

The Environmental Defense Center (EDC) is the only nonprofit environmental law firm between Los Angeles and San Francisco. EDC works with community groups on Central Coast environmental issues such as protecting water quality, preserving precious open spaces, saving species from extinction and guarding public health.



WINTER 2003 NEWSLETTER

ENVIRONMENTAL DEFENSE CENTER

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HALACO: Settlement Forces Cleanup of Coastal Industry

EDC and our client, the Santa Barbara Channel-Keeper ("SBCK"), recently announced a historic settlement that will ensure cleanup of air and water pollution around Ormond Beach in Ventura County. The settlement resolves dozens of claims brought by EDC and SBCK alleging that the Halaco Engineering Company, a metal smelting facility in Oxnard, had violated several state and federal environmental laws for decades.

The importance of the settlement is highlighted by the fact that despite numerous permit and regulatory violations over the years, the relevant governmental agencies had been frustrated and ineffective in forcing Halaco to clean up its operations. Fortunately, EDC and SBCK were able to use the legal hammer of environmental "citizen suit" laws to bring about a favorable resolution that will protect coastal waters and residents from the adverse health effects of the facility's operations.

EDC began researching environmental infractions at Halaco's plant in the mid-1990's, discovering hundreds of violations of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Proposition 65 (California's Safe Drinking Water and Toxic Enforcement Act). Our research confirmed a determination made by the Environmental Protection Agency ("EPA") that Halaco was violating the Clean Water Act by discharging industrial wastewater into a series of unlined ponds that were leaching into the groundwater and adjacent Ormond Beach Wetlands. Government officials discovered high concentrations of numerous toxic chemicals, including radioactive thorium 230, in the soil and water at the Halaco facility. The Ormond Beach Wetlands provide habitat for 30 species of birds, including several threatened and endangered species. Ormond Beach also serves as a popular recreation spot for neighboring residents and visitors.



EDC file photo

In addition, the Ventura County Air Pollution Control District ("APCD") found that Halaco had been discharging air contaminants in violation of the Clean Air Act. A health assessment conducted by the APCD found significant cancer and chronic health risks (including reproductive toxicity) from Halaco's air emissions. Despite these findings, Halaco had failed to take corrective action and instead sued the agencies for trying to enforce health and safety laws.

EDC filed suit on behalf of EDC and SBCK in January, 2001. After years of litigation, we reached an agreement this fall that requires Halaco to install measures to protect against stormwater runoff, offsite leaching of pollutants, groundwater contamination, toxic air emissions, and odors from the site. Halaco also agreed to remove a heap of toxic waste material located next to Ormond Beach or pay significant penalties to environmental programs. Finally, Halaco agreed to fund environmental projects in the Oxnard area. *EDC would like to acknowledge our co-counsel Lawyers for Clean Water and Andrew Packard for their work on this case.*

ABOUT EDC The Environmental Defense Center is the only environmental, nonprofit law firm on California's Central Coast. EDC works with community groups on such environmental issues as protecting water quality, preserving precious open spaces, fighting offshore oil, saving species from extinction and guarding public health. EDC provides legal, educational and advocacy support to grassroots efforts.

EDC complements the efforts of local community and environmental groups to protect our environment by offering a service that no other organization between Los Angeles and San Francisco does: the expertise of trained staff in understanding and navigating the system of laws that are in place to protect our health and environment.



EDC STAFF

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Linda Krop

From the Desk of Linda Krop

2003 has been a busy and successful year for EDC. Looking back, we can celebrate many accomplishments: stopping offshore oil development; ensuring preservation of the Ahmanson Ranch and Ellwood Mesa; forcing the EPA to improve its stormwater regulations; ensuring additional protections for biodiversity and endangered species; achieving an oak protection program in Santa Barbara County; protecting Ormond Beach by forcing Halaco to clean up its operations and by defeating the Pacific Vehicle Processing project; protecting the Gaviota Coast by assuring comprehensive review for the Naples development and securing the abandonment of State oil and gas leases; developing a community blueprint for the conservation of Hearst Ranch; and successfully educating the community about ways to reduce urban and agricultural pesticide use.

