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SPRING 2010

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## Thuli Makama Big Game Fighter, Goldman Prize Winner

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PHOTO: Hosea Jemba

When **Thuli Makama** graduated from the University of Swaziland with a degree in law, she probably never imagined that one day she would receive the most prestigious environmental prize in the world. Often called the Nobel Prize for the environment, the Goldman Prize is presented each year to one person from each of six regions of the world to recognize their accomplishments as grassroots environmental champions.

Thuli also probably never imagined the danger she would endure as she fought for justice in her homeland.

Since 1996, Thuli has been the Director of Yonge Nawe (SiSwati for "you too must conserve the environment") an environmental organization that focuses on environmental justice. Thuli has been working to protect the environment and the rights of local communities for many years.

It is telling that in Swaziland the government agency

that oversees natural resources is called the Department of Tourism and Environmental Affairs. Protection of the environment is deeply intertwined with tourism, and tourism is tied directly to game parks and protection of wildlife.

As the only public interest environmental lawyer in Swaziland, Thuli has fought to ensure that local voices are heard in making environmental decisions. Since 2002, she has been fighting to enforce a provision of the Swaziland Environment Authority Act that requires the government to appoint an environmental NGO to the Swaziland Environment Authority management board. After many years of unsuccessful negotiations, Thuli filed a lawsuit, and a few months ago she prevailed, ensuring that there will now be an official voice for environmental justice in Swaziland.

Large areas of Swaziland are protected as game reserves or parks. A private company, Big Game Parks (BGP), which is owned and operated by the Reilly family, manages three of these protected areas, including the Hlane Royal National Park.



Thuli Makama

PHOTO: John Antonelli

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

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**Protecting River Dolphins in India**

*There are fewer than 2,000 Ganges river dolphins (*Platanista gangetica*) left in India. Despite this perilous status, the Government of India's state-owned oil company proposed to conduct seismic surveys using boat-mounted air guns to explore for deposits of oil and gas in prime dolphin habitat in the Brahmaputra River. ELAW and its partners in India are pleased to report that the seismic tests have been canceled and the dolphins are safe, for now.*



Ganges river dolphins are nearly blind. They rely on sound and echolocation to navigate and communicate with their calves in the Ganges and Brahmaputra Rivers and tributaries in India, Bangladesh, and Nepal.

The Government of India's state-owned oil company – Oil India Limited – proposed to conduct seismic surveys using boat-mounted air guns to explore for deposits of oil and gas in prime dolphin habitat in the Brahmaputra River in the State of Assam. These surveys would generate thousands of noise impulses louder than 200 decibels, reverberating along large stretches of the river, harming individual dolphins and irreversibly separating mothers from their calves.

***Would the Ganges River Dolphin avoid the area during seismic testing by leaving habitat that is important for them?***

Observations of river dolphins show that they hesitate to leave noisy, disturbed areas until it is too late to do so, suffering sudden population declines.

***Would the proposed project affect the mother-calf bond?***

There is evidence that river dolphins, which are blind for all practical purposes, are much more vulnerable to noise that may disrupt the physical link between calves and their mother and could therefore result in mortalities to juvenile individuals that cannot survive on their own.

*Comments from Dr. Linda Weilgart on the impact of seismic testing on the Ganges river dolphin. Dr. Weilgart is a dolphin expert working in the Biology Department at Dalhousie University in Halifax, Nova Scotia.*

ELAW partners in India called on ELAW for help challenging this dangerous project.

ELAW Staff Scientist Mark Chernaik worked closely with attorney **Ritwick Dutta** at the Delhi-based EIA Resource and Response Centre to provide the information that local communities needed to evaluate the potential impact of seismic testing on dolphins in the Brahmaputra River.

Mark analyzed the proposed project's Environmental Impact Assessment (EIA) and found many flaws. He revealed that the EIA was based on literature on marine mammals in ocean environments and lacked any direct observations of seismic surveys on river dolphins.

Mark showed that sound waves travel differently in the open ocean than in a confined river. Project proponents claimed that air guns would have limited impact on marine mammals in the open ocean, but this information is likely irrelevant to riverine cetaceans. Mark also argued that the Ganges river dolphin, which is practically blind, is more vulnerable to noise pollution, and seismic testing would disturb the ability of mothers to track their calves using echolocation.

Dr. Linda Weilgart, a dolphin expert working in the Biology Department at Dalhousie University in Halifax, Nova Scotia, provided pro bono support that augmented Mark's findings. Dr. Weilgart is a scientific advisor to the International Ocean Noise Coalition. Dr. Weilgart produced an expert report that identified serious uncertainties and information gaps that Oil India Limited failed to address during the EIA process (see box at left).

Dr. Weilgart's report was widely distributed through the local electronic press. Ritwick shared the information from ELAW and Dr. Weilgart at meetings with community groups and officials at the Ministry of Environment and Forest. The end result: The suspension of seismic surveys in the Brahmaputra River!



