Cold War in the West Simmers On

Gloria Flora's resignation last fall as Supervisor of the Humboldt-Toiyabe National Forest in Elko County, Nevada, gained national attention. "Fed-bashing is a sport here," Flora said in a press statement, referring to the fervent anti-government sentiment that had plagued her 18-month tenure running the largest National Forest in the lower 48 states.

While Gloria Flora's action was singular, the underlying problems which prompted it are widespread. Since the Oklahoma City bombing, the "Wise Use" challenge to federal authority has gone underground. Wise Use activists are now selectively targeting state and federal land managers, usually in isolated areas, they perceive to be vulnerable to campaigns of intimidation. As a result, nasty but low-profile battles continue to simmer in an ongoing Cold War in the West, and land managers are finding it difficult simply to do their jobs.

This anti-environment, anti-federal sentiment is not confined to ranchers, miners and others who profit from federal land. Recreational land use and abuse has also been a hot-button issue:

- Last Thanksgiving Bureau of Land Management (BLM) officers were attacked as they approached off-road vehicle enthusiasts in Imperial County, California to warn them about motoring in off-limit areas. Over New Year's weekend, BLM officers were issued gas masks and bullet proof helmets. Rangers reported automatic gunfire in Wilderness areas and the intentional destruction of archaeological sites. The door of the BLM office in El Centro was blown out in a drive-by shooting.

- Opposition to the Forest Service's attempt to ban construction of timber roads in wilderness areas threatened to become violent. In Idaho, the Supervisor of the Clearwater National Forest warned of the backlash in a letter to Chief Mike Dombek "...people here are walking on the edge. There WILL be civil disobedience and possibly worse."

- The U.S. Fish & Wildlife's (FWS) effort to reintroduce the Mexican gray wolf into the Southwest has run afoul of the local ranchers who believe wolves interfere with their inherent "right" to graze cattle on federal lands. Dave Parsons, who, until recently, coordinated the agency's reintroduction program [see article in PEER Review Winter 00 issue], spoke at a public hearing on the issue this March as a private citizen. After his presentation, Parsons was physically surrounded by a group of ranchers cursing about "the god damned wolves." The leader of the group, punched a reporter for attempting to record the event.

These attacks are not isolated incidents. According to public records compiled by PEER, threats and violence against federal resource managers have been steadily rising since the Oklahoma City bombing in 1995. BLM reports a 75% increase in complaints.

New PEER Office in Washington State See page 3

INSIDE

- Federal Employees Un-Gagged, page 5
- Corps Caught Cooking the Books, page 6
- Mother of All Desert Suits Filed, page 9
The 11th Amendment: The New Last Refuge of Scoundrels

Recent U.S. Supreme Court decisions have denied state workers legal remedies for violations of federal law by state government agencies. These controversial rulings, in emotionally charged 5-4 decisions, told firefighters in Maine who were denied overtime wages due them and teachers in Florida who alleged age discrimination, that, no matter how clear the violation, a state cannot be held to answer in federal court by its own employees.

The sweeping language of these rulings suggest that state workers have lost their protections under virtually all federal statutes, including the Family and Medical Leave Act, the Equal Pay Act, and the Americans with Disabilities Act. In Rhode Island and Connecticut, state officials have been quick to wrap themselves in this new 11th Amendment immunity defense.

Both states have now sued the U.S. government as well as the individual state employee whistleblowers seeking to enjoin further proceedings, arguing that as sovereign states, they have the unfettered right to crack down on agency professionals who expose waste, fraud and abuse.

The states’ legal stance is a serious threat to both pollution control and accountability:

- The very entity charged with enforcing federal anti-pollution laws would have the right to fire or otherwise punish its own employees when they disclose the failure to enforce important public health and safety rules.
- Only the State as an employer would enjoy this unique “right.” Neither private industry whose activities are regulated by environmental laws, nor the federal government itself, has the right to retaliate against whistleblowers.
- It would create an irreversible chilling effect among other ethical public servants, deterring them from speaking about environmental problems, no matter how serious.

Ironically, the states are arguing for the right to bite the hand that feeds them. The bulk of state anti-pollution programs are operated under federal guidelines and with federal funding. In return for funding, the state promises “equivalent enforcement of compliance with the requirements” of such laws — which include the very whistleblower protections that state employees have invoked.

Legally speaking, the states waived their “sovereign immunity” to suit when they signed contracts agreeing to abide by and enforce the laws they now seek to evade. Morally speaking, these state officials should be ashamed of themselves for hiding behind legal niceties rather than heeding the red flags raised by people who are truly public servants.

