

GreenFireReport

Fall/Winter 2015

A publication of the New Mexico Environmental Law Center, a non-profit, public interest law firm dedicated to protecting New Mexico's environment and communities.

nmelc.org

© Photo courtesy of US Human Rights Network

Water as a Human Right

Representatives from across the Western Hemisphere make the case for water protection and access.



(above) New Mexico representatives joined the US Delegation to advocate for water as a human right.
(second from left: Peterson Bell (RWPRC), Susan Gordon (MASE), Terrecita Keyanna and Edith Hood (RWPRC)).
(left) NMELC attorney Eric Jantz listens to the translation during the IACHR hearing.



© Photo by Daniel Cima

Staff Attorney Eric Jantz joined delegates from Red Water Pond Road Community (RWPRC) and the Multicultural Alliance for a Safe Environment (MASE) in Washington DC to advocate for the United States to recognize and fulfill the human rights to water and sanitation. The trip culminated in a thematic hearing before the Inter-American Commission on Human Rights, where RWPRC's Edith Hood gave stirring testimony about the uranium contamination in her community.

Edith was joined by activists from across the Western Hemisphere. From the US, Commissioners heard testimony

of how Mexican-American residents in the Salinas Valley of California must pay 10-15% of their income to afford water that is not contaminated by fertilizers and pesticides. They heard about Lowndes County, Alabama where 70% of residents are African-American and many cannot afford the \$16,000 cost to construct a septic system; as a result, children play in and near raw sewage, and residents who cannot afford to treat sewage can be arrested and/or fined up to \$500/day. They heard of similar challenges in Detroit, Baltimore and Boston, where residents are denied the basic rights to water and sanitation, and in many cases criminalized for their inability to pay rising costs for water and sewer service.

(continued on page 2)

table of contents

Case Updates..... pages 2-5
Development News.....page 5

Green Business Partners.....page 6
Events.....pages 6-7



The US delegation testifies before the IACHR. (right:) Edith Hood discusses living in an uranium-impacted community.

© Photos by Daniel Cima

(continued from page 1)

Together, the US delegates, along with 19 groups from South and Central America, asked the Commission to acknowledge and prioritize human rights violations as they pertain to inequitable access to clean, affordable water and sanitation.

In response to the US testimony, Commissioners requested that a U.S.-only hearing be held, where American officials will be required to attend. We are hopeful that the Commission will issue recommendations in its pending report for the United States to improve access to water and sanitation in low-income communities and communities of color. We will use those recommendations in our work to leverage action by federal agencies to better regulate uranium mining and cleanup of existing uranium contamination in northwestern New Mexico.

The Italian Job

You're keeping the Law Center front-and-center in challenging massive water grab.

For eight years, we've been wrangling with Augustin Plains Ranch, LLC, a corporation owned by Italian billionaire Bruno Modena, over its attempted water grab. On November 12, Law Center Executive Director Douglas Meiklejohn appeared in state district court in Socorro on a jurisdictional matter. Judge Matthew Reynolds ruled in our favor; his ruling precludes the Ranch and the State Engineer from eroding a significant precedent set in 2012 when he ruled that the Ranch's first application for 54,000 acre-feet had been properly denied because it was illegally speculative.

But this case is far from over, and here's why your continuing investment is so important: this opens the door for the State Engineer to consider the Ranch's third – and equally speculative – application. We and our clients will work to keep the State Engineer focused on the illegality in the application, in contrast to the Ranch, which seeks to force residents (and taxpayers) to go through a long and costly hydrological proceeding before the agency would return to the legal issues.

556,496 RESIDENTS of ALBUQUERQUE [2013]

32 billion gallons/yr

1 SPECULATOR 17 billion gallons/yr

Because of your support, we'll be able to keep challenging this ill-advised effort, for as long as Mr. Modena keeps filing speculative applications!



