



Protecting the
Environment Through
Law Across Borders

Saving Lake Chapala

Mexico's largest freshwater lake is dying. Lake Chapala holds only 20% of the water it held five years ago, and what remains is contaminated by industrial pollution, domestic waste, and agricultural run-off. The Arcediano Dam, proposed for downstream from Lake Chapala, poses the latest threat. E-LAW advocate Raquel Gutierrez Najera is working with E-LAW U.S. to help Mexican citizens save the lake and the surrounding watershed.



Lake Chapala, located south of Guadalajara, is the largest natural lake in Mexico and supplies drinking water to most of Guadalajara's five million inhabitants. The lake is a national treasure and home to thousands of plant and animal species, including the migratory white pelican from central Canada.

But the lake is in bad shape. It is polluted with industrial, agricultural, and domestic wastewater, and is feeding out-dated and inefficient irrigation systems for agriculture. Houses, golf courses, and farms have been built on the exposed lake bed.

Although Lake Chapala's pollution problems predate

the North American Free Trade Agreement, Raquel holds out hope that the environmental side agreement to NAFTA, creating the Commission for Environmental Cooperation (CEC), can help ensure that the U.S., Canada, and Mexico enforce their environmental laws and protect Lake Chapala.

E-LAW U.S. has helped Raquel draft petitions to the CEC objecting to the Mexican government's failure

CONTINUED ON PAGE 4

Arcediano Community Faces Threats

The proposed Arcediano Dam poses a new threat to the Lake Chapala basin. The dam project, proposed for downstream from Lake Chapala, on the Santiago River, aims to create a large reservoir that the Mexican government says would help meet the region's growing demand for water. IDEA explains that this water is highly polluted and not useable as drinking water without making significant changes to water use in the area.

E-LAW U.S. Staff Scientist Meche Lu recently traveled to the region to visit the proposed dam site and continue her work with IDEA evaluating the project's environmental impact assessment (EIA). IDEA filed a petition to stop the project for not complying with EIA law. On January 26, 2004, a district administrative law judge suspended plans for building the dam.

IDEA has been representing many people who would be impacted by the dam. Most of the legal documents have been signed by Senora Lara, who lives with her sister and 80-year-old mother in the area that would be flooded. Most other residents have accepted a small amount of money from the government and left their homes.

Immediately after the judge suspended construction of the dam, Senora Lara began receiving threats. Access to the community of Arcediano has been cut off and Senora Lara, the sole remaining resident, is cut off and isolated.

Raquel continues to fight for the rights of Senora Lara and the Guadalajara community that would be affected by the dam. It is likely that the decision by the administrative judge will be appealed. IDEA will be there to fight the appeal.

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The Environmental Law Alliance Worldwide (E-LAW) is a network that facilitates the development and practice of public interest environmental law throughout the world. The network of E-LAW advocates exchanges legal, scientific and technical information; and ideas, precedents, and strategies across national boundaries in support of grassroots, public interest environmental law.

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Victories & Steps Along the Way

Ghost Fleet Rejected by U.K.

Following legal action by Friends of the Earth (U.K.), the English Environment Agency withdrew permission for 13 rusted U.S. Navy vessels to be scrapped at Able UK's Hartlepool yard off the Teesside coast in England. The ships contain hazardous wastes, including asbestos, PCBs, and more than 500,000 gallons of oil.



Four ships had already set out on the trans-Atlantic journey when the Environment Agency accepted that it had acted unlawfully in granting the licence to scrap the ships. The four ships are now docked in Hartlepool where they will be stored temporarily over the winter. Left behind were more than 70 obsolete U.S. Navy ships anchored in the James River, Virginia, ready for scrapping.

Friends of Earth (U.K.), represented by E-LAW advocate Phil Michaels, challenged plans for accepting the "Ghost Fleet" on grounds that the Environment Agency did not conduct the required environmental assessments before issuing necessary licenses. In particular, the Agency had not looked closely enough at the impact of the project on internationally protected wildlife sites next to the dock basin where the ships would have been dismantled.

E-LAW U.S. Staff Scientist Mark Chernaik and Staff Attorney Alex Hanafi provided Phil with information about the marine ecological impacts of dry docks and U.S. case law requiring EIAs for dry dock construction.