-Jeff Ruch
Global Challenge

The Wildlife Advocacy Project and the Endangered Species Coalition have recently joined PEER’s unprecedented campaign to save 3,700 endangered species from extinction. The campaign centers on revitalizing the international provisions of the 1973 Endangered Species Act to extend protections to the 3,700 species identified by the World Conservation Union’s “Red List” as in jeopardy.

The Red List contains the names of the world’s most critically endangered plants and animals, and has been hailed by the Secretary of the Interior as “the most thorough scientific assessment of the state of the world’s wildlife ever undertaken.” Yet the official policy of the United States has fallen woefully behind the global realities of threatened mass extinctions.

It is crucial that the US act as a world leader to preserve endangered species. PEER’s plan would ensure protection of threatened animal populations by preventing their exportation to the US. It would also provide an incentive for foreign governments to protect the habitats on which these species depend.

PEER organized this campaign at the request of employees of the U.S. Fish and Wildlife Service, who saw their own agency catering to commercial interests by concentrating its limited energy on “delisting” and “downlisting” the few animals already on the U.S. list, many of which have not recovered in number (for a full report, order the PEER white paper, Noah’s Ark is Leaking). A recent prime example is Interior’s plans to downlist the Jacare — a cousin to the alligator — in order to allow importation of its hide by the fashion industry.

Interior also obstructs reform by dragging out the listing process to avoid the listing of critically endangered species. A perfect example of foot-dragging is the Goliath frog, the world’s largest species of frog, located in central Africa. The World Conservation Union had listed the frog as vulnerable long before its case was brought before Interior for listing. The US proceedings, however, were slowed almost to a halt when representatives from Cameroon and Gabon protested that local use and export were under control, and the US did not need to intervene. Finally, after three years of debate, the Goliath frog was placed on the endangered Species List, which made it illegal to trade in the species inside the US.

Although this species eventually was given protection, the incredible amount of time it took to place it on the list demonstrates why the Endangered Species Act needs to be systematically revised to allow for more expeditious listings, as well as to allow the listing of multiple species at one time, rather than on a case-by-case basis.

Right now there are thousands of species, such as the Koala and the Red Panda, classified as endangered or vulnerable by the World Conservation Union, that may never reach the US Endangered List, due to the slow and complicated nature of the listing process.

See “Working Assets Joins the Fight” on next page

Washington PEER is Here!

PEER is very happy to announce that Lea Mitchell, a former employee of the WA Department of Ecology and the City of Olympia, is heading our newest chapter based in the Greenview State. Most recently Lea was a national organizer for National Audubon Society’s Wetlands Campaign.

With much of the Great Northwest’s breathtaking topography overseen by public agencies, it is no surprise that Washington is already home to nearly 1,000 PEER members ready to give Lea the inside track on the issues of the day. In the year ahead, public employees in Washington will make tough decisions on dam breaching to protect endangered salmon, cyanide-leaching gold mines, and the always-contentious cleanup of the Hanford Nuclear Facility.

“Lea is the perfect person to head our Washington State office,” commented PEER Field Director Eric Wingerter. “As a full-time employee, Lea’s coming on board marks a new standard in our field operations.”

Lea has already hit the ground running, establishing alliances with public interest groups, unions, scientists, and lawyers. See opposite page for Lea’s contact information and watch this space for news from Washington PEER
Ann Rapkin, the longtime Chief Counsel of the Connecticut Department of Environmental Protection (DEP) has filed a federal whistleblower complaint as well as a civil lawsuit accusing top agency officials of retaliating against her for raising concerns “on matters of public health and environmental protection.”

The details of the suits have been filed “under seal” and thus shielded from public view due to concerns about potential violation of attorney-client confidentiality (see accompanying story).

Rapkin’s complaints come less than a year after the state General Assembly confirmed charges raised in the employee-authored PEER white paper, *A Friend in High Places*, of lax environmental enforcement and political intervention to protect prominent corporate violators.

Significantly, state Attorney General Richard Blumenthal announced that his office will not defend top DEP officials or Governor John Rowland’s chief of staff who were named as defendants in Rapkin’s suits. Blumenthal’s office is investigating an array of alleged improprieties at DEP following disclosures made by agency employees, including those filed through PEER, under the state whistleblower act.

The private lawyers hired by DEP are trying to block prosecution of Rapkin’s suits by asserting a sovereign immunity defense (see “ED Column” on page 2). PEER has filed an *amicus* brief on Rapkin’s behalf.