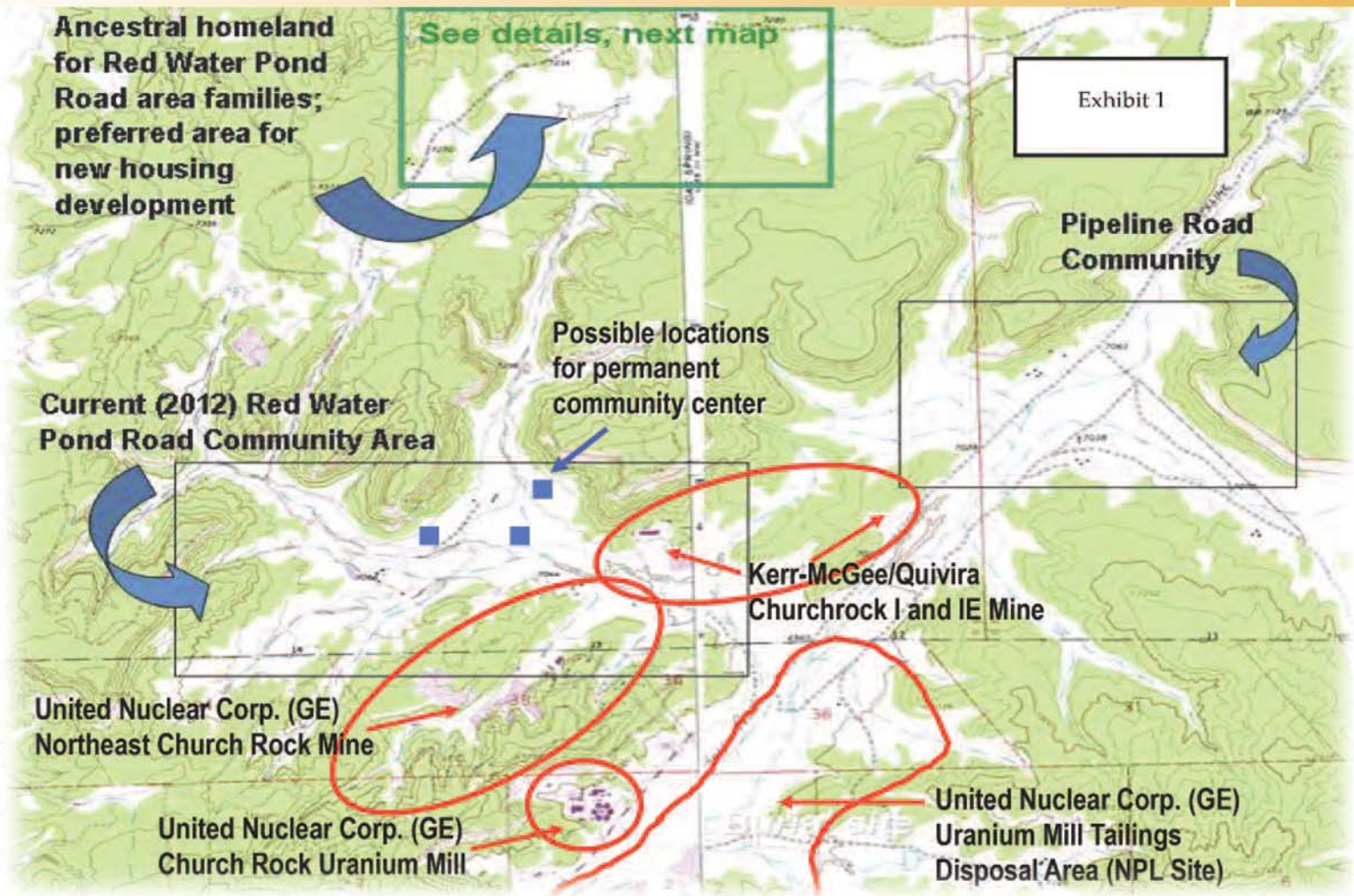
"My community must make an awful choice: either we stay in our current location and have clean drinking water but be exposed to the nearby radiation or we relocate to our traditional use area to escape the radiation but give up our access to drinking water."

– Edith Hood

Red Water Pond Road Community

Doug speaks with client Ray Pittman and KOAT-TV following the water grab hearing in Socorro.





Client Spotlight

Your support will allow Eric to keep working for the Red Water Pond Road Community Association until residents can move to a safer location.

