum became the NMELC's role.

## Cases and Clients

---

The cases and clients that have come the Center's way since the Concerned Citizens of Sunland Park in 1991 are a catalog of environmental-conservation problems in New Mexico and are spread across the map. Our clients tend to be "watchdog" groups that consist of grassroots citizen participants who are very aware of events around them and are quite familiar with their area. Some of them are long-term, formal organizations with their own experts and professionals; others are ad-hoc groups that come together under the pressure of something bad being done to them or the place they love. Some of them will still be active years from now; some will stay together only until their problem is corrected. What they have in common is that they are fighting mad about an injustice to them or their land, and are committed to doing something about it. And they need a lawyer.

We used to hear the charge -- made by corporations or government officials who were feeling pressure from angry citizens -- that the voices being raised and the law suits being filed were by outside agitators. Below, we present some of our "outside agitators":

### **1993 Valencia County Concerned Citizens Association (Los Lunas)**

The association opposed a private company's plan to build a medical waste incinerator. It would emit large amounts of hazardous chemicals, including extremely toxic dioxins, into their community. State regulations require a minimum distance of three miles to protect residents from such dangerous emissions, but the company wanted to build it only 1/4 mile from the nearest home. The facility would use 35,000 gallons of water per day, and dispose of the ash in an unsafe way. Los Lunas was the company's preferred location only for its convenience. Represented by the Law Center in proceedings before the state Environment Department, the Concerned Citizens won.

**1993 Thomas Wootten** Even when the law or courts open up the closed government-industry game, a government agency sometimes tries to slam it shut again. Mr. Wootten, a non-rancher, applied to BLM to be involved as an "affected interest" in the agency's decision making on a grazing allotment in which he had



Former Law Center Attorney Doug Wolf meets with members of Picuris Pueblo



Board member Jeanie Cragin helps to christen the Ortiz Mountain Nature Preserve. The park resulted from negotiations undertaken by the Law Center on behalf of 1000 Friends of New Mexico with the LAC goldmining company. Negotiations also led to a nationally-recognized model for mine reclamation.

considerable interest. BLM denied him the right to participate, but that status was granted to the allotment holder, two rancher-related organizations, and adjacent land owners. The Center filed an administrative protest with BLM on Mr. Wootten's behalf. The issue raised was the right of the non-ranching public to participate in BLM decision-making on the management of the public's lands. BLM withdrew its refusal, and Mr. Wootten was granted the rights he sought.

**1994 Friends of Santa Fe County** Pegasus Gold corporation/LAC Minerals had a gold mine in the Ortiz Mountains whose groundwater discharge plan and long-term cleanup bond were under consideration by the Environment Department. Pollution, especially toxic cyanide used in a leaching process, was coming from a pile of spent ore, and from acidic drainage coming off a pile of waste rock. Both were draining into ground water. The Law Center argued against both the plan for capturing the drainage and the company's lack of bonding to ensure cleanup after the mine's eventual closure. The Friends were able to settle on both issues: that steps must be taken to prevent further pollution and that bond must be posted to assure that the cleanup process would be completed. (The case began a long association between the Center and the Friends' leader, Jeanie Cragin, who became a board member and is currently the president.)

**1997 South Valley Coalition of Neighborhood Associations** (Albuquerque South Valley) and Isleta Pueblo Southwest Landfill Inc. applied to the Environment Department for a permit that would expand use of an existing landfill from accepting only demolition and construction waste to also include municipal waste. This would constitute a danger to the local ground water, as well as triple the traffic to and from the landfill through a residential neighborhood. The South Valley is a notable example of the Center's fights against environmental injustice, the dumping of undesirable and hazardous things on poor communities. The area already contained the existing landfill, a waste transfer station, two superfund sites, and the Albuquerque waste water plant. The permit was granted. In 1999, the Center filed an environmental justice complaint under the 1964 Civil Rights Act against the Environment Department. They charge that NMED's decision results in disproportionate impacts and risks being imposed on the predominantly minority South Valley and on Isleta Pueblo. The EPA has not ruled on the complaint because the landfill lacks a zoning permit that it needs to expand.

