

CLEAN WATER • THE WATER PLANET'S FIRST RESPONDERS • CITIZEN ACTION

WATERKEEPER®

THE ALAMOSA RIVER RETURNS TO

WISDOM

RIVERKEEPER CINDY MEDINA'S
30-YEAR JOURNEY TO HEAL
A RIVER AND HERSELF

VOLUME 14, ISSUE 1 \$5.95





©2014 John Paul Mitchell Systems®

“As a kid, I went camping many summers with the Boys & Girls Club to learn about trees, water and wildlife...an experience I never forgot (and why our products have always been cruelty free). Today, we support **Waterkeeper Alliance** to protect nature and keep our waterways clean for generations to come, because we care about the environment.”

John Paul DeJoria,
Co-founder and Chairman of the Board
Photographed with his son (and Joe)

PAUL MITCHELL[®]
LIVE BEAUTIFULLY

THE BEST IN PROFESSIONAL SALON HAIR CARE PRODUCTS
Guaranteed ONLY when purchased within the professional beauty salon industry, NOT from a drugstore, supermarket, or other unauthorized source.
Share how you're making a difference #GivingIsMyStyle paulmitchell.com

CONTENTS



Volume 14 Issue 1



28



36



42



48

NEWS & UPDATES

14: STOPPING COAL DEAD IN ITS TRACKS

16: ABBY BRAMAN'S TRASHY STORY

20: A RAPID RESPONSE TO HURRICANE HARVEY'S WRATH

22: A BIG VICTORY FOR AUSTRALIA'S YARRA RIVER

26: THE WATERKEEPER MOVEMENT GROWS IN THE HIMALAYAS

FEATURES

28: TAKE ME TO THE RIVER

Inspired by the leadership of Alamosa Riverkeeper Cindy Medina, a community unites to bring the Alamosa River back to life.

36: CITIZENS AT THE RAMPARTS

Landmark environmental laws that empowered the people are under siege.

42: YES, STATES CAN PROTECT THEIR WATERWAYS FROM PIPELINES

U.S. court rules that state agency has final say on pipeline's threat to water quality.

48: ENVIRONMENTAL ACTIVISM IN THE AGE OF TRUMP

An interview with Puget Soundkeeper Chris Wilke.



Swell®

Be part of a beautiful solution.

swellbottle.com



ANNOUNCING “PROJECT OSIRIS” A 20-YEAR PLAN TO PROTECT AND RESTORE THE WORLD’S WATERS

Pollution, diversion, and drought have triggered a global water crisis that will be the central political, cultural, and economic feature of our children’s lives. The World Bank predicts that the looming world water cataclysm — already affecting every continent — is the principal challenge to organized civilization in this century.

The Waterkeeper model, first proven during the Hudson River’s near miraculous restoration, has now become the pre-eminent method for both individuals and grassroots groups battling against this crisis. Waterkeeper Alliance is growing exponentially and now contains more than 330 Organizations and Affiliates patrolling and protecting waterways in 39 countries, on 6 continents. Thanks to our supporters, the Waterkeeper movement is the fastest-growing and largest non-profit group that is focused solely on water. In fact, demand for our model is now starting to outpace our capacity to serve prospective Waterkeeper Organizations and Affiliates across the planet.

For the past year we have been building a plan to invest in new resources and programs to support Waterkeeper Organizations and Affiliates, and to manage the future growth of our movement. We have critically assessed our organization’s optimum achievable pace for expansion, and developed a strategic business plan for the next 20 years. Executing this plan will allow Waterkeeper Alliance

to meet our natal vision of having community-based Waterkeepers safeguarding every waterway in the world. We will improve our local Waterkeepers’ capacity to pursue effectively the goal of drinkable, fishable, swimmable waters, and we will elevate our standing as the go-to advocate on every important water issue. We have christened our plan “Project Osiris,” in reference to ancient Egypt’s all-important Nile River deity.

Project Osiris begins with large investments in training and support services for our more than 330 Waterkeeper Organizations and Affiliates, to bolster the skills needed to protect their waterways and communities. To broaden our base, we will strengthen and deepen our communications work, create a robust science-and-technology department, expand our rapid-response capability during natural and man-made disasters, enhance our presence in Washington, D.C., and dramatically increase our legal capacity to enforce, defend, and strengthen laws.

We also have developed a strategic-growth plan to recruit the brightest and best-trained advocates on all habitable watersheds in the world. We began this process by identifying the world’s most significant endangered waters and devising a plan to grow our network responsibly to cover more than seven million square miles of watersheds within five years and protect more than a billion

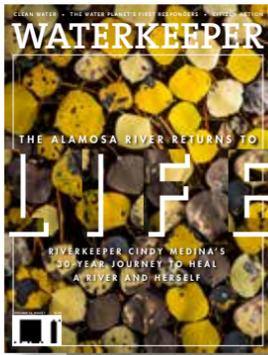
people. By year 10, we plan to cover more than 12 million square miles of watersheds protecting more than 3.75 billion people. By year 20, more than 20 million square miles of watersheds will be served by a Waterkeeper group, and our movement will protect more than 8 billion people.

Project Osiris is a bold plan, but we are ready to execute it, and we know that true change will start with strong leadership at the local level. We will unleash an army of highly trained, committed, politically and technically skilled Waterkeepers, battle-hardened and armed to fight for the realization of a world in which clean water is the life-spring of global prosperity, dignity, and human aspiration, a world in which communities have voices in the fate of their critical natural resources. We are grateful to all of you who will work with us to make this plan a reality.

Sincerely,



Marc Yaggi
Executive Director



ON THE COVER:

Aspen leaves in a pool on Colorado's Alamosa River in the Terrace Reservoir State Wildlife Area.

Photo by Jason Houston

Design by BoyBurnsBarn/John Turner

Globally, the paper industry is the single largest industrial consumer of water and the third greatest emitter of greenhouse gases.

Getting the Paper (More) Right!

You will notice that this copy of WATERKEEPER magazine is different from copies produced in the last few years. Although we are very proud of the paper selection choices we have made in the past, we have found that the industry has moved forward. Today we can print on a 100% Post Consumer Waste paper that provides dramatically better environmental savings at lower cost, without sacrificing the print quality that our readers expect.

Now that WATERKEEPER magazine is printed on 100% Post Consumer Waste, FSC-certified, chlorine-free Cascades Rolland Enviro100 Satin, our new environmental savings metrics will be based on actual measurements and usage data at the mill. Using this paper more than doubles reductions of wastewater created, solid waste generated and energy consumed. Because Cascades actually burns methane obtained directly from a local land fill, the green house gases emitted are three times less than those of the previous paper manufacturer. This is done without purchasing either carbon offset or windpower credits, as our previous supplier did. We are very pleased with this new paper grade and anticipate you will be too.

Environmental Savings (compared to products containing 100% virgin paper)

- 70 trees saved**
- 67,095 gallons wastewater flow saved**
- 8,481 lbs. solid waste not generated**
- 107,000,000 BTUs of energy not consumed**
- 22,047 lbs. of CO2 gas emissions prevented**
- 107 MMBTU of energy saved**
- 65 lbs. of nitrogen oxide (NOx) gas emissions prevented**

In other words, the savings from our new paper choice is equivalent to:

- The annual emissions from 3 cars**
- AND the annual energy consumption of 1 household**

Waterkeeper magazine is printed on chlorine-free, FSC-certified Rolland Enviro 100 Satin 100% post-consumer recycled paper which is manufactured with biogas energy. This paper is certified by Ecologo and by Smartwood for FSC standards which promote environmentally-appropriate, socially-beneficial and economically-viable management of the world's forests.

Waterkeeper Alliance and Cascades Fine Papers are proud to reduce the environmental burden related to paper production.



WATERKEEPER

M A G A Z I N E



180 Maiden Lane, Ste. 603, New York, N.Y. 10038
 info@waterkeeper.org for questions or comments
 www.WATERKEEPER.ORG
 The official magazine of Waterkeeper Alliance

MISSION: Waterkeeper Alliance strengthens and grows a global network of grassroots leaders protecting everyone's right to clean water.

Tom Quinn Editor
Robert E. Murphy Consulting Editor
Lindsey Muzzio Photo Editor
BoyBurnsBarn/John Turner Art Direction
Rick Dove Photographer
John Wathen Photographer

Board of Directors

Robert F. Kennedy, Jr. PRESIDENT	Casi Callaway Karl Coplan	Kris Moore Cheryl Nenn Lessing Stern Terry Tamminen	Chris Wilke Gary Wockner
Glenn R. Rink CHAIR	Grey C. Hecht Mark Mattson		
Wendy Abrams			

Waterkeeper Council

Casi Callaway / CHAIR MOBILE BAYKEEPER	Margarita Diaz TIJUANA WATERKEEPER	Sam Perkins CATAWBA RIVERKEEPER
Mark Mattson LAKE ONTARIO WATERKEEPER	Paul Gallay RIVERKEEPER	Kathy Phillips ASSATEAGUE COASTKEEPER
Tonya Bonitatibus SAVANNAH RIVERKEEPER	Sharif Jamil BURIGANGA RIVERKEEPER	Captain Bill Sheehan HACKENSACK RIVERKEEPER
Kemp Burdette CAPE FEAR RIVERKEEPER	Robert F. Kennedy, Jr. Cheryl Nenn MILWAUKEE RIVERKEEPER	Theo Thomas LONDON WATERKEEPER
Hartwell Carson FRENCH BROAD RIVERKEEPER	Betsy Nicholas WATERKEEPERS CHESAPEAKE	Chris Wilke PUGET SOUNDKEEPER
Sejal Choksi-Chugh BAYKEEPER	Rodrigo de la O Guerrero MAULE ITATA COASTKEEPER	Gary Wockner POUDRE RIVERKEEPER
Karl Coplan / TREASURER PACE UNIVERSITY		Hao Xin QIANTANG RIVER WATERKEEPER

Trustee Council

Glenn R. Rink, CHAIR Wendy Abrams William S. Brennan Gay Browne Ann Colley James Curleigh John Paul DeJoria	F. Daniel Gabel, Jr. Tom Gegax Grey C. Hecht A. Judson Hill Ed Hubennette Karen Percy Lowe & Kevin Lowe	Kris Moore Heather Richardson Howard Rubin Laura & Rutherford Seydel Lessing Stern Terry Tamminen Jami & Klaus von Heidegger	William B. Wachtel Kent Weed Yvonne Zappulla Carla Zilka
--	---	--	---

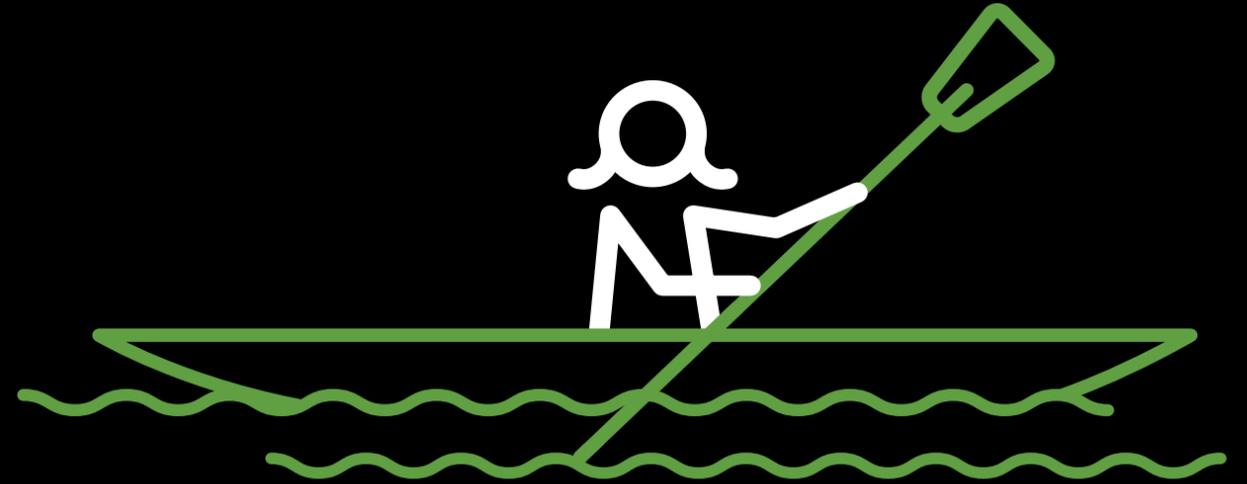
Leadership Circle

Amy Acker & James Carpinello Brian Acrish Dr. Alan Andacht & Dr. Michael Maher Gabriele Bertaccini Gordon Brown Dylan & Emmeli Bruno Jason C. Chryssicas Mira Coluccio Sean Currie Virginia Dadey Geraldyn Dreyfous	Rev. Dr. Gerald L. Durley Mark Feuerstein Murray Fisher Rafael Fogel Barnaby Furnas Kendis Gibson Neil Giuliano Woody Harrelson Rachael Harris & Christian Hebel TJ Hill Katherine Kendrick Bryan Koop	Ilene S. Landress Carrie Lee Karen Lehner Chad Lowe Camryn Manheim James Manfredonia Michael McCulloch & Chris Kafentzis Nicole Miller Diane Neal Kristie Pellicchia Lewis Perkins Bryce Perry	CC Goldwater & David Sager Nick Sangermano Sara & Hans Schiff John R. Seydel Harper Simon Deanna Clarkson Smith & Bob Smith Dr. William E. Smith Tore Steen Don Thompson Joe Tomlinson Alexandra Weed
---	--	--	--

Staff

Robert F. Kennedy, Jr. SENIOR ATTORNEY Marc Yaggi EXECUTIVE DIRECTOR Lesley Adams SENIOR ORGANIZER, WESTERN U.S. Christian Breen FIELD INVESTIGATOR Rachel Cook FINANCE & OPERATIONS DIRECTOR Rick Dove SENIOR ADVISOR Malaika Elias ORGANIZER, NORTH ATLANTIC AND CHESAPEAKE Daniel E. Estrin GENERAL COUNSEL & ADVOCACY DIRECTOR Kelly Hunter Foster SENIOR ATTORNEY Heather George GRANTS MANAGER Will Hendrick STAFF ATTORNEY & NORTH CAROLINA PURE FARMS, PURE WATERS CAMPAIGN MANAGER Kate Hudson ADVOCACY COORDINATOR, WESTERN U.S.	Sharon Khan RECRUITING DIRECTOR Larissa Liebmann STAFF ATTORNEY Donna Lisenby CLEAN & SAFE ENERGY CAMPAIGN MANAGER Katherine Luscher TRAINING DIRECTOR Bart Mihailovich SENIOR ORGANIZER, EASTERN U.S. Sergio Moncada ORGANIZER, LATIN AMERICA Lindsey Muzzio COMMUNICATIONS & MARKETING COORDINATOR Pete Nichols ORGANIZING DIRECTOR Mary Beth Postman DEPUTY DIRECTOR Tom Quinn SENIOR EDITOR Maia Raposo COMMUNICATIONS & MARKETING DIRECTOR Min Zheng ORGANIZER, ASIA
---	--

Proud to Support our Waterkeepers!



1% of every SHACK | 20 sold goes straight to **Waterkeeper® Alliance**, supporting the cleanup of water sources around the globe.



Who Is Waterkeeper Alliance?

Qiantang River Waterkeeper was founded by Zhejiang province's first and largest environmental NGO—Green Zhejiang—as a water protection project. It became an official member of Waterkeeper Alliance in 2010 and was the fourth Waterkeeper in China.

The Qiantang River is the largest in southeastern China's coastal provinces and provides fresh water to the 20 million people who live in the watershed. Today, the river has become a victim of modern development that has led to water shortages and rampant pollution.