On March 7, 2000 a unanimous panel of the U.S. Court of Appeals for the D.C. Circuit held the Justice Department had violated the constitutional rights of one of its attorneys by imposing a gag order against his disclosing government documents evidencing agency wrongdoing to his own lawyer. The court found the order, issued by Justice’s top environmental official, Lois Schiffer, to be legally “inexplicable.” The Justice Department was also ordered to pay Jacobs’s legal fees.

The Justice attorney, Dan Jacobs, was profiled in the Summer 99 *PEERevi* ew. PEER filed an *amicus* brief in the case.

The case arose after Jacobs reported problems in the agency's Environment & Natural Resources Division, including the routine destruction of enforcement records. Lois Schiffer forbade the release of any “nonpublic” materials without agency approval. Last Spring, Jacobs obtained a district court ruling in his favor but Justice appealed the order. “I hope that the Attorney General will now see fit to order a full and independent inquiry into the matters I brought to her attention,” said Jacobs.

In order to address the sort of cases profiled on this page, PEER is starting an effort to safeguard the rights of agency lawyers to inform the proper authorities as well as the public about improprieties free from the threat of ethical sanctions.

Under the bar canons of most states, the strictures of attorney-client confidentiality mean that, even in a public agency, attorneys may not reveal the “confidences” of their client. Despite whistleblower protections, public agency attorneys risk professional discipline, such as loss of their law license, for reporting wrongdoing. The ethical course of action recommended for an attorney to follow in a whistleblower situation is to resign in silence.

PEER begins from the premise that public agency lawyers work for, and owe their allegiance to, the public, rather than the particular agency officials within their chain-of-command. Watch these pages as the campaign unfolds.

**Working Assets Joins the Fight**

Working Assets, the long distance phone company (see centerfold for details) has adopted the PEER global extinction campaign and asked all its customers in their March/April billings to send a letter to Interior Secretary Bruce Babbitt to adopt the PEER petition. Working Assets estimates that Babbitt will receive more than 30,000 letters.

Our goal in this campaign is to have 1,000 international and domestic conservation rights groups sign the petition. If you are a member of an organization and would like to sign our petition, or if you need more information about our campaign, please call us at (202) 265-PEER(7337), or contact Nicole Pruitt at npruit@peer.org.

If you want to contact Babbitt directly, e-mail him at Bruce_Babbitt@os.doi.gov. Or you can contact him at Department of the Interior: 1849 C St., NW • Washington, D.C. 20240 • Tel (202) 208-7351 • Fax (202) 208-5048
State Parks Employee Fired for Writing Essay

Arizona States Parks officials have fired an employee because he authored an essay in the Boston Globe about a very popular new park, Kartchner Caverns. State Parks Director Kenneth Travis ordered the termination claiming the piece brought "discredit and embarrassment to the State."

The employee, Matt Chew, has worked for State Parks for the past 7 years as a coordinator for land purchases and preservation of natural areas. His essay, which the Globe entitled "A Theme Park Grows Beneath the Ground", discussed the trade-offs inherent with high human visitation in natural places (a copy of Chew's essay is available on the PEER website).

"I have a constitutional right to express my opinion and I did not intend, nor do I believe my essay does, bring any discredit on the state or the people who work for it," commented Chew. "I am disappointed Director Travis feels threatened by public servants who voice professional differences."

1st Amendment Challenge
PEER is defending Chew and has retained the Phoenix firm of Miller, Lasota & Peters to represent Chew in connection with the dismissal which must be reviewed by the State Personnel Board before any court challenge can be filed.

"Matt's essay was a thoughtful discussion of an important matter of public policy," stated PEER Executive Director Jeff Ruch. "Despite appearances to the contrary, state employees remain American citizens — even in Gulag Arizona."

Hush Money Offered
Little more than two weeks after Chew's essay appeared in the Globe, Travis proposed that in lieu of dismissal Chew could resign and "enter into an Independent Consultation Agreement" for $10,000 if Chew would promise to "refrain from any further communication with [the media] regarding the past, present or future activities of Parks or its employees..." The document stated the terms of the agreement must remain secret.

Federal Employees "Un-Gagged"

The U.S. Court of Appeals in Washington, D.C. has ruled that federal employees are free to speak on behalf of non-profit citizens groups when addressing federal agencies. The decision reverses rulings by both a lower court and the federal Office of Government Ethics that such speech by federal workers was a crime.

