

GreenFireReport

Summer 2008

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. nmenvirolaw.org

Navajo Communities Get 15 Minutes in Court

After 12 Years of Fighting Uranium Mining

by Juana Colón

“This is the fullest I’ve ever seen this place,” overheard in Courtroom II just before the hearing of oral arguments on May 12th, 2008 in Denver, CO. Community members from Crownpoint and Church Rock, including nine middle-schoolers, Students Against Uranium Mining or SAUM (see photo right), drove up the night before to attend the hearing that will directly affect the quality of their drinking water.



Eric Jantz, lead attorney from the Law Center, represented clients Eastern Navajo Diné Against Uranium Mining (ENDAUM) and Southwest Research and Information

Center (SRIC) in their appeal against the Nuclear Regulatory Commission’s (NRC) granting *in-situ* leach mining permits to Hydro Resources Inc. (HRI). In his opening remarks Eric said “the question before you today, your honors, is whether the NRC can disregard radiation from the mine waste at Section 17 and continue to do its statutory duty to protect the public?”

The Law Center’s clients charge that the NRC has not met its duty to protect the public by permitting HRI to mine for uranium in the community aquifer. The NRC stated HRI would be mining in the part of

the aquifer that is already naturally contaminated by uranium and is not drinking water. HRI also argued that the mining would be in a part of the aquifer that is contained, but with further prodding from the judges, HRI stated the portion of the aquifer that would be mined was vertically confined but not horizontally confined. To that, Judge Carlos Lucero responded, “I do not understand it. If it’s just vertically confined and not horizontally confined, what’s to keep this water from flowing into the municipal drinking water?” In further questioning, Eric responded that the mining would also take place ¼ mile from the municipal water supply well. In response, Judge David M. Ebel said “I can’t even begin to understand that.”

After 12 years of fighting to stop HRI’s plans of uranium mining, and months of work by the legal team (including Diane Curran of Harmon, Curran, Spielberg & Eisenberg, L.L.P. and Zackeree Kelin of DNA-People’s Legal Services, Inc.), the two opposing parties were scheduled only 30 minutes total to state their case and answer questions from the panel of judges. But, due to the number of questions from the judges and the depth of their interest in the issue, the hearing took an hour. The judges were obviously astonished as to how these permits could have been granted. Eric’s presentation was confident, clear and relaxed, which attests to the



SAUM Members

preparedness of his team.

Outside the courthouse, after the arguments were completed, Eric announced to the 31 smiling faces “No matter how the judges decide, the fight isn’t over and we will be here for as long as it takes.”

A decision will be announced later this year. (Access many press articles via our website: nmenvirolaw.org)



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

— Aldo Leopold
A Sand County Almanac

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Oil Pit Rule Victory

Good News for Groundwater

by Shelbie Knox

With help from the Law Center, New Mexico's groundwater will be safer, due to the release of a stringent new "oil pit rule" on May 9, 2008. Oil pits hold wastes from oil and gas wells, which can include carcinogens such as benzene, toluene, ethylbenzene and xylene – a resounding victory for our state's water, wildlife and human health.

Here are some of the new requirements:

- For the first time, all pits must be lined with heavy-duty liners, unless issued a special exemption.
- When groundwater is less than 50 feet from the pit, companies must use "closed-loop systems" (above ground tanks) rather than pits.
- Waste can no longer be spread onsite, but must be sent to an approved landfill. The pit must be reclaimed unless the site is specifically exempted.

In December, Oil Conservation Division (OCD) Director Mark Fesmire told the *Santa Fe New Mexican* that in the past 15 years the OCD had investigated 800 instances of oil and gas well-related contamination, roughly half were due to oil pits. He expects that with this new rule that contamination will "drop down to nothing."

"It's a good rule," affirms Law Center Staff Attorney Eric Jantz. "For a relatively small investment, there will be a significant positive impact on the environment."

This summer, industry groups sued to overturn the new rule. On behalf of Oil & Gas Accountability Project, the Law Center successfully intervened in the suits, and will represent our client in proceedings later this year. ✕



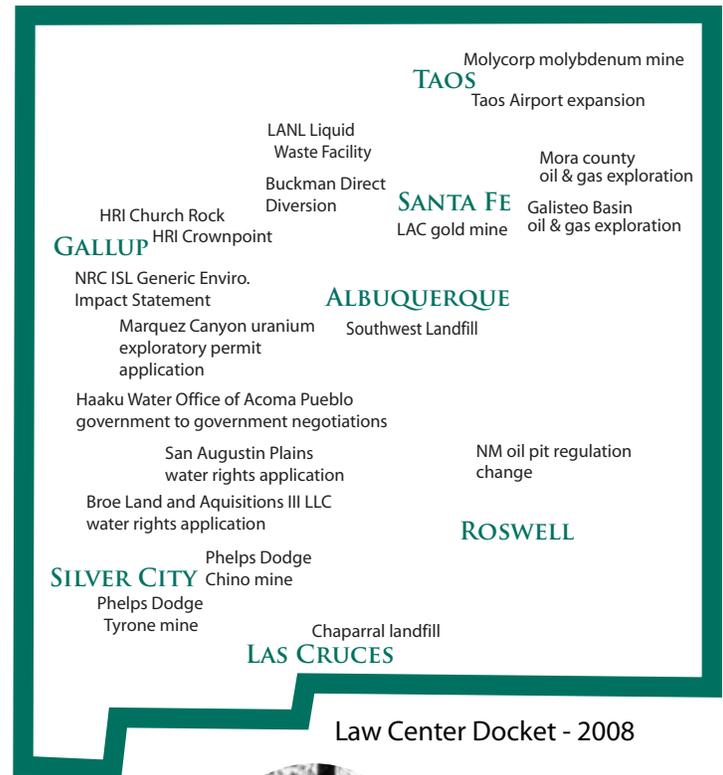
Former archeological site near the Canadian River, Texas Photo credit: Nancy Seewald