Hao Xin (above right) serves as the Waterkeeper. Of his role protecting water he says, "We encourage stakeholders to take action together so that everyone can enjoy the beauty and happiness that the Qiantang River brings." He is also on a committee dedicated to international water-resource management, and has been recognized through multiple awards across China for his efforts to protect water, the environment and public welfare. Qiantang River Waterkeeper is committed to educating the public and encouraging local participation in maintaining the river's health. The group created a pollution app for local citizens to report on the river's health and they frequently hold round-table discussions about the river via television broadcast. They also organized an international forum with representatives from the world's three major tidal rivers: the Ganges, the Amazon and the Qiantang.

In 2018, Qiantang River Waterkeeper will hold the H2o Summit, a forum for 20 major river cities across the world.

Translated by Katherine Olson, Waterkeepers China Regional Entity

钱塘江护水者是浙江省最早建立，规模最大的环保NGO绿色浙江的护水项目，于2010年正式成为全球护水者联盟的成员，是中国的第四个护水者项目。

钱塘江是中国西南沿海地区最大的一条河之一，并且为其流域的两千多万人民提供淡水。现今的钱塘江已成为现代发展的受害者，因此而导致了水资源匮乏和猖狂污染。

欣皓（以上）任护水者。关于自己保护水的角色，他说“推动多利益相关者共同行动，共享钱塘江给我们带来的美好与快乐！”他是国际水资源管理标准制订委员会委员，并且因自己的环境并水资源保护工作而获得了多种公益金奖。钱塘江护水者致力于进行教育活动以及鼓励公众参与到保持河流健康的工作。他们还开发了一个当地人民能够用来评价河流健康的应用，而且经常通过电视媒体组织治水圆桌会。他们还组织了一个国际论坛，邀请横河，亚马逊河，钱塘江世界三大涌潮相会。

2018年，钱塘江护水者将推动世界20座拥江发展城市H2O高峰论坛。

翻译员：Katherine Olson, 中国的护水者们

over 2.5 million square miles of watersheds

39 countries

more than 300 waterways

Waterkeeper Alliance unites more than 300 Waterkeeper Organizations and Affiliates that are on the frontlines of the global water crisis, patrolling and protecting more than 2.5 million square miles of rivers, lakes and coastal waterways on 6 continents.

Waterkeeper Organizations and Affiliates defend our fundamental human right to drinkable, fishable and swimmable waters from the Great Lakes to the Himalayas, and combine firsthand knowledge of their waterways with an unwavering commitment to the rights of their communities.

Whether they're on the water tracking down polluters, in courtrooms enforcing environmental laws, advocating in town meetings or teaching in classrooms, the Waterkeeper movement speaks for the waters it defends with the backing of local communities. Waterkeeper Alliance ensures that the world's Waterkeeper Organizations and Affiliates are as connected to each other as they are to their local waters, organizing the fight for clean water into a coordinated global movement.

Everyone has the right to clean water. It is the action of supporting members that ensures our future and strengthens our fight for clean water. To join Waterkeeper Alliance go to www.waterkeeper.org and click on "Donate Now" to join as a supporting member. You can also join by mail. Send your check, payable to Waterkeeper Alliance, to WATERKEEPER Membership, 180 Maiden Lane, Suite 603 New York, NY 10038.

Thanks for your support!



Ripples



“WE WANT EVERYTHING. WE WANT ECOLOGICAL RESTORATION, WE WANT A HEALTHY RIVER, BUT WE ALSO WANT THRIVING NEIGHBORHOODS AND A STRONG ECONOMY.”

BUFFALO NIAGARA WATERKEEPER JILL JEDLICKA



PHOTOS BY BUFFALO NIAGARA WATERKEEPER



FAR LEFT, NIAGARA FALLS. FOR NEARLY 30 YEARS, BUFFALO NIAGARA WATERKEEPER HAS BEEN THE GUARDIAN OF WESTERN NEW YORK'S FRESH WATER. ABOVE, DECLARED DEAD IN 1967, THE BUFFALO RIVER IS ALIVE TODAY THANKS TO DECADES OF RESTORATION EFFORTS. LEFT, IN 2017, BUFFALO NIAGARA WATERKEEPER ATTRACTED THOUSANDS OF PEOPLE TO THE REGION'S WATERWAYS THROUGH TOURS, CLASSES AND VOLUNTEER EVENTS.

COLOR BUFFALO NIAGARA WATERKEEPER AN EVEN DEEPER BLUE

In 2016, Waterkeeper Magazine shared the story of the Buffalo River's recovery. Entitled "From Rust to Blue," the article gave a detailed account of the successful efforts of Buffalo Niagara Waterkeeper (formerly Buffalo Niagara Riverkeeper) to bring the Buffalo River back from the brink of death. Now, Buffalo Niagara Waterkeeper has taken this experience and translated it into a guide for regional waterways in its 2017 "State of Our Waters" report.

diverse ecosystems and geo-political landscapes is a daunting challenge that has been at the core of the organization's mission for the last 28 years.

State of Our Waters starts with the premise that the health of the region's waters has a direct impact on the revitalization of its ecology, economy and community. Nine indicators were selected to provide a "dashboard" report on the overall health

Western New York State, between Lake Erie and Lake Ontario, is located in the heart of the largest surface freshwater system in the world. The 1,400 square-mile Niagara River Watershed connects those two Great Lakes and contains nearly 3,200 miles of waterways and over 80 municipalities. Understanding and communicating water issues across its

of the region's waters. Major turning points and current and emerging threats were also documented. While drinking-water and economic-activity categories received "good" ratings, several categories, including water infrastructure, toxic contamination, and bacteria, received a rating of "fair" or "poor."

The most important component of State of Our Waters is the regional "Action Agenda." This prescription is a culmination of decades of scientific research, water-policy development, restoration work, and field monitoring. The agenda is rooted in four basic principles: developing protection strategies, establishing restoration priorities, making human connections, and inspiring investment. Some of the prescribed priority actions include: minimizing sewer-overflows by formulating policy and initiating infrastructure projects, remediating historical contamination, creating "living" shorelines, expanding

citizen science, and promoting eco-tourism to speed the transition from a "Rust to Blue" economy.

Buffalo Niagara Waterkeeper Jill Jedlicka explains the connection of this report to the re-branding of the organization: "By re-naming our organization Buffalo Niagara Waterkeeper, we are both expanding our commitment to our region's waters and calling on individuals and institutions to restore and maintain these critical resources. We want everything. We want ecological restoration, we want a healthy river, but we also want thriving neighborhoods and a strong economy."

Likewise, the ultimate goal of the State of Our Waters report is to provide meaningful and actionable information in order to engage all sectors of the region to protect the health of its waters. As Jedlicka repeatedly states, "Water connects all of us, and it will take all of us to protect our water."

The State of Our Waters report can be found at www.bnwaterkeeper.org



PHOTO BY PAUL K. ANDERSON

COLUMBIA RIVERKEEPER AND WATERKEEPERS WASHINGTON ARE ENERGETIC PARTICIPANTS IN THE DIVERSE AND VIBRANT POWER PAST COAL COALITION, WHICH HAS NOW STOPPED SIX COAL-EXPORT PROPOSALS IN RECENT YEARS.

LEFT, A COAL TRAIN RUNNING ALONG A SHORELINE IN THE PACIFIC NORTHWEST. DESPITE DAMPENING SURFACTANTS APPLIED TO EXPOSED COAL, UP TO 500 POUNDS OF COAL-DUST CAN BE LOST FROM EACH TRAIN-CAR IN A SINGLE TRIP. BELOW, CONCERNED CITIZENS ATTEND A PUBLIC HEARING ON THE PROPOSED MILLENNIUM COAL TERMINAL IN LONGVIEW, WASHINGTON.



WASHINGTON'S WATERKEEPERS STOP MONSTER COAL TERMINAL DEAD IN ITS TRACKS

In September, the Washington Department of Ecology denied a fundamental water-quality permit for the proposed Millennium coal-export facility at Longview in southwestern Washington, citing the project's impacts on climate, air and water. While the coal proponents could appeal the decision, the project exemplifies the dead-end status of coal as a 21st-

century energy source.

Columbia Riverkeeper and Waterkeepers Washington are energetic participants in the diverse and vibrant Power Past Coal coalition, which has now stopped six coal-export proposals in recent years. Like previous successes, the Millennium victory is an outcome of the synergistic relationship between community organizing and legal strategies that Columbia Riverkeeper has refined and implemented over the years.

Millennium would have been the largest coal-export facility in North America, sending up to 44

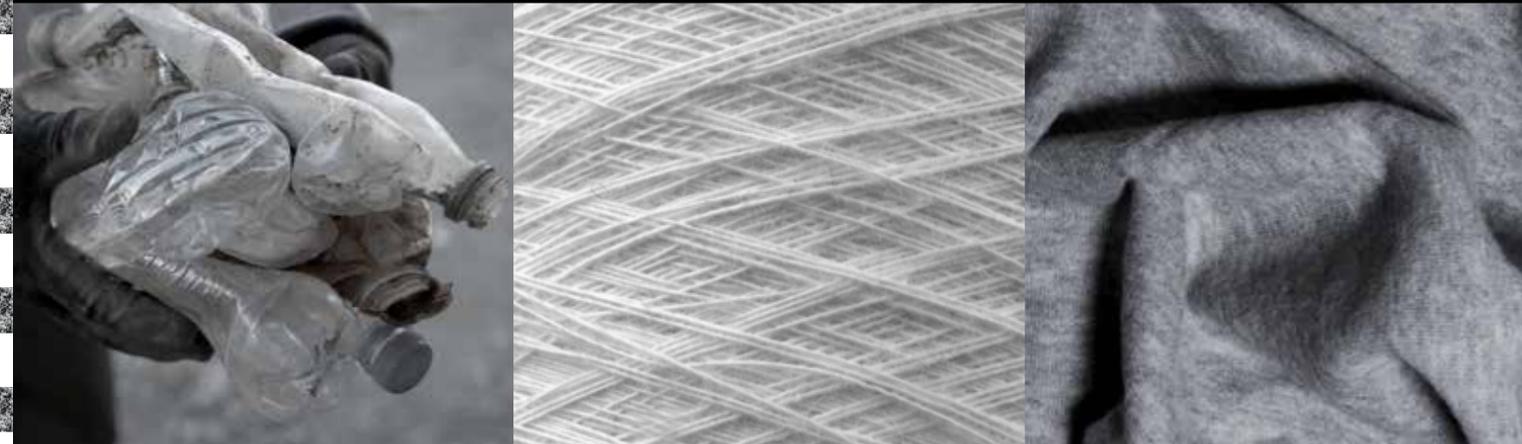
million tons of coal per year from the Powder River Basin in Montana and Wyoming and the Uinta Basin in Utah to Asian markets – although these are quickly turning away from coal-fired power. The state agency's analysis found that the climate pollution from this project would have been equivalent to that created by adding eight million cars to the roads. It would have required up to 16 coal trains a day traveling from the basins through Washington, impacting public-safety response-times in rail communities across the Pacific Northwest and contributing to higher rates of cancer in low-income communities, including Longview's Highlands neighborhood.

Federal and state governments, as well as native tribes, have invested billions of dollars to restore the Columbia River estuary and its wild salmon habitats over the years, and a growing body of evidence suggests that coal dust impacts the lives of salmon and other aquatic species.

"The state did the right thing, standing up for clean water, public health, and the Pacific Northwest's iconic endangered salmon-runs," said Jasmine Zimmer-Stucky, senior organizer at Columbia Riverkeeper. "Washington State and the city of Longview deserve better than empty promises from the dying coal industry."



RECLAIMED.



In partnership with Waterkeeper Alliance, BIONIC® strengthens communities while cleaning up our Marine Environments.

Waterkeeper® Alliance's Ocean Plastic Recovery Initiative mobilizes a vast network of Waterkeeper® Organizations and Affiliates around the globe to establish recycling infrastructure and plastic recovery efforts to stop plastic pollution from entering our oceans. This network operates recycling facilities where recovered plastic is consolidated, sorted, and baled. BIONIC® acquires the processed plastics in exchange for a donation calculated at the baled commodities' fair market value that will provide much-needed support of the Waterkeeper Organization or Affiliate's ongoing work to protect and preserve their watershed.





PHOTO BY ABBY BRAMAN

ABBY BRAMAN WITH THE FIRST 1,000 PLASTIC BOTTLES COLLECTED DURING A TAKE2MISS CLEANUP ON THE PEARL RIVER AT BARNETT RESERVOIR SPILLWAY.

PEARL RIVERKEEPER ABBY BRAMAN'S TRASHY STORY

ABBY TURNED ONE SMALL PIECE OF TRASH INTO A CAMPAIGN AND EVENTUALLY TO HER TAKING THE TITLE OF PEARL RIVERKEEPER.

Every Waterkeeper has a unique story about what brought him or her to the Waterkeeper movement, but it's unlikely that any prior to Abby Braman's started with something so small as a single piece of trash. Like a single drop of water that's small in itself yet important to something as large as a river, Abby turned one small piece of trash into a campaign and eventually to her taking the title of Pearl Riverkeeper. Abby came to Mississippi from Virginia. She was a marine science major in college and is a former Navy helicopter pilot. "All my life I've been a lover of the outdoors," she says, "hiking, being on the water."

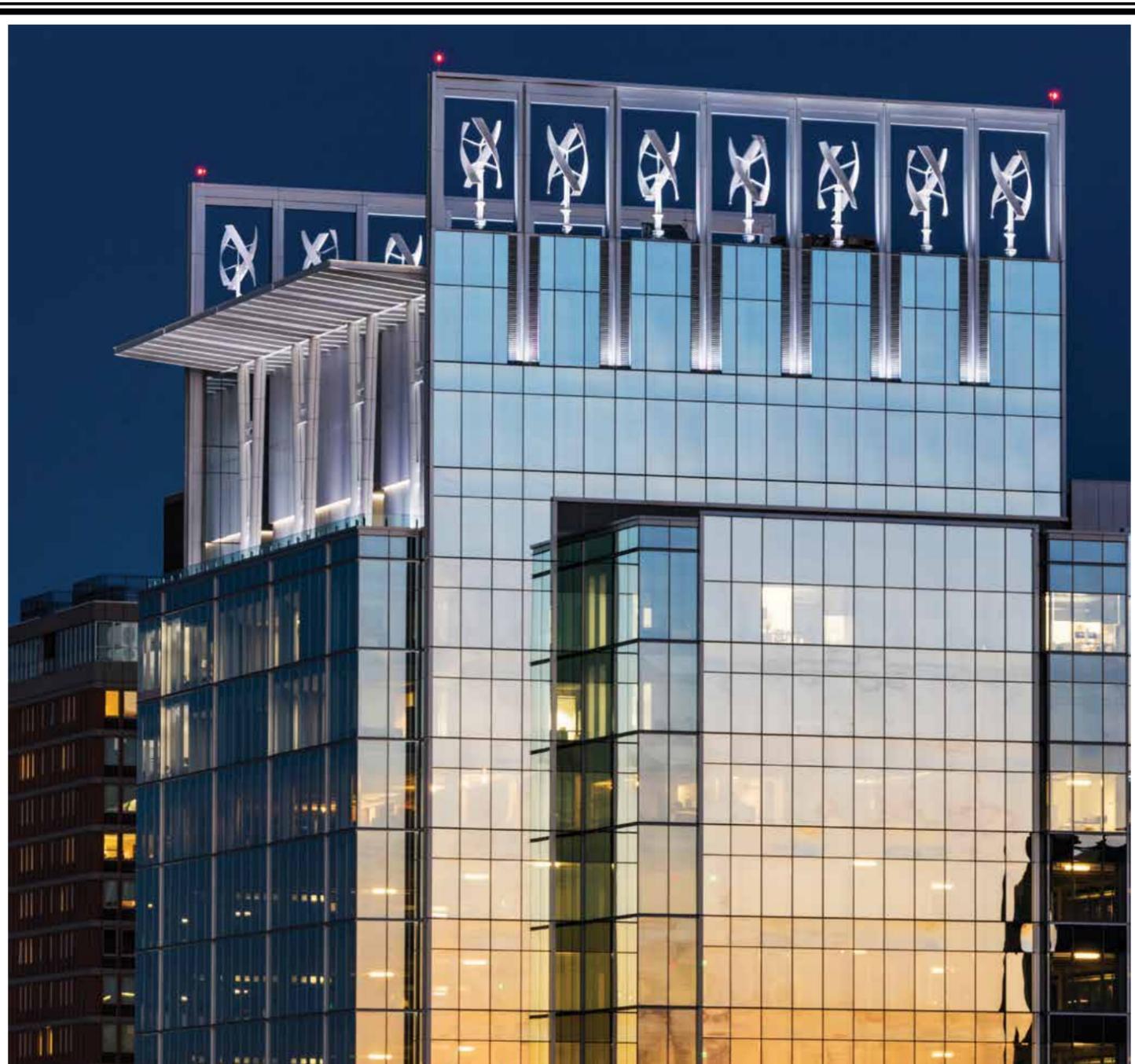
The Pearl River Basin covers 24 counties in central and southern Mississippi and two Louisiana parishes. Abby quickly learned to love the river and its environs, and grew concerned about its obvious trash problem, which ranged from bait containers to broken glass. "But the majority," she says, "was single-use plastic bottles and Styrofoam cups." She began to pick up some of it every time she walked by the river, but soon realized that she was living in a "Groundhog Day" scenario. No matter

how much she picked up, more kept coming back. So she decided to let the trash tell a story, launching a social-media campaign, "Take2Miss," which encouraged people to pick up two pieces of trash along the river, take a picture of them and share it on social media with the #take2miss hashtag.