The decision, Jeffrey van Ee v. EPA [available on the web at www.cadc.uscourts.gov], caps a ten year fight that began when van Ee, an electrical engineer with EPA based in Las Vegas, spoke on behalf of the Sierra Club at a Bureau of Land Management (BLM) forum concerning the desert tortoise. In an attempt to silence van Ee, BLM managers complained to EPA who, in turn, began a criminal investigation of him. After the U.S. Attorney declined to prosecute, EPA reprimanded van Ee. While van Ee successfully challenged the reprimand under the Whistleblower Protection Act, the underlying constitutional issues remained unaddressed.

The statute in question, 18 U.S.C. Section 205 — a part of the criminal code, forbids federal employees from serving as "an agent or attorney" in any "case or controversy" against the U.S. The Court of Appeals ruled that this law could not be interpreted "to act as a general gag order on employees."

Van Ee, a PEER activist, stated "I hope no other federal employee has go to through what I've been through in the past ten years. At a time when federal employees are encouraged to do volunteer work in their communities, EPA and the Office of Government Ethics interpretation of were sending just the opposite message." Van Ee's case was last profiled in the Winter 96 PEERreview ("The Law Is an Ass").
Army Corps of Engineers

Corps Caught Cooking the Books on the Upper Mississippi

In an affidavit filed through PEER, a veteran economist with the Army Corps of Engineers has torn the cover off of a secret plan by top officers to illegally manipulate cost/benefit studies in order to falsely justify building a multi-billion dollar expanded lock system on the Upper Mississippi River. The extraordinarily detailed disclosures by Dr. Donald Sweeney, a 23 year Corps economist and the well-respected creator of econometric models on demand elasticity in freight transport, accompanied by a sheaf of internal documents, e-mails and memos, have generated extensive press coverage, congressional inquiries and agency turmoil.

The Corps plans to double the size of the barge lock system on the Mississippi River above St. Louis, as well as locks on the Illinois River - a plan with far-reaching environmental impacts on one of the country's most important and fragile ecosystems.

The putative justification for the project is the need to accommodate increased barge traffic on the rivers, a need Dr. Sweeney claims was inflated by Corps brass well beyond any reasonable interpretation of data.

Dr. Sweeney's affidavit was filed with the Office of Special Counsel which, after review, found that allegations of violations of law and gross waste of public funds had "a substantial likelihood of validity" and ordered Secretary of Defense William Cohen to immediately investigate and report findings. Among the targets of the investigation are top officers in charge of the Corps civil works program nationally as well as those in the Mississippi Valley Division.

"Many have long suspected the Corps cooked their books but few expected to be given the recipe book and a seat in the kitchen to watch the chefs at work," commented PEER Executive Director Jeff Ruch. "Dr. Sweeney has forced a showdown on whether there remains any effective civilian control over the Army Corps of Engineers."

Substantiated by a number of his colleagues, the Sweeney affidavit is supplemented by damning internal records documenting the process of manipulation as well as the motives and fervor of the officers giving the orders:

► A memo outlining instructions from Maj. Gen. Hans Van Winkle, head of civil works and the Corps' number three official: "We have to remember that 40 percent of our budget is navigation... [Therefore] We are the navigation proponent and we can't have a limp-wristed recom-

"Oh my God. My God. I have no idea what you're talking about. I can't believe this."

Joseph Westphal,
Army Asst. Secretary for Civil Works,
quoted in the Washington Post reacting to the release of the secret Corps "Power Point" presentation

PEERreview
Fuhrman argues in one memo that the "well-being of the Midwest" depends upon approval of the lock expansion.

One civilian Corps manager worried in an e-mail, "This overt advocacy role, to me, is a new departure. We'll have to work on a story line...We will need corporate solidarity when we go back to our publics with this more aggressive advocacy position."

Dr. Sweeney's revelations have shaken the Corps, validated its environmental critics and set in motion multiple investigations in what promises to be a wrenching battle for what one employee called "the soul of the Corps."

Despite being caught in the act, the Corps is conceding nothing. In congressional testimony, the Corps commander, Lt. Gen. Joseph Ballard, testily defended "the integrity" of his top officers. Defense of "integrity" has become the watchword for the counterattack. A tape of Gen. Ballard's testimony has been sent to all Corps divisions where, as in the St. Louis District (where Dr. Sweeney is based), the commander, Col. Michael Morrow, has scheduled a town hall meeting, featuring the tape, to bolster morale and reassure employees that the Corps' "leadership is intact."

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The Corps Plan to "Grow" by $2 Billion

Concerned Army Corps employees have disclosed a secret "Power Point" computer slide presentation entitled "Program Growth Initiative" that has been delivered to agency brass nationwide. The slide show outlines a plan to "grow" the Corps' civil works budget by more than $2 billion - from the current $4 billion to $6.2 billion.

