Dear Supporters,

As I take a moment to pause and reflect on 2021 thus far, I can’t believe that I’ve completed my one-year anniversary as the Executive Director of the New Mexico Environmental Law Center. Every day that passes I am thankful to be in this position; it is truly the most important professional role I’ve held to date.

Over this time I have immersed myself in the powerful work at NMELC—from our important legal casework, precedent-setting legislative work, and community-based advocacy.

I’ve had the opportunity to meet many of you and to hear your thoughts on how we can improve our work at NMELC. Your feedback is crucial as we continue to move our work forward.

I’ve also had the opportunity to meet with other organizations and leaders, and it’s helped me to realize what makes NMELC distinct—we are truly the people’s environmental justice law and advocacy center. Our cases are client-directed, and the environmental issues our clients are facing guide our priorities.

There is one foundational priority at NMELC—to protect, defend, and uphold every New Mexican’s fundamental human right to clean air, land, and water, especially for New Mexicans who have borne the brunt of environmental injustices for too long.

At NMELC, we function at the intersection of legal work, policy development, and advocacy. These three areas are foundational to our law center.

We understand that in every major environmental battle, the legal piece is only part of the overall work. Every environmental battle our clients and communities take on encompasses advocacy, community organizing, and often the political arena.

I also want to take a moment to highlight key happenings at NMELC:
- Currently hiring staff attorneys who will become a foundational part of our powerful legal team
· Continuing to seek client and community feedback on how we can continue to improve and provide high quality legal services
· Providing more support to our clients, not just in terms of legal casework but in their advocacy and organizing efforts as well
· Envisioning a program that will create a pathway to diversify the environmental legal field—we must take a proactive role in cultivating new generations of environmental attorneys
· Continuing our successful Environmental Justice Series that highlights our clients and keeps the larger public engaged and informed on major environmental

As I complete my first year, I also want to extend my heartfelt gratitude to NMELC’s founder, Douglas Meiklejohn, for staying with us as we underwent this important transition. As a former client of NMELC, I had the opportunity of working directly with Doug on the Santolina Master Plan battle and learned firsthand about Doug’s immense knowledge and commitment to his clients. Thank you, Doug, for welcoming me to NMELC in such a gracious way and for continuing to mentor me as I began and now continue this path. All of us at NMELC thank you for your vision in creating this vital and successful organization. We wish you the absolute best as you finalize your tenure. Goodbyes are not easy, but I personally thank you for all of the teachings and for your professionalism. As the founder of NMELC, there will always be a connection as we continue to carry out the work you began over 34 years ago.

Thank you again to all of our friends for your patience, the steadfast belief in our work, and most importantly, for the continued support over the years. It is our hope that each of you continues to walk by our side as we navigate this crucial environmental moment.

In solidarity,

CASE UPDATES

Strickling Water Transfer

BY DOUGLAS MEIKLEJOHN, STAFF ATTORNEY; MASLYN LOCKE, STAFF ATTORNEY

We represent four acequias and one individual in a fight against a water transfer, diverting surface water near Pecos and Anton Chico. Strickling Ranch Partners, LLC applied to the Office of the State Engineer to change a point of diversion in order to utilize water to irrigate lands within the Strickling Ranch property. An evidentiary hearing in front of the State Engineer was held on March 27, 2018 and continued for four days. A decision was issued on October 22, 2020, requiring Strickling Ranch to participate in a shortage sharing agreement when water at a downstream ditch fell below 26 cubic feet per second (cfs).

The State Engineer then re-issued his decision a few weeks later, on November 5, 2020, changing this condition to require sharing when the water level dropped below 15 cfs at the Pecos Gage, much further upstream on the Pecos River. At issue is whether the State Engineer had the authority to change a decision in this way, *sua sponte*, or on his own. A hearing will be held in the Fourth Judicial District Court on October 14, 2021.
Produced Water Update

BY DOUGLAS MEIKLEJOHN, STAFF ATTORNEY; MASLYN LOCKE, STAFF ATTORNEY

Recently, the State Oil Conservation Commission adopted an amendment to its regulations that outlaws spills of oil and oil wastes. The regulation amendment was a significant step forward for protection of public health and the environment against the adverse impacts of the oil and gas industry.

However, the amendments to the regulations did not go far enough according to the Law Center and its clients, which included environmental groups – the Sierra Club and Amigos Bravos – and front line community groups – Citizens Caring for the Future, the Native American Voters Alliance Education Project, and Pueblo Action Alliance. These groups urged that the Commission also adopt two other amendments to the regulations.