Before long over 3,000 photos had been posted on Instagram, which brought widespread attention not only to the message but also to the messenger. Local officials began to invite her to participate on committees and commissions addressing the Pearl River's health, and Abby quickly earned the nickname "riverkeeper," which got her to thinking that maybe that's what she should become.

Now she is. In July 2017, just two months after she first proposed the idea to Waterkeeper Alliance, the board approved the creation of Pearl Riverkeeper, with the resourceful Abby Braman at the helm. In September, she led its first official cleanup, in which more than 1,000 volunteers told Mississippi's trashiest story yet. It weighed in at more than 18 tons.

— Bart Mihailovich, Senior Organizer, Eastern U.S.



bxp Boston Properties

Proud Supporter of Waterkeeper Alliance

Prudential Center • Boston • Massachusetts
www.bostonproperties.com



FAR LEFT AND BELOW, NORTH CAROLINA CAFOS AND THEIR TOXIC WASTE MIX WITH THE FLOODWATERS OF HURRICANE MATTHEW. LEFT, THE USUAL COLOR OF NORTH CAROLINA'S TRENT RIVER CONTRASTS VIVIDLY AGAINST THE INCOMING FILTHY FLOODWATERS.



PHOTOS BY RICK DOVE

"A POPULAR GOVERNMENT, WITHOUT POPULAR INFORMATION, OR THE MEANS OF ACQUIRING IT, IS BUT A PROLOGUE TO A FARCE OR A TRAGEDY; OR, PERHAPS, BOTH."

- JAMES MADISON

PAY TO VIEW PUBLIC RECORDS? NO, SAY NORTH CAROLINA'S WATERKEEPERS

James Madison once wrote, "A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps, both." Environmental advocates know well the problems that arise from governmental secrecy. Thankfully, in North Carolina, Waterkeeper Alliance recently secured a victory in the continuing struggle for governmental transparency.

Last year, Hurricane Matthew caused record rains in eastern North Carolina that inundated multiple industrial animal-agriculture operations near waterways, discharging pollutants throughout the coastal plain. To learn more about how state government was preparing for, and responding to, the effects of hurricanes on animal-agriculture operations, we filed a public-records request with the state's Department of Agriculture & Consumer Services (DA&CS). But this agency directed us to pay more than \$4000 to let us review the records. In contrast, the N.C. Department of Environmental Quality responded to a similar request by promptly enabling our inspection.

Under North Carolina law, public records are the property of the people, and courts have recognized a citizen's right to inspect public records free of cost. Erecting a pay barrier to accessing government records is clearly antithetical to the law's goal of government transparency. So we enlisted the help of the Southern Environmental Law Center and sued Commissioner Steve Troxler, the legal custodian of records held by DA&CS.

Waterkeeper Alliance's interpretation of the law was vindicated when the agency agreed, in exchange for dismissal of the lawsuit, to: (1) provide the requested records for free; (2) amend their policy to stop charging fees for the inspection of public records; (3) pay the costs of litigation; and (4) make a \$2,000 donation to the Sunshine Center of the North Carolina Open Government Coalition, a non-partisan group dedicated to ensuring and enhancing the public's access to government activities, records and meetings. Grateful to have turned the agency toward a new commitment to transparency, the Alliance, along with North Carolina's Waterkeepers, will continue to fight for liberal access to records necessary to continue our advocacy.

As President Harry Truman observed more than a century after James Madison, "Secrecy and a free, democratic government don't mix."

- Will Hendricks, Waterkeeper Alliance staff attorney and North Carolina Pure Farms, Pure Waters Campaign Manager

MIRAI

VEHICLE OF CHANGE



INTRODUCING THE HYDROGEN-FUELED TOYOTA MIRAI. ITS ONLY EMISSION IS WATER.



AVAILABLE NOW ON TOYOTA.COM/MIRAI

©2017 Toyota Motor Sales, U.S.A., Inc.

THIS UNPRECEDENTED, "1000-YEAR" STORM WOULD DROP OVER 52 INCHES OF RAIN, LEAVE THOUSANDS DISPLACED, AND DELIVER A NIGHTMARISH BREW OF TOXIC CHEMICALS.



PHOTOS BY HARTWELL CARSON

ABOVE LEFT, THE AFTERMATH OF FLOODING IN HOUSTON'S BUFFALO BAYOU AFTER HURRICANE HARVEY. TOP, BRUCE BODSON, BAYOU CITY WATERKEEPER'S LEAD SCIENTIST, PATROLLING NEAR THE EXXON MOBIL REFINERY SITE IN UPPER SAN JACINTO BAY AFTER THE HURRICANE. ABOVE, THE WRECKAGE LEFT BEHIND BY THE HURRICANE INCLUDED CARS SEMI-SUBMERGED IN A SINKHOLE FORMED BY THE FLOODS, DIRECTLY NEXT TO A SUPERFUND SITE.

A BROAD AND RAPID RESPONSE TO HARVEY'S CATASTROPHIC ATTACK

Jordan was coordinating with colleague Bruce Bodson and Waterkeeper Alliance staff on rapid-response strategies, fielding calls from the media, and, like so many others in the area, coming to grips with the devastation that Harvey would leave in its wake.

As the storm still raged and the waters rose around his home near the Brazos River, Bodson, lead scientist for Bayou City Waterkeeper, was paddling his kayak and beginning to assess the potential damage that Harvey was wreaking, particularly on the numerous Superfund sites and oil- and gas-refineries in the Houston area. This unprecedented, "1000-year" storm would drop over 52 inches of rain, leave thousands displaced, and deliver a nightmarish brew of toxic chemicals. Harvey, moreover, was the fourth 500-year storm to hit the Houston area in the last three years, raising concern that these types of storms are becoming the norm. Some experts, citing poor planning and the location of refineries brimming with toxic chemicals in flood-prone areas, are referring to these events as

New Bayou City Waterkeeper Jordan Macha isn't likely to forget her first day on the job. It was the day in August that Hurricane Harvey's fury arrived on the Texas coast. As she packed her belongings for the move from Austin to Houston,

"disaster by design."

Given the enormity of the storm, Bodson quickly recognized that he would need more than his trusty kayak to fully assess the damage. Waterkeeper Alliance's Rapid Response staff, and a team of veteran Waterkeepers, made up of Savannah Riverkeeper Tonya Bonitatibus, French Broad Riverkeeper Hartwell Carson and Hurricane Creekkeeper John Wathen, a disaster specialist from Tuscaloosa, Alabama, deployed to the scene within 48 hours. With help from Mobile Baykeeper staff, they arrived with a new boat in tow for Bayou City Waterkeeper.

Bayou City's team got out on the water and quickly began to identify and document the storm's massive damage. Over the following weeks Bayou City Waterkeeper worked in conjunction with Waterkeeper Alliance's Clean and Safe Energy attorney Pete Harrison and Field Investigator Christian Breen to begin a water-sampling program that would hold polluters and the regulatory agencies accountable and help ensure that affected communities around Houston's several Superfund sites were safe as they cleaned up the wreckage from the storm. Bayou City Waterkeeper is also developing a long-term monitoring plan to advocate for improvements in the siting of hazardous facilities in flood-prone areas.

Waterkeeper Alliance continues to support the efforts of Bayou City Waterkeeper in its long road toward recovery and its efforts to better safeguard Houston-area communities from devastating, and now too frequent, storms like Harvey.
-- Pete Nichols, Organizing Director

WE'RE USING LESS WATER. BECAUSE LESS IS MORE.

SO FAR, WE'VE SAVED OVER 1 BILLION LITERS OF WATER, INCLUDING OVER 30 MILLION LITERS OF RECYCLED WATER, CRAFTING MORE THAN 90 MILLION WATER<LESS™ PRODUCTS.



MADE OF PROGRESS



LEVI.COM/PROGRESS



BELOW, YARRA RIVERKEEPER ANDREW KELLY, LEFT, AND ONE OF THE GROUP'S MEMBERS, TESTING TURBIDITY IN THE YARRA RIVER. RIGHT, WURUNDJERI ELDERS DRESSED IN TRADITIONAL POSSUM SKIN CLOAKS IN QUEEN'S HALL OF THE VICTORIAN PARLIAMENT AFTER THE PASSAGE OF THE YARRA RIVER PROTECTION BILL.



VICTORY IN VICTORIA: THE YARRA RIVER PROTECTION ACT

"WE RAN COMMUNITY FORUMS, WROTE REPORTS, ADVOCATED IN SOCIAL MEDIA AND TOOK INTERESTED PERSONS FOR BOAT-RIDES ON THE RIVER – EVERYTHING WE COULD TO KEEP THE YARRA IN THE NEW GOVERNMENT'S SIGHTS."

On September 21st the Yarra River Protection Bill (*Wilipgin Birrarung murrin* in the language of the Wurundjeri people) passed the Legislative Council, the upper house of the State of Victoria, Australia – unopposed! Victoria is southern-most mainland state in southeast Australia, and the Yarra runs through its capital city, Melbourne.

During the last Victorian State election campaign, in November 2014, the Yarra Riverkeeper Association lobbied for a one-river authority and a long-term vision for the river. The Australian Labor Party (ALP) embraced this vision and incorporated it in their election policy.

The ALP won the election, but the promise still needed a champion.

"We ran community forums, wrote reports, advocated in social media and took interested persons for boat-rides on the river – everything we could to keep the Yarra in the new government's sights," said Yarra Riverkeeper Andrew Kelly.

The planning minister responded by appointing a Ministerial Advisory

Committee (MAC) to provide recommendations for the bill, and Yarra Riverkeeper worked closely with the committee.

The government accepted the recommendations of the MAC, and released the Yarra River Action Plan in February 2017. A key part of this plan was the Yarra River Protection Bill. The title and preamble of the bill were written in the language of the traditional owners of the Yarra catchment, the Wurundjeri, as well as English, the first legislation ever to do so.

The bill addressed the river as a single living entity, and required the drafting of a 50-year strategic plan for the Yarra. The river is to be managed in partnership with the original Aboriginal owners. Under the forthcoming act, local councils, statutory agencies and other government entities must abide by a strategic plan that takes a "landscape view" of the river, and combines all public land along it as the Greater Yarra Urban Parklands.

"This is a bold and innovative way of thinking about natural spaces and waterways in cities," said Kelly.

The bill was signed into law by Victoria's governor on September 26th.



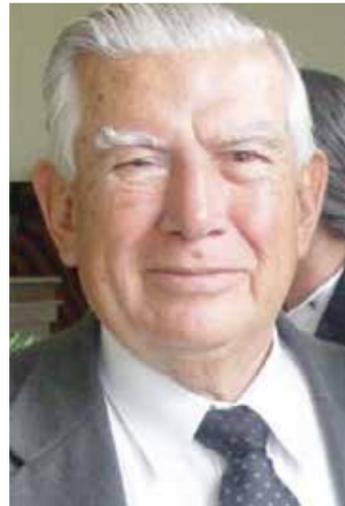
Where there's water,
there's SweetWater.

KEEPING OUR RIVERS CLEAN AND OUR FUNKY STUFF CLOUDY.

DON'T FLOAT THE MAINSTREAM



PHOTO BY GUAYLLABAMBA WATERKEEPER



LEFT, GUAYLLABAMBA WATERKEEPER RAFAEL CHAMBERS. BELOW: RAFAEL (RIGHT) AND HIS SON PATRICIO STUDY THE MAP OF THE GUAYLLABAMBA RIVER IN NORTHWESTERN ECUADOR.



PHOTO BY GARY WOCKNER

RAFAEL CHAMBERS: A SAD LOSS FOR WATERKEEPERS AND A LASTING LEGACY FOR ECUADOR

Rafael Chambers, Guayllabamba Waterkeeper and a beacon of boundless optimism, passed away on September 17, 2017 at age 88, in Quito, Ecuador. He will be painfully missed by his fellow Latin American Waterkeepers and by the entire Waterkeeper movement.

Chile's Maule Itata Coastkeeper, Rodrigo de la O, remembers vividly the first time he met Rafael.

"It was in La Paz, Baja California Sur, México, during my first Waterkeeper Alliance conference in 2010," he says. "I was a newbie and was matched up to share a room during the conference with Rafael, who just one year before had been in my shoes – a newbie himself."

Rodrigo was amazed by this dynamo of a clean-water advocate.

"It was impossible not to notice his wisdom, sincere gaze, sense of mischief and deep, stalwart voice that conveyed a natural authority. We will all miss him dearly."

Rafael devoted a large portion of his life to public service and the protection of waterways in his native Ecuador. Before taking on the mantle of Waterkeeper, he served for two decades as the head of the watersheds unit at Quito's Metropolitan Authority for Water and Sewers. His was no easy task – to safeguard a group of small basins that supply that city of 1.6 million with bountiful water. During his tenure, he contributed significantly to efforts that led to the designation of 78,000 hectares of those basins as protected areas, and to the recruitment of 11,200 student volunteers from

250 schools, who planted thousands of trees as part of a watershed-restoration project.

At Guayllabamba Waterkeeper, despite the challenges of running a small and mostly volunteer organization, Rafael used its limited resources and his contagious zest to build a body of work that focused on three activities: river cleanups, tree planting along the rivers, and educational programs to train children to plant home gardens and connect with nature. Rafael also made Guayllabamba Waterkeeper a family endeavor. His grown children and grandson chipped in enthusiastically.

"My brothers and I often said that dad was like a stream, nourishing family, friends and colleagues along his life just as a river nourishes the life it touches along its course," says Judy Chambers, one of Rafael's surviving children. "During intimate moments with his family, he was a soothing ebb and flow, and at other times, particularly when advocating for clean water, he was a forceful, gushing river full of vitality, optimism, and an unconquerable sense of justice."