To accomplish these budget increases, each of the eight Corps divisions are assigned budget targets to be met through new or expanded projects. The presentation recommends a "program with targeted studies that should lead to target construction activities with continuation of historic success rates." In other words, a directive to keep cooking those books.

One slide candidly lists obstacles to agency empire building: heading the list of "Impediments to Growth" is the agency's own "Principles & Guidelines." Other hindrances include:

- "Relationship with the Executive Branch" (because the Corps would exceed budget limits)
- "Cost Sharing" (because state and local governments could not afford matching grants)
- "Loss of Congressional relationships" (because Committee chairs do not appreciate being lied to)

The slide show gives heart to conspiracy theorists everywhere who imagine that there really are secret meetings, a la James Bond movies, in which the conquest of the world is plotted. Joseph Westphal, Army Assistant Secretary for Civil Works and the nominal civilian overseer of the Corps, denied knowledge of the plan but conceded, "It's amazing what people will put on paper."

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Genetic Genie Released Again

At the request of Greenpeace International, PEER has re-released a white paper, Genetic Genie, written by EPA scientists critiquing the agency's failure to do competent risk analysis prior to approving genetically engineered microorganisms for commercial release. Greenpeace presented Genetic Genie to the United Nations Convention on Biological Diversity held this January in Montreal.

Repeated assurances by the U.S. Government that its opposition to any international restrictions or labeling requirements for genetically engineered products is based upon "good science" sparked renewed interest in the 1995 PEER white paper in which EPA scientists explain how domestic reviews are really based upon junk science, failing to address, let alone analyze, whole categories of risk and are completely dependent upon industry data. Genetic Genie also details how EPA circumvents its own supposedly independent scientific peer review process to avoid slowing new product approvals.

Unfortunately, according to the EPA authors, the passage of time has not invalidated any of the criticisms leveled by the report. If anything, the international posture of the U.S. as the leading proponent of genetic engineering has made candid internal discussion of scientific questions even more difficult.
Secret Plan to Pave Florida; E-Governor Wants No E-Records

Despite public promises to seek consensus and wait until 2001, Governor Jeb Bush has encouraged legislation dramatically scaling back the state role in growth management during the current session, according to internal documents obtained by Florida PEER. While Gov. Bush was assuring the environmental community he opposed “quick action” on legislation relaxing restraints on development, his staff was quietly drafting proposals for action in the 2000 session.

The plan to eliminate state growth management controls was set in motion by exchange of e-mails, between Governor Jeb Bush and Steve Siebert, Bush’s political appointment as Secretary of the Florida Department of Community Affairs (DCA). While agreeing to the change in direction offered by DCA Secretary Steve Siebert, Bush’s main concern was that the plan would be discovered if it was reduced to writing. Citing pressure “to write my thoughts as to the future of growth management,” Siebert sent an e-mail on 11/1/99 directly to Governor Bush setting forth his position in greater detail. Siebert advocated a dramatically reduced role for state oversight. Thirteen minutes after receiving Siebert’s message, Governor Bush e-mailed back:

“First, you have created a public record which as you know will leave you open to criticism without recourse...”

Catering to the desire of several term-limited legislators to move major pro-development legislation during their last year in office, DCA staff notes released by Florida PEER describe intense “pressure in the Legislature to do something”, adding that the “Governor felt something will happen [this session].” Consequently, DCA staff was ordered to help state Representative George Albright to move legislation, or, in the notes of one staffer, “be responsive w/ legislative efforts.”

The battle for the future of land use planning in Florida (to some, a hopeless oxymoron) is now reaching critical stages. Meanwhile, Florida PEER is opening an organizing campaign among the beleaguered employees of DCA.

Such a Deal

Last issue, we told you about an air pollution enforcement settlement between Florida Department of Environmental Protection (DEP) and Tampa Electric Co. that had U.S. EPA so upset that the federal agency was forced to intervene. Among the features of the state deal that had the feds so upset was a provision that the estimated $1 billion in clean up costs would be contingent on the utility passing all the costs on to their ratepayers. Also, under the federally-brokered settlement, the utility had to pay a $3.5 million fine; whereas the state was asking for no fine. But the kicker was that the state was willing to let the utility sell any of its reductions in sulfur dioxide as pollution credits so other utilities could continue to pollute. It seems that DEP Director David Struhs was just kidding a year ago when he began his tenure by promising a no-nonsense approach to environmental enforcement.