Red Water Pond Road Community Association has fought for the welfare of Diné families who have been affected by the negative impacts of uranium mining since the 1960s.

Eight families whose homes are ringed by abandoned, radioactive uranium mines and a mill seek to move to a safer traditional use area two miles away. But authorities refuse to provide drinking water and other critical infrastructure necessary to relocate the community.

With support from the Multicultural Alliance for a Safe Environment (MASE), members Edith Hood, Peterson Bell and Teracita Keyanna travelled to Washington, D.C. with NMELC attorney Eric Jantz and MASE Coordinator Susan Gordon. There they participated in events for the Right to Water thematic hearing before the Inter-American Commission on Human Rights.

While in Washington, the group met with Senator Tom Udall and Representative Ben Ray Lujan, as well as staffers from Senator Martin Heinrich's office, who have since communicated directly with the EPA on the relocation issue. They also

met with managers from the EPA, who have promised to look into the community's effort to relocate. Additionally, the agency will investigate a request to rescind a permit granted to a uranium mining company that would allow the company to pollute the aquifer beneath Churchrock, New Mexico.

Comparison of Regional Mill Tailings Site Cleanup Efforts

| | Durango Mill Colorado | Atlas Mill Moab, Utah | United Nuclear Mill Churchrock, NM | Homestake Mill Milan, NM |
|---|---------------------------|-------------------------------|---|---|
| Timeline | 1986-1991 | Est. tailings removal by 2025 | 1986-? (current est. closure date: 2019) | 1977-? (current est. closure date: 2022) |
| TAILINGS MASS | 1.62 million tons | 11.9 million tons | 3.5 million tons | 22 million tons |
| DISTANCE from COMMUNITY | 1/4 mile from Durango, CO | 3 miles from Moab, UT | 1/2 mile from Red Water Pond Road | < 1/4 mile from 5 subdivisions |
| OFFSITE DISPOSAL? | Yes (in 1989) | Yes | No | No |
| COST | \$4.272 million | \$720 million | \$4.6 million (2004 est.) | \$180 million (est.) |
| PROXIMITY to other Superfund sites | No | No | Yes, approx. 1/2 mile to 2 uranium mine sites | No, within 5 miles of Bluewater Mill site |
| DEMOGRAPHICS | 88.1% non-Hispanic, white | 90.3% non-Hispanic, white | 98.14% Native American | 67.2% Hispanic |

Big Cases, Small Updates

Your investment means we can defend more communities and more natural resources!

Santolina Sprawl: NMELC and its clients, SouthWest Organizing Project (SWOP), Pajarito Village Association, the New Mexico Health Equity Working Group and several individuals are in court challenging the Bernalillo County Commission's first approval of the proposed Santolina development. The project, which promises housing for 90,000 eventual residents and jobs for 75,000, would be located on the west mesa overlooking Albuquerque. We assert that there are glaring problems with the approval process, including Santolina's unproven claims to have water and promises to build infrastructure and schools without cost to other county residents.



SWOP Director Javier Benavidez and NMELC Director Douglas Meiklejohn take an initial look through the 88,000+ page record for the Santolina case.

New Mexico Copper Rule: We've succeeded in getting this landmark case to the state Supreme Court, where we seek a ruling that would invalidate the Copper Rule and prevent the New Mexico Environment Department (NMED) from giving industries blanket exemptions from New Mexico's Water Quality Act. We filed our opening brief to the Court in October. We anticipate that a ruling will be handed down in the winter of 2016. In the meantime, we'll let you know if the Justices grant oral arguments. We represent the Gila Resources Information Project and Amigos Bravos on this case, and are joined in our argument by former NMED Groundwater Bureau Chief William Olson. The Office of the Attorney General also is fighting to get the Copper Rule overturned in this case. *See our brief at nmelc.org*