The worldwide Waterkeeper family, spread out in 37 countries across six continents, cherished and will miss Rafael's warm spirit, great smile and generous heart. He taught others to fight for waterways in the face of mining activities, dam proposals, road-building and other great challenges.

Despite these and other obstacles posed by Quito's growing population and its demand for natural resources, Guayllabamba Waterkeeper will continue to fight for Ecuador's magnificent waterways, sustained by the spirit of optimism and promise that Rafael so tirelessly propagated during his lifetime.

"IT WAS IMPOSSIBLE NOT TO NOTICE HIS WISDOM, SINCERE GAZE, SENSE OF MISCHIEF AND DEEP, STALWART VOICE THAT CONVEYED A NATURAL AUTHORITY."

ROBERT F. KENNEDY, JR. & WATERKEEPER® ALLIANCE
INVITE YOU TO



FEATURING PERFORMANCES & APPEARANCES BY
RACHAEL HARRIS • CHERYL HINES
TARAN KILLAM • NICK KROLL
TIG NOTARO • RAY ROMANO & FRIENDS

THURSDAY, MARCH 1, 2018

6PM COCKTAILS • 7:30PM LIVE SHOW • 9PM AFTER-PARTY

AVALON HOLLYWOOD
1735 VINE STREET, LOS ANGELES, CA
ATTIRE: KEEP IT CASUAL



FOR MORE INFORMATION, SPONSORSHIP & TICKET LEVELS
CONTACT: WATERKEEPER@CWANDCO.COM OR 646.416.6643

BUY TICKETS ONLINE AT WATERKEEPER.ORG/KEEPITCLEANTIX

BHUTAN IS FORTUNATE TO HAVE WATER RESOURCES THAT ARE, FOR THE MOST PART, PRISTINE.



WATERKEEPER ALLIANCE FIELD INVESTIGATOR CHRISTIAN BREEN, LEFT, AND EXECUTIVE DIRECTOR MARC YAGGI PROVIDING FIELD TRAINING FOR THE INAUGURAL CLASS OF BHUTAN'S FIRST LAW SCHOOL.

PHOTO BY WATERKEEPER ALLIANCE

EVEN NEAR-PRISTINE BHUTAN NEEDS WATERKEEPERS

three visits to Bhutan, most recently last July, to provide this developing network with water-monitoring equipment and training.

The Kingdom of Bhutan possesses incredible natural resources, such as rushing waters, green-forested land and crisp mountain air. And an ethic of natural-resource stewardship resounds from the royal family to the prime minister to Buddhist monks to citizens across the land. Their constitution requires that at least 65 percent of the country remain forested, and Bhutan is widely hailed as “carbon negative.” But despite this great regard for their environmental blessings, water-pollution problems can and will happen. In the last year, sewage and trash have contaminated the water supply for more than 1,000 households around the area of Ngabiphu, just outside the capital city of Thimphu, and, throughout the country, increasing levels of development are setting the stage for additional water-quality degradation.

Over the past two years, however, a growing Waterkeeper movement, led by the NGO Clean Bhutan and Waterkeeper Alliance's Recruiting Director Sharon Khan, has been addressing such problems. It includes Wang Chu Waterkeeper and its affiliates on the Ha Chu, Pa Chu, Upper Thimchu and Lower Thimchu rivers. Waterkeeper Alliance teams have made

I participated, offered a compelling example of how science, education, law and citizen action intersect to protect waterways and communities. Good science is needed to understand what is polluting the water and how polluted it is; law is needed to create and enforce standards to stop pollution, and education is needed to help people understand how it affects them and how to prevent it. Bhutan has a good clean-water law that was enacted in 2014, but its effectiveness depends on scientific data to help support policy and enforcement.

Along with Nedup Tshering, founder and director of Clean Bhutan, and Shristi Sharma, the new Wang Chu Waterkeeper, we took water samples at sites in Paro and around Thimphu. Unfortunately, there was evidence of E.coli in some of the water, indicating that it may not be safe for drinking or recreation, and this discovery made front-page news in the nation's biggest newspaper. Christian Breen, Waterkeeper Alliance's field investigator, provided the Bhutan Waterkeeper team with extensive training on using water-quality-monitoring equipment, which will enable them to sample waterways every other week. As a result, they will be able to notify government officials and



PHOTO BY WATERKEEPER ALLIANCE



PHOTO BY SHARON KHAN

TOP LEFT, WATERKEEPER ALLIANCE RECRUITING DIRECTOR SHARON KHAN WITH THE NEW PUNATSANG CHU WATERKEEPER TEAM ON ONE OF THEIR RIVER CLEANUP PATROLS IN PUNAKHA, BHUTAN. TOP RIGHT, NEDUP TSHERING, EXECUTIVE DIRECTOR OF CLEAN BHUTAN AND FOUNDER OF BHUTAN'S FIRST WATERKEEPER ORGANIZATIONS, DEMONSTRATING HOW TO MONITOR WATER QUALITY USING A YSI PROBE. LEFT, CHRISTIAN BREEN PROVIDES INITIAL CLASSROOM TRAINING TO THE WANG CHU WATERKEEPER TEAM IN THIMPHU, BHUTAN.



PHOTO BY SHARON KHAN

BHUTAN'S CONSTITUTION REQUIRES THAT AT LEAST 65 PERCENT OF THE COUNTRY REMAIN FORESTED, AND BHUTAN IS WIDELY HAILED AS “CARBON NEGATIVE.”

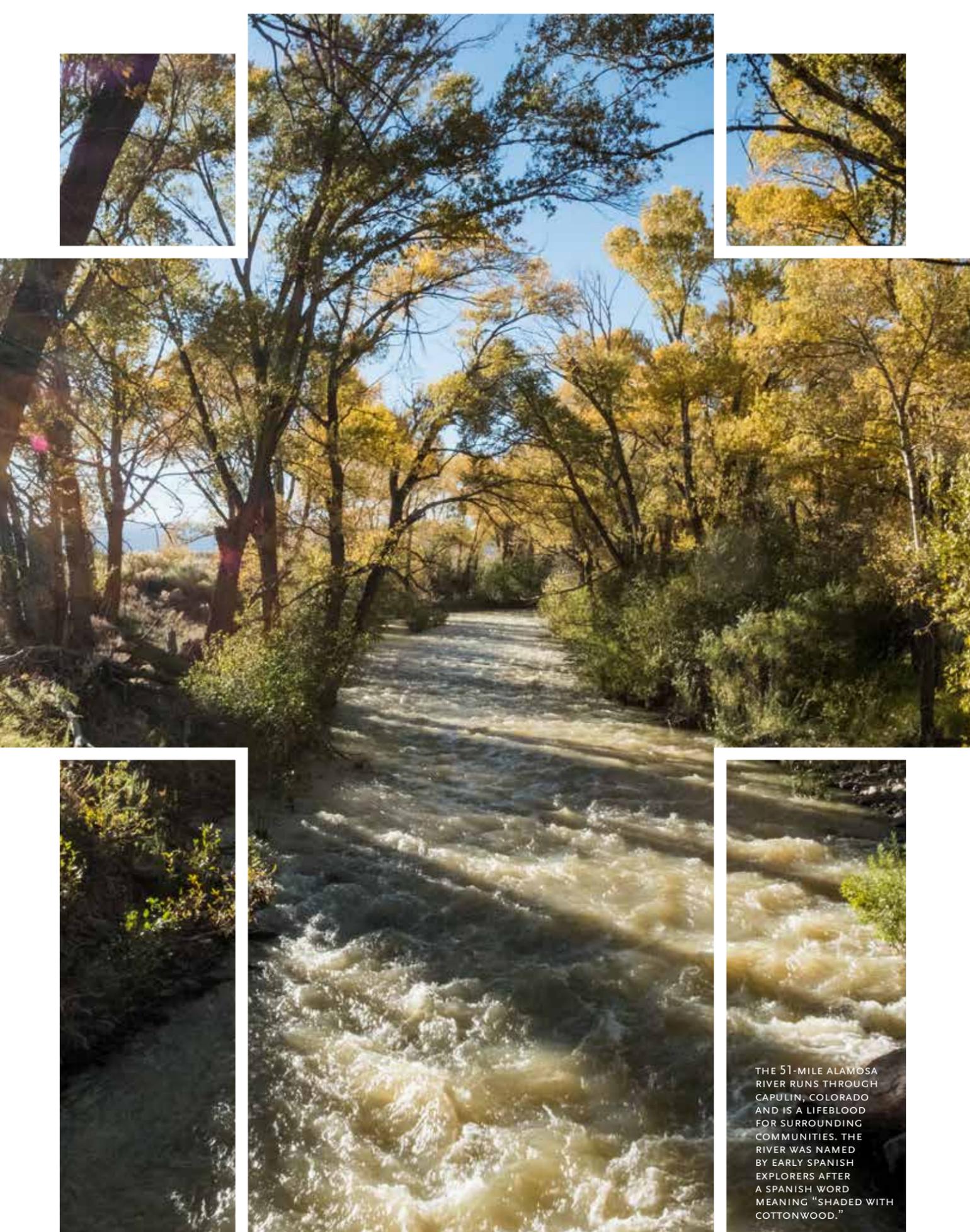
the public when water sampling indicates the presence of pollutants.

We were honored also to provide the first environmental-law instruction and field training to the 25 students in the inaugural class of Bhutan's first law school. After we discussed Waterkeeper Alliance's history and Clean Bhutan's work, and we heard the students' views on water pollution, environmental law and climate change, we set out on a water-monitoring field-course.

Bhutan, as we told the students, is fortunate to have water resources that are, for the most part, pristine. Neighboring countries may well look across their borders at it with envy, aware that, like nearly all nations, they have recklessly polluted their waterways and incurred tremendous public-health, social and financial costs.

Despite the challenges presented by Bhutan's rapid development, we are optimistic that their strong tradition of natural-resource stewardship, combined with the growing water-monitoring program, the Bhutanese Waterkeeper teams' commitment to citizen action, and input from budding legal minds, will ensure that this beautiful land's water supply will remain among the purest in the world. As one of the new law students remarked after the field training, “With the times changing, I feel that our water is changing every day. We – specifically me – were not concerned about it before. Before, water came out of the tap and we were happy. But now we know we need the data to ensure we develop the standards required to keep our drinking water clean.”

-- Marc Yaggi, Executive Director



take me to the river

INSPIRED BY
THE LEADERSHIP
OF ALAMOSA
RIVERKEEPER
CINDY MEDINA,
A COMMUNITY
UNITES TO
BRING THE
ALAMOSA RIVER
BACK TO LIFE.

BY LESLEY ADAMS,
SENIOR ORGANIZER, WESTERN U.S.,
AND KATE HUDSON,
ADVOCACY COORDINATOR, WESTERN U.S.

PHOTOS BY
JASON HOUSTON

the San Luis Valley and the headwaters of the Alamosa River rest between the snow-capped peaks of the Sangre de Cristo and San Juan Mountains of southern Colorado. Rising more than 14,000 feet above sea level, the “Blood of Christ” mountains are the southern tip of the Rockies and stretch over the New Mexico border to where the Kapota Ute Indians once lived.

Three centuries ago, Spanish settlers came north from what was then Mexico and settled in the San Luis Valley, where they took root amidst the cottonwood and aspen trees along the Alamosa River and became farmers and ranchers with an unflagging commitment to hard work and their Catholic faith. Cindy Medina, a present-day descendant of one of those families, became one of the first women to join the Waterkeeper movement.

The middle child of seven girls, Cindy was raised on a farm,

helping with chores, playing in alfalfa fields, and splashing around in the irrigation ditch, called an *acequia*, that brought water to the farm. In her memoir, *A Journey into the Heart of the Black Madonna*, Cindy wrote lovingly of her family, whose pulsating force sustained her as a girl. Her memories of growing up in the San Luis Valley send aromas through the pages – of fresh tortillas and cinnamon rolls made by her mother, of the home-heating fires fueled by wood gathered in the mountains with her grandfather, of the potent herbal remedies wild-crafted by her grandmother. Her connections to family and the natural world around her were woven together. She wrote: “This lifeblood was no different than the acequia, the ditches lined with dirt that irrigated this arid land with water. . . The acequia was my ocean.”

Like many others in the rural West, Cindy left as a young adult to pursue a formal education. She earned a master’s degree

THE 51-MILE ALAMOSA RIVER RUNS THROUGH CAPULIN, COLORADO AND IS A LIFEblood FOR SURROUNDING COMMUNITIES. THE RIVER WAS NAMED BY EARLY SPANISH EXPLORERS AFTER A SPANISH WORD MEANING “SHADED WITH COTTONWOOD.”



ABOVE, ALAMOSA RIVERKEEPER CINDY MEDINA ON THE RIVERBANK OF THE ALAMOSA RIVER. RIGHT, HISTORIC BUILDINGS FROM 19TH CENTURY SUMMITVILLE OVERLOOK THE SUMMITVILLE MINE SUPERFUND SITE. BELOW RIGHT, A HOLDING POND ON WIGHTMAN FORK, A TRIBUTARY TO THE ALAMOSA RIVER, YET TO BE TREATED AT THE SUPERFUND SITE.



in counseling from Arizona State University and relocated with her husband to Seattle. There she began a successful practice as a psychotherapist, gave birth to two daughters and, while on a trip to Zurich, Switzerland to attend a psychology seminar, came across an 8th-century statue of the Black Madonna at a Benedictine Abbey and experienced a spiritual transformation that led her to environmental activism.

“The Black Madonna is considered by some to be the Queen of Nature,” Cindy explains, “and the archetypal energy that fuels change. She is the mother who fertilizes all life and urgently demands a return to balance and wholeness, honoring the earth.” In her memoir, Cindy describes her encounter with the Black Madonna as a spiritual awakening to the interconnectedness of all living things. In 1988, propelled by that journey of self-discovery, Cindy moved back home to southern Colorado, where she found that a pollution crisis threatened the heart of her community, the Alamosa River.

GOLD, GREED AND CYANIDE

The mountains in southern Colorado are rich in minerals, gold and silver, which attracted extensive mining in the late-19th and early-20th centuries. And, in turn, like all boom-and-bust extraction, the mines left a toxic legacy. Acid mine drainage polluted and continues to pollute many Colorado waterways downstream. Mining in high-elevation areas like the San Juan Mountains petered out in the 1920s, and remained dormant for more than half a century, until a new, far more destructive method was developed to

allow precious metals to be recovered from otherwise uneconomic ore.

In 1984, Canadian-based Galactic Resources and its subsidiary, Summitville Consolidated Mining Company (named for the local ghost town) acquired 1,230 acres of the San Juan Mountains that loomed above the San Luis Valley, and convinced the State of Colorado to grant them a mining permit for a new “state of the art” mining technique known as “heap leaching” – large-scale open-pit mining that involved slicing off half the side of a mountain and putting the mined ore in a lined open pit (“heap-leach pad”) with sodium cyanide to leach out the copper, gold and silver. This “state of the art” technique was efficient for the mining company, but disastrous for those who lived downstream. The liner of this pit almost immediately sprung leaks, contaminating nearby creeks with heavy metals and acid, and creating a 17-mile dead zone and a massive fish-kill in the 51-mile-long Alamosa River.

By 1991, Galactic had leached 10 million tons of ore from the Summitville mine, which had already released up to 85,000 gallons of contaminated water. The State of Colorado, concerned about the metal pollution in nearby waters caused by contaminated runoff from the Summitville mine, served Galactic a cease-and-desist order in 1991. In response, the company stopped ore-mining operations in October of that year, but Summitville continued leaching until March 1992. That year, Galactic notified the State of Colorado of their plans to declare bankruptcy, effective December 16.