That being said, we have a lot of work to do. We continue to face threats from the Bush Administration to overturn our court victories by weakening environmental laws and enacting backdoor regulatory changes. The so-called energy crisis has spurred additional pressures to dot our coast with new oil development and Liquefied Natural Gas terminals. Development pressures threaten open spaces, agricultural lands, air quality, and our way of life. As the only nonprofit environmental law firm between Los Angeles and San Francisco, it is our mission to protect the local environment and support healthy communities. We appreciate your support through year-end donations, holiday gifts of membership and merchandise, and contributions in honor or memory of a loved one. Please be sure to send your membership contribution of \$35 or more by the end of the year to retain benefits such as the EDC newsletter. Thank you for helping us protect the environment for future generations.

EDC Hires A New Executive Director

EDC is pleased to announce that we have hired **Cameron Benson** as our new Executive Director. Cameron has been part of the EDC family for nearly a decade—first serving as an EDC law clerk, then attorney, and always an ardent supporter. Cameron has broad expertise in environmental law and policy, having served as District Director for Assemblymember Hannah-Beth Jackson, and as a consultant for local and international non-profit environmental organizations. Cameron has worked with EDC and other groups to preserve open spaces, protect our coast from offshore oil development, promote conservation of natural resources and water quality, and guard the public from exposure to pesticides and other toxic substances. He has proven to be a strong and effective advocate for environmental protection. As a twenty-year local resident and activist, Cameron is a familiar face in our community and we enthusiastically welcome his return to EDC.



PHOTO BY ROBERT BERNSTEIN

Special Announcements

EDC welcomes **Joyce Howerton** to our Advisory Board as well as **Stephen Enrico, Gail Osherenko** and **Dale Zurawski** to EDC's Board of Directors. Stephen was elected to the position of Treasurer.

After many dedicated years at EDC, **Jenna Garmon** has left her position as Community Affairs Director to pursue graduate school in Conservation Biology. Jenna says, "It has been an honor and a pleasure to work at EDC for the last three and a half years" but the truth is, the pleasure was all ours. Good luck, Jenna, you will be missed!

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Goleta Beach Rock Walls to be Considered by State Agencies

During a big storm in 2002 Santa Barbara County installed an emergency rock seawall at Goleta Beach. EDC is representing Santa Barbara Surfrider Foundation to ensure that efforts such as these to stop erosion comply with laws and policies designed to protect beach habitat and coastal access. California's entire coastline is threatened by rock wall revetments (seawalls) that harm the environment by eroding adjacent and down coast beaches, damage fragile intertidal habitats and interfere with beach access. We are working with the County to find a long-term solution that balances natural resource protection and beach recreation. Specifically, EDC is working to ensure that the State Lands Commission and the Coastal Commission comply with coastal and environmental laws and policies when considering any future permits for existing "emergency" rock walls. In the coming winter months, EDC will monitor the ongoing beach nourishment program at Goleta Beach, and will watchdog the County to ensure that it does not dump additional rocks onto the beach.



Rock walls leave little or no space for recreation or wildlife on the beach. PHOTO BY MARK HOLMGREN

Oil Update: Despite Win, Bush Trying to Change Law

Earlier this year, the Bush Administration announced that it would not appeal EDC's and the State of California's court victory which banned development of 36 federal oil and gas leases offshore Santa Barbara, Ventura and San Luis Obispo Counties, and which required State review of the leases. Before we were done celebrating, however, the Administration issued formal notice of its intention to weaken the very regulations that ensure meaningful State review. EDC has submitted comments on behalf of several environmental organizations, objecting to the proposed changes and asking the Administration to uphold States' rights and coastal protection. We expect a final decision on the regulations by the end of the year.