Sunport Boulevard: Staff Attorney Jon Block represents SWOP and South Valley residents Esther and Steve Abeyta in their efforts to thwart the extension of Sunport Boulevard through the San Jose neighborhood to the Rio Grande. Citing numerous deficiencies in the Revised Environmental Assessment for the project, Block wrote in his comments, "It comes across to [Assessment] readers as a veiled threat to the affected community: if you do not accept this project your roads will never be upgraded, you will

get no curbs or sidewalks, your flooding and drainage issues will not be addressed, you will get no bike lanes, etc." Block and his clients have asked the Federal Highway Administration to deny the project, or require a full environmental impact statement. *To see our comments, or to see the health impact assessment, see nmelc.org*

Los Alamos National Laboratory (LANL): Discharge Permit 1793 applies to numerous groundwater remediation activities at Los Alamos National Laboratory. Our client, Communities for Clean Water (CCW), believes that many permit conditions need to be clarified, and others strengthened so as to better protect local residents and the environment. CCW submitted three requests for a public hearing to introduce its experts' analyses and cross-examine proponents of the permit, but its requests were denied by NMED Secretary Ryan Flynn. He then approved the permit before the appeals period ended. We're working to reverse NMED's failure to provide meaningful opportunities for public involvement, and ensure that Secretary Flynn's action does not spawn a pattern in which the public is excluded from these types of proceedings. A hearing on the matter will be held before the NM Water Quality Control Commission in December 2015.



NMELC attorney Jaimie Park addresses the Water Quality Control Commission on behalf of CCW.

Hunting Zombie Mines

If you hate the Martinez Administration's favors to industry, you'll love this case.

Have you heard of "zombie mines" – mines that have ceased operation, but still pollute? Well, meet their cousins, "zombie permits". Zombie permits expired years ago – yet the NMED insists they're still active.

You're making it possible for Staff Attorneys Eric Jantz and Jaimie Park and their client, the Eastern Navajo Diné Against Uranium Mining (ENDAUM), to fight the Martinez Administration over a zombie uranium permit. The mining company's permit to discharge pollutants into groundwater expired in 1996. The company submitted a renewal application, but NMED has not acted on it for 19 years. NMED asserts the permit is still good. We assert that it's not, and we're ready to go to court if the agency renews the expired permit.

With this case, you're not challenging just one uranium mine, however. Jantz's cursory look through the NMED website showed eight other "zombie permits" for facilities like sewage treatment plants – plants that continue to pollute while their renewal applications gather dust at NMED. We'll let you know what happens.

Client Larry J. King of the Eastern Navajo Diné Against Uranium Mining (ENDAUM) lives across the road from the proposed Section 8 minesite, where a battle is brewing over a "zombie permit". Attorney Eric Jantz stands behind Larry.



In Memoriam

The Law Center mourns the passing of Jim Alley and Susan Tixier. Susan was an early staff member, and both Susan and Jim served on our Board of Directors in the 1990s, helping to grow the Law Center into the successful organization it is today. They are missed.



© Photos courtesy of Kristina Alley (left) and Great Old Broads for Wilderness

Reflective Images

Santa Fe's only Fairtrade Gold™ jeweler

will donate 10% of the proceeds to us from your full-price purchase using cash, check or debit card, when you mention the Law Center.

View the full line at reflectivejewelry.com

(Offer applies for purchases made at the store or over the phone.)



Legacy Pins

A special gift of recognition for our legacy donors who have made provisions for the Law Center in their wills or estate plans. This beautiful pin is made of reclaimed silver by the generous and visionary folks at Reflective Images. Wear this pin proudly as a symbol of your ongoing support for clean air, safe water, and healthy communities throughout New Mexico.

Interested in naming the Law Center in your will? Already done so, but haven't shared the news? Please contact Elizabeth Lee by phone at (505) 989-9022, ext. 18 or email at elee@nmelc.org.



Excuse us...*we're modernizing our database, but as you know, new technology always has a few hiccups!*

Please let us know if we screw up with our mailings (we start calling you "Judy" when your name is "Jim," etc.) You mean a lot to us, and we want to get things right. If you spot a problem, please contact Shelby Knox at shelbie@nmelc.org or at (505) 989-9022 x19. *Thanks!*

Speaking of corrections:

In our last issue, we mistakenly identified the lovely Pam Roy as the lovely Kristina Alley. Our apologies to you both.

