



UPDATE FROM E-LAW U.S.

Summer 1993

WATER QUALITY PRESERVED IN NIGERIA

Many nations on the African continent face grave threats to the environment and human health and lack the infrastructure or resources to protect the environment. E-LAW is working to bring information and the support of the network to environmental defenders in Africa and these efforts are beginning to bear fruit. E-LAW U.S. wrote to environmental advocates across Africa describing the E-LAW network and offering assistance. The letters evoked a wide response and we recently received a request for scientific information from Ogbede Ukachi Samuel, a soil scientist and founder of Systems Environmental Protection Project in Owerri, Imo State, Nigeria, situated about 400 kilometers east of Lagos. Together with a local attorney, Ogbede Ukachi brought a case against a company in Imo State which, under contract to dispose of domestic garbage and human waste, was dumping directly into a stream which supplies water to area residents. Ogbede Ukachi requested scientific information documenting the health hazards of the activity and practical, cost-effective alternatives to uncontrolled dumping.

"The contractors were permanently stopped from dumping the wastes in the streams and rivers..." --Ogbede Ukachi

The E-LAW U.S. office responded with information documenting the grave risk to human health caused by water-borne pathogens associated with domestic garbage and human waste. Some articles document the tragic resurgence of cholera outbreaks in developing countries, including one from the Journal of Clinical Microbiology on a recent outbreak in the Cross River Basin of Nigeria.

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NEWS FLASH!

**KIDS HAVE THEIR DAY IN COURT:
SAVING THE EARTH ON BEHALF OF
FUTURE GENERATIONS IN THE
PHILIPPINES....** See Insert.

CONSTITUTIONAL PROTECTION FOR THE ENVIRONMENT IN PERU

Peru's legislature is writing a new constitution, and environmental defenders are working hard to include provisions that protect the environment. The constitutions of over forty countries around the world guarantee environmental protection. The Brazilian Constitution states that "everyone has the right to an ecologically balanced environment" (Ch. VI, Art. 225), and the Indian Constitution provides: "It shall be the duty of every citizen of India...to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures..." (Part 4A, Art. 51A).

Challenging the constitutionality of environmentally damaging actions provides a particularly strong basis for environmental suits. U.S. courts strictly scrutinize alleged infringements of constitutional rights. The state must have a compelling reason to curtail fundamental rights, and such restrictions rarely survive courts' strict scrutiny.

Though the U.S. has extensive environmental regulations, the federal constitution does not include provisions protecting the environment. Thus, courts do not apply this higher level of scrutiny to environmental suits. Many state constitutions address environmental concerns, but federal protection for the environment is governed completely by statute.

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A Sampling of E-LAW's Work In Progress

TASMANIA: Carcinogens Foul Drinking Water

The residents of Lorinna, Tasmania, are fighting to prevent the poisoning of their only source of fresh water. Recent testing has shown that the levels of atrazine found there exceed World Health Guidelines for human health. Atrazine is an herbicide which has been shown to cause cancer in humans.

The Tasmanian Forestry Commission is using atrazine to control scrub grass in eucalyptus plantations. The pesticide eventually runs off into a nearby river which is used by the City of Lorinna for all its domestic needs.

E-LAW U.S. provided Dr. Gerry Bates, an environmental advocate and member of parliament, with information on the health effects of atrazine, and viable alternatives to its use for the control of grass, such as selective hand pulling and managed grazing. With this information, Bates and area residents convinced the Forestry Commission to agree to end the use of atrazine if the alternatives are found to be cost-effective. The Forestry Commission is currently deliberating and will issue its decision soon.

UGANDA: Lake Katwe Salt Disposal

A proposal to reopen the Lake Katwe Salt Plant in Uganda prompted Livingstone Sewanyana to call on the E-LAW network for information about potential dangers of this project. Under the proposal, salt wastes from the plant (i.e. burkeite) would be disposed of in nearby Lake Munyanyange, home to many exotic birds and endangered plants.

Mr. Sewanyana, the Executive Director of the Foundation for Human Rights Initiative in Kampala, Uganda, is seeking information about burkeite and other salt waste byproducts which may harm life in and around the lake. Several US geologists and environmental scientists provided information through E-LAW to Mr. Sewanyana about the impact of suspended solids on aquatic organisms and the aquatic system as a whole. E-LAW U.S. located additional information about the toxic components of salt wastes and potential impacts from dumping the waste, such as changes in pH and salinity levels. Research on this project continues in an attempt to make the best scientific decision for the health of the lake and to avoid any possible environmental disaster.

SRI LANKA: Mining for Precious Gems Halted to Preserve River

Plans to mine the Kalu Ganga River for blue sapphire, quartz, topaz and other gems recently threatened to destroy a 20-kilometer section of the river. The process proposed for extracting the gems is called "suction dredge mining," which involves vacuuming up large amounts of river sediment and returning unwanted material to the water. The environmental impact assessment (EIA) for the proposal claimed that no environmental harm would come of the activity because no pollutants would be added to the river. Ananda Nanayakkara and others at the Environmental Foundation Ltd. were skeptical; they asked the E-LAW network for scientific information on the environmental impacts of suction dredging.

E-LAW U.S. drew upon local U.S. Forest Service experts on suction dredge mining. These experts explained that suction dredge mining is, in fact, normously destructive to the environment. Suction

dredge mining destroys the integrity of the benthic layer on the river bottom, which provides habitat to key species in the overall river food chain. In addition, suction dredging can ruin fish spawning areas and vastly increase the amount of suspended solid material in the river, which blocks sunlight to river plant life and clogs the gills of fish. These experts informed E-LAW U.S. of published studies on recreational suction dredge gold mining in California and Idaho, which document the adverse effects of relatively small-scale operations.

E-LAW U.S. forwarded this information to their Sri Lankan colleagues. Hemantha Withanage, staff scientist for EFL, incorporated the information into formal comments in response to the EIA. E-LAW Sri Lanka informed the network recently that the President subsequently declined the project, and that the ecologically significant Kalu Ganga was preserved.