Comings & Goings

Dan Meyer has joined PEER as our General Counsel. Prior to practicing law, he served in the United States Navy, where he was the only commissioned officer to dissent from the Pentagon’s phony explanation for the explosion onboard Battleship IOWA (1989). Lt. Meyer and his gunners aided Sandia Nationa Laboratories and the Senate Armed Services Committee in establishing the true cause of the explosion. Dan also served as an intern in the Clinton White House (but has no stories to tell). In his spare time, he chairs the Town of Burkittsville’s Planning and Zoning Commission and is an organizer for “Smart Growth” in Western Maryland.

Maureen Murray also joins us as our new Outreach Director. Maureen is a “Green Corps” graduate - serving at Audubon - and was the Outreach Coordinator for the Alaska Coalition. Maureen replaces Ann McCranie, who has decided to follow her star into journalism. You can read Ann’s weekly column in the Forest City, NC Daily Courier. And, proving that turnover is not just a pastry, Emily Charette, our Development Director, has been lured away by the American Oceans Campaign.

We also want to welcome Karen Schambach as Coordinator for California PEER. Karen, who has a strong track record as an activist in off-road vehicle and forestry issues, is heading up our “Lost Opportunities Project” which you will hopefully be reading about in future issues. Meanwhile Jacqueline Taylor will be leaving Rocky Mountain PEER to teach at Metropolitan State College; Bruce Pederson remains as Rocky Mountain PEER Counsel.
Mother of All Desert Lawsuits Filed

A coalition of environmental groups, including PEER, the Center for Biological Diversity and the Sierra Club, have filed a major lawsuit against the Bureau of Land Management (BLM) in federal court charging that the BLM has let grazing, mining and off-road vehicles decimate desert wildlife in the 10 million acre California Desert Conservation Area (CDCA).

The suit cites BLM’s failure to implement Endangered Species Act protections during the more than two decades since Congress created the CDCA, which stretches over 400 miles from the US-Mexico border to the foothills of the Sierra Nevada and includes some of the California desert’s most scenic areas.

At stake is the survival and recovery of 25 threatened and endangered species and their habitat in southern California’s Mojave and Sonoran deserts. Species include the desert tortoise, California condor, the Peninsular Ranges bighorn sheep, and a variety of rare desert plants.

“BLM managers have ignored the repeated recommendations of their own biologists to reduce these human impacts,” said PEER Board Chairman Howard Wilshire, a desert geology expert who worked 35 years as a research geologist in the U.S. Geological Survey and is representing our organization in the suit. “These employees cannot sue their agency but PEER can on their behalf as the only way to force BLM to faithfully execute their environmental duties.”

While BLM will not comment directly on the suit, a spokesperson stated, “I think we have a great record down here,” noting that BLM is about to announce “a long-term plan for threatened and endangered species.” Not noted was the fact that BLM has been promising this plan for more than twenty years.

Thank You!

Our deep appreciation goes to Elizabeth Ordway Dunn Foundation, Mark and Sharon Bloom’s Heart of America Fund of the Tides Foundation, Geoffrey C. Hughes Foundation, Wallace Alexander Gerbode Foundation, Alida Rockefeller Messinger, Jessie Smith Noyes Foundation, and Margaret Cullinan Wray Charitable Lead Annuity Trust for their support.

Tortoise Half-Steps

On February 17, the National Park Service (NPS) terminated its Granite Mountain grazing allotment within the Mojave National Preserve. This allotment contains critical desert tortoise habitat and is primarily wilderness. This tract was featured in the recent PEER white paper, Tortoise on the Half-Shell.

Together with a corresponding grazing retirement by the BLM, more than 4,400 animal unit months (a cow and a calf for a month) of grazing have been eliminated from 276,125 acres by this action.
Reaching Rock Bottom & Starting to Dig

Gregory Sovas, Director of the Minerals Division for the New York Department of Environmental Conservation

In contrast to the kid glove treatment the oil industry gets in big producing states, like Louisiana, and even in some small producing states, like Florida (see the PEER white paper Crude Behavior), the Empire State is cracking down. After 135 years, the remnants of New York's once thriving oil industry are being pressed to clean up hundreds of abandoned wells. Industry execs, pleading poverty, are asking that old wells remain unplugged as "historical" sites. Gregory Sovas of the state DEC is unimpressed, saying: "If you took the money out of the ground, now you've got to pay the price...I'm not here to be a shill for the industry." Maybe New York is out of step; in many states, being a shill for industry is called "customer service."