Mora Fights Oil and Gas Drilling

by Bruce Frederick

Mora County's current oil and gas drilling ordinance needs to be amended to better protect public welfare and the environment, according to our client, Drilling Mora County.

Staff Attorney Bruce Frederick will represent our client as it advocates for county commissioners to impose a moratorium on all oil and gas drilling in Mora County. During the moratorium, we seek to work with the County to amend its current ordinance with specific oil and gas drilling performance regulations. ✕



Law Center Docket - 2008



1987

Opens in September



1988

Files first lawsuit in federal court to halt logging while appeal was pending with Forest Service; stay was granted



1989

Forces Forest Service to retract and reconsider a decision to sell 1,700 acres of timber on Mount Taylor

Law Center & GRIP defend WQA

NM's Water Quality Act

by Allyson Siwik, Executive Director of GRIP

The The New Mexico Water Quality Control Commission (WQCC) is poised to decide whether the groundwater below the Tyrone mine, located outside of Silver City, is worthy of protection under the New Mexico Water Quality Act (WQA). Phelps Dodge Tyrone ("Tyrone"), now a wholly-owned subsidiary of Phoenix-based Freeport-McMoRan, argued that it doesn't need to regrade and cover waste rock and ore stockpiles that cover thousands of acres of land within Tyrone's permit area. Although Tyrone essentially admits that regrading and covering would prevent acid rock drainage from further contaminating groundwater, Tyrone officials insist that the groundwater under the mine is not "a place of withdrawal

of water for present or reasonably foreseeable future use" and thus is not protected under the state's WQA. The Law Center and its client, the Silver City-based environmental advocacy group Gila Resources Information Project (GRIP), counter that the Tyrone mine overlies a valuable groundwater supply, and therefore, the affected aquifers qualify as "places of withdrawal" and must be protected under the WQA.

On July 7, 2008 the WQCC heard closing oral arguments from the New Mexico Environment Department (NMED), Tyrone and GRIP. "Each party was granted one hour to present to the Commission," recalls Bruce Frederick, Law Center attorney for GRIP. "We supported NMED's arguments and also gave



Tyrone reclamation near Silver City, NM

the Commission legal argument and additional evidence that went beyond NMED's theory of the case."

If the WQCC rules in favor of Tyrone, it would potentially be authorizing the company and other polluters to use the state's precious groundwater as a dump.

We do not expect a decision before the end of the year. ✕

Buckman Pollution Appeal Dismissed

by Bruce Frederick

"What happens if plutonium gets into the water supply?" Our clients, Amigos Bravos and Concerned Citizens for Nuclear Safety are not saying that will happen, but strongly believe that the potential for the Project to divert contamination from Los Alamos National Lab (LANL) should be fully and publicly discussed and analyzed before the Project goes forward.

The Law Center became involved after the Forest Service (FS) and Bureau of Land Management (BLM) decided to issue permits and rights-of-way for the

Project in February 2008.



1990

Successfully reduces two timber sales in the Gila National Forest

A month later, the Law Center filed an administrative appeal of their decisions to the FS and the Interior Board of Land Appeals, respectively, arguing that the agencies violated the National Environmental Policy Act (NEPA) by failing to disclose and adequately analyze the impact of LANL-origin contaminants on the Project in an environmental impact statement (EIS). LANL is a major source of radiological, hazardous and toxic contamination, and the Project will take water out of the Rio Grande downstream from this source. The EIS prepared by the agencies dismissed the prospect of LANL

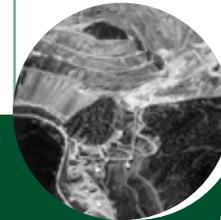


1991

Works with State Environmental Improvement Board to adopt new regulations required by the NM Solid Waste Act

contamination as "speculative" and omitted to even identify LANL on a site map.

Notwithstanding the overwhelming evidence showing LANL-origin contaminants have reached the River and will likely continue to reach the River at the Project's place of diversion, both federal agencies summarily dismissed the appeals. The agencies' decisions may now be appealed to Federal District Court and the Law Center and its clients are evaluating this option. ✕



1992

Helps the Mining Action Coalition to regulate mining of hard rock minerals in New Mexico

This issue marks the third of four *Green Fire Reports* that will celebrate the Law Center’s twentieth anniversary over the next year. As part of that celebration, we are happy to share *Twenty Years | Twenty Stories*, focusing on the clients, volunteers, staff members, donors, and victories that have seen the Law Center from its earliest days to the present.