Asbestos and PCBs have been linked to respiratory illnesses and cancer of the larynx, lungs, stomach, colon, kidney, liver, and brain. Construction of a dry dock in an already heavily polluted and industrialized section of the Tees River threatens to mobilize contaminated marine sediments and pollute adjacent coastal areas with heavy metals and persistent organic pollutants.

Congratulations to Friends of Earth (U.K.) and Phil Michaels for their good work defending public health and the environment.

Argentina Court Orders Clean Drinking Water

E-LAW partners in Argentina have won clean water for Chacras de la Merced, a low-income community of 5,000 along the Suquia River on the eastern end of Cordoba. In November, 2003, the Civil and Commercial Court of the Province of Cordoba approved a petition filed by the community seeking relief from a polluting sewage treatment plant and ordered local authorities to provide clean drinking water to affected families.

Wells along the river are the community's only source of water and many children and family members are suffering from gastrointestinal illnesses. Residents of Chacras de la Merced have been complaining since 1992 about a sewage treatment plant that was built in the middle of their community. The plant needs maintenance, lacks capacity, and frequently discharges effluent into the river.



Collecting a water sample. Left to right: Victor Ricco, CEDHA; Ricardo Toselli, CEQUIMAP Laboratory; and Meche Lu, E-LAW U.S.

In July, 2003, E-LAW U.S. Environmental Research Scientist Meche Lu traveled to Chacras de la Merced to help grassroots attorneys at Centro de Derechos Humanos y Ambiente (CEDHA) work with a local laboratory and conduct water quality analysis of family wells and the Suquia River. They found that family wells are contaminated with dangerously high levels of fecal coliform bacteria.

Following Meche's visit, CEDHA and community representatives presented the results of the water quality analysis to the court and requested an injunction. In November, 2003, the court approved the petition and ordered authorities to provide, within 24 hours, 200 liters of clean water per person per day to the affected families. CEDHA and the community are continuing negotiations with local authorities to provide safe drinking water to the entire community and clean up the river.

Victories & Steps Along the Way (continued)

London's Privy Council Hears Belize Dam Case

The Privy Council of London, which serves as Belize's highest court of appeal, has heard its first environmental case since it was established 500 years ago. The appeal, which challenged the approval of a flawed Environmental Impact Assessment, was brought by advocates in Belize seeking to protect the Macal River valley from the ill-advised Chalillo Dam project. The appeal was rejected in January, by a vote of 3-2, but represented an important milestone for advocates in Belize and around the world seeking a wider audience for their campaign to protect Belize's rainforests.



E-LAW advocate Candy Gonzalez, with the Belize Institute of Environmental Law and Policy (BELPO), says the Chalillo Dam would produce over \$1 billion in profits for a foreign-owned electric company, Fortis of Canada, and produce, at most, seven megawatts of power.

A dissenting judge on the Privy Council wrote: "The EIA was so flawed by important errors about the geology of the site as to be incapable of satisfying the requirements of the EPA and the Regulations."

Responding to the Privy Council decision, Candy said, "The fight is not over. This is a setback, not a defeat. Other legal avenues are being investigated."

E-LAW U.S. staff attorneys and scientists have provided valuable legal and scientific support to Candy and other advocates in Belize challenging the proposed dam.

If built, the dam would flood over 2,400 acres of pristine rainforest and destroy the habitat of many rare and endangered species, including the only known breeding grounds of the Scarlet Macaw. The dam would also flood undocumented Mayan ruins, destroying forever the cultural history and valuable knowledge of the Mayan People.

The Belize Alliance of Conservation NGOs (BACONGO) filed suit against the Government of Belize for failing to follow EIA regulations. The Supreme Court of Belize ordered a public hearing, but did not overturn the approval of the EIA. The case was appealed to the Court of Appeals, and not overturned. The matter was appealed to the Privy Council in London in December.

Communities in Belize have held off construction of the dam for the last six years, and BACONGO has helped establish an important precedent that an NGO can represent communities in Belize courts.

Villagers Challenge Hindustan Coca-Cola

Villagers in southern India want clean water and they are challenging international soft drink giant Coca-Cola to get it. Local wells in Palghat District, Kerala, were found contaminated with calcium and magnesium after Hindustan Coca-Cola Ltd. tapped a local aquifer for its bottling plant in Palghat District, Kerala. The area is home to 10 colonies of Dalit ("untouchables") and other tribal people.