THE SUCCESS OF BERNIE'S BAIT-N-TACKLE IS A DRAMATIC INDICATION OF HOW LOCALS ARE MAKING USE OF THE IMPROVED HEALTH OF THE RIVER.



“WHILE MEDITATING ON THE BLACK MADONNA, I SAW HER FACE TURN INTO THE DARK EARTH, AND FARMERS PLANTING THE SOIL. I REALIZED HOW SO MANY PEOPLE WERE DEPENDENT ON THE ALAMOSA RIVER.”

The company left behind 160 million gallons of toxic water in storage ponds, and every minute an estimated 3,000 gallons of contaminated water continued to leak from the site. Summitville is one of hundreds of toxic, inactive mine sites that have drained an acid mix of heavy metals into the headwaters of Western rivers, and as is often the case with mining in the American West, the federal government was forced to assume responsibility for the contamination caused by private industry. It declared Summitville a Superfund site in 1994. Cleanup plans were proposed, rejected, refined and ultimately chosen and implemented over the next decade. Site remediation was conducted until 2013,

and monitoring and water-treatment are ongoing, and must continue to ensure long-term protection.

Robert Friedland, the billionaire chairman of Galactic Resources and an international mining financier, eventually paid just \$30 million in a legal settlement while \$250 million of taxpayer funds have been spent over two decades to detoxify the abandoned site. While Mr. Friedland sat comfortably in Canada, plotting mining ventures in Mongolia, Australia and Myanmar, the rural communities in the San Luis Valley were left to look at a river that had turned bright orange from one of the worst acid-mine releases in U.S. history. And federal and state taxpayers got the bill for the long and

painstaking process of designing and carrying out a reclamation plan for Summitville.

CINDY MEDINA RETURNS TO HER COMMUNITY

Cindy Medina, back at home with a deepened sense of purpose and spiritual guidance, contemplated how she could contribute to her community. Among other endeavors, she helped found a community center, which offered resources to address domestic violence, provide counseling and develop parenting skills, as well as providing recreation and dance classes. Meanwhile, Cindy watched the chaos from the Summitville mine unfold.

“At first, I hesitated,” she recalls. “I thought, How can I contribute to this? I’m not a geologist or a biologist. While meditating on the Black Madonna, I saw her face turn into the dark earth, and farmers planting the soil. I realized how so many people were dependent on the Alamosa River. Then, my childhood memories of playing in the alfalfa fields and swimming in the acequia flooded over me. I was convinced to say that holy yes.”

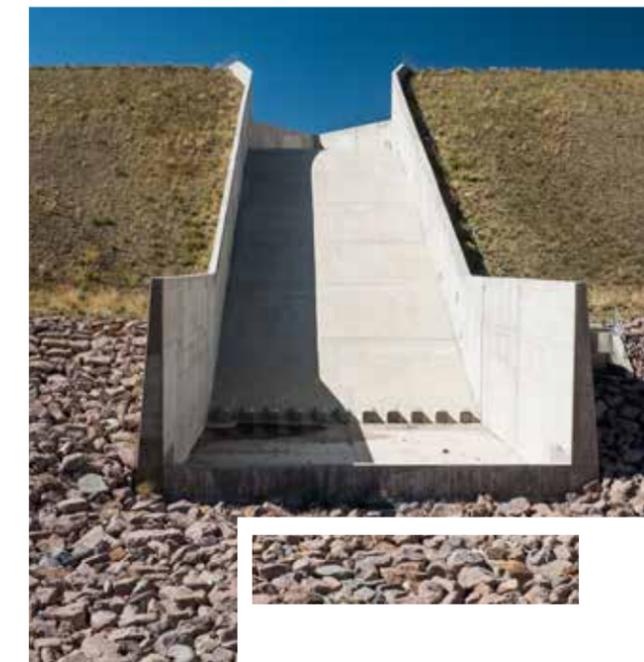
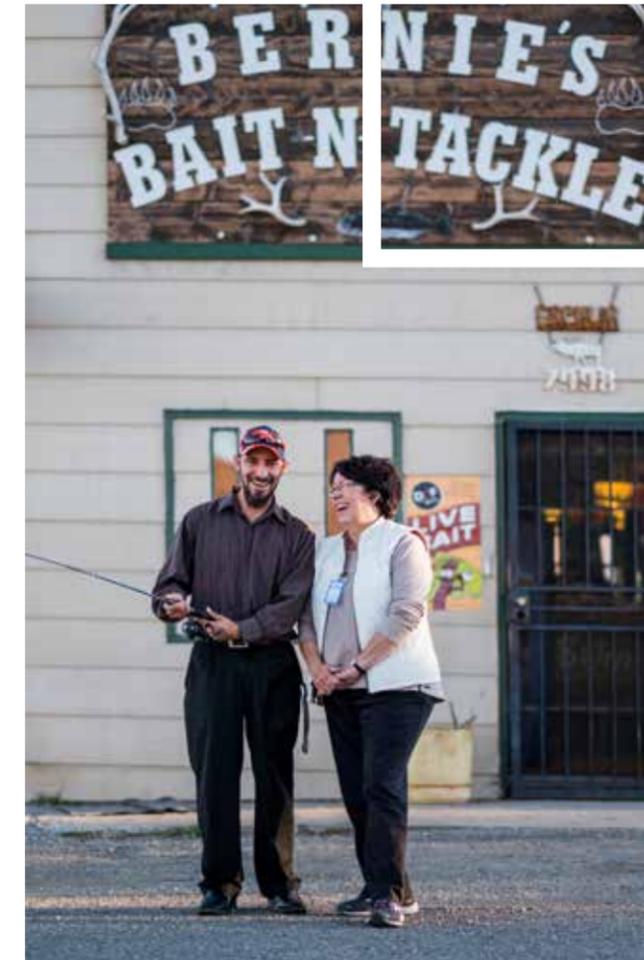
In 1993, five years after her return, she joined the battle to clean up the site. She quickly emerged as a community leader who had the ability to make sure that the interests of the local community were taken seriously in the byzantine world of Superfund hazardous-waste cleanup.

But what about the Alamosa River and the fish? The community still felt betrayed, as if someone had stolen it from them in the dark of night, and neither state nor federal government had protected them. Residents felt that the federal authorities in charge were ignoring the Alamosa and were solely focused on the cleanup of the mine-site. Nor was the state listening to them. So Cindy and other citizens dedicated themselves to helping make sure local communities were heard.

When Robert F. Kennedy, Jr. came in 1998 to speak at a fundraiser for a foundation run by the Catholic Diocese of Pueblo, he met Cindy and her fellow activists, learned of the Summitville mine disaster and encouraged her to apply to Waterkeeper Alliance to become the Alamosa Riverkeeper. She gained approval to take on that role in 1999.

“We felt so isolated trying to fight our local battle,” Cindy remembers. “But once we became a Waterkeeper organization, we felt that we belonged to something bigger, that there were all these other Waterkeepers fighting polluters as well. Bobby was an inspiration. And the movement inspired me because it was very grassroots.”

A critical component of the remediation plan was the construction of a \$16 million treatment plant to clean the severely polluted water discharging from the abandoned mine before it traveled downstream to communities and farms. But only



TOP, THE OWNER, JOSE TRUJILLO (LEFT), AND ALAMOSA RIVERKEEPER CINDY MEDINA (RIGHT) AT BERNIE'S BAIT-N-TACKLE IN CAPULIN, COLORADO. ABOVE, MEDINA TOOK THE LEAD ON IMPLEMENTING FUNDING FOR THE SPILLWAY AT TERRACE RESERVOIR.

after years of state and community lobbying did stimulus funding, provided by the Obama administration, allow the plant to be built. Completed in 2011, it has been critical to improving water downstream by remediating up to 1,600 gallons of toxic discharge per minute, pushing toward the goal of returning the Alamosa to pre-Summitville conditions.

That the river and its fish are finally coming back to life is perhaps even more the result of river-and-watershed restoration work being done independently of site cleanup. This work, spearheaded by Cindy in collaboration with other key community members, was equally impressive because it required parties who often had opposing interests, i.e., advocates for protecting the river and farmers dependent on river water to irrigate their fields, to find common ground.

“The mine disaster brought us together in a way that would not have happened otherwise,” Cindy recalls. “We represented different interests, but we needed each other. And so we concentrated on our common interests, rather than what divided us.”

RESTORING THE RIVER AND HEALING THE COMMUNITY

Colorado’s Attorney General at the time, Ken Salazar, is a native son of the San Luis Valley and a close friend of Cindy Medina and her family. (He would go on to be Secretary of the Interior in the Obama administration.) Salazar knew many of the victims of the mine disaster. His inspiration and determination led to his office’s filing of the Natural Resource Damages lawsuit against Robert Friedland in 1996, based on a little known and underutilized section of the Comprehensive Environmental Response, Compensation and Liability Act (NRD), also known as the Superfund law, that holds a polluter liable not only for the cleanup of the pollution it causes, but also for restoring or replacing all of the natural resources – water, air, fish, wildlife – that have been damaged or destroyed.

As a result of this suit, Friedland was forced to pay \$30 million, \$5 million of which was earmarked for natural-resource recovery. This finally gave Cindy and her community the financial means to pursue their dream of restoring the Alamosa River



LEFT, A SECTION OF THE TERRACE RESERVOIR, WHERE THE TERRACE IRRIGATION COMPANY DONATED 2,000 ACRE-FEET AS STORAGE SPACE FOR THE ALAMOSA. ABOVE, ROD REINHARDT, FORMER PRESIDENT OF THE TERRACE IRRIGATION COMPANY BOARD AND MANAGER OF TERRACE RESERVOIR’S SPILLWAY PROJECT.

“WE FELT SO ISOLATED TRYING TO FIGHT OUR LOCAL BATTLE, BUT ONCE WE BECAME A WATERKEEPER ORGANIZATION, WE FELT THAT WE BELONGED TO SOMETHING BIGGER, THAT THERE WERE ALL THESE OTHER WATERKEEPERS FIGHTING POLLUTERS AS WELL.”

and watershed. “Natural resource damages were the key to unlocking the door to restoring the river,” Cindy says.

The goal of the Alamosa River Watershed Restoration Master Plan, completed in July 2005 with significant input from local, state and federal stakeholders, was to ensure that the money recovered from the NRD settlement was used to address the restoration of the watershed. Cindy played an integral role in developing that plan. The restoration projects selected to be funded are succeeding in large part because of the alliances, partnerships and

old-fashioned good relationships that Cindy and others have built within the community.

One of the most important of those relationships was Cindy’s partnership with Rod Reinhardt, a local farmer and then-president of Terrace Irrigation Company. They met during public meetings held to support development of the Master Plan and started working together when the Natural Resource trustees sought public input on possible NRD projects.

Ken Salazar had suggested that Cindy and others look into the possibility of using NRD funds to acquire water for the river to

increase instream flows to help restore it, because the Alamosa was typically dry downstream of the Terrace Reservoir from late fall through early spring.

When Cindy, Rod, and other community members started discussing possible NRD projects at public meetings, “that’s when the restoration opportunities of instream flow found us,” Cindy says. In 2006, Cindy applied to the trustees for a grant from the Natural Resource Damages fund to purchase instream flows from farmers who owned those water rights for the river, and received \$1.2 million to carry out that project in 2007. That was the beginning of a long learning curve on how to combine flow-restoration with mine-remediation and reclamation efforts for the whole watershed.

To begin to make her dream of restoring flows to the Alamosa a reality, Cindy had to forge alliances with Rod Reinhardt and other farmers in the valley, to find both the water to purchase and a place to store the water. But because water is scarce in the arid West, farmers jealously guard their water, water rights and irrigation systems. The farming community was initially opposed to the whole concept of selling and retiring agricultural water rights to provide more water for the Alamosa.

Cindy had to convince them that those flows would have irrigation benefits, including re-charge of the aquifer supporting the river and keeping the river bed wetter, allowing it to carry irrigation water more efficiently. Equally important, those extended flows would help restore and support a fishery.

At the time, Reinhardt and the Terrace Irrigation Company needed to find \$4 million to replace their reservoir spillway, which was required by the state for safety reasons. Without a new spillway, the farming community couldn’t continue to use the reservoir. Increasing the size of the spillway would also increase storage space in the reservoir, making it possible for Cindy to use some of that

space to store instream-flow water for the Alamosa until it would be released at the end of October.

That proved the key. Cindy, Reinhardt and other project members like Joe McCann, the Alamosa River’s water commissioner, collaborated in finding the funding for the spillway in exchange for instream-flow storage space. Jointly the spillway project was funded by the Rio Grande Basin Roundtable, Terrace Irrigation Company, and Colorado Water Conservation Board. An agreement was developed between Alamosa Riverkeeper and Terrace Irrigation Company, who donated the 2,000 acre-feet of storage in Terrace Reservoir as an in-kind contribution. “We represented different interests, but we needed each other,” says Cindy of their work together. The result was an unprecedented partnership with the farmers who are shareholders in the Terrace Irrigation Company, and who depend on the waters in the Terrace Reservoir, fed by the Alamosa River, to water their crops.

“Cindy brokered the deal with the state. She did it all,” says Reinhardt. Cindy counters, “A project of this magnitude required a collaborative effort with many people and organizations. We’ve been working together for 10 years now. I don’t think there is another partnership like Alamosa Riverkeeper’s storage agreement with Terrace Irrigation Company in the state of Colorado.”

The first release of instream flows to the Alamosa took place in 2014, and the river and the community are already seeing the benefits: from the hooking of a 22-inch brown trout to the opening of Bernie’s Bait-and-Tackle shop in Capulin in 2015.

After nearly two decades as the Alamosa Riverkeeper, Cindy continues to steadfastly advocate for her river and the local people, to work creatively and collaboratively to secure more water for instream flows for the Alamosa River, and to ensure the recovery of a watershed nearly destroyed by a company only interested in making a profit without having to assume the true cost of their toxic activities.

“I turned my rage against the man who was responsible for the near destruction of our entire watershed,” Cindy says, “into a commitment to strive for partnerships and collaboration that, ultimately, took back our shared and treasured resource – the Alamosa River.” **W**

CITIZENS AT THE RAMPARTS



LANDMARK ENVIRONMENTAL LAWS THAT EMPOWERED THE PEOPLE ARE UNDER SIEGE.

0

ver the last 45 years, the Clean Water Act, the Clean Air Act and other federal environmental laws have dramatically reduced pollution and improved living conditions across America. Before we had these vital protections for our natural resources and our health, rivers were so polluted they erupted in flames, and cities disappeared in dense shrouds of lethal smog. But an outraged public finally demanded action from their government, and elected officials enacted a suite of innovative and ambitious federal statutes.

Today, however, a great many officeholders, fueled by campaign contributions from the biggest polluters on earth, have taken aim at the laws that we have to thank for our drinkable water and breathable air. An overtly anti-environmental faction within the federal government, seeking to exploit its party's control of both houses of Congress and of the White House, have advanced a swell of radical proposals designed to eliminate many of the features that have made these safeguards so effective. Groveling for the support and affection of their dirty donors, some members of Congress have taken a particular interest in one especially important component of our environmental protection: the citizen-suit provision.