New Mexico Mining Act

An Environmental Victory in the State Legislature

by Juana Colón

Mining is one of the most toxic industries in the West. Despite that, before 1993 New Mexico had no law requiring reclamation of hard rock mines. The enactment of the New Mexico Mining Act changed that dramatically; it is in many ways the most stringent mining law in the West.

The Act governs extraction of hardrock minerals, including copper, gold, silver, and molybdenum; it also covers mining of uranium from open pit mines and underground mines. (In situ leach uranium mining is governed by the federal Nuclear Regulatory Commission.) The Act

was the culmination of a three year effort by then State Representative Gary King (now New Mexico’s Attorney General), whose district included a gold mine in the Ortiz Mountains that had polluted both surface and ground water.

Rep. King’s first two efforts to pass mining legislation did not succeed. “The 1993 legislative session involved a more determined effort by King and by environmental and industry groups to address hardrock mining,” remembers Douglas Meiklejohn, one of the lead environmental lobbyists for the Act. He recalls that three mining

bills were introduced that year: Rep. King’s bill, a bill drafted by environmental groups, and a bill backed by the mining industry. The three bills were the subject of extensive legislative committee hearings and negotiations by all interested parties. Ultimately, a version of King’s bill was enacted. “There were a lot of people involved,” recalls Meiklejohn, “but there were only a few of us left when we agreed on the final version, at two in the morning on a Monday late in the session.”

The Act includes mandates that new mines be planned to provide for reclamation, and be reclaimed to self-sustaining ecosystems compatible with surrounding life zones. It

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Larry King of ENDAUM

by Juana Colón

In 1994, the Gallup Independent ran a front page headline announcing that Hydro Resources Inc. (HRI) had been granted a license by the Nuclear Regulatory Commission to mine uranium in the Church Rock-Crownpoint area. It was a headline that alarmed Mitchell Capitan, a Crownpoint resident who had worked at the MobilOil pilot-scale *in situ* leach uranium mine near his home, and who had watched as the federal government allowed the company to abandon the site after it failed for six years to clean up the groundwater. Later

that year, Mitchell and his wife Rita formed Eastern Navajo

Diné Against Uranium Mining (ENDAUM) in order to protect their community from the devastation of another uranium boom. As the organization grew, Larry King was asked to join the board of ENDAUM and has been serving since 1997.

King, a Church Rock resident and rancher, also knows firsthand the effects of uranium mining on communities. He spent seven years working for an underground uranium mining company and recalls the 100 million gallons of radioactive water that spilled into the Rio Puerco in 1979. This spill

occurred the same year as the Three Mile Island nuclear accident

and was a larger contamination event, but received little press. Currently, King lives 1,000 feet from a uranium tailings pile.

“When the winds shift, we get some dust off of that pile,” he says.

Looking back on the work that ENDAUM has done in the Navajo community, he says, “There are a lot of good people out there who are willing to assist a grassroots organization. A company like HRI, with a lot of



Larry King

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1993

Represents Valencia County Concerned Citizens Association opposing a waste incinerator



1994

Helps Albuquerque San Jose community to identify businesses that store or release hazardous chemicals



1995

LAC Minerals announces it will abandon plans to continue mining in the Ortiz Mountains south of Santa Fe

Thomas & Eleanor Wootten

by Shelbie Knox

Editor's Note: *Tom Wootten, a long-time supporter of the Law Center, passed away in August 2007, a week after his interview for this article.*

“We renew our expressed desire that Doug Meiklejohn and the staff he has assembled be cloned,” wrote Eleanor and Tom Wootten in 1993, in what must be one of the most colorful statements of support that the Law Center has ever received. It was a true compliment from two champions of New Mexico’s public lands, who fought for rangeland reform, riparian enhancement, wildlife protection and wilderness designations.

Their passion for protection led them to the Law Center in 1993 when they successfully worked with the Coalition of Conservation Organizations in Las Cruces to prevent construction of the Kenzin gas pipeline and several water troughs for cattle on a Bureau of Land Management (BLM) allotment that was located within a wilderness study area. That year, the Law Center also represented Tom in his

successful effort to be designated as an affected interest regarding the Flying W grazing allotment in the Mimbres Resource Area.

“I was relatively new to the environmental movement when we took on the Kenzin Pipeline work,” remembers Tom. “I remember this was the first time I was introduced to lawyers who worked *pro bono* for environmental groups. It was absolutely wonderful to have someone of Doug Meiklejohn’s stature working for us.”

Since that time, the Wootten family has generously supported the Law Center’s work, despite the fact that we now work more closely on community-centered cases than public lands cases. Three cases of particular interest to Tom were the Sunland Park landfill and incinerator case near Las Cruces, the Cunningham Hill gold mine in Santa Fe County, and the Dog Canyon landfill near Alamogordo. The connective tissue between these cases was the Law Center’s work to stop entities from profiting off of the land to the detriment of communities – both human and



Thomas and Eleanor Wootten

natural – that depend upon that land.