EDC Helps Enhance Protection of Marine Life in the Channel Islands National Marine Sanctuary

EDC represents the conservation community on the Channel Islands National Marine Sanctuary Advisory Council and chairs the Sanctuary's Conservation Working Group ("CWG"). EDC and the CWG recently submitted recommendations for expansion of marine reserves within the Sanctuary. Expansion is necessary in order to ensure a comprehensive, scientifically-based network of no-take zones that will help recover threatened fish species, preserve ocean wilderness areas, and restore commercial and recreational fisheries to a sustainable level. Although the CA Department of Fish and Game has approved marine reserves within State waters (the first three miles) surrounding the Channel Islands, the Sanctuary will now consider whether to extend the reserves into Federal waters (up to six miles) surrounding the Islands. Only 1% of the world's oceans are protected in reserves, and the Channel Islands National Marine Sanctuary includes some of the most diverse and rare marine resources found anywhere in the country. The Sanctuary will release a draft plan and environmental impact statement in 2004.

In addition, EDC recently led the CWG in an effort to develop recommendations to protect Sanctuary resources from impacts caused by acoustic activities (e.g., seismic surveys, explosives, drilling, and sonar) and large vessel traffic (ship strikes, discharge of ballast water, introduction of invasive species, air and noise pollution). After consulting with experts in the field, the CWG recommended that the Sanctuary invoke the precautionary principle by erring on the side of maximum protection of Sanctuary resources, given their national significance and threatened status. The CWG also recommended that the Sanctuary establish a scientific advisory team to help the Sanctuary respond to activities proposed within and near Sanctuary waters, establish baseline acoustic and vessel traffic data, and prohibit activities that may harm marine mammals, fish, sea turtles and seabirds. These recommendations will be submitted to the Sanctuary Advisory Council in early 2004.



Expansion of State marine reserves is necessary in order to ensure a comprehensive, scientifically-based network of no-take zones that will help recover threatened fish species, preserve ocean wilderness areas, and restore commercial and recreational fisheries to a sustainable level.

Ahmanson Ranch Permanently Protected

With news that the State will acquire the entire 2,700-acre Ahmanson Ranch property for public open space, the 20-year battle over development on the site appears to be at an end. EDC joined the latest phase of the battle in January 2003, when it sued on behalf of Rally to Save Ahmanson Ranch, Save Open Space, Heal the Bay, Natural Resources Defense Council, California Native Plant Society, Wishtoyo Foundation, and Surfrider Foundation to challenge Ventura County's approval of the first phase of development at Ahmanson Ranch. The litigation, together with the persistent public controversy surrounding the development of this ecologically sensitive site in the Santa Monica Mountains, helped provide the impetus for Washington Mutual, the landowner, to sell the property. The acquisition, finalized in November, provides permanent protection for much of the headwaters of Malibu Creek, preserves habitat for the California Red-legged Frog and San Fernando Valley Spineflower, and protects important cultural resources and sacred sites.



PHOTO COURTESY OF TOM GAMACHE

“Thanks to the work of EDC, on behalf of seven environmental groups, we have successfully seized a historic opportunity to preserve key open space in Los Angeles and Ventura Counties. Without EDC this opportunity may have been lost. By supporting EDC, you support this and other important land preservation efforts.”

Rob Reiner
Rally to Save Ahmanson Ranch

Further Studies Required Following Settlement in Santa Clara River Lawsuit

EDC, representing the Friends of the Santa Clara River, has reached an agreement with the City of Fillmore and the developer of the 750-unit Heritage Valley Parks project to settle a lawsuit filed in December 2002. As part of the development, which would be built along the Santa Clara River on Fillmore's east side, an extensive levee system is planned. The lawsuit was based on Friends' concern that the levee would harm the Santa Clara River. The settlement provides for additional studies of the levee's impacts if the development is to move forward. In addition, Friends obtained funding for an independent evaluation of the new studies. This funding is important because further participation will be necessary to ensure compliance with the agreement and protection for the Santa Clara River.