E-LAW advocate Nityanand Jayaraman met with villagers in 2002 as part of an investigation for CorpWatch India, and saw firsthand that well water was chalky white and unfit for cooking, washing, or bathing. Residents suspected the bottling plant's immense water use was the source of the problem. Hindustan Coca-Cola is drawing 400,000 gallons of water a day from a local aquifer.

Nity sent E-LAW U.S. Staff Scientist Mark Chernaik a detailed chemical analysis of water samples taken from the local well. Mark found the well water contaminated with high levels of calcium and magnesium and described how rapid flow of groundwater through the aquifer caused by the plant's immense water use could loosen limestone and clay and cause the contamination the villagers observed.

Indigenous men, women, and children have picketed peacefully outside the bottling plant's gates since April, 2002.

CorpWatch India's investigation and E-LAW's interpretation of the water analysis provided the first scientific evidence that contamination of local groundwater could be linked to overuse. Within a year, tests conducted by BBC Radio 4, through the University of Exeter, and subsequent tests by the Kerala government confirmed the presence of toxic heavy metals in local groundwater and in the sludge given by Coca-Cola to local farmers for use as fertilizer.

On December 16, the Kerala High Court ordered Hindustan Coca-Cola Beverages Ltd. to stop using village groundwater and seek alternative sources. A two-judge panel of the High Court intervened in January, allowing the company to continue operating at status quo until



Nityanand Jayaraman

the next hearing of the case. A subsequent ruling by the High Court observed that groundwater is a public resource that should not be used for private profit at the expense of local needs. The legal battle continues.

Travel Notes

Protecting Patagonia

In January, I traveled to the spectacular Patagonia region of southern Chile to help educate local fishermen about water pollution, the potential impacts of a proposed aluminum smelter (the "Alumysa Project"), and citizens' rights to a clean and healthy environment.

Twenty fishermen from Puerto Aisen and nearby villages, as well as school teachers and a professor from the University of Valparaiso, joined the two-day workshop. Some fishermen traveled more than two hours to attend.

I was invited to participate by E-LAW advocates at FISCALIA del Medio Ambiente (FIMA), Chile's leading public interest environmental law firm, and Alianza Aisen Reserva de Vida, a coalition of local citizen groups challenging the Alumysa Project. We met at Puerto Aisen's city hall.

Puerto Aisen is a port town in a pristine remote area of southern Chile's Region XI, home to spectacular glaciers, fjords, rivers, and lakes. I flew for three hours from Santiago to Coyhaique (the regional capital), and then drove two hours west to Puerto Aisen. The proposed Alumysa Project threatens local salmon populations, which are central to the livelihood of local communities.

The Alumysa Project

The Toronto-based Noranda Corporation has proposed a \$2.7 billion aluminum project for the Aisen region that includes an aluminum smelter, three hydroelectric plants, 57 miles of roads, 51 miles of electric transmission lines, and a port in Chacabuco Bay. Many residents depend on the local fishing industry, particularly salmon, and fear the Alumysa Project will destroy fragile ecosystems.

Aluminum producers are attracted to the Aisen region for its access to the Pacific Ocean, and the potential to dam wild rivers to produce cheap hydroelectric power for the energy intensive aluminum industry.

In August, Noranda canceled the Alumysa Project, bowing to pressure from Chile's president, FIMA, and a broad coalition of community groups. FIMA president Fernando Dougnac says the project is dormant but Noranda may begin negotiations again.

The Workshop

The local fishermen were very attentive and asked many questions about the environmental impacts of hydroelectric power plants and dams. One participant had seen the executive summary of Noranda's Environmental Impact Assessment (EIA) for the Alumysa Project, but the others knew nothing about the EIA. This was the first time the local fishermen had heard about Chile's constitutional right to a healthy environment, human

Trip Report

Meche Lu
Puerto Aisen, Chile



Puerto Aisen, Chile



Chacabuco Bay: (Left to right) Mitzi Urtubia, Alianza Aisen Reserva de Vida; Meche Lu, E-LAW U.S.; and Francisco Ferrada, FISCALIA del Medio Ambiente

rights, environmental law, water quality, and the potential impacts of the project.