**1997 Concerned Citizens del Norte** (Questa) The NM Mining Act specifically delegated authority to regulate hard rock mining to the Environment Department. Governor Gary Johnson issued an executive order that attempted to override that provision of the law. The Law Center filed suit opposing the order, on the grounds that it violated the state constitutional requirement of separation of powers. Governor Johnson withdrew the executive order.

## Pueblos and Tribes

---

Sadly, Exhibit A in the struggle for environmental justice has been Indians and their lands. Their communities throughout New Mexico have long been threatened by degradation of their environment and destruction of the traditional and sacred sites that are critical to their ways of life. The contamination caused by mod-

**“The Center recognizes the unique obstacles that Indian tribes and communities face in their struggle to preserve their lands, cultures, and sovereignty from outside threats. Its people are dedicated to their mission, they know the process, they are experts, and know the language. The Indians must work within a legal and governmental system that they didn't choose, much less design, but their lives and lands depend on making it work for them, not against them.”**

–Richard Deertrack, Taos Pueblo;  
Law Center board member and  
vice-president

**“In the large picture and grand projects and search for profits, governments and corporations tend to not see some of the little things – little things that might be more important to people.**

**Things like clay.”**

–This excerpt from a letter from Picuris Pueblo succinctly sums up its David and Goliath contest with government and industry.

ern society tends to concentrate in communities that have the least political and economic power, and that has often meant Indian communities. Historically, pueblos and reservations have been considered by environmentally destructive industries (as well as their allies in state and local governments) as places where business can be conducted less expensively and with little resistance.

**San Ildefonso Pueblo** Some of the land that was taken by the government to create Los Alamos National Laboratory in the 1940s belonged to the Pueblo; since then, San Ildefonso has been an uneasy neighbor of a facility that answers to a national constituency, not a local one. The lab is atop a mesa, and several of its canyons drop down into the Pueblo's land. For decades, liquid waste from the lab's weapons research and development have been disposed of in these canyons, ending up on the Pueblo. The Pueblo and Law Center pursued three major issues with the Lab's controller, the Department of Energy: the continuing contamination of San Ildefonso's air, water, and soil; the destruction of many sacred cultural sites; and the government's dealings with the Pueblo as an independent sovereign government.

**Taos Pueblo** The Pueblo and Center oppose plans to expand the Taos airport. The expansion would increase air traffic, diminish the integrity of Pueblo lands, and decrease the privacy of their religious practices. The Federal Aviation Administration agreed to allow the Pueblo to help select an ethnographic team to work with the Pueblo to evaluate impacts of the proposed expansion. The case is ongoing.

**Eastern Eastern Navajo Diné Against Uranium Mining Navajo Diné Against Uranium Mining (ENDAUM) and Southwest Research and Information Center (SRIC)** The clients and the Center oppose a license granted by the Nuclear Regulatory Commission for a proposed uranium leach mine near the Navajo communities of Crownpoint and Church Rock. If the license stands, Hydro Resources, Inc. would use high quality ground water in the leaching process, with likelihood of contaminating the communities' sole source of drinking water. The uranium processing plant would be located within 1/2 mile of schools, churches, businesses, and most of Crownpoint's residential areas. After five years of litigation, the Law Center won two important precedent-setting victories: first, the NRC Commissioners ruled that HRI must have an approved restoration plan and financial surety at each site before it would be able to begin mining at that site; second, the Commissioners ruled that HRI cannot bifurcate, or split up, its mining license. The case is ongoing.