“Although my first love is New Mexico wild lands, I can’t underestimate the importance of community issues,” Tom said. “It provides a great deal of comfort to me that the dollars that I give to the Law Center go to important fights that I can’t fight personally,” such as the Sunland Park case where low-income kids were breathing in the smoke from a medical waste incinerator sited a short distance away from their elementary school.

Tom added that although he believes that concerned citizens should have the right to participate in governmental proceedings that

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Spring Member Events in Roswell and Silver City



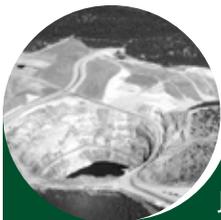
Allyson Siwik, Executive Director of GRIP, Doug Meiklejohn and Eleanor Wootten at Silver City event.



Former Law Center attorney, Doug Wolf speaking at Silver City event.



Juana Colon, Doug Meiklejohn, co-host Jimi Gadzia and Sebia Hawkins at Roswell Member event.



1996

Forces Governor Gary Johnson to withdraw an executive order to override the New Mexico Mining Act



1997

First Community Environmental Advocacy Award given to those that work for environmental justice



1998

First Griff Salisbury Environmental Award given to honor those protecting New Mexico’s environment

Amigos Bravos' Brian Shields

by Shelbie Knox

Brian Shields, Executive Director of Amigos Bravos, and I were hip-deep into our interview about Molycorp when I had to hang up to change my daughter's diaper. Apologizing after I called him back, he laughed and said, "I've always said that tailings ponds were like diapers; they can only hold so much before you have a big mess on your hands."

Brian's quick comeback sums up my experience with the folks at Amigos Bravos, a non-profit Rio Grande watershed advocacy organization based in Taos: they are able to distill their highly technical knowledge of the Rio Grande watershed into language that even someone drenched in spit-up can understand. It is a talent that has served the Law Center well, as we have represented Amigos Bravos on several highly technical cases, the crown jewel of which has been our work on the Molycorp molybdenum mine near Questa, north of Taos.

- a casualty of a toxic brew known as "acid rock drainage," that results when water seeps through the mine's waste rock piles, picking up contaminants such as arsenic, cadmium, chromium, lead and sulfate.

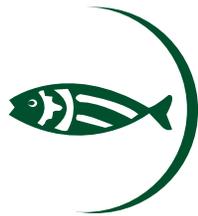
Since its inception in 1988, Amigos Bravos has worked to clean up the Red River. As one of the first major tests of the 1993 Mining Act, the Molycorp case was headed up by the Law Center Staff Attorney Doug Wolf. "We had dual goals," remembers Brian. "We wanted to protect surface and ground water, while at the same time implementing the Mining Act as one of the most stringent laws of its kind in the U.S." The permitting proceedings that began in 1999 marked the first time that the NM Environment Department had regulated the mine in its 80 years of operation.

Brian remembers the Closeout and Reclamation plan battle against

the closeout plan, and I remember that Doug was really incredible in the hearings. After Moly realized that we had counsel and experts, they came back to the table with a financial surety offer of \$50 million. By the end of the hearing, they offered \$90 million. Doug managed to get us into negotiations with the State and the company, and we walked away with a total of \$157 million in reclamation bonds for both the minesite and the tailings piles." Until the Law Center's success several years later with the Phelps Dodge copper mines, this was the largest financial bond ever posted by a mining company. In addition, the company is required to reclaim the site to a self-sustaining ecosystem once the mine is closed. While the Molycorp reclamation chickens are not yet hatched, progress is being made towards the eventual reclamation of the Molycorp mine-- and the rescue of the Red River.

Brian has never counted up

"I've always said that tailings ponds were like diapers; they can only hold so much before you have a big mess on your hands."



Flying over the Sangre de Cristo range, your eyes are immediately drawn to a pit that was carved into the mountainside over the course of twenty years. From the air you can also see more than 300 million tons of waste rock that tower over the town of Questa, as well as the Red River, a tiny ribbon glinting silver at the base of the mountain.

It is not until you are standing next to the river, that you realize that it is a dead stream



1999

NM Court rules for Law Center's client, the Sierra Club, throwing out the permit for the El Cajete mine

Molycorp well. "Moly (Molycorp) first came in with an offer of \$15 million for financial assurance (the amount of money that a company must guarantee the State if the company is ever unable to perform reclamation.) At that point we worked with Doug and our mining engineer, Jim Kuipers, to put together our own reclamation plan, which put a \$400 million price tag on cleanup at the mine.

"We went into the public hearings on



2000

Protests with ENDAUM and allies, at Uranium Resources, Inc.'s Dallas office. URI seeks to mine uranium in Navajo land

the hours, but he believes that the Law Center's representation on the Molycorp proceedings alone would have cost the organization at least a half-million dollars. And while the Law Center's free and low-cost legal services are important for his non-profit group, he says that Amigos Bravos also relies on the Law Center's expertise, experience and willingness to join them in taking on some of the