The effectiveness of our pollution laws, like all laws, depends on meaningful enforcement. Government agencies such as the federal EPA and its state counterparts bear the primary responsibility to implement these laws and ensure compliance with pollution limits. Often, though, these agencies fail to carry out those duties, because they are underfunded and understaffed, and because politically powerful polluters often wield extraordinary

BY PETE HARRISON,
STAFF ATTORNEY AND
U.S. COAL CAMPAIGN
COORDINATOR



PHOTO BY HUDSON RIVERKEEPER



PHOTO BY KENTUCKY RIVERKEEPER



PHOTO BY RICK DOVE

ABOVE LEFT, HUDSON RIVERKEEPER STAFF PATROL NEWTOWN CREEK IN NEW YORK HARBOR, WHERE THEY FILED A CITIZEN SUIT AGAINST EXXONMOBIL. ABOVE, MOUNTAINTOP REMOVAL BY FRASURE CREEK MINING, WHICH HAD SUBMITTED MORE THAN 100 FALSE WATER POLLUTION MONITORING REPORTS TO THE STATE FROM ITS KENTUCKY COAL MINES. ABOVE RIGHT, TOXIC COAL ASH HOLDING PONDS AT DUKE ENERGY'S CAPE FEAR PLANT ON NORTH CAROLINA'S CAPE FEAR RIVER.

control over the agencies that are assigned to police them – a phenomenon known as “regulatory capture.”

In fact, Congress in the 1970s anticipated that a lack of government resources or political willpower could severely undermine enforcement of environmental laws, so it included innovative provisions authorizing private citizens to prosecute violations when government fails to do so. Whereas previous legal remedies were available only to individuals who suffered personal injury or property damage, the new statutes empowered any citizen to file suit to stop illegal pollution if his or her use and enjoyment of a waterway or other resource was being diminished by it. And, unlike plaintiffs in personal injury lawsuits, who typically seek monetary compensation for their injuries, citizen-suit plaintiffs seek to bring violators into compliance with the law and to clean up the pollution, benefitting not only themselves but also their neighbors and all society.

Since the Waterkeeper movement began 50 years ago in New York's Hudson River Valley, it has used the power of the law to stop water pollution. A determined group of commercial and recreational fishermen that called themselves The Hudson River Fishermen's Association, the precursor of Hudson Riverkeeper, the first Waterkeeper organization, met at an American Legion Hall to figure out how they could stop the rampant pollution that was destroying their river and its fishery. They devised a novel plan to use two little-known laws from the 19th century – the Rivers and Harbors Act of 1888 and the Refuse Act of 1899 – to take on the industries that were fouling the Hudson.

First they went after Penn Central Railroad, which for years had been dumping oil waste from a diesel yard out a three-foot pipe into the Croton River, which feeds into the Hudson in Westchester County, north of New York City. The discharge was so poisonous that it killed

ducks and turned the river into a fire hazard. According to Robert F. Kennedy, Jr. and John Cronin in their book *The Riverkeepers*, the spewing pipe became “a symbol of government corruption and the triumph of corporate power over the public trust.” In 1968 the Association, individual fishermen and New York Congressman Dick Ottinger sued the railroad, prompting the U.S. Attorney to take up the case. The next year the coalition claimed its first victory, forcing Penn Central to end the discharge and to pay the Association a \$2,000 bounty for initiating the prosecution.

The fishermen soon brought other cases against the most powerful polluters on the river: Ciba Geigy, Standard Brands, American Cyanamid, and even the National Guard. Then, in 1972, Congress passed the Clean Water Act, with its citizen-suit provision offering a valuable new tool to protect America's waterways. Following in the tradition begun by their predecessor on the Hudson, Waterkeeper Alliance and its member organizations have used citizen suits under that landmark law to bring hundreds of polluters into compliance. Of all the Clean Water Act citizen-

enforcement actions initiated against polluters between 2005 and 2014, nearly a quarter involved Waterkeeper Alliance or its members. Here are just a few examples:

In 2010, Waterkeeper Alliance, Kentucky Riverkeeper, and our partners made a stunning revelation that Kentucky's state environmental officials had failed to notice: for years, the state's

three biggest mountaintop-removal coal-mining companies had been masking serious illegal water-pollution discharges by submitting phony water-quality data on official monitoring reports. We used the Clean Water Act's citizen-suit provision to take the companies to court, and only after we exposed the tens of thousands of Clean Water Act violations did the embarrassed government regulators undertake enforcement action of their own. The involved companies were levied fines and other sanctions. And the scandal led to the passage of a state law that established performance standards for wastewater-laboratories.

In 1992 Puget Soundkeeper brought its first Clean Water Act citizen suit against the City of Bremerton, Washington, which was discharging hundreds of millions of gallons of raw sewage into Puget Sound. Thanks to Soundkeeper's action, Bremerton has now invested nearly \$50 million in system upgrades and new infrastructure, reducing the frequency and volume of combined stormwater and raw-sewage discharges by more than 99 percent. As a direct result, shellfish beds in Dyes Inlet, which had been closed to commercial harvest since the 1960s, were reopened and today are being cultivated and harvested by the Suquamish Tribe.

For decades Duke Energy stored toxic coal ash in huge leaking pits that contaminated groundwater and rivers at all of its coal power plants in North Carolina, while state regulators turned a blind eye. Beginning in 2010, Waterkeeper Alliance

WATERKEEPER ALLIANCE AND ITS MEMBER ORGANIZATIONS HAVE USED CITIZEN SUITS UNDER THAT LANDMARK LAW TO BRING HUNDREDS OF POLLUTERS INTO COMPLIANCE.

THE EFFECTIVENESS OF OUR POLLUTION LAWS, LIKE ALL LAWS, DEPENDS ON MEANINGFUL ENFORCEMENT.

and the Catawba, Cape Fear, Yadkin, French Broad, and Waccamaw Riverkeepers banded together to expose the pollution and file citizen suits against Duke. The Waterkeepers' work exposed a pattern of extremely lax enforcement by state regulators and led to a 2014 federal criminal-probe into possible collusion between the governor (a Duke Energy stockholder and former employee) and the powerful utility. Not only did the suits spur enforcement actions by the state, but Duke Energy also has been required to remove all the coal ash from more than half the sites and provide clean drinking water to hundreds of families threatened by the contamination.

In 2004, Hudson Riverkeeper filed a citizen suit against ExxonMobil to require it to clean up as much as 30 million gallons of oil that had leaked from a Brooklyn refinery over the course of a century, contaminating ground water in a 50-acre area around Newtown Creek.

The suit led to a settlement requiring the company to undertake a massive remediation project and contribute nearly \$20 million to projects aimed at reducing air-and-water pollution in the surrounding community.

In each of these cases, dangerous pollution would have carried on indefinitely had it not been for citizen enforcement. They demonstrate clearly how democratizing enforcement of our environmental laws provides an important backstop when government

CITIZEN SUITS PLAY A VITAL ROLE IN PROTECTING LIVES AND CLEANING UP POLLUTION.

OIL SHEEN ON NEWTOWN CREEK, WHERE AS MUCH AS 30 MILLION GALLONS OF OIL LEAKED FROM A BROOKLYN EXXONMOBIL REFINERY OVER THE COURSE OF A CENTURY, CONTAMINATING GROUND WATER IN THE AREA.

PHOTO BY HUDSON RIVERKEEPER

regulators fail to uphold the law, promotes fuller implementation of the law, and enhances important protections for our natural resources and our health. Other countries have taken note of these suits' effectiveness as they develop their own environmental laws. The Chinese government, for example, recognizing that a lack of enforcement at the local level was contributing to a national environmental crisis, amended its Environmental Protection Law in 2014 to allow citizens to file enforcement actions "against acts that pollute the environment and . . . have the major risk of harming the social public interests." Communities and public-interest groups across China have begun using their new authority to address terrible pollution problems that have plagued communities for many years without relief from government action.

In 1985, the U.S. Senate Committee on Environment and Public Works found that "citizen suits are a proven enforcement tool. They operate as Congress intended – to both spur and supplement . . . government enforcement actions. They have deterred violators and achieved significant compliance gains." Nowadays, however, some legislators (many of whom receive large campaign contributions from corporate polluters) are singing a much different tune, seeking to dilute citizen-enforcement authority, or possibly eliminate it altogether. Because citizen suits have proven to be such an effective mechanism to stop illegal pollution, it is perhaps no wonder that lobbyists for the most powerful polluters in the country have taken aim at the laws that authorize these actions. These lobbyists hand-deliver their deep-pocketed clients' wish lists to government officials, and bills seeking to quell citizen participation in environmental enforcement have begun to surface in Congress. For instance:

- H.R.1179, the so-called "Discouraging Frivolous Lawsuits Act," a bill introduced by Rep. Tom Rice (R-SC), would actually discourage citizens from bringing non-frivolous Clean Water Act enforcement suits. In spite of what the title suggests, truly frivolous lawsuits are already discouraged by the threat of court sanctions and liability for the opposing side's legal fees. H.R.1179 would create a new requirement for the citizen to pay the defendant's attorney fees if the citizen did not ultimately prevail in court. Because there is always a risk that even the most airtight legal case could be thrown out on a technicality, well-intentioned plaintiffs would have to consider the possibility that their

CITIZEN SUITS WOULD "SUPPLEMENT, NOT SUPPLANT" GOVERNMENT OVERSIGHT.

efforts to enforce the Clean Water Act could end up costing them millions if this bill becomes law.

Current laws already discourage frivolous citizen suits, because plaintiffs must pay the defendant's attorney fees if a court determines their case is "frivolous, unreasonable, or without foundation." Moreover, instances in which citizen suits have been found "frivolous" are exceedingly rare. Because plaintiffs do not stand to recover monetary damages, there is little incentive to pursue a frivolous citizen suit.

- H.B. 848, introduced by Rep. Dan Newhouse (R-WA), would severely hamper citizens' ability to sue factory-farms that contaminate groundwater with dangerous pathogens. The bill would amend the Resource Conservation and Recovery Act to prohibit a citizen suit against an agricultural operation that was illegally creating, in the words of the act, an "imminent and substantial endangerment" to human health or the environment, as long as state regulators had developed a "plan to achieve compliance" with the law. But such plans may be vague, open-ended and non-binding, particularly in the many states where "Big Ag" enjoys a cozy relationship with state regulators that have a record of lax enforcement – that is, the states where citizen suits are needed most.

Proponents of these efforts to erode democracy and public rights to participate in environmental protection often express a concern that citizen-suit provisions allow "runaway litigation" by environmental groups that clog the courts with frivolous lawsuits, harass law-abiding businesses, and interfere with government oversight. But these alleged fears have no basis in fact. To the contrary, citizen suits play a vital role in protecting lives and cleaning up pollution, and they pose no threat at all to businesses that obey pollution laws. Current environmental laws also ensure that citizen suits will not interfere with the proper functioning of government. The federal laws do not allow citizen suits in cases where the government is already "diligently prosecuting" the violations at issue. In fact, before filing a citizen suit against a polluter, the citizen must first notify the violator, the state and the EPA of its intent to file suit and then wait 60 days before actually filing in court. This period of delay is intended to give the polluter an opportunity to come into compliance or to give the government the opportunity to do its job. These limitations were carefully structured to ensure that citizen suits would "supplement, not supplant" government oversight.

U.S. environmental laws have profoundly improved the living conditions of every single American, saved countless lives, and have served as models for environmental regulation in countries around the world. Citizen-enforcement provisions have been a major part of this success. By democratizing enforcement, our government works more efficiently and effectively, and, as a result, we all benefit from cleaner air, land, and water. The continuing attempts by some of our elected officials to steal away this important right would, on the contrary, benefit a few empowered polluters, while leaving people and communities defenseless against their dangerous violations. **W**

U.S. ENVIRONMENTAL LAWS HAVE PROFOUNDLY IMPROVED THE LIVING CONDITIONS OF EVERY SINGLE AMERICAN.

YES

S T A T E S

C A N

P R O T E C T

T H E I R W A T E R W A Y S

F R O M P I P E L I N E S

U.S. COURT RULES THAT STATE AGENCY HAS FINAL

SAY ON PIPELINE'S THREAT TO WATER QUALITY.

BY DANIEL E. ESTRIN

GENERAL COUNSEL AND ADVOCACY DIRECTOR

THE NUMBER OF PIPELINE PROJECTS ACROSS THE UNITED STATES HAS SKYROCKETED OVER THE PAST 10 YEARS, as hydraulic fracturing with horizontal drilling, the process known as fracking, has become a prevalent means of oil and gas extraction. As our many Waterkeepers who have opposed these projects can testify, pipeline construction can have enormous adverse impacts on water and air, and on fish-and-wildlife habitats, including those of endangered species. And these impacts don't end once construction is complete. Erosion, sedimentation, turbidity and temperature changes in waterways can persist for years after construction is complete. Further, once a pipeline is in service, there are the very real threats of leaks, spills and explosions, and of significant impacts, especially to air quality, caused by the noisy, obnoxious compressor stations that keep fuels flowing through pipelines. Meanwhile there's always the "elephant in the room" – global climate change. The more we continue to build a vast network of fossil-fuel pipelines, committing to extract and burn remaining reserves of oil and gas, the greater we endanger ecosystems around the world and the health and well-being of billions of people.

In 2012, when I was managing the environmental litigation clinic at Pace Law School outside New York City, a student suggested that we represent a group of citizens she had helped form to oppose the proposed Constitution Pipeline, a 121-mile interstate gas-pipeline project

that would cut through approximately 99 miles of forest and agricultural areas and approximately 250 waterways in central New York State. The pipeline would transport fracked gas, likely to be exported as liquefied natural gas, from shale formations in Pennsylvania to Wright, New York, where it would connect with other pipelines.

I had never been involved in opposing an interstate pipeline project, so I began researching what opposing this project might entail. The news was not good. I learned that the agency responsible for licensing and regulating interstate natural gas pipelines, the Federal Energy Regulatory Commission (FERC), had been, in effect, "captured" by the gas industry it is supposed to regulate, and was in large measure failing to protect communities from the adverse environmental impacts of pipeline projects. Under the National Environmental Policy Act (NEPA), FERC is required to assess each application on its own merits, and determine, after considering environmental impacts, whether a proposed gas pipeline would meet the federal Natural Gas Act's (NGA) standard of "public convenience and necessity." But the agency consistently downplayed these impacts and assumed that construction and operation would serve the public interest. In virtually every case, FERC put the interests of gas drillers and pipeline companies ahead of those of private property owners, almost never including in its public-convenience-and-necessity calculus any earnest consideration of the interests of those

OUR TECHNICAL REVIEW OF THE PROPOSED ROUTE AND CONSTRUCTION DETAILS, AIDED BY ACADEMIC EXPERTS IN WATER QUALITY AND ECOLOGY, REVEALED THAT THIS PROJECT WOULD, IN FACT, CAUSE LONG-LASTING IMPAIRMENTS TO WATER QUALITY AND VIOLATE STATE STANDARDS.