**Picuris Pueblo and Vecinos del Rio (Velarde)** Oglebay Norton Specialty Minerals, Inc. has an existing mica mine near the Pueblo, and intends to expand it. The issue is that the new mine will be on the Pueblo's ancestral land, land that is important to it for cultural and religious activities that are practiced there. Specifically, it is a source area for a special mica-laden clay that is used in their famed pottery making, a cultural, economic, and religious tradition for hundreds of years. The Mining and Minerals Division granted the company a permit, and Picuris Pueblo lost its appeal in the Court of Appeals. Despite this loss, the Pueblo won on a critical issue with national ramifications: the Pueblo argued that the US Forest Service should not allow waste-rock dumps on mining claims; when the Forest Service agreed with the Law Center and our colleagues at the Western Mining Action Project, it limited the growth of the mine to the land which the company owns. The case is ongoing.

The Law Center has a long relationship with its Pueblo and tribal clients. We've won some and lost some, but in every case we raised issues that the non-Indian society tended to overlook.

# the Green fire Report

---

## law center clients

Amigos Bravos | Audubon Society |  
Carson Forest Watch | Cibola National  
Forest Watch | Coalition to Save  
Kneeling Nun Mountain | San Jose  
Community Awareness Council  
Concerned Citizens del Norte  
Concerned Citizens for the Environment  
Concerned Citizens of Sunland Park  
Conservative Use of Resources and  
Environment (CURE) | Corrales  
Residents for Clean Air and Water |  
New Mexico Earth First! | Eastern  
Navajo Diné Against Uranium Mining  
(ENDAUM) | East Fork Preservation  
Coalition | Elk Mountain Action | Forest  
Conservation Council | Forest  
Guardians | Friends of Santa Fe County  
| Gila Forest Watch | Gila Resources  
Information Project | Greater  
Albuquerque Spokes People | Isleta  
Pueblo | Ladder Ranch | New Mexico  
Acequia Association | New Mexico  
Public Interest Research Group | New  
Mexico Wilderness Study Committee |  
Petroglyph Monument Protection  
Coalition | Picuris Pueblo | Sandoval  
Environmental Action Committee | San  
Ildefonso Pueblo | Santa Clara Pueblo  
| Santa Fe Forest Watch | Sierra Club  
| Ski Area Containment Coalition |  
Southern Utah Wilderness Alliance |  
SouthWest Organizing Project |  
Southwest Research and Information  
Center | South Valley Coalition of  
Neighborhood Associations | Taos  
Pueblo | Ten New Mexico community  
representatives nominated to the LANL  
Citizen Advisory Board | United  
Steelworkers of America | Valencia  
County Concerned Citizens Association  
Vecinos del Rio | Village of Corrales  
Wells Park Neighborhood Association  
Wildlife Rescue of New Mexico | Zuni  
Mountain Coalition  
1000 Friends of New Mexico

The Green Fire Report was born with the Law Center. Tom Arrandale edited the Report for two years, but he did more: Tom set a high standard, one that the Center has built on during the succeeding 13 years. For its first year or so, the GFR was a free agent that carried informative articles (from a conservation-environmental viewpoint) on issues affecting New Mexico. It also carried occasional articles about the Center's activities, but it wasn't really a forum for the Center yet. Consuelo Bokum came to the Center in 1989 as a fund-raiser, and soon became the editor of GFR. During her six years as editor, Conci made the Report what it is today: a dynamic, unfettered - one might almost say "crusading" -- newsletter.

It is a "house organ" in the sense that it informs the Center's members and clients, as well as the public, of what the Center is doing. Looking through back issues one can learn not only what cases we took, but can follow the successes and disasters in cases that sometimes last for years. And it tells the conservation side of New Mexico land, water, zoning, and mining issues.