2001

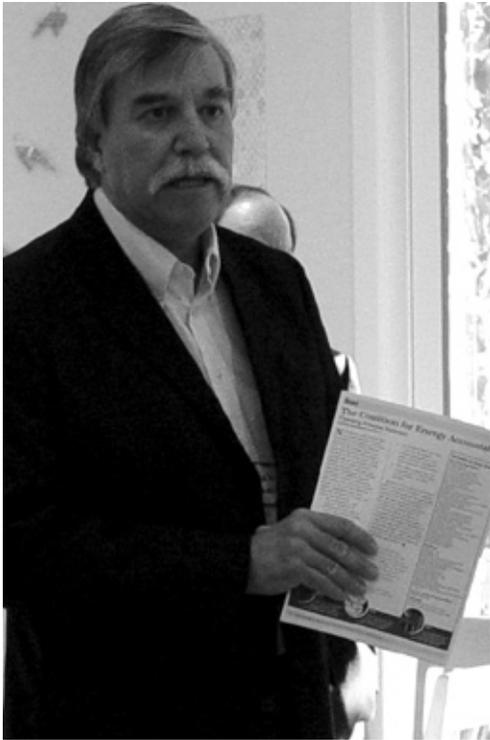
NRC overturns a decision that allowed Hydro Resources to litigate each proposed minesite separately

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Frank Sanchez:

Board Member & Community Advocate

by Juana Colón



Frank Sanchez speaking at the Roswell Member Event

Thinking about his fourteen years as a Law Center Board Member, Frank I. Sanchez found it difficult to choose his proudest moment. There was the meeting with the Sunland Park community leaders, when he observed the respect that they had for the Law Center and the work Doug Meiklejohn had done on their solid waste case. There was the visit to the San Ildefonso Pueblo, where Law Center board members and foundation staffers observed actual dumping by Los Alamos National Laboratory on tribal lands.

They heard tribal elders speak of the difficulties they encountered in their attempts to stop it and how the Law Center helped the tribe have a more effective voice in dealing with the Lab. “It had a deep effect on me and the visitors,” he recalls. But the achievement he is most proud of is the Navajo Nation’s and Law Center’s roles in getting the moratorium on uranium mining passed in 2005. “We worked with many partners to successfully advocate for a law with wide impact. I am very proud of the representation we gave to the Navajo communities and Nation.”

Sanchez was born in Roswell, NM where he has worked as a community organizer and advocate for most of his life. He has spent over 20 years on voting rights and welfare rights initiatives in his home town and around southeastern New Mexico. He has worked another 20 years with community organizations, focusing on social and environmental justice issues. “It’s been an incredible journey,” he says, “working with these dedicated people and community leaders, their commitment to economic and environmental justice, gives me energy and inspires me to continue the work.” Currently, he is the Senior Program Officer with the Needmor Fund, a private foundation that funds community organizing in Southwest and nationally.

The Law Center thanks Frank Sanchez for his continued expertise and guidance.

Danielle Myers, Intern

Danielle Myers was a senior at Santa Fe Prep who spent her three-week senior project interning at the Law Center. After living in Santa Fe for most of her life, Danielle has gained an appreciation for the natural beauty that surrounds her and a passion for protecting it.

In the fall, Danielle will attend Brandeis University in Waltham, MA where she hopes to major in environmental studies. She is excited about this new stage in her life, but will miss beautiful New Mexico. She’s planning on a career in nonprofit work and environmental conservation and says that interning at the Law Center gave her a taste of what she wants to do in the future.

The Law Center thanks Danielle for all of her hard work, and wishes her all the best.



2002

After 25 permit revisions, Molycorp’s closeout plan and permit include precedent-setting standards



2003

Awarded the Quality of Life Legal Employer Award from the State Bar of New Mexico



2004

Files aboriginal land claim for Picuris Pueblo to regain sacred lands including the Oglebay Norton mica mine

1872 Mining Law Reform Progress

Half-way there, but still a long row to hoe!

by Roger Featherstone, Earthworks



Phelps Dodge Chino Mine near Silver City

On November 1, 2007, for only the third time in 136 years, the US House of Representatives passed a bill (HR 2262) that would substantially change the way that hard rock mining occurs on public lands. The bill passed handily with the vote of 244 to 166.

The bill strives to protect crucial drinking water supplies and other natural resources, special places, taxpayers, fish and wildlife habitat, and the health and well being of our communities. The bill charges a royalty for the first time ever and allows our federal land managers to balance mining with other land uses. The bill finally puts hardrock mining on par with other extractive industries like oil, gas, and coal mining.

Reform is long overdue. The 1872 Mining Law was signed into law on May 10, 1872 to encourage development of the West and to settle land disputes. The law governs hardrock mining on 270 million acres

of publically owned lands mostly in the West. This constitutes almost one-fourth of all the land in the United States, or two-thirds of the public lands owned by all Americans.

While modern mines have massive environmental footprints, use chemicals such as cyanide and sulfuric acid, and generate huge quantities of waste, the 1872

Mining Law has no environmental provisions. Mining has left an ugly environmental and taxpayer legacy, with 40% of the headwaters of western watersheds polluted and a clean-up bill of over \$50 billion. Although a temporary moratorium currently halts the sale of public lands (under the law, land can be patented – or privatized – for as little as \$2.50 per acre), \$245 billion worth of mineral bearing public lands have been “sold” to mining companies under the law – a land area the same size as Connecticut.

Enactment of a mining law reform bill would be a giant step towards dealing with mining’s toxic legacy preventing new mining pollution and bringing mining on public lands into the 21st century.