The first proposed amendment would have required companies that spill fluids to characterize those fluids so that the toxicity and other features of the spilled fluids can be determined. The second proposed amendment would have mandated that companies that spill fluids give notice of the spills to people in the areas that may be affected by the spills. The Law Center and its clients pointed out that these proposed amendments are necessary to protect public health and the environment, but that argument was not accepted.

Proposed Santolina Development Update

BY DOUGLAS MEIKLEJOHN, STAFF ATTORNEY; MASLYN LOCKE, STAFF ATTORNEY

Despite the ruling by the Court of Appeals indicating that the zone map amendment for Santolina is invalid, the Santolina developers and Bernalillo County government appear to be proceeding as if the zone map amendment is in place. The Santolina developers have applied to Bernalillo County for permission to establish a landfill on the Santolina land as an “interim use.” The County Zoning Administrator denied that application, and the County Board of Adjustment affirmed that denial.

However, neither of those rulings relied on the Agricultural zoning for the Santolina land, which does not allow use of the land for a landfill. Rather, the Zoning Administrator’s and the Board of Adjustment’s decisions rested on the point that the proposed landfill was not an “interim use” as defined by the Development Agreement between the developers and the Board of County Commissioners.

The County Planning Commission was set to hear the developers’ Santolina Level B.2 application, but that hearing has been deferred until October 6th. It remains to be seen how far the County will allow that application to proceed since the land on which Santolina is proposed to be built remains zoned agricultural. On August 25th, the Board of County Commissioners will rehear the appeal of the zone map amendment.
Crownpoint/Churchrock Human Rights

BY ERIC JANTZ, STAFF ATTORNEY

In 2011, on behalf of our clients Eastern Navajo Diné Against Uranium Mining (ENDAUM), we filed a petition with the Inter-American Commission on Human Rights (IACHR), which monitors human right treaty compliance in the Americas. ENDAUM’s petition alleged numerous human rights violations that the United States committed by licensing a new uranium mine in the Navajo communities of Churchrock and Crownpoint. This is the first human rights petition holding the U.S. to account for its human rights abuses related to uranium development. If the proposed mine goes forward, it will contaminate large areas of groundwater and land. Groundwater contamination from the proposed mine is a given; in over forty years of experience using in situ leach (“ISL”) mining technology, no commercial ISL mine has ever been able to restore a mined aquifer to its pre-mining condition.

On April 20, the Inter-American Commission determined that ENDAUM’s allegations of human rights violations were sufficient to allow the Commission to conduct a hearing on our Petition’s merits. Our clients and the Law Center will be submitting information to the Commission about the uranium mining industry’s dreadful environmental record since 2011 as well as additional health research. We expect a hearing may be scheduled in front of the Commission in early 2022.

Associated Asphalt and Materials, LLC

BY ERIC JANTZ, STAFF ATTORNEY; MASLYN LOCKE, STAFF ATTORNEY

We represented Earthcare NM and individuals who live on Santa Fe’s Southside in a three-day air pollution permit hearing in front of the New Mexico Environment Department on March 22-24th. We filed our closing arguments, proposed findings of fact and conclusions of law on May 28th, arguing that the Air Quality Bureau (Bureau) had ignored its charge to protect human health and the environment in order to provide “quality customer service” to industry applicants. To obtain a permit, Associated Asphalt and Materials, LLC (AAM) had to prove that their proposed asphalt plant would operate in compliance with the applicable air quality standards.

To prove this, they depended on the Bureau to show that their air modeling process and data were reliable. We argued, however, that the Bureau arbitrarily used old and inaccurate data, making it impossible to know whether AAM will operate in compliance with air quality standards. We also argued that the Department violated Title VI of the 1964 Civil Rights Act when it failed to meet its burden to provide meaningful comment opportunities at the hearing to commenters who primarily spoke Spanish. On June 28 the Hearing Officer issued his report and recommended the permit be approved. We submitted comments arguing that NMED should not accept the Hearing Officer's recommendation. The NMED adopted the Hearing Officer's recommendation, and we have filed an appeal.
Past Environmental Justice Series events

Part III: Uranium Contamination in New Mexico, a discussion with June L. Lorenzo

On May 13, the Law Center featured a community conversation with June Lorenzo who presented on the history of uranium contamination in her community and her work on uranium legacy issues with community organizations as well as related human rights work. June lives and works in her home community of Paguate Village in Laguna Pueblo.