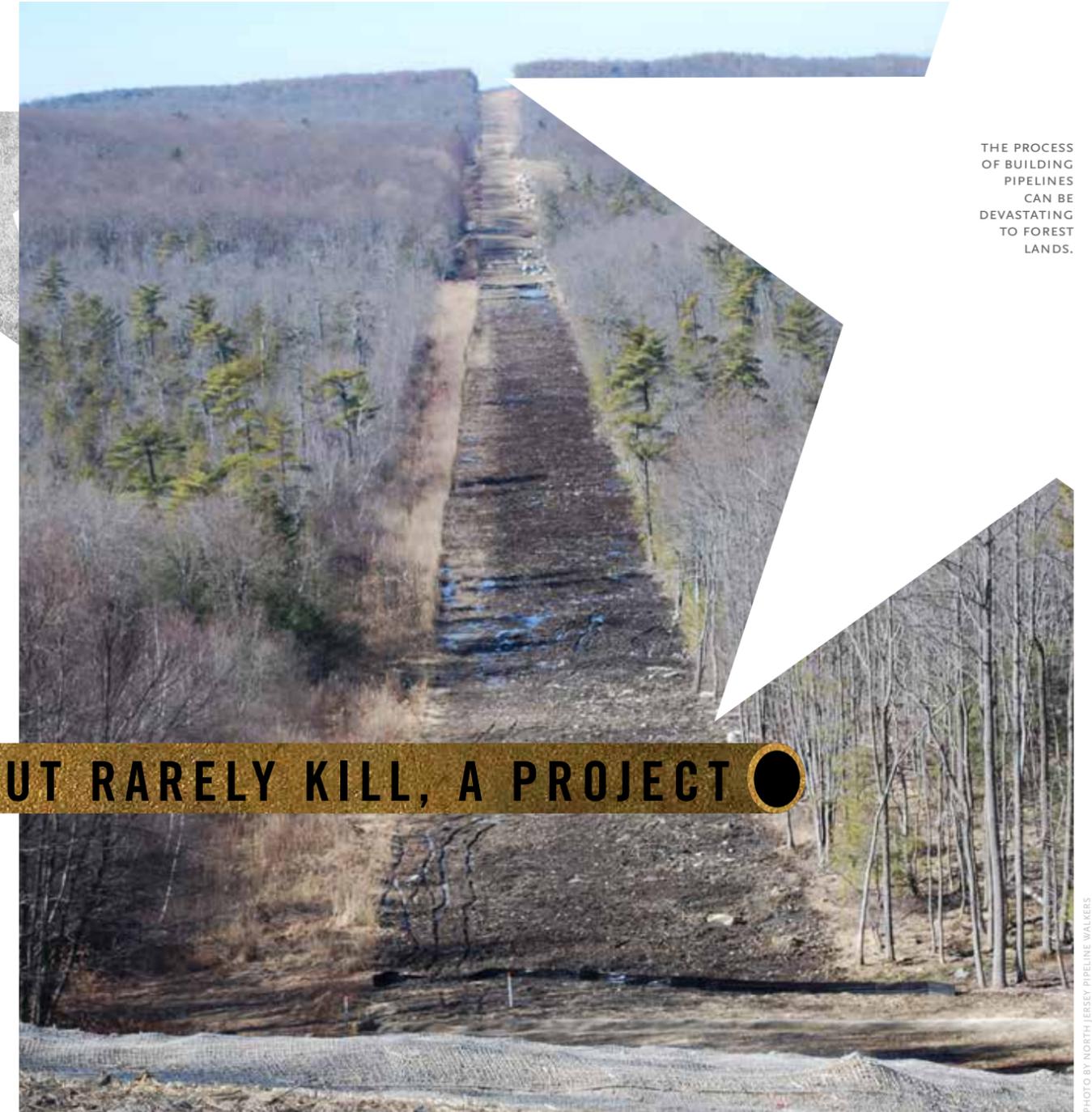
FEDERAL AGENCIES CAN SOMETIMES DELAY, BUT RARELY KILL, A PROJECT

who may oppose pipelines for valid reasons, including threats to their environment, safety and property values. What I learned was that once a certificate of convenience and necessity is granted, the NGA gives the recipient company the power of eminent domain to condemn private property, regardless of landowners' objections, and often with minimal compensation.

Our law clinic ultimately took on representation of "Stop the Pipeline," a group of concerned citizens and property-owners along or near the proposed pipeline route. The student who had motivated us, Anne Marie Garti, who later graduated from Pace Law School and passed the New York bar, joined our representation as a volunteer attorney. Already a seasoned activist, she proved to be a skilled grassroots organizer and legal strategist, and played a key role

in organizing opposition in the affected communities. She quickly mastered the FERC process, and helped formulate our plan to fight it.

We recognized early on that citing NEPA violations to kill this dangerous, misguided project would be a long shot, for such violations by federal agencies can sometimes delay, but rarely kill, a project, so we would need to successfully implement other strategies. One of these would be to urge New York State to assert its authority under the federal Clean Water Act's section 401. While under the NGA, most state environmental laws and regulations are preempted by FERC's virtually exclusive authority, section 401 expressly reserves water quality certification (WQC) to the states. Several waterways the pipeline would cross are cold-water streams



THE PROCESS OF BUILDING PIPELINES CAN BE DEVASTATING TO FOREST LANDS.

PHOTO BY NORTH JERSEY PIPELINE WALKERS

designated as supportive of wild trout spawning, and New York historically has protected these fisheries. In fact, the state had not been shy in flexing its regulatory muscles in regard to a number of cases involving water quality certification. For example, in another recent clinic case involving Nuclear Regulatory Commission relicensing at the Indian Point nuclear power station, the New York State Department of Environmental Conservation (DEC) had denied a WQC. We determined that a careful review of water quality impacts and engagement with state regulators through the administrative process might provide one opportunity to stop the Constitution Pipeline project.

Our technical review of the proposed route and construction details, aided by academic experts in water quality and ecology,

revealed that this project would, in fact, cause long-lasting impairments to water quality and violate state standards. We included those experts' reports in two sets of technical comments submitted to the DEC that demonstrated how those waters would be impaired and sensitive habitats destroyed.

While the WQC application was pending, DEC made repeated requests to the pipeline company to provide technical information regarding the hundreds of stream-crossings it had proposed. DEC advised the company that it requires most stream-crossings to be made using trenchless techniques, such as horizontal directional drilling under streambeds rather than damming and ditching through streams. The pipeline company arrogantly argued that it was not feasible to use those techniques for the vast majority of



PHOTO BY SIPA USA VIA AP

LEFT, GROUPS RALLY TO ASK NEW YORK GOVERNOR CUOMO TO PROTECT STATE WATER BY DENYING THE REQUIRED WATER QUALITY CERTIFICATE FOR THE CONSTITUTION PIPELINE. BELOW, CITIZENS FROM COAST TO COAST ARE TAKING TO THE STREETS TO FIGHT PIPELINES THAT WILL HURT THEIR COMMUNITIES. HERE, LOCALS RALLY AGAINST AN LNG PIPELINE AT THE OREGON STATE CAPITOL.



PHOTO BY ALEX MILIAN TRACY

stream-crossings, and that only FERC could determine what construction techniques were required. DEC responded that the company must provide technical feasibility reports for crossings it believed could not be made using trenchless techniques. But the company effectively blew off DEC, providing reports for only a small percentage of the requested crossings. Moreover, the company rejected DEC's advice to minimize impacts by constructing much of the pipeline on an existing right-of-way, the I-88 highway corridor, and had convinced FERC to authorize a less costly pipeline route through farmland and greenfield areas with steep slopes, which would cause significant degradation of water quality.

On Earth Day 2016, as the one-year period allowed by the Clean Water Act for a state's consideration of a WQC application was about to end, DEC issued a Notice of Denial, which explained that the company had rejected DEC's advice and had failed to provide most of the technical information the state had requested, and had thus failed to demonstrate that the project would not cause or contribute to violations of state water quality standards.

The company appealed this notice directly to the U.S. Court of Appeals for the Second Circuit, which, under the Natural Gas Act, had jurisdiction over the challenge. The Pace clinic intervened in this appeal on behalf of Stop the Pipeline. The pipeline company argued, among other things, that a state's jurisdiction to review, and "in effect, veto," FERC's findings made during the NEPA process is pre-empted under the NGA. On August 18, 2017, the Second Circuit denied Constitution's petition, expressly rejecting the company's pre-emption argument. The court noted that, while the NGA generally pre-empts state laws, it states that nothing in the statute affects the rights of states under the Clean Water Act. The court then pointed to section 401, which expressly states that "[n]o license or permit shall be granted if [a WQC] has been denied by the State." Thus, the court noted, section 401 can indeed fairly be described as "a statutory scheme whereby a single state agency effectively vetoes an energy

pipeline that has secured approval from a host of other federal and state agencies."

What lessons can we take from the Constitution Pipeline experience for future engagements in the FERC pipeline-approval process?

First, be creative and think beyond the National Environmental Policy Act. Second, help state regulators understand through the administrative process that the Natural Gas Act expressly preserves their authority to protect state waterways. Third, provide those regulators with ammunition in the form of water quality data and expert reports, which they can rely upon should they wish to call "foul" on a proposed pipeline project. Fourth, recognize the value of submitting such data and reports during a WQC comment period, even if it seems likely that a state would not assert its WQC authority, as an arbitrary and capricious grant of a WQC by a state could be the subject of a judicial challenge.

Finally, it is important to be aware that FERC is now pushing back against state WQC authority. The commission recently took the position regarding another New York pipeline project that a denial of a WQC by DEC was ineffective because it had waived its authority by not making a decision within one year of filing of the WQC application. DEC had taken the position that the one-year clock started to run as of the date that it deemed the WQC application "complete," but FERC ruled that the clock starts on the filing date of the application even if it is incomplete. Seeing an opening to potentially revive its moribund pipeline project, Constitution Pipeline Company recently filed a petition for a declaratory order with FERC seeking a ruling that New York also waived its WQC authority on that project. Waterkeeper Alliance has intervened in this FERC proceeding to fight any effort to chisel away at state 401 WQC authority.

It remains to be seen where courts will land on these issues, but states that wish to preserve their authority to deny or condition WQCs pertaining to FERC projects should assume that the clock on their one-year period in which to do so begins to tick on the original filing date of a WQC application by a pipeline company. **W**

ENVIRONMENTAL ACTIVISM IN THE AGE OF TRUMP

AN INTERVIEW WITH PUGET SOUNDKEEPER

CHRIS WILKE

CHRIS WILKE IS THE SOUNDKEEPER AND EXECUTIVE DIRECTOR OF SEATTLE-BASED PUGET SOUNDKEEPER. IN THIS FRANK INTERVIEW HE TALKS WITH TYEE BRIDGE, A FORMER FRASER RIVERKEEPER AND WRITER, ABOUT WHAT THE TRUMP ERA MEANS FOR ENVIRONMENTAL ADVOCATES AND ALL THOSE WHO CARE ABOUT CLEAN AIR AND WATER — AND ABOUT THE “FOUR-PRONGED” STRATEGY PUGET SOUNDKEEPER HAS EMPLOYED IN TACKLING TOXIC POLLUTION.

PHOTOS BY PUGET SOUNDKEEPER ALLIANCE



PUGET SOUNDKEEPER CHRIS WILKE

those fights in court. We’ve done it before. If the Trump administration hastily advances policies, in terms of executive orders or via the EPA, those policies are still accountable to law. If they’re not following procedures or overarching statutes like the Clean Water Act, those kinds of orders can be thrown out. We’ve seen this with the immigration ban, and the approval of the Dakota Access Pipeline at Standing Rock, so that gives us hope.

We did this even under Obama, but it’s all the more crucial under the Trump administration.

IT SOUNDS LIKE THE POSSIBILITY OF PERMANENT DAMAGE EXISTS MORE FROM CONGRESS THAN IT DOES FROM THE PRESIDENT.

CW: To a point. Maybe the most severely damaging thing that Trump has done so far is move forward with reducing the workforce of the EPA by 25-to-30 percent. The plan is to eliminate up to 3,000 jobs.

He’s also called for a 31 percent budget cut there, among many other cuts in many other agencies. And everyone in Congress is kind of saying, “Yeah. Well, that’s dead on arrival, we’re going to have our own budget and restore a lot of that funding.” But destabilization is the goal here, and Trump is accomplishing that.

He’s moving forward with all these lay-offs, and he actually has authority to do this— because you don’t need Congress’s approval to fire somebody. You only need Congress’s approval to hire a bunch of new people. And despite the rhetoric of the EPA being a “runaway agency,” it basically has the same workforce it did in the early years of the George W. Bush administration. It did not increase under Obama. The EPA hasn’t really added any new positions in something like 18 years.

YOU CAN ONLY IMAGINE HOW IT FEELS TO BE WORKING AT THE EPA SINCE TRUMP WAS ELECTED.

CW: It’s all had a huge demoralizing effect within the agency. I’ve heard there are people crying at their desks there. These are career environmental professionals who are obviously not getting rich. They chose their career because they wanted to protect the environment.

Along with all the firings, Pruitt has introduced a level of surveillance and secrecy that is chilling. Staffers are feeling like everything needs to be said in private conversations; they don’t want to talk on the phone or put things in emails. It’s a really crazy time.

TYEE BRIDGE: WHAT IS IT LIKE TO BE AN ACTIVIST IN THE AGE OF TRUMP?

CHRIS WILKE These are scary times, for sure. With Trump, there’s a kind of double-barrelled issue: first, the destruction of the EPA under Scott Pruitt, and second, the Republican-dominated Congress, which has been emboldened by the 2016 election. Whatever Congress passes likely will get signed by President Trump, so they can go crazier than they did before. And when the House of Representatives passes a crazy bill we can’t always be confident the Senate will stop them. The reality that facts, and the law, are being thrown out the window right now makes it extra scary. But it’s exciting in that there’s always something for us to do. Our stance now is that we’re going to have to rely on the courts.

SO MUCH COMES BACK TO THE LAW WHEN IT COMES TO PROTECTING THE ENVIRONMENT.

CW: That is the one saving grace to all of this. The president doesn’t make law. He implements and executes the law. So, if he doesn’t follow the law — or his subordinates, including the director of the EPA, don’t follow the law — we can win

**WE SAID THAT WAS RIDICULOUS.
YOU CAN'T USE A RIVER THAT'S
ALREADY POLLUTED WITH PCBS
TO DILUTE YOUR PCBS.**



PUGET SOUNDKEEPER OFTEN COLLABORATES ON RALLIES LIKE THIS ONE HELD IN THE SPRING OF 2017 IN SUPPORT OF THE SALISH SEA. INCREASED OIL TRANSPORT IN THE SALISH SEA IS AN UNACCEPTABLE THREAT TO WATERWAYS, COMMUNITIES, AND THE ENDANGERED LOCAL ORCA POPULATION. PIPELINES, OIL TRAINS, AND INCREASED TANKER TRAFFICE ALL PUT NATURAL RESOURCES IN DANGER.

LET'S TALK ABOUT SOME OF YOUR VICTORIES IN THE PAST TWO OR THREE YEARS, AND COME BACK TO THE TRUMP FACTOR. PUGET SOUNDKEEPER HAS WHAT YOU CALL A "FOUR PRONGED" STRATEGY IN DEALING WITH TOXIC POLLUTION. WHAT DOES THAT MEAN?

CW: We're really talking about changing the way toxics are regulated in waterways across the whole state. This is a major problem for us in Washington, especially when it comes to pollutants like polychlorinated biphenyls – PCBs – that bio-accumulate up the food chain. Our famous Chinook salmon have a health advisory on them: for resident Chinook that never leave Puget Sound, you're not supposed to eat a meal more than twice a month. And that's our most iconic fish. These are the fish that are swimming by my office right now in the middle of Seattle. Orca whales in our waters, which feed on these same salmon, are some of the most toxically polluted marine mammals on the planet. So it's a problem we're trying to tackle in multiple ways. The first prong was a decision against BP in 2015. We won a ruling in which we challenged the language in a wastewater permit for a refinery, BP's refinery at Cherry Point. It relates to a WET test, a Whole Effluent Toxicity test, in which a lab exposes fish to the facility's wastewater effluent, and monitors fish survival. Under the old permit language, BP could kill fish in that water and not be found in violation of the Clean Water Act.

We said this was wrong, and after going through several challenges, the state Court of Appeals agreed with us. In fact the judge really admonished the state, in language that was

unusually strong for cases like this, for failing to uphold the public trust. The verdict didn't only impact BP but changed the permit language that affects many other facilities statewide, including refineries and pulp mills.

YOU GOT A SIMILAR RESULT IN ANOTHER CASE DEALING SPECIFICALLY WITH PCBs, RIGHT?