EDC Settles Suit to Obtain Additional Protection for the Ventura Marsh Milkvetch

In May 2003, a court ruled against EDC's claims on behalf of the California Native Plant Society and the Sierra Club that the approval of the North Shore at Mandalay development in Oxnard violated the California Coastal Act. Subsequently, EDC filed an appeal. EDC has now agreed to drop the appeal in exchange for a commitment to fund the establishment of additional off-site populations of the Ventura Marsh Milkvetch, an endangered plant found only on the North Shore site. Remediation of the contaminated site and construction of 300 homes are now likely to occur, and the future of the on-site Ventura Marsh Milkvetch population remains in doubt. The settlement, however, effectively provides an insurance policy for the species by creating multiple populations at other southern California sites, possibly including wetlands at Ballona Lagoon, Bolsa Chica, and Ormond Beach.

Update on the Hearst Conservation Project

Friends of the Ranchland and EDC continue the struggle to preserve San Luis Obispo County's North Coast. We are demanding that the State's potential acquisition of the Hearst Ranch maximize protection of coastal resources. We are also urging the State to allow for public transparency and input on the negotiations between the Hearst Corporation and the State. In addition, we are urging SLO County to update its North Coast Area Plan (NCAP) to better protect coastal resources. The Coastal Commission has recommended 165 changes to strengthen the County's coastal policies, but the County continues to delay their implementation. EDC will attend the Coastal Commission hearing in December to review the first phase of coastal plan amendments, and will monitor the upcoming draft NCAP for compliance with environmental laws.

A Historic Opportunity to Restore Steelhead

EDC is currently representing CalTrout in the proceedings of the State Water Resources Control Board (SWRCB) regarding operations of Bradbury Dam, on the Santa Ynez River. For the first time since Congress authorized construction of the Bradbury Dam, the SWRCB may modify the Bureau of Reclamation's Water Rights Permits to protect the Santa Ynez River and its endangered steelhead population. EDC and client CalTrout are asking for full consideration of the needs of the steelhead both above and below the Bradbury Dam, including 1) water releases from Bradbury Dam sufficient to provide adequate habitat for migration, spawning and rearing of steelhead, 2) a comprehensive analysis of the feasibility of transporting steelhead around the dam and 3) a comprehensive analysis of water conservation measures as a means to increase the water available for the River and steelhead. EDC and CalTrout seek measures that will not simply maintain the remnant steelhead population in the river, but will also facilitate its restoration.

Progress Made for Mission Creek

Mission Creek is one of the most visible and largest creeks in Santa Barbara. Steelhead trout still manage to survive in this urbanized creek. Mission Creek also supports the endangered Tidewater Goby. During the 1990's, EDC helped prevent the Army Corps of Engineers and the City of Santa Barbara from entombing the lower 1.2-miles of the creek in a concrete channel. EDC is currently working with scientists, the City and Army Corps to develop an ecologically-friendly flood control project design as well as a management plan for the estuary. In addition, we have convinced the City to seek funds to remove barriers to steelhead migration. Finally, we are working with the City and Corps to restore sections of the Creek that were channelized decades ago.

EDC Monitoring Ellwood-Devereux Plans

EDC continues to represent Santa Barbara Audubon Society and Save Ellwood Shores in the review process regarding the joint Ellwood-Devereux proposal from UCSB and the County of Santa Barbara. This proposal combines various development projects into one large plan with over 400 new homes near the ecologically valuable Devereux Slough. EDC's role is to ensure proper review of the development projects and Open Space and Habitat Management Plan, and to make sure coastal laws are followed. This is important because the affected area is one of the largest stretches of continuous coastal open space on the South Coast, and is home to important wetland areas, extensive native grasslands, vernal pool complexes, raptor foraging, nesting and breeding habitats and an impressive monarch butterfly grove. In order to ensure appropriate protection of these resources, EDC is working with our clients and biologists to verify the accuracy of the habitat maps and to propose alternatives that will avoid damaging sensitive habitats. The draft Open Space and Habitat Management Plan was released at the end of October and the draft Environmental Impact Reports are expected later this fall or winter.