Those who think that lawyers can't write haven't read the Green Fire Report! Doug Meiklejohn, for one, has written many excellent articles that analyze and explain conservation problems, as well as what the legal issues are and their sometimes torturous progress through agencies and courts. Doug Wolf, for another, makes understandable the arcane nuances of what lawyers do, and also writes beautifully. An example was his slightly acerbic description of Richard Cook's El Cajete mine in the Jemez Mountains and his legal maneuvers to make a new mine look like an old one ("It brings to mind the old con game involving three shells and a ball.") David Henderson, a board member since 1989 and its former president, has written many informative articles on nature and conservation matters, as did former president Edith Pierpont and many outside writers.

Beginning in 1990, and lasting for several years, Conci put out occasional Fact Sheets. Each one provided a detailed, informative background on an issue of interest to people active in conservation fights. The first of the series dealt with the Freedom of Information Act: how to use it and what the citizen's rights are. Fact Sheets followed on the hows and whats of lobbying the NM legislature, the National Environmental Policy Act, the NM Environmental Board, and an environmental action guide on how to protect NM from mining abuses.

Another series of issues, beginning in 1992, explored current conservation issues, each from the perspectives of several authors. They were written by specialists, but for laypeople. Successive GFRs have dealt with, among other subjects, riparian issues, grazing and rangelands, takings, endangered species, solid waste disposal, and environmental justice.

The GFR has done two things, and done them well. It has been the Center's house publication, explaining what we do and why. And it is a strong, well-informed voice for the environment and the sensible use of our land.

In addition to its informative Green Fire Report, there are other aspects to the Law Center's self-assigned education role. The best example of this is the report Living Within Our Means: A Water Management Policy for New Mexico in the





Gas pipelines are becoming a common feature in many regions of New Mexico.

A Law Center client points out the medical waste disposal facility in his neighborhood. The facility belongs to the largest medical waste disposal company in the world.

21st Century, by Consuelo Bokum, Vickie Gabin, and Paige Morgan (Grant). Link Water budgets are much discussed and their need is widely acknowledged now, but this report and the discussion it encouraged occurred in 1993. It was a carefully reasoned scientific analysis of a problem that the report argued finally had to be confronted. Today, Santa Fe has a water budget, and part of the credit is due to the Center and Bokum, Gabin, and Grant.

Another example is a series of workshops on the taxation of open space land that were presented in 1993 and 1994. They dealt with a problem that has become common: land has become so valuable that heirs often must sell their land to pay estate taxes. The workshops offered ways to avoid the trap that causes family lands and farms to be auctioned off or subdivided.

## the Board, Selecting Cases, legal fees

---

The Law Center's clients have always been from the grassroots organizations and communities of New Mexico. It is important that our board – which makes important decisions on how the firm operates and decides which cases will be accepted - live in the communities where our clients live, hence they know those people and understand why they come to us. It is an organization of Native Americans, Hispanics, and Anglos, just like our state.

The Center receives many more requests for help than it can fulfill with its limited resources. The staff studies the requests on the basis of criteria: Which ones have the greatest potential impact on the environment? Is the affected community actively involved in the fight? Is there an environmental justice/minority issue involved? Do the potential clients have available other sources of legal assistance? Will the case set a useful legal precedent? And does the Center have the resources to undertake it?

The staff makes recommendations on cases to the executive committee, and the entire board makes the final decision. In those cases that can't be taken, the staff attorneys will meet with the people seeking assistance and offer them legal advice or guidance on where to turn for help.

The board of directors made a difficult – one might say wrenching – decision in fall of 2000: to begin charging clients for the legal services they receive. After 13 years of providing free service, and cognizant of the financial status of our clients, it was an emotional decision with much ambivalence. In some cases the Law Center had charged for expenses, such as travel, filing fees, copying, and outside experts. But the economics of this small non-profit law firm required the new approach.

Further, the members of the board, including those from some of our client communities, recognized that charging fees would provide a "buy in" to the sometimes lengthy and always frustrating legal process. The fees are based on the cost to the Law Center of providing the services, which includes the seniority of the attorney. As of the fall of 2002, the Law Center has a fee range of \$40-\$60/hour. Cases that were ongoing in January 2001 will continue to receive

free legal service until they reach a conclusion. The board well understands that paying fees will be difficult for some clients, and will be flexible with regard to the amounts and the payment schedules.