Fernando made two extraordinary presentations about democracy and public participation in Chile, and the illegality of the Alumysa Project. FIMA staff attorney Francisco Ferrada spoke to participants about their constitutional right to a healthy environment and Chile's environmental policies and institutions.

Participants found the workshop extremely valuable and FIMA agreed to work with the fishermen to conduct similar workshops in other cities in the region.

Meche Lu is E-LAW U.S. Environmental Research Scientist. Her work with FIMA has been generously supported by the Weeden Foundation.

Lake Chapala (continued from page 1)

to enforce environmental laws to protect the lake. Citizens and NGOs have filed a total of 42 petitions to the CEC. Raquel's organization, Instituto de Derecho Ambiental (IDEA -- Environmental Law Institute), has submitted three of those petitions. IDEA is leading efforts to challenge the failings of NAFTA and give citizens a voice in policies impacted by trade.

E-LAW advocate Raquel Gutierrez Najera founded the Instituto de Derecho Ambiental (IDEA -- Environmental Law Institute) in 1997 to help Mexican communities exercise their democratic rights and protect the environment through law. Raquel is an environmental law professor at the University of Guadalajara. She won Mexico's Ecological Merit Award in 2001.

Raquel traveled to Lake Tahoe in January to work with E-LAW U.S. board member Glenn Miller, Director of the Graduate Program in Environmental Sciences and Health at the University of Nevada in Reno. Glenn helped Raquel learn about citizen and NGO efforts to protect Lake Tahoe.



Travel Notes (continued)

Launching South Asia's New Environmental Defenders



E-LAW U.S. Staff Scientist Mark Chernaik traveled to northern India in October to help direct a Young Lawyer's Training Workshop aimed at empowering a new generation of environmental defenders. The workshop was hosted by M.C. Mehta at the M.C. Mehta Environmental Foundation's facility in Medawala, Dehradun District.

The workshop was attended by 14 attorneys from India, Nepal, Pakistan, Bangladesh, and Sri Lanka. These attorneys renewed their commitment to building a sustainable future through hands-on training and heartfelt discussion on how to sustain a public interest environmental law practice in the face of social, economic, and political challenges.

Trainees drafted pleadings, delivered oral arguments, and participated in three moot court sessions presided

over by eminent Indian jurists, including Supreme Court Justice M.B. Shah and former Supreme Court Justice Kuldip Singh. Other training sessions were led by Shri R.K. Upadhyay, a professor of forestry and wildlife law at the Indira Gandhi National Forest Academy; Shri P.C. Tyagi, former Chair of the Central Pollution Control Board (equivalent to the

U.S. EPA Administrator); and Dr. T.K. Joshi, director of the Center for Occupational & Environmental Health (equivalent to the U.S. OSHA Administrator).

Participants found the training invaluable and breathed a collective sigh of relief as they learned that they were not alone in facing the challenges of their work. They learned that they could call upon a cadre of committed public interest environmental lawyers in E-LAW's global network to provide them with the assistance and legal and scientific resources they need to protect South Asia's environment through law.

The India workshop was the second of three in a Young Lawyer's Training Workshop series. E-LAW U.S. Staff Attorney Alex Hanafi helped facilitate the first workshop in June, 2003, in Anuradhapura, Sri Lanka, with partners from Sri Lanka's Environmental Foundation Ltd. and Public Interest Law Foundation. The workshops are generously supported by the U.S. State Department's Bureau of Educational and Cultural Affairs.



In 2000, M.C. Mehta achieved a long-held dream to build an international facility for teaching public interest environmental advocacy. The M.C. Mehta Environmental Foundation's facility is located in the tranquil village of Medawala, at the edge of the forested foothills of the Shevalik mountains, where wild elephants and leopards roam. M.C. is using the facility to pass on his invaluable experience protecting the environment through law to a new generation of grassroots advocates around the world.