CW: Yes. That case represented the second prong of our strategy. It related to a company called Seattle Iron and Metals (SIM). We challenged the dilution policy that Washington State's Department of Ecology had in place. SIM's facility is on the Duwamish River, which is highly contaminated with PCBs. In fact, after more than a century of pollution, it was finally designated a Superfund site for cleanup as of 2001. The department had said that SIM could have PCBs in their effluent, because the Duwamish would sufficiently dilute them in what are called "mixing zones." We said that was ridiculous. You can't use a river that's already polluted with PCBs to dilute your PCBs. It's already reached its assimilation factor. And we got a very similar ruling from a Hearings Board in that case, in which it sided with our point of view. It said pretty strongly to the Department of Ecology that you can't mandate a mixing zone in a river that is already polluted to capacity — and that such zones should rarely, if ever, be issued for persistent bio-accumulative toxins like PCBs because it isn't just fish in the mixing zone near the plant that are at risk. Those chemicals end up in Chinook salmon fifty miles away, and in orcas that range even further, or in people eating those fish. So that was another big victory.

The third prong was our victory with fellow Waterkeepers Washington members on the statewide fish-consumption rate. This is part of the human-health

criteria of the Clean Water Act, whereby the state determines how much fish people are eating per day, and backtracking from that, how much pollution can be safely discharged into the environment. It gets down to the rate at which people consume fish and the rate at which they're exposed to toxins, and therefore the rate at which we can safely discharge toxins.

The State of Washington was really in the back pocket of some big industries on this. The allowable fish consumption rate was inadequate, and Washington State regulators were refusing to do anything about it.

WHAT WAS THE CONSUMPTION RATE? WAS IT BASED ON NUMBERS OF FISH PER YEAR?

CW: It was set at 6.5 grams per day, a placeholder based on an average of the United States' general population. But the reality is that many specific groups, like native tribes and Asian Pacific Islanders, and also recreational fishermen in general, were averaging much more than 6.5 grams of fish per day in Washington State.

We should be protecting them, and we weren't. In fact, we were only protecting less than half of the population. We sued the EPA and told them they had to fix the situation, and in this case we had to sue twice, as well. First time we lost; the second time we won, based on a subsequent action by the agency, and established a fish consumption rate that was 27 times greater than what was previously in place, setting a consumption rate of 175 grams a day instead of 6.5 grams a day. It's still way below what many tribes consume, but it's on the way to being more realistic.

SO THEN POLLUTION AMOUNTS HAD TO BE PROPORTIONALLY ROLLED BACK?

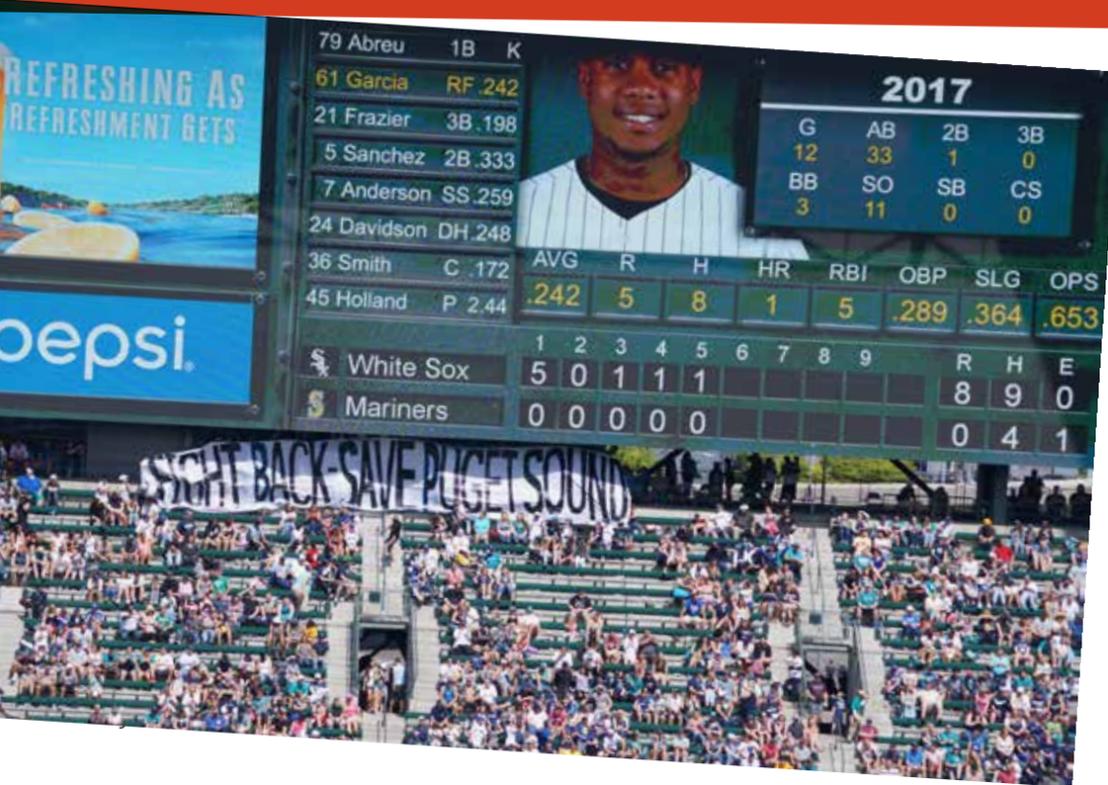
Exactly. That was a significant



COUNT THE VICTORIES.

THESE VICTORIES ALONG THE WAY ARE VERY IMPORTANT.

THIS SOMETIMES IS A GAME OF INCHES.



ABOVE, PUGET SOUNDKEEPER ALLIANCE FILED A CLEAN WATER ACT SUIT AGAINST SEATTLE IRON & METALS FOR POLLUTION IN THE DUWAMISH RIVER. THEIR CONCERNS INCLUDED THE FACILITY'S DISCHARGES AND EMISSIONS OF TOXIC HEAVY METALS, HYDROCARBONS, OXYGEN-DEMANDING SUBSTANCES, TURBIDITY, PCBs, PHTHALATES, AND OTHER HARMFUL POLLUTANTS. LEFT, A GROUP FROM PUGET SOUNDKEEPER ALLIANCE SHOWED THEIR SUPPORT FOR PUGET SOUND DURING A WHITE SOX VERSUS MARINERS GAME IN MAY 2017.

win because it means that PCB levels and other chemicals like mercury and arsenic that are measured numerically must be reduced by a factor of about 25 times. So, PCB levels got 25 times more stringent in late 2016.

THAT'S AMAZING.

CW: Yeah, it was a big win. So those three prongs taken together are really significantly regulating toxins from point sources in Washington right now – the WET test permits, the mixing zone on the Duwamish River and the fish consumption rate.

BUT IN ONE OF YOUR PUBLICATIONS YOU NOTED THAT THERE WAS "SHADOW" OVER THESE VICTORIES, RELATING TO PCB REGULATION. WHAT WAS THAT?

CW: The shadow side is that in all of this the testing regimes for PCBs are not adequate in the first place. That's our fourth prong. It's this issue that many people find very boring but it's so critical, really, to everything. Basically, it boils down to this: Only a tiny concentration is safe for PCBs. It's very, very small, down to picograms per liter.

The thing is, the monitoring method presently used by government agencies, called EPA 608, is not able to test at the required level. It can only test for PCB levels literally thousands of times higher than what are necessary to protect human health. I liken it to driving down a freeway, and you see a sign that says 60 miles an hour; you look down at your speedometer and see that it won't register any speeds below 70,000 miles an hour. So anything below 70,000 is effectively zero. That's essentially how we are still measuring PCBs.

HOW DO YOU CHANGE THAT?

CW: There's a monitoring method, EPA 1668, which does have much more precision. It's approved for some scientific uses, but not for pollution discharge permits yet. We think that's ridiculous. It's all political. It's not approved because the industries don't want it.

These cases are really difficult to bring, because they're against government agencies, and agencies are entitled to deference. So historically, when a case is a citizens' group versus a government entity, you have to provide convincing evidence that the government is shirking its responsibilities and not following the science. And wherever there's any gray area, the courts typically give deference to the agencies on how to implement the laws.

The fact that we were able to overturn three of these already is very significant. But those won't be complete victories if we cannot get this better testing method approved.

IT SEEMS KIND OF INCREDIBLE THAT REGULATORS WOULD ALLOW TOXICS-TESTING METHODS THAT ARE SO INAPPROPRIATE, SO INCAPABLE OF MEASURING TO THE THRESHOLDS THEY SHOULD.

CW: Managing effluent still has so many weaknesses. You have to remember that the Clean Water Act actually envisions that discharges will eventually cease. There was always, since it was instituted in the early '70s, a two-tiered strategy with the Clean Water Act. First, reduce toxic pollution, so it's no longer being discharged in harmful amounts; next, get to the point of eliminating the discharge altogether. Discharge limits are actually seen as an interim step.

Section 101 of the Clean Water Act states the first objective in the whole legislation: "It is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985."

That's on the first page of the Clean Water Act.

THAT'S A HELL OF A BLOWN DEADLINE FOR AN OBJECTIVE SET BACK IN 1972.

CW: That's what we have to remember: that is the goal. Eliminating discharges. The permitting system was designed as an interim step as we move toward that goal.

DO YOU SEE YOUR LEGAL VICTORIES AS BEING IN JEOPARDY UNDER THE CURRENT TRUMP ADMINISTRATION?

CW: Thankfully, no. That's the good thing about working through the courts. The only real way that these decisions can be undone is if the statute is changed, because these violations are against the existing statute.

ANY OTHER ADVICE OR ENCOURAGEMENT FOR OTHERS WHO ARE FIGHTING FOR A LIVEABLE FUTURE RIGHT NOW?

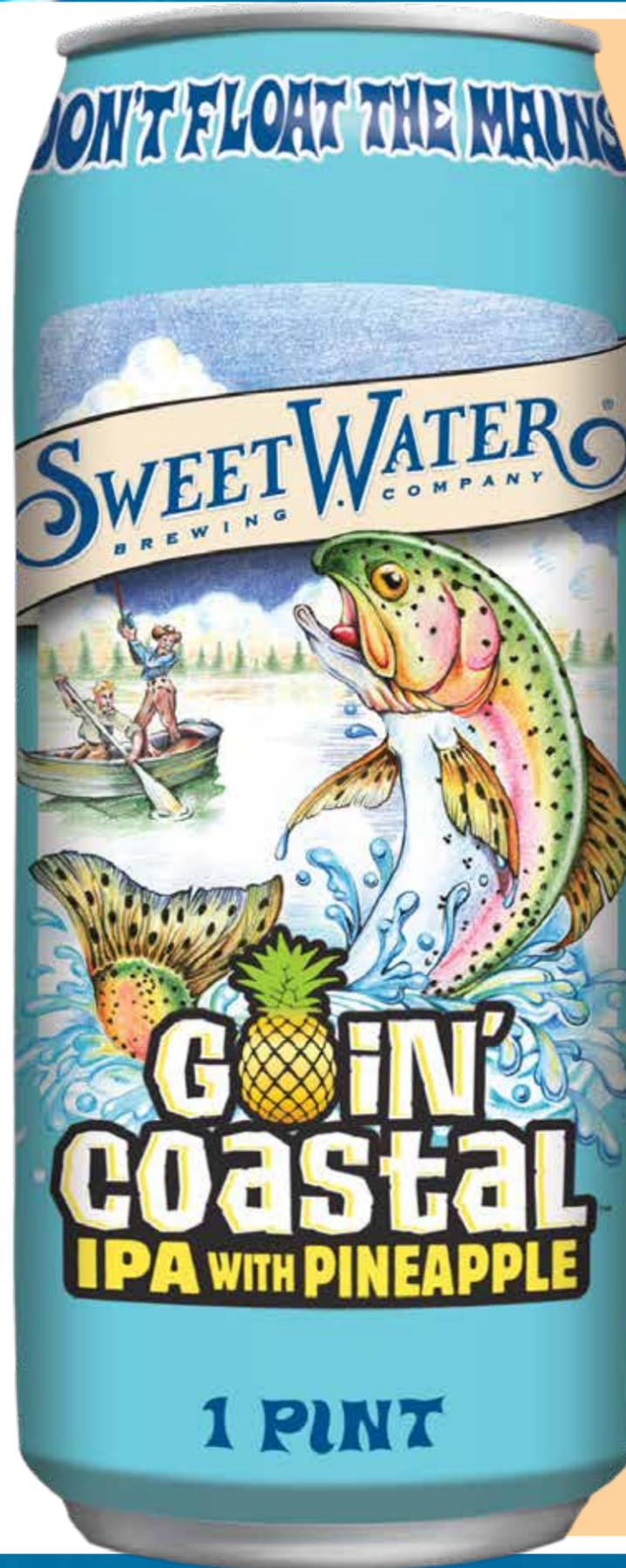
CW: I would say continue to count the victories. As mentioned earlier, we saw a victory in the case of the Dakota Access Pipeline, for which the Trump administration hastily and erroneously issued an approval. These victories along the way are very important. This sometimes is a game of inches. We're resisting erosion of our environmental protections and we're also amassing victories as much as we can.

We all just have to continue speaking to our core values about clean air and water. We know these are very popular with the public. People don't want to see species become extinct. They don't want to see people getting sick. They understand the value of clean water. We have to remember to speak to those values, and if we do that, people will be behind us. **W**



WATERKEEPER ALLIANCE IS PROUD TO BE A PARTNER OF SWEETWATER BREWING COMPANY,

WHICH HAS BEEN SUPPORTING LOCAL WATERKEEPER ORGANIZATIONS TACKLING CLEAN WATER ISSUES ACROSS THE SOUTHEAST FOR OVER A DECADE. THEY HAVE BECOME INVALUABLE IN THE FIGHT FOR CLEAN WATERWAYS.



CHATTAHOOCHEE RIVERKEEPER
“Chattahoochee Riverkeeper’s partnership with SweetWater Brewing Company started nearly 20 years ago with a phone call from owner Freddy Bensch, letting us know that they had some space on the bottom of their 420 12-packs and asking if we would like our logo and hotline number included. After all, they relied on water from the Chattahoochee River to make their product (not to mention Freddy is an avid fly fisherman and conservationist). Since then, our partnership has grown into a large scale cause-marketing campaign that has helped CRK raise more than \$500,000 over the past 11 years and has expanded to support other Waterkeeper groups within the SweetWater footprint. Not only does our partnership with SweetWater bring in much needed revenue for our program work, it also allows us to reach a market in metro Atlanta that might not otherwise know of our mission. SweetWater is a company that truly understands that it is more than just the bottom line - it’s about giving back to the communities you love.”
— Jason Ulseth, Riverkeeper

Favorite SweetWater brew: IPA

ST. JOHNS RIVERKEEPER
“Partnering with SweetWater Brewing Company has allowed us to partner with bars and restaurants that have entirely different audiences than we normally reach. We always meet so many new people willing to volunteer, join an event or become a member through the Save Our Water campaign.” — Shannon Blankinship, Outreach Director

Favorite SweetWater brew: Goin’ Coastal IPA

MOBILE BAYKEEPER
“The biggest and best event SweetWater helped us create is Bay Bites! It’s a Food Truck Festival with the best of the best SweetWater beers. We help promote their message of “It takes clean water to make great beer” (and great food!). The event is hosted on the river downtown and gives us a great opportunity to connect people looking for “fun” to all we do for clean water, clean air and healthy communities.”
— Casi Callaway, Baykeeper

Favorite SweetWater brew: IPA



PROTECT AND PRESERVE

2018



www.abtechindustries.com

OUR MISSION

AbTech Industries designs innovative technologies to solve the world's greatest water treatment challenges. AbTech offers effective clean water solutions for a variety of industrial and municipal stormwater applications.

OUR VISION is a world without polluted water.