2015 Law Center Board of Directors

A. Paul Mitchell, *President, Las Cruces*
Frank Sanchez, *Vice President, Roswell*
Susanne Hoffman-Dooley, *Secretary, Santa Fe*
Harry Browne, *Treasurer, Silver City*
Myron Armijo, *Santa Ana Pueblo*
Stuart Bluestone, *Santa Fe*
Sandy Buffett, *Santa Fe*
Michael Casaus, *Albuquerque*
Eileen Gauna, *Albuquerque*
Donna House, *Alcalde*
Renee Ingold, *Fallbrook, CA*
Terry Odendahl, *Boulder, CO*
Kitty Richards, *Albuquerque*

2015 Law Center Staff

Jonathan M. Block, *Staff Attorney*
Juana Colón, *Communications Officer*
Eric Jantz, *Staff Attorney*
Shelbie Knox, *Development Officer*
Elizabeth Lee, *Director of Philanthropy*
Douglas Meiklejohn, *Executive Director*
Yana Merrill, *Director of Administration and Finance*
Jaimie Park, *Staff Attorney*
Baxter, Bodhi, Lulu and Maury, *Office Canines*

EVENTS

We hope you were able to join us at some of our events this summer! Thanks to everyone who made these events possible – sponsors, auction donors, volunteers and attendees!



Green Business Partner VERVE Gallery opened its doors for our "Sorbet Social" in August. "Woody Hassle" (aka Dan Lorimier, organizer for the Rio Grande Chapter of the Sierra Club and client in the Dairy Rule case) led the audience in a rousing New Mexico-themed, pollution-folk anthem as NMELC attorney Jon Block looks on.



Your generous contributions make our work possible. Thank You!

Photos by Garret Vreeland Photography,
gritpix.net



WILD & SCENIC[®] FILM FESTIVAL
where activism gets inspired



We had an amazing evening with author and explorer Craig Childs at our 2nd annual Wild & Scenic Film Festival!



2015 New Mexico Environmental Law Center
Green Business Partners

Thank you Green Business Partners!

For more information about our Partner program, contact Elizabeth Lee at 505.989.9022 x18, or elee@nmelc.org.

REFLECTIVE IMAGES
JEWELRY
DESIGNER • ETHICAL SOURCES • HANDMADE

PLANTS OF THE SOUTHWEST

Handprinted Notepaper Ent.
Santa Fe C. Sullivan

brandnature[®]

KESHi
the zuni connection

JOHN ALSIP © SCULPTOR

SWEETWATER
Sustainable Kitchen

LILLEY LAW OFFICES
LAS CRUCES

SANTA FE GREEN CHAMBER OF COMMERCE

Santa Fe Audio Visual

HORIZONS SUSTAINABLE FINANCIAL SERVICES

A-1 SELF STORAGE



ink well productions

KSFR 101.1 FM
Santa Fe Public Radio

BERNARD EWELL ART APPRAISALS, LLC
THE INTERNATIONAL SALVADOR DALÍ EXPERT

Dunbar Stained Glass

GREEN FIRE TIMES

Joe's dining

VERVE
GALLERY OF PHOTOGRAPHY

PETER HAGEN
American Landscape Painter

MARGO CUTLER

GeoMosaics
panoramic landscape photography
by Kirt Kompter
geomosaics.com



swain & grieco LLC
certified public accountants • consultants

+ G

Outside

Collected Works
Bookstore & Coffeehouse

Southwest Seminars
southwestseminars.org



1405 Luisa Street, Suite #5 | Santa Fe, NM 87505
505.989.9022 | www.nmelc.org

Non-Profit Org
US Postage
PAID
Santa Fe, NM
Permit No. 259

RETURN SERVICE REQUESTED



[Facebook.com/NMELC](https://www.facebook.com/NMELC)

[Twitter.com/NMELC](https://twitter.com/NMELC)

Looking for a meaningful Holiday Gift? The Law Center can help!

We ship throughout the US. Call 505.989.9022 or place your order online at nmelc.org.