M.C. Mehta has achieved unparalleled success protecting the environment and public health through law in India, winning numerous Supreme Court judgments on behalf of India's citizens to preserve India's natural resources and cultural heritage. In a recent victory, M.C. successfully petitioned the Supreme Court of India to enforce a 1991 decision requiring environmental studies as a compulsory subject at all levels of Indian education. The December, 2003, court order requires that green curricula be taught in all of India's 28 states. In 1991, M.C. obtained the original Supreme Court order, requiring mandatory environmental education to fulfill the fundamental duties of citizens to "protect and improve the natural environment," as set out in India's Constitution.

E-LAW U.S. has collaborated with M.C. Mehta since 1991. M.C. has traveled to Eugene to work with E-LAW U.S. on several occasions and brought his family for an extended stay in 1996.



A transformation in environmental law in India began in 1985 when an Indian lawyer, M.C. Mehta, persuaded India's Supreme Court to rule that Article 21 of the Indian Constitution, which guarantees each citizen the "right to life," necessarily includes the "right to a healthy environment." The implications of this ruling are far-reaching: Each Indian citizen now has the right to seek enforcement of India's environmental laws by filing a writ petition to the Supreme Court of India, or a State High Court.

Reader's Digest, June 1999



Workshop participants

Inside E-LAW U.S.

15 Years of Collaboration with the University of Oregon



UO student Solana Sawyer (left) relaxes after completing a translation of Raquel Gutierrez Najera's public presentation on protecting Lake Chapala. The presentation was supported by the Wayne Morse Center for Law and Politics. Solana provides Spanish and English translation to E-LAW U.S.

In 1989, public interest lawyers from 10 countries were working together at the Public Interest Environmental Law Conference at the University of Oregon School of Law. They discovered that communities in their countries were facing similar environmental challenges and if they shared strategies, and legal and scientific information, they could protect the environment more effectively. Together, they founded the E-LAW network. Today, more than 300 grassroots lawyers and scientists

collaborate through the E-LAW network.

The University of Oregon and E-LAW U.S. continue to work together through American English Institute scholarships, a Vision Grant from the Wayne Morse Center for Law and Politics, student volunteers, and a brand new Extern program with the Law School.

American English Institute

Since 1991, the University of Oregon's American English Institute (AEI) has provided E-LAW advocates around the world with scholarships for its Intensive English Program. AEI has trained 42 E-LAW advocates from 21 countries in Asia, Africa, Latin America, and Central and Eastern Europe.

Attorney Doris Balvin of Peru participated in AEI's 10-week English program in 1995. She said: "When I came to Eugene, I didn't speak a word of English. The AEI program gave me an opportunity for a new life. Learning English has helped me access environmental law and science resources that are printed only in English, and are critical to the work I do."

Many thanks to AEI for their generous support.

Wayne Morse Vision Grant

The Wayne Morse Center for Law and Politics awarded E-LAW U.S. a generous "Vision Grant" to bring public interest attorneys to the University of Oregon School of Law to speak about their work protecting the environment through law.

Wayne Morse Director Caroline Forell and her staff helped arrange and publicize two recent events. Wiwiek Awiati, Executive Director of the Indonesian Center for Environmental Law (ICEL), traveled to Eugene to speak about her work protecting human rights and challenging ill-advised mining and logging operations. Raquel Gutierrez Najera, founder of Mexico's Instituto de Derecho Ambiental, spoke about her work protecting Lake Chapala and the ramifications of the North American Free Trade Agreement.

Volunteers & Externs

More than a dozen students from the University of Oregon volunteer their time at E-LAW U.S. every year. Law students and students majoring in environmental studies, international studies, and romance languages have researched environmental laws and corporate activities, compiled resources on the economics behind environmental impacts, reached out to environmental advocates in



Glenn Gillis, E-LAW U.S. Information Technology Manager, trains volunteers.

new countries, and translated E-LAW network messages.

In January, E-LAW U.S. launched a formal "externship" program with the Law School's Environment and Natural Resources Program (ENR). Four law students—Damian Hermecz, Colin Barey, Emmett Soper, and Reed Yurchak—will receive academic credit for their work with E-LAW U.S. These externs and volunteers from the University of Oregon help make the high impact work of E-LAW U.S. possible.

Many thanks to ENR Director Richard Hildreth for his support.