Interior Secretary
Bruce Babbitt

Documents filed in a recent lawsuit show Secretary Babbitt ordering subordinates to scratch the proposed listing of the Atlantic salmon under the Endangered Species Act (ESA) due to opposition from then-Senator from Maine, now Defense Secretary, William Cohen, despite compelling biological evidence of the fish's jeopardy. Babbitt will not comment directly on the incriminating e-mails but defended his approach in handling conflict with the statement: "Compromise is the answer all the time." Babbitt may want to memorialize his philosophy by adding a new motto to the official Department of Interior seal: "There's Always Room for Jello."

"Compromise is the answer all the time."
Interior Secretary
Bruce Babbitt

Joseph Westphal, Assistant Secretary of the Army for Civil Works

Maybe being a U.S. Senator does not carry much weight anymore. Senator Barbara Boxer (California) has been trying for months without success to find out why the Army Corps illegally shipped radioactive waste to a dump at Buttonwillow, near Bakersfield, and what it intends to do about it now. Westphal's chief of staff, one Colonel Bob Sperberg, admitted to a reporter "It's true, we have not specifically responded but it's not like we aren't doing anything," while refusing to say exactly what they were doing. Sen. Boxer is not alone in suspecting that Westphal is missing in action (see related story on page 7).

Idaho Lt. Governor
Butch Otter

For those who think it may be safe to venture into Congress next session with the retirement of Congressman Helen Chenoweth-Hage (she recently married Wayne Hage, a Nevada ex-rancher and "Wise Use" activist), think again. Four-term Idaho Lt. Gov. Butch Otter, who is seeking the seat, has been fined $80,000 for illegally dredging a stream channel, his third violation in eight years. Otter admitted responsibility but blasted the "godforsaken" wetlands permit practice. It looks like Idaho is poised to continue its zany tradition of godforsaken representation in Congress...God save the Republic.

U.S. Federal District Court Judge
James Rosenbaum

Judge Rosenbaum dismissed a suit brought by Minnesota "Wise Use" activists and loggers against conservation groups and the U.S. Forest Service contending that environmentalism is a religion and, therefore, rejections of proposed timber sales unconstitutionally serve the "religion of deep ecology." In a scathing opinion, Rosenbaum wrote, "This somewhat bizarre assertion is neither supported in law nor in the complaint's own factual allegations" and ordered financial sanctions against the attorney for having "drawn this Court into an unseemly and baseless lawsuit." The Wise Users have vowed an appeal but may have better luck praying at the shrine of shallow ecology.

New Mexico Governor
Gary Johnson

Gov. Johnson nominated Ray Westall, a wealthy oil man from Loco Hills, to serve on New Mexico's Game Commission despite a string of pollution and wildlife violations, including, most recently a $5,000 fine from U.S. Fish & Wildlife for allowing protected songbirds to die in uncoved oil pits. Following two hours of opposition testimony with no witness rising in support, the state Senate confirmed Westall anyway. Perhaps the Senate, dazzled by Westall's tireless work on behalf of the United Gamefowl Breeders Association to legalize cockfighting, mistakenly thought the Game Commission sets the betting line on gamecocks.
Disney-fying Nature in Texas

In a quiet move to convert the state park system into a for-profit operation, Texas Governor George W. Bush has sent out requests for proposal for the construction of 24 privately-managed "nature lodging" projects to resort developers, according to documents released by Texas PEER. Targeted parks include the crown jewels of the system, such as Davis Mountains, Guadalupe River, Pedernales Falls, the newly acquired Chinati Mountain lands of West Texas as well as wildlife management areas containing habitat for endangered species.

Project configuration will be up to developers, but other "nature lodgings" built by the solicited companies feature hotels with rooms renting for $200 a night, conference centers, restaurants and shops. Besides the primary purpose of revenue production, nature lodging is supposed to "combine contact with nature with comfortable accommodations."

In a recent University of Texas survey of state wildlife managers, six out of seven opposed the nature lodging concept because it detracted from wildlife conservation. Several of the targeted parks are struggling to reduce human impacts upon threatened resident species.

The Bush plan follows the prescriptions of a recent report by the Cato Institute, a conservative think tank; the author of that paper is an environmental advisor to the Bush presidential campaign.

Texas has less than three percent of its lands in public parks and reserves, one of the lowest percentages in the nation.

Wisconsin - Adverse Reaction to Tommy Thompson

Politics color scientific evaluations and permit decisions to the detriment of the state's environment according to the results of the first-ever employee survey of Wisconsin's Department of Natural Resources (DNR), conducted by PEER.