However, if it is to have a chance at becoming law, it must pass the Senate. Because New Mexico’s senators are the ranking members of the Energy and Natural Resources Committee, New Mexicans have a critical role to play. ✚

HR 2262 at a Glance

Protects Special Places from Irresponsible Mining

- Wilderness study areas, roadless areas, and lands in the Wild and Scenic River System will be off limits to exploration and development.
- Protects National Parks and National Monuments by assuring that large-scale mining operations do not adversely affect these national treasures.
- Gives land managers the ability to balance mining with other land uses.
- Gives state, local and tribal government the ability to put lands off limits to mining.

Establishes Environmental Standards

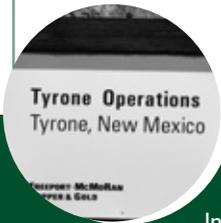
- Mine sites must be reclaimed to sustain either pre-mining uses, or uses conforming to the applicable land use plan.
- Fish and wildlife habitat must be restored.
- Operations must minimize damage to surface and groundwater resources.
- Prohibits perpetual pollution – after mining ceases, mine operators need to meet water quality standards without permanent treatment.

Implements Fiscal Reforms

- Ends patenting – the selling of public lands at 1872 prices.
- Establishes an 8% royalty for new mines and a 4% royalty for existing mines.
- Requires reclamation bonds with clear cleanup standards.
- Creates a fund to clean up abandoned mines.
- Creates a Community Impact Assistance Fund.



2005
Successfully advocates passage of the Diné Natural Resources Protection Act, banning uranium mining in Navajo Indian Country



2006
Achieves nearly every goal the Gila Resources and Information Center sought for the Phelps Dodge Tyrone permit



2007
Files landmark federal lawsuit after NRC validates Hydro Resources’ nuclear source materials license

“You Can’t Drink Oil” Education Event

by Sebia Hawkins

On May 20th 2008, the New Mexico Association of Grantmakers conducted a funders’ forum entitled “Perspectives on Oil and Gas Development in New Mexico: Our Economy, Environment, Health and Future” moderated by Doug Meiklejohn. The philanthropic community was briefed on issues related to oil and gas development in the interior West. Experts included Ben Alexander, socio-economist at Headwaters Economics in Montana; Lance Astrella, oil and gas attorney from Denver who represents individuals and municipalities; Tweeti Blancett, a San Juan County rancher; and Dr. Theo Colborn, an environmental health analyst. The experts addressed public health issues, comparative economics of oil and gas development, and legal strategies and issues that could further inform the local Galisteo Basin debate as the community and county continue the process of developing an ordinance for Santa Fe County.

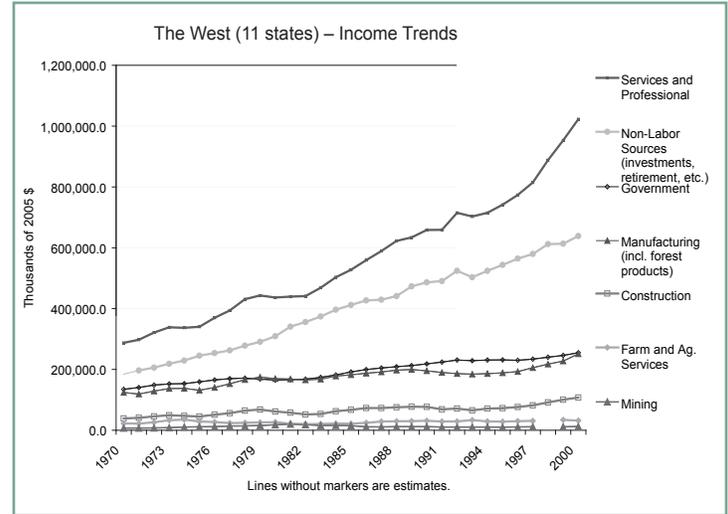
The Law Center along with **Common Ground United*** and Conservation Voters New Mexico hosted a public education meeting in the evening with these same experts (except Tweeti Blancett). The meeting entitled “Everything you wanted to know about Oil and Gas but Were Afraid to Ask” was moderated by Sandy Buffett, Director of Conservation Voters New Mexico. The Unitarian Universalist Church was packed with well over 100 people who came to learn more about other western states’ experiences that could apply to Santa Fe county and inform the ordinance framework and drafting

process. The bottom line is that citizens must continue to demand full accountability, transparency and participation in the regulatory process, and we must take control of the information about this industry and disseminate it broadly in public education campaigns. Objective baseline studies are conducted by both state agencies and independent experts in order to have data of what was present before any drilling occurs. These baseline studies should address a range of concerns including economics, public health, air and water quality and biological and cultural resource impacts.

The biggest news is that oil and gas development is not the economic employment engine it was forty years ago in the West as employment numbers have nearly flat-lined for the past thirty years while many other economic sectors have greatly outpaced mining development in the state. However, numbers are not available for the actual costs to New Mexico in lost land use due to oil and gas waste contamination; lost employment for ranchers; lost water resources; public health costs of increased respiratory illnesses and other associated afflictions. Finally, it is up to local communities and their county governments to determine whether oil and gas development in the Rocky Mountain

West is compatible with the new increasingly diverse economies that depend on quality of life and pristine environments to bring economic growth to our region.