Law Center Tees and Caps \$18

High fashion for your favorite activist. Our 100% cotton shirts are available in adult large; Caps are adjustable, and available in various colors – see our website, for more options.

One year Law Center membership \$35

Give one year of motion-filing, brief-kicking legal protection for our state. We'll email a gift notification to your recipient(s) and get their member card(s) in the mail asap!



Justice Bars \$5 each

These delicacies are made by hand in Santa Fe from fair trade, organic chocolate and New Mexico's finest nuts and flavorings. They make great little gifts – and great treats to keep for yourself!





Fighting for Albuquerque's Water Supply

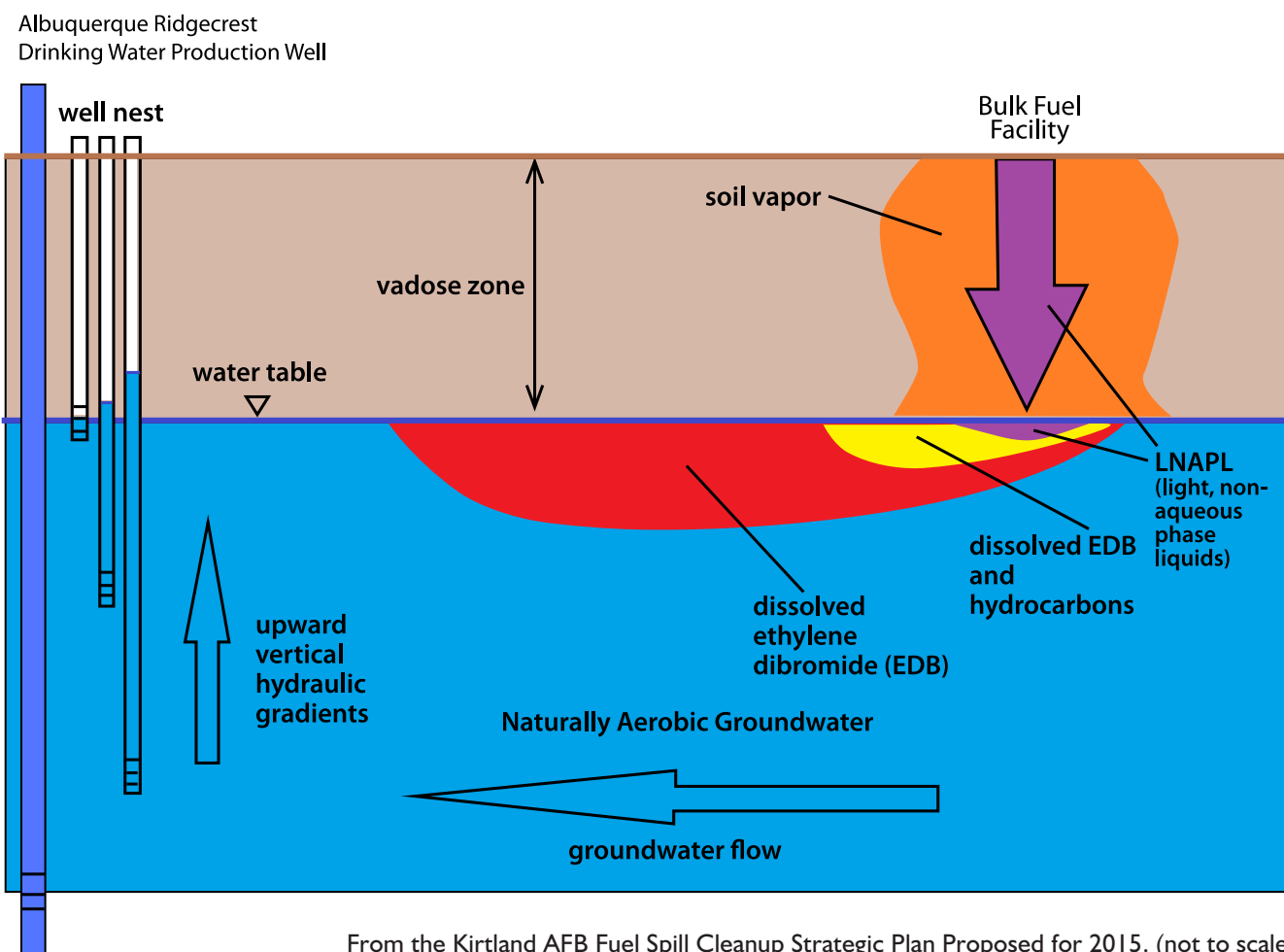
Law Center members make it possible to advocate for better cleanup of Kirtland jet fuel spill.