Federal Government to Consider Expanding Southern California Steelhead Protections

In 2000, EDC and six other groups sued the National Marine Fisheries Service (now NOAA Fisheries) and the U.S. Fish and Wildlife Service based on, among other things, the claim that these agencies arbitrarily excluded landlocked populations of steelhead when the Southern California Steelhead was listed as an endangered species. EDC, California Trout, the Center for Biological Diversity, and the other groups believe that landlocked steelhead trapped behind dams and other man-made barriers are essential for the recovery of the species because they constitute an important genetic reservoir. In addition, establishing the connection between landlocked fish and their ocean-going relatives would help in efforts to remove barriers to fish migration. NOAA Fisheries is now undertaking a review of the status of West Coast steelhead populations, and will consider expanding existing protections to include landlocked steelhead populations. EDC and the other groups will follow this status review carefully in the hope that all Southern California Steelhead will ultimately be protected. Meanwhile, EDC has put its lawsuit on hold pending the outcome of the status review.



Above the dam.



Below the dam. PHOTOS: CRAIG FUSARO, CALTROUT

For the first time since Congress authorized construction of the Bradbury Dam, the SWRCB may modify the Bureau of Reclamation's Water Rights Permits to protect the Santa Ynez River and its endangered steelhead population.



CCEHP Takes On Agricultural Discharges to Waterways

Since March of 2003, EDC has been participating in a review of policies that regulate discharges from agricultural lands into California waters. Agriculture has been one of the few industries that has not had to comply with discharge requirements under the Clean Water Act, operating instead under waivers granted at the State level that allow agricultural operations to release wastewater with minimal oversight or monitoring.

In January of 2003, the waivers for every region in California expired, forcing Regional Water Quality Control Boards (RWQCB) from around the State to make a decision: either renew the waivers for five more years, allowing pollution of our waterways to continue, or come up with a plan that requires growers to implement pesticide and fertilizer reduction strategies that will protect and improve water quality.

EDC's Central Coast Environmental Health Project was invited to participate with local growers and conservation organizations (including ECOSLO, Santa Barbara ChannelKeeper, and The Ocean Conservancy) in crafting requirements specific to the Central Coast region. Although the advisory panel that formed to discuss this issue agreed that monitoring of discharges for pollutants, implementation of Best Management Practices (BMPs), recordkeeping, and continuing education were critical to reducing polluted discharges, no agreement was reached as how to best accomplish these goals.

Today, agricultural operations on the Central Coast continue to operate without waivers and without permits that address discharges to waters of the State. The RWQCB must take action immediately to remedy this situation (see action alert on side panel), especially since a plan was required to be in place by January 2003. EDC's goal is to develop a plan that sustains agricultural operations while protecting the environment.

EDC Challenges Methyl Bromide Regulations

EDC, along with California Rural Legal Assistance (CRLA), is challenging the State's proposed regulations for the highly toxic fumigant pesticide, methyl bromide. Methyl bromide is a known reproductive toxin and is further known to deplete the Earth's protective ozone layer. Although methyl bromide was supposed to be phased out, public agencies have extended its use.

Since the late 1980s, the State Department of Pesticide Regulation (DPR) has been in the process of issuing regulations to govern the use of methyl bromide in California. Unfortunately, the regulations as proposed are inadequate to protect farmworkers and residents living close to fields, as they still do not adequately address long-term (sub-chronic) exposure.

DPR must side with public health and not allow further industry-led studies to dictate when and how one of the most toxic pesticides in the United States is to be applied. EDC and CRLA are preparing recommendations to DPR in an effort to ensure protection of public health and safety. The public comment period runs through November with a final decision expected in the first part of 2004.

TAKE ACTION!

Write the Regional Water Quality Control Board (RWQCB) and ask that agricultural operations be conducted to ensure protection and enhancement of our State's waterways. Please ask that any permit or conditional waiver that is granted include requirements for pesticide and fertilizer reduction, monitoring of discharges, a fee structure to pay for the program, continuing education, and on-site farm plans that ensure steps are being taken to reduce pollution.

Write the RWQCB at:

Members, RWQCB Region 3
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401



Volunteer Profile: Katie Townsend

EDC would like to acknowledge the great volunteer efforts of Katie Townsend. Katie was instrumental in planning this year's TGIF happy hour events. We are appreciative of her many hours of work and dedication. Katie is a recent graduate of UCSB with a major in political science and an emphasis in international relations; she minored in global peace and security. Katie is planning to join the Peace Corps for two years and then attend graduate school. Thanks again, Katie, for all your help!