The Law Center is grateful to the New Mexico Association of Grantmakers for its interest in



Income Trends in the West Credit: Headwaters Economics

further educating its members about this most important issue; and, to Jan Brooks for her efforts to organize both the funders’ forum and public education event. Thanks are also due to Common Ground United and the Oil & Gas Accountability Project for their support. We greatly appreciate the in kind services and individual support provided by Theo Colborn, Ben Alexander, Lance Astrella, Doug Stewart and Tweeti Blancett; as well as Michael Motley, Peter Ellzey, Michael O’Neil, Paul Margeston and Jennifer Marshall. ❧

**The Coalition for Energy Accountability (see GFR Winter/Spring 2008) has changed its name to Common Ground United.*



Anniversary Contributors – celebrate twenty years of environmental victories with the Law Center! Become an Anniversary Contributor by increasing your next gift by 20%! Call the Law Center for details, or email nmelc@nmelc.org for a personalized Anniversary Contributor package!

Legislative Roundup

by Juana Colón



Uranium Bill Vetoed

SB #487, Abandoned Uranium Mine Reclamation Fees, sponsored by Sen. David Ulibarri, would have imposed a small tax on new uranium mines in New Mexico that would contribute to an “abandoned uranium mine reclamation fund.” In theory, the bill provided for clean up of old uranium mines but in fact it would have provided very little funds. In its final form, the tax

collected would have provided, over approximately 20-30 years, enough funds to clean 1 or 2 abandoned mines; currently there are hundreds of abandoned uranium mines in New Mexico. The bill also would not have authorized the state to recover the costs of clean up from the owner of the abandoned mine, if that owner was still a functioning company.

The bill passed the House and, with amendments, passed the Senate. The Law Center, along with many other environmental and community organizations, rallied public support to ask Governor Richardson to veto the bill. Thankfully, he did on March 3rd, reporting to the press that New Mexico “deserves better.”

Thanks to all of our members for their phone calls and emails!

Restrictive Impact Statements for Rule Makers Avoided

HB #310, Regulatory Impact Statement Requirements, sponsored by Representative Richard Berry, would have required state agencies to prepare regulatory impact statements when they proposed to adopt new regulations. This bill would have significantly slowed down agencies’ ability to adopt new regulations in order to protect communities or the environment. The Law Center, with other environmental groups, negotiated with Rep. Berry, and although substantial progress was made, negotiations did not result in an agreement. Rep. Berry decided not to pursue the bill. ✂

Case Update

GRIP Wins Five Year Fight Against Chino Mine’s Dilution Plan

On June 26, 2008 GRIP, represented by the Law Center, settled its appeal of Chino mine’s proposal to dilute its contaminated waste water with clean groundwater rather than use more effective treatment technology.

Freeport-McMoRan, parent company of the Chino mine,

has agreed to use an advanced form of reverse osmosis to remove metals and sulfates from the wastewater the mine will produce for hundreds of years after mining stops.

This win will save 9,000 acre-feet of clean groundwater annually! ✂

The Impact Fund Honors Law Center



Alan Rand presents award to Douglas Meiklejohn. Photo credit: Alain McLaughlin

This May, the Impact Fund recognized the Law Center for our groundbreaking environmental justice work on behalf of Native Americans, Latinos and other groups. Thank you Impact Fund! ✂



Join us for a year of events and special newsletter issues focusing on our past victories – and our future goals!

Please join us in Las Cruces for a Member Event on October 30th.

Green Business Partners Update

by Sebia Hawkins, Director of Development

Dear Friends,

We have two new exciting opportunities to tell you about. The first is a terrific offer from Law Center supporter Cliff Feigenbaum, editor and publisher of *GreenMoney Journal*, which is celebrating 15 years this year. We wrote a story for his spring online issue about New

Mexico and the Law Center, and Cliff thought of a great way we could creatively support and inform Law Center members.

The second exciting opportunity is from Law Center supporter Dr. Leslie Lakind, truly a local leader in Santa Fe's environmental health. We want

to thank both Cliff and Leslie for their steady and generous support and for their willingness to include Law Center members in their efforts.

The GreenMoney Journal

by Cliff Feigenbaum

Since 1992, the award winning and Santa Fe-based *GreenMoney Journal* has been covering socially and environmentally responsible business, investing and shopping information. The goal has been to help people align their money with their values from the supermarket to the stock market. So we are teaming up with NMELC to help you and them make money and make a difference in the world.

I have been so impressed with the work that NMELC has accomplished over the past twenty years. Their need for revenue is growing in order to meet the challenges ahead; therefore the *GreenMoney Journal* will donate half of all subscriptions' revenues that come in from members of NMELC. With your \$50 one year subscription of the publication, a full \$25 per subscription will go to NMELC to help them in creating the future we all want to live in.

Last year *GreenMoney Journal* celebrated its 15th Anniversary with a special issue (Summer 2007) that asked a variety of leaders to give their vision of the next 15 years. The writers included futurist Hazel Henderson, social investing Leader Amy Domini, Stonyfield Farm CEO Gary Hirshberg, and from Ecotrust Spencer Beebe who wrote on the importance of Bioregions.