Employees condemned efforts by long-time Governor 'Tommy' Thompson to take over natural resource management:

► In excess of nine out of ten think that the DNR Secretary should not be appointed by the Governor with more than eight in ten favoring the return of this appointment power to the Natural Resources Board;

► More than two-thirds of respondents want the Public Intervener's Office restored while less than one in ten disagree; and

► Nearly half of respondents feel that scientific evaluations are influenced by political considerations with less than a third in disagreement; more than half do not trust DNR administrators "to stand up against political pressure in protecting the environment."

The PEER survey results gave new life to legislative efforts to remove the Governor's role in the DNR appointment process, and to restore the Public Intervener's office. A coalition of more than 50 environmental groups under the banner of the Wisconsin Stewardship Network republished the full survey results and hosted rallies around the state. In April delegates to the state's fish and wildlife rules hearing voted for these measures by a 19 to 1 margin. The rule change now goes to Natural Resources Board for approval.

Montana - Racicot's Legacy

Montana's environmental agency is mismanaged, hampered by turnover and lacks the resources to do its job, according to a survey of state Department of Environmental Quality (DEQ) employees by Montana PEER. Majorities of state workers say Montana's environment is not better protected as a result of the policies of Governor Marc Racicot.

Results are consistent with those from a similar 1996 survey by Montana PEER. In responding to the 1996 survey, Gov. Racicot promised to retain a management firm to conduct an independent management review of DEQ operations. That promise has yet to be fulfilled.

► A majority feel DEQ's leaders lack a "commitment to protecting Montana's natural resources"; more than two-thirds say DEQ has insufficient "resources to fulfill its environmental mandates";

► More than 70 percent say DEQ has been hurt by high turnover among experienced staff; less than a quarter feel morale is good - only 1 percent say it is excellent; and

► Less than a third think DEQ is well-managed; less than half believe agency leaders provide "accurate information to the public."
increase against employees and facilities between 1997 and 1998, while the Forest Service reports a 20% increase. FWS and the Park Service claim not to have records of attacks despite a number of anecdotes collected from their employees by PEER.

In the wake of Flora’s resignation, the Forest Service said that they were unable to step in until “prosecutable” violations are committed. Such statements, Flora believes, miss the point. “In an atmosphere of hostility, how do you decide when your employees are truly at risk? How do you calculate how many insults, personal attacks in the media, refusal of service in public establishments, are acceptable and how many equal a precursor to violence? I refuse to sit by quietly and let it happen as many others are doing.”

Meanwhile, PEER released an analysis of federal records showing the U.S. Attorney in Nevada has one of the worst records in the country for ignoring requests for criminal prosecution made by the Forest Service. From 1992 to 1998, the U.S. Attorney in Nevada filed prosecutions in less than half of the Forest Service criminal cases handled and obtained convictions in only one quarter of cases filed. Flora cited lack of cooperation from the U.S. Attorney as a reason for her resignation.

### The D.A.’s “Appalling” Letter

When Gloria Flora charged that Forest Service employees in Elko County faced systematic discrimination, county officials rejected the notion. But a letter released by Elko’s Board of Commissioners last March shows District Attorney Gary Woodbury used official stationery to recommend local businesses encourage community non-cooperation with the Forest Service and deny basic services that the forest service depends on.” The letter was called “mind-boggling” and “appalling” by county commissioners attempting to distance themselves from the D.A.

D.A. Woodbury defended the letter, saying “[I]t is nothing illegal about an economic boycott. Have you ever seen the sign in restaurants that says ‘no shirt, no shoes, no service?’ Is that not denying service over social policy and is that wrong?” But state Assemblyman John Carpenter, who had led anti-Forest Service demonstrations said “I’m shocked and sorry it happened.” Carpenter suggested that the letter had been made public to undermine the mediation process now underway.

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**Call for Civility in the Face of “Shovel Brigade” Threats**

This January, PEER and the Montana Human Rights Network sponsored a statewide speaking tour by Gloria Flora. While she spoke in Kalispell, Montana about creating an atmosphere of civility, hundreds of Wise Use activists rallied wielding shovels. This “shovel brigade,” organized by a Montana mill owner, sent 10,000 shovels to Flora’s former home of Elko County, Nevada, as a symbol of solidarity with the citizen uprising against the closing of an erosion-prone road in order to protect threatened bull trout habitat.

In her speech, Flora called on Western communities to come together and discuss land use issues in a respectful way, and to reject hateful rhetoric. She renounced fed-bashing as “the dark side of the lack of civility. It’s not much different than racism. We are facing predicaments that can only be resolved by civil discourse. Clearly one of the least effective ways of seeking resolution is to vilify the federal employees who are stewards of this land we all share. What sense does it make to shoot the messengers?”

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