Without our members, we never could have challenged the U.S. Air Force to do a better job cleaning up its massive Kirtland jet fuel spill in Albuquerque.

Plumes of toxic and carcinogenic contamination (*see diagram below*) are moving towards Albuquerque's Ridgecrest drinking water wells – the plume of ethylene dibromide (EDB) is less than a mile from the wellfield. And though the Air Force and the New Mexico Environment Department (NMED) have known about the spill for 16 years, they have little to show for it, as illustrated by the fact that estimates the size of the spill range from about 5 million gallons (Air Force) to 24 million gallons (NMED).

By law, we're required to file a notice of intent to sue the U.S. Air Force and the Department of Defense. If the Air Force does not change its slow-moving strategy in the next 90 days, we will go to federal court to advocate for a more effective cleanup with enforceable deadlines.

The Law Center represents the SouthWest Organizing Project, State Senator Cisco McSorley, State Senator Mimi Stewart, and several local residents. We will keep you apprised of this very important case.



From the Kirtland AFB Fuel Spill Cleanup Strategic Plan Proposed for 2015. (not to scale)

KIRTLAND SPILL Q&A *with* Doug Meiklejohn

According to press accounts over the past year, it sounds like the Air Force and the New Mexico Environment Department (NMED) are working to clean up the spill. So why are the Law Center and its clients getting involved?

The Air Force and NMED have been studying the spill for 16 years and spent \$90 million, yet little has been done to show for it – they don't even know how many millions of gallons were spilled. Currently there is only one extraction well at work removing the ethylene dibromide (EDB) from groundwater, with plans for two more this year and four next year – that's just not enough. If you look at the Strategic Plan presented by the Air Force and NMED, it calls for two decades of additional studies before getting into full-scale remediation. In the meanwhile, the contamination will continue to spread.

If things continue along the way they've been going, what could happen?

Remember: this is one of the most significant water problems that the City of Albuquerque has ever faced. The contaminants that are in this leak can cause cancer and have been linked to birth defects – when they reach the Ridgecrest wellfield in levels that can be detected, the City will have to shut down those wells. We and our clients believe that there are ways to speed up the cleanup and reduce the risk that this drinking water source will have to be abandoned.

What specifically are you looking to do?

The Law Center and our clients have one goal: to protect as much drinking water as possible for Albuquerque's current and future residents. That requires a critical piece of the puzzle that currently is lacking from the plan put together by the Air Force and NMED: an enforceable schedule. Our lawsuit will ask a judge to order Air Force to adopt a plan that will jumpstart meaningful remediation, with milestones and deadlines that trigger consequences when they are missed. That does not exist today – and it shows.

THINGS TO WORRY ABOUT IN THE **KIRTLAND JET FUEL SPILL**

**ETHYLENE DIBROMIDE
PLUME** 6,700 ft long | 1,400 ft wide
13,000 micrograms per liter
**2200X FEDERAL H₂O
STANDARDS**
CARCINOGENIC

BENZENE PLUME
2,700 ft long | 1,000 ft wide | 13,000 mcg/liter
**2600X FEDERAL H₂O
STANDARDS**
CARCINOGENIC

TOLUENE PLUME
2,250 ft long | 900 ft wide | 19,000 mcg/liter
19X FEDERAL H₂O STANDARDS
LINKED TO BIRTH DEFECTS

additional toxins
XYLENES · NAPHTHALENE
1,2,4-TRIMETHYLBENZENE
exceed state or federal standards

Federal water standards = Maximum Contaminant Levels

Kirtland AFB Jet Fuel Spill Timeline