She is an attorney, human rights advocate and a tribal judge. She also works with Indigenous non-governmental organizations to advocate for human rights related to uranium mining and other extractive activities, sacred landscape protection, access to justice and intellectual property rights of Indigenous peoples in national and international forums.

If you missed the live event, click this link to view the recorded presentation.

Explore June Lorenzo’s recent publications:

- Gendered Impacts of Jackpile Uranium Mining on Laguna Pueblo
- Paguate Village Attitudes and Beliefs on Preservation and Renovation of Traditional Structures: Remembering Our Connection to Our Mother
- Spatial Justice and Indigenous Peoples' Protection of Sacred Places: Adding Indigenous Dimensions to the Conversation

Part IV: Radiation Contamination in Northern New Mexico

On June 24, NMELC held a community conversation with Communities for Clean Water, an organization that works to safeguard clean water in the Rio Grande watershed. Our event opened with a blessing from Elder Kathy Sanchez, and then Beata Tsosie Peña shared powerful reminders of the importance of protecting pregnant Indigenous women from environmental contamination who are the most vulnerable, instead of using a white male “reference man” as the standard. “If they are protected, everyone is protected,” she said. Elder Kathy made the connections between the Doctrine of Discovery, Papal Bulls and nuclear colonialism. Sister Marlene Perotte spoke about a paradigm shift from the mind to the heart, and how we must restore our connection to Mother Earth. Rachel Conn shared information about the Triennial Review of Water Quality Standards held mid-July. Emily Arasim, the CCW Youth Representative, urged us in our respective communities, to create spaces for youth to process, including art, poetry, zines and photography.

To watch a video of the event, click here.

Communities for Clean Water will hold an in-person Young Adult Support Circles event, “Farming as Activism” at the Healing Food Oasis/Valdez Park in Espanola on August 19th. Those in attendance are invited to share their experiences on how farming has helped build relationships with the land and water, and how the process supports communities and the larger ecosystem.

Upcoming Events

Stay tuned for registration information about our next EJ Series event featuring the Mountain View coalition's battle against yet another asphalt plant in their environmental justice community. Community members will provide the history and evolution of land use, and voice their concerns regarding the legacy of pollution in their community.
Mountain View

BY ERIC JANTZ, STAFF ATTORNEY; MASLYN LOCKE, STAFF ATTORNEY

The Law Center’s clients in Albuquerque’s Mountain View neighborhood continue to challenge the air pollution permit for the New Mexico Terminal Services hot mix asphalt plant proposed in their community. Albuquerque’s Environmental Health Department (EHD) rubber-stamped the pollution permit despite the fact the asphalt plant will contribute to ozone levels above legal limits and the fact the land where the plant will be located is not zoned for industrial uses.

The Hearing Officer presiding over the appeal initially scheduled a briefing on dispositive motions (motions that could determine the appeal’s outcome based exclusively on legal arguments) in June. However, the dispositive motion briefing was delayed because EHD filed Motions to disqualify almost half the Albuquerque/Bernalillo County Air Quality Control Board, which will ultimately decide the appeal, because of each Member’s “appearance of bias.”

NMELC Attorneys were prepared to argue against the frivolous disqualification attempt at a hearing at the July 14 Air Quality Control Board Meeting, but EHD withdrew the Motions prior to the hearing. The entire effort was nothing more than a distraction and a tremendous waste of taxpayer dollars. Dispositive motions will now be filed on July 28th, with a hearing likely in early September.

Please support our clients by signing their online petition to Stop the Asphalt Assault on Mountain View! Below are a few comments from residents and allies explaining why they oppose the New Mexico Terminal Services asphalt plant:

"As a resident of the South Valley, we live in a beautiful area nestled near the Rio Grande. We need to protect the environment, water, and air quality in this region. There are already many industrial facilities that operate in this area. The proposed location of this site is just South of the wildlife refuge, Valle de Oro. They just spent millions of dollars to enhance this region only to bring in air pollution? It doesn’t make sense and is a bad game plan." —Joshua M.

"Our voices should be heard and concerns understood. We live in a beautiful community and our air quality plays a major role in that." —Salvador C.

"Our kids live here! Would you want your own kid walking by and through this junk everyday to get to school? Preserve our south valley - clean air and spaces for our local people is a human right. Cherish our culturally rich corners, where us born-n-raised here have so many memories, traditions unique to only the south valley that we hope to pass on, many which include our unique wildlife and peoples. Protect and save our farmland and farming heritage." —Selma K.