Above all, the board and staff are committed to the work they do and will not allow the matter of fees to stand in the way of that work. Fees or no fees, they will continue to provide legal services where they are most needed.



Trash trucks travel through residential neighborhoods in the South Valley of Albuquerque, on their way to the Southwest Landfill.  
*Courtesy of Don Usner*

A cistern was used at a press conference to demonstrate the quantity of water usage by a luxury resort in Santa Fe during a critical drought stage.

## trying to Work Ourselves Out of a Job!

---

The New Mexico Environmental Law Center shouldn't have to exist! The 70-plus people who have worked for the organization these 15 years have been trying to work themselves out of a job. But, sadly, it hasn't happened, and we don't yet see signs that government and industry are fully committed to environmental protection and treating citizens fairly. The legal and economic problems that called these people to their tasks in 1987 still exist.

We still hold that the public is supposed to be able to depend on its state and federal governments to pursue the public interest. However, as Doug Meiklejohn wrote in the Fall 2001 GFR,

"A community that is opposing plans 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."

In other words, our clients and so many like them are playing with a marked deck – and it's not they who can read the marks.

- The Nuclear Regulatory Commission is supposed to protect public health and safety, but, as the Navajos of ENDAUM learned, it has often been the advocate and guardian of the nuclear industry.

- Although the entrance to every national forest calls itself "Land of Many Uses," and the law unequivocally mandates that it be so, our clients have learned time and again that the US Forest Service puts mining, the cutting of timber, and grazing above all other uses and values.

- As the Zunis and Picuris learned, the New Mexico Mining and Minerals Division has cut many corners for the industry it nominally regulates, and the Environment Department has often looked the other way. The result is that the mining industry takes from the ground – often our our ground – what is of value to it, disregards the environmental damage it causes, and walks away from the mess when it is done. A small number of owners and investors make money, sometimes a lot of it, and the rest of us are left to live with the mess or fix it the best we can.

- BLM manages land that belongs to all of us, presumably for everybody's benefit. Yet the agency often acts like an enthusiastic arm of the ranching industry, and tries to keep the rest of us out of the process, as Thomas Wootten learned. With the Center's help, he pried the tight system open a bit.



- The Freedom of Information Act (FOIA) means business, but sometimes federal agencies are in serious denial. That was the Forest Conservation Council's experience when it requested information from the Forest Service in 1994, with a standard request for a public interest waiver-of-fees for the collection of the requested information. Although the Council is an active and effective forest advocacy group, the Santa Fe National Forest claimed that it didn't qualify for the waiver. This was not the first time the Forest Service tried to contravene the FOIA, so the Center appealed the decision to the Regional Forester (and lost again) and to the Chief Forester in Washington (and won). There are some slow learners in the USFS!



A Picuris member protests the industrial mica mine destroying the traditional clay pits of the Picuris People.

The expansion of the Taos airport would jeopardize the Taos Pueblo culture.

---

The cases briefly described in this report are only a hint – but a representative one – of the issues that have come to us and the people who have needed help in our 15 years of experience. Out of this wide variety of issues and venues, three consistent themes have emerged:

Most environmental battles are fought by local people working to protect their families and their communities;

Minority and low income communities are most likely to suffer from pollution and other adverse environmental impacts;

Communities working to protect their environments are almost always fighting the government agencies that are supposed to be protecting those environments.

New Mexico is full of people who care about their environment and each other, including some federal, state, and local employees. The staff and board of the New Mexico Environmental Law Center have been honored to work with them to make the state an even better place.

But the problems that have occupied them and us for 15 years go on, and on, and so does the need for lawyers.

Year 16 begins today!  
Don Goldman  
Santa Fe  
September, 2002