Thank You to Our Other Volunteers and to Our Law Clerks:

Jerry Chalmers, *Law Clerk*; Marge Erickson, *Volunteer*; Deanna Gay, *Volunteer*; Mike Holmes, *Volunteer*; Michael Mayer, *Volunteer*; Mike Ober, *Volunteer*; Shiva Polefka, *Volunteer*; Michael Summers, *Law Clerk*

Congratulations to our 2003 Environmental Heroes with Special Recognition for Roma Armbrust

Public Leader: Assemblymember Fran Pavley

Advocate: Lee Quaintance

Corporate: HaveBlue

Lifetime Achievement: John Broesamle



Craig Schmitman



John Broesamle



Steve Bennett, Chris Henson, Fran Pavley



Jane Tolmach, Hannah-Beth Jackson, Fran Pavley



Ines & Lee Quaintance, John Buse, Linda Parks



Dr. Jonathan Ziv, Pedro Nava, Das Williams



Eric Cárdenas, Cameron Benson



Vicki McCarter, Bill Armbrust



Les and Ellen Spiegel

Thanks to Everyone Who Made EDC's 2003 Ventura Environmental Hero Awards a Success

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THANKS TO OUR MUSICAL GUEST

Gilberto Gonzales

SPECIAL THANKS TO OUR BENEFIT AUCTION VOLUNTEERS, WITHOUT WHOM THIS EVENT WOULD NOT HAVE BEEN POSSIBLE

Dulanie Ellis-La Barre
Cindy Frings
Holly Lazo
Julie Manson
Susan McRae
Maggie Phelps
Jo Rogers
Molly Underwood

MANY THANKS TO

David Cohan, Auctioneer
What A Deal Seafood
Four Points Sheraton
Barbara O'Grady

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TGIF Thank You's

Our many thanks to the sponsors, food donors, musicians and countless volunteers who made our TGIF events possible. TGIFs provide EDC with much-needed general operating support.

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Pat Milliken
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Heather Stevenson, Bill Lanphar and Jeff Kranzler

Is this your last newsletter?

In order to continue to receive this newsletter and enjoy the benefits of membership we must receive your contribution of \$35 or more by December 31st. If you already are a member, we thank you.

Give the Gift of EDC Membership

A gift of membership shows that you want your friends and loved ones to stay informed about the issues affecting their life on the Central Coast. EDC membership is perfect for those who want to learn about the actions they can take to help protect their local environment or who want a role in determining the future of their community

The recipient of your membership contribution of \$35 or more will receive a holiday card informing them of your gift. In addition, they will be mailed EDC's newsletter, invitations to special events and email action alerts.

Annual membership contributions provide EDC with the steady, reliable funding we need to stay on top of the issues and protect our environment on the Central Coast. By supporting EDC, you are also supporting all the community groups EDC represents.

To help control costs, membership benefits are only offered for donations of \$35 or more.

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End of Year Giving

Year-end contributions provide necessary support for EDC while offering tax benefits for our donors. Please consider giving a direct donation or utilizing one of the options listed on this page. If you have further questions, please call Katie Donovan at EDC, 963-1622 x103.

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Donating appreciated stocks is a financial benefit to you and EDC. Because EDC is the seller of the stock, we receive the full market value of your donation, which allows you to deduct that same value. In addition, you do not have to pay capital gains taxes on the appreciated value of the stock.

An Easy Way to Give

Naming EDC as a beneficiary on your life insurance is an easy way for you to support EDC without having to make a cash gift. EDC receives the policy proceeds without tax liability or administrative costs, and you may be eligible for current and future income tax deductions. Contact your financial advisor for help with this process.

Give a Gift that Helps Protect the Environment

Put EDC merchandise on your holiday shopping list! Take a look at these unique items at <http://www.edcnet.org/SupportPages/shop.html> or call EDC at 963-1622.



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