"I'm tired of this area being the dumping ground for stinky/noisy businesses." —Sheila C.

"There are a lot of retirees that have serious health conditions, including my husband. Stop targeting low-income communities of color with pollutants!" —Monica P.

"Clean air should be right in every neighborhood. Mountain View does not need another polluter in the neighborhood." —Rachel H.

"People of Color are disproportionately affected by pollution from various corporations. Prohibiting the construction of the Hot Mix Asphalt plant would not only protect the Mountain View neighborhood from increasing industrial pollution, but would also be a step in the right direction for Albuquerque to be a model of greater environmental justice. We must protect not only our planet, but it’s people as well, and the residents of Mountain View deserve no less than the residents of Tanoan." —Michael A.
TOXIC TOUR: Mountain View Neighborhood's Journey of Environmental Justice & Healing

The Valle de Oro National Wildlife Refuge (NWR) is located in the Mountain View neighborhood, a community that is overburdened with toxic and hazardous industries. On April 17, 2021 Valle de Oro held their annual Environmental Justice Community Day. The event was held virtually this year due to the pandemic. Originally an in-person guided tour of the neighborhood, the StoryMap Toxic Tour intends to tell the environmental justice story of Mountain View from its role in forwarding the international Environmental Justice movement, through the neighborhood's current battle against environmental racism and towards securing the political, economic and cultural liberation of its human residents as well as the protection of non-human residents.

The Environmental Justice Leadership Team, which includes Valle de Oro NWR, Friends of Valle de Oro NWR, Los Jardines Institute and a Community Accountability Group of dozens of community partners in the South Valley, seeded an effort to gather EPA and environmental data, community stories and history. Staff, community members and volunteers are working together to build this digital "toxic tour" using ArcGIS, an online interactive mapping tool. The Environmental Justice Toxic Tour aims to be a "living" StoryMap. Over time, the StoryMap will continue to be updated with existing and emerging sites of environmental racism and pollution, as well as environmental restoration; it is a beautiful illustration of environmental advocacy and site-specific community concerns using video links, maps, and photos that showcases the vibrancy of its residents. Click on this link to take the "Toxic Tour".

The Environmental Justice Leadership Team is working on sharing this open-source data resource with the community. If you want more information, to add more sites to the tour, or to connect related data from your community to this Toxic Tour, please contact Nathan Begay at nathan_begay@fws.gov or Xavier Barraza at xavier@friendsofvalledeoro.org

Concerned Citizens for Nuclear Safety

Joni Arends (Update on WIPP)

Legal maneuvering by the New Mexico Environment Department (NMED) and the Department of Energy (DOE), plus decisions made by the Hearing Officer limited the scope of a virtual public hearing held May 17-20 about whether the plan to dig a new $197 million shaft at the Waste Isolation Pilot Plant (WIPP) will be approved.

During the hearing, comments from opposing parties and the public discussing the following topics were prohibited and stricken from the official record:
DOE plans to double the size of WIPP
The Temporary Authorization that allowed WIPP to begin digging the shaft in April 2020 after the Environment Department presented its witness in support
The fact that during the time that a Temporary Authorization was in effect, DOE dug down 116 feet into the underground.

DOE argued that the shaft is needed for ventilation, though WIPP has operated for over 30 years with four shafts that provide the necessary airflow through the waste repository. Members of the public raised the issue that a new shaft is not needed because the Permit states that WIPP will close after 25 years of operations, or in 2024. A 10-year closure period, where the panels, drifts, and shafts would be filled, would begin after disposal operations end.

New Mexico residents voiced concerns that DOE has not disclosed the need for the new shaft and associated drifts, or hallways, in the underground mine 2,150 feet below the surface in salt beds at WIPP, and that it seems that permit changes for WIPP are needed to continue to operate for decades longer than allowed by the Permit, with the possibility of acceptance of high-level nuclear waste. The hearing process continues until October.
THANK YOU FOR YOUR ONGOING SUPPORT

NMELC proudly offers free or low-cost legal services to frontline communities who are defending environmental justice. It is our privilege to represent and work alongside the clients and communities we serve.

Your financial support makes it possible for us to hold polluters accountable and to protect environmental health. Please consider a one-time donation or a recurring donation.

Become part of the growing movement to protect and defend every New Mexican’s fundamental right to clean air, land, and water. We invite you to highlight your business commitment to New Mexico’s environment by joining our EJ Business Partners Program.

All of us at the Law Center sincerely thank you for your ongoing support and for your commitment to environmental justice!