Alex Hanafi Awarded ELP Fellowship

E-LAW's Alex Hanafi recently received a two-year fellowship from the Environmental Leadership Program. More than 200 environmental advocates competed for this year's ELP Fellowships. The program builds the leadership capacity of the environmental field's most promising emerging professionals.



As an E-LAW U.S. Staff Attorney, Alex empowers public interest advocates around the world to protect the environment through law. Prior to joining E-LAW U.S., Alex worked as a Henry Luce Scholar in Thailand on a project to reform that country's economic and environmental laws. He graduated cum laude from Harvard Law School and was Editor-in-Chief of The Harvard Environmental Law Review.

Inside E-LAW U.S.: Working Exchange Visitors

Shantha Fernando, Sri Lanka

Shantha Fernando has performed invaluable work helping E-LAW advocates in Asia protect the environment and human rights. As the E-LAW U.S. Technology Circuit Rider for Asia, Shantha has traveled from his home office in Sri Lanka to the offices of E-LAW partners throughout Asia to help them use communications tools to protect the environment.

With Shantha's help, grassroots leaders are collaborating with colleagues and tapping critical legal and scientific resources around the world. Shantha is senior lecturer at the University of Moratuwa's Department of Computer Science and Engineering.

Shantha spent two weeks in Eugene in January to work with E-LAW U.S. and the University of Oregon's Network Startup Resource Center. Shantha and E-LAW U.S. Information Technology Manager Glenn Gillis created a website and content management system for E-LAW advocates at the Public Interest Law Foundation in Sri Lanka. Steve Huter at the Network Startup Resource Center helped Shantha learn about the University of Oregon's web-based course management and online learning systems.

Shantha joined the E-LAW network in 1998 and has traveled to service the technology needs of E-LAW advocates in Tanzania, India, Nepal, Bangladesh, Pakistan, Philippines, Indonesia, Malaysia, Papua New Guinea, and Australia.

Doris Balvin, Peru

Doris Balvin is a pioneering grassroots attorney in Peru using environmental conflict resolution and the courts to protect communities from ill-advised mining projects. She traveled to Eugene in December to work with E-LAW U.S. staff on efforts to protect Peru's environment and human rights.

Peru's Tambogrande region is threatened by a Canadian company's proposed gold mining operation. Building the mine would disrupt the lives of 16,000 residents and destroy prime agricultural land in Peru's premier lime and mango growing region.

Doris is working with 12 Peruvian NGOs and local communities on a national campaign challenging the project. The campaign has been extremely effective at galvanizing

local support. Festive parades have featured community members in lime costumes carrying signs reading: "Sin Limon, No Hay Ceviche!" (Without limes, there is no ceviche!) Ceviche is Peru's national dish.

In December, Doris received the good news that the government denied permission for one of five mining blocks. This block was sited over the center of Tambogrande!

Raju Prasad Chapagai, Nepal

Raju Prasad Chapagai, an attorney with Nepal's leading public interest environmental law organization, is in Eugene on a 10-week Working Exchange Fellowship. Raju is a staff attorney at the Forum for the Protection of Public Interest (Pro Public) in Kathmandu, where he is working on pioneering environmental law cases.



Shantha Fernando



Raju Prasad Chapagai (left) and Shantha Fernando enjoy the snow at Odell Lake, Oregon.

In Eugene, Raju is working one-on-one with E-LAW U.S. attorneys and scientists on many efforts to protect the environment through law in Nepal. He is also enrolled in an intensive English program at the University of Oregon's American English Institute.

Before joining Pro Public, Raju helped initiate a Supreme Court case to protect the Narayani River from a polluting pulp and paper mill. The Court ordered the mill to clean up its act and establish a wastewater treatment plant. Raju and his colleagues at Pro Public are working to ensure that the court order is enforced.

Pro Public has won landmark decisions from Nepal's Supreme Court, including a judgement that establishes the right to a healthy environment and gives non-governmental organizations the ability to enforce this right directly in the Supreme Court of Nepal.





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The AVINA Foundation works in partnership with civil society and business leaders in their initiatives toward sustainable development. (See: www.avina.net.)

AVINA has partnered with E-LAW U.S. to launch our Corporate Challenge for a Sustainable Future. Through this exciting new venture, AVINA will match up to \$50,000 that E-LAW U.S. raises from businesses committed to sustainable business practices.



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