Here is an excerpt from that article:

“Everything is changing in the face of global warming. The industrial economy is an artifact of cheap oil. There will be a transition from an industrial to an ecological economy. It will either be very chaotic and destructive to human systems, especially the poorest of the poor, or it might be a social evolution to a healthier, more equitable and more reliably prosperous knowledge-based economy...The key is to find ways to release the energy of people in place. The only truly unlimited and untapped resource left in a world of increasing scarcity is the infinite creativity of the human imagination. Imagination, with even the slightest nod of encouragement and a little money, enables even the least advantaged among us to improve their lives in the places they live. Imagination is the catalytic, the metabolic process that will underlie a new economy of place.”

Give ‘em Heck Appeal:

Thank you members for your incredible responsiveness to our donation appeal for Eric's oral arguments before the 10th Circuit Court of Appeals. Not only did he have 21 Navajo community members attending the hearing and filling the courtroom; but he had your overwhelming support and well wishes too. You made this our very best ever spring appeal and we can't thank you enough for your support for this work! ✂



So subscribe today at the following address and we will send NMELC half of all that comes in.

Send \$50 check, with “NMELC” on the memo line to:

The GreenMoney Journal
PO Box 67, Santa Fe, NM 87504

Thank you,
Cliff Feigenbaum
Founder and Managing Editor
GreenMoney Journal

Helping One Another

by Leslie Lakind, DDS

Lakind Dental Group will donate half the cost of new patient exams to NMELC.

Every day, we're asked to contribute to this or that progressive cause. It would be great if we could help every one of them. But the reality is we have to make choices: The New Mexico Environmental Law Center is one of mine.

Saving the planet involves great paradigm shifts and energy of all kinds, especially human energy. It's imperative we think globally—and act locally: Buying locally contributes to New Mexico's economy and environment.

It preserves local agriculture and reduces our carbon footprint. Money spent with local business circulates in our economy at three times the rate of money spent at nationally owned businesses. And just as patronizing local business does three times as much good for our community, economically, money spent in the local progressive business community does the same, it circulates in the local progressive community.

When I'm deciding whom to give

my business or my support to, I keep this in mind. The NMELC has a long, successful track record of protecting our environment. But the Center needs funding to continue the vital work it does for New Mexicans. That's why Lakind Dental Group will donate half the cost of your new patient exam to the NMELC. If you're a local progressive, I hope you will take us up on this offer. It's a great way to put your money where your mouth is. ☘

Thank you to the Funders, Sponsors and Contributors who make the work of the Law Center possible. Contributions January 1, 2008 - June 30, 2008

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<New Mexico Mining Act Story from page 4

requires the same for existing mines, but provides that reclamation may be waived if it would be technically or economically unfeasible, or environmentally unsound. Even with the possibility of that waiver, the Act's reclamation requirements are a significant achievement for protection of the environment. ✂

<ENDAUM Story from page 4

money, can coerce people into doing what they want them to do; we don't have money to flash around like HRI. But with the guidance of the Southwest Research and Information Center [also a Law Center client in the Crownpoint uranium case] and the Law Center we have held public meetings and educated the community about uranium mining. We have educated our elected officials and we passed a ban on uranium mining on Navajo lands in 2005.

"I believe we have been very successful, for 13 years we have held HRI back. Organizations like the Law Center are essential in a community like ours."

Oral arguments in the ENDAUM vs. HRI appeals case were heard on May 12, 2008 in Denver's 10th Circuit Appeals court. A decision will be announced later this year. (Please see cover story.) ✂

<Brian Sheilds Story from page 6

biggest polluters in the world.

"If we didn't have *pro bono* legal help for cases like Molycorp and Los Alamos National Laboratory, we would be treading a lot of water." Brian explains. "In many instances, we would not be able to get a seat at the table. The only way we can get real action is by threatening, or taking legal action; at that point, the polluter will sit down and talk. Otherwise, we'd be reliant upon best practices and other voluntary actions that are really ineffective at holding polluters accountable."

We congratulate Amigos Bravos

on 20 years of protection for the Rio Grande and the people within its watershed! ✂

<Wooten Story from page 5

affect their communities, he knew that in practice, public participation can be a difficult thing to achieve. "Decision-makers have a much tougher time dismissing a good attorney armed with technical facts and legal arguments," he conceded. "In the Flying W case, I was twice denied 'affected interest' status by the BLM. Only with the positive intervention of the Law Center was I finally able to participate in a proceeding that was, by law, supposed to be open to the public." He then went on to say that this problem is compounded in poor communities where residents are perpetually abused by corporations and the government.

From the Woottens' experience, the Law Center's highest value is opening the door for citizens to participate, whether or not they have money or political power, and it is why Eleanor continues to support the Law Center. The Law Center thanks the Wootten family for their financial and moral support for the past fifteen years. ✂

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The New Mexico Environmental Law Center is a nonprofit, public interest law firm that provides free and low-cost legal services on environmental matters throughout New Mexico. The mission of the Law Center is to protect New Mexico's 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, businesses and foundations, and by limited earned income.



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