**Pontoon Bridge Poses Hazard**

Free passage of river dolphins, crocodiles, and turtles in the Chambal River is threatened by a temporary pontoon bridge that sits directly on the river at Pinahat in Agra, in the State of Uttar Pradesh. The Chambal River is part of a national wildlife sanctuary. Permission for the bridge expired in November 2009, yet the bridge remains. Local groups are concerned that permission for the pontoon bridge will be extended. ELAW partners at the EIA Resource and Response Centre (ERC) joined local community members on a recent tour of the area. In meetings with officials at the Uttar Pradesh Forest Department, they learned that more than 1,000 crocodiles and 70 dolphins are

threatened by the pontoon bridge. Officials claim that they regularly inform the Department of Public Works about the local violations of India’s Wildlife Protection Act, to no avail.

In December 2009, ERC filed a petition with the Central Empowered Committee of the Supreme Court of India seeking to revoke permission for the Pinahat Pontoon Bridge. In January, the Central Empowered Committee issued notice to the Chief Wildlife Warden and the Principal Chief Conservator of Forests stating that the issue of the pontoon bridge is now under review. We expect news within the next few months.

Asis Perez



**Award Winning Partners  
Asis Perez, Philippines**

Asis Perez, Director for Law Enforcement at Tanggol Kalikasan in the Philippines, won the 2010 Clark R. Bavin Wildlife Law Enforcement Award. Asis led the investigation of 23 poachers responsible for killing 200 marine turtles. He co-organized the first Philippine Environmental Law Enforcement Summit and developed a manual on enforcement. He also wrote procedures for releasing seized wildlife and established a training program for enforcement officers in many areas of the Philippines. ELAW has collaborated with Asis and Tanggol Kalikasan for many years.



# Pellew Island Saved



**“Thanks very much to everyone who helped with this. I hope some of you will one day visit what I believe is one of the most beautiful places in Jamaica.”**

Diana McCaulay

“This is personally very important to me, as the island is a place I spent many happy hours as a child,” says ELAW partner **Diana McCaulay**, founder and Chief Executive Officer of the Jamaica Environment Trust (JET).

JET has worked to preserve Pellew Island since 2005. In February, Diana announced that the island will be protected – the government rejected plans to build villas on the small inshore island off eastern Jamaica’s Portland Parish. Diana says the island is privately owned, which makes preservation of this iconic Jamaican landmark difficult.

“We are aware of the legal rights of property owners, but felt that if Pellew cannot be saved – for future generations to enjoy that wonderful swim to its small beach, to climb to the top of the island and look out over the coral reef that blesses the coastline with calm, shallow water – then what can be saved?”

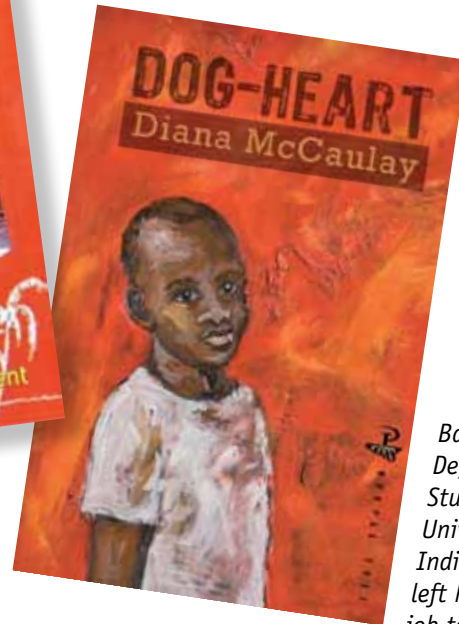
ELAW partners provided JET with legal opinions about the right of public access to beaches and ELAW helped review the proposed project’s Environmental Impact Assessment (EIA). ELAW scientist Meche Lu summarized her findings:

*I was born in San San. I grew up swimming at San San Bay, Monkey Island, Princess Nina Island . . . it is part of who I am, it nurtured me . . . We have a moral obligation regardless of the ownership of private property to ensure that the beautiful island of Jamaica, that we love so much, is carried through into the future, that our children and our children’s children can enjoy the beauty that I knew as a child. Perhaps it is too late. I hope not . . . at least for now, Pellew Island remains a gorgeous coastal feature in Portland, a place where anyone can swim, raft or canoe to, lie in the sand on a tiny beach under low hanging trees, and dream the day away.*

**Marion Sutton**, speaking at a public hearing on the future of Pellew Island

“Pellew Island is small, but has enormous environmental and cultural value. A significant portion of the island’s vegetation would have been modified or cleared. The EIA had no detailed information about water supply sources or waste management plans. The risk of erosion and inadequate waste management could severely impact this vulnerable and unique natural asset.”

An idyllic Jamaican island has escaped its fate as another high-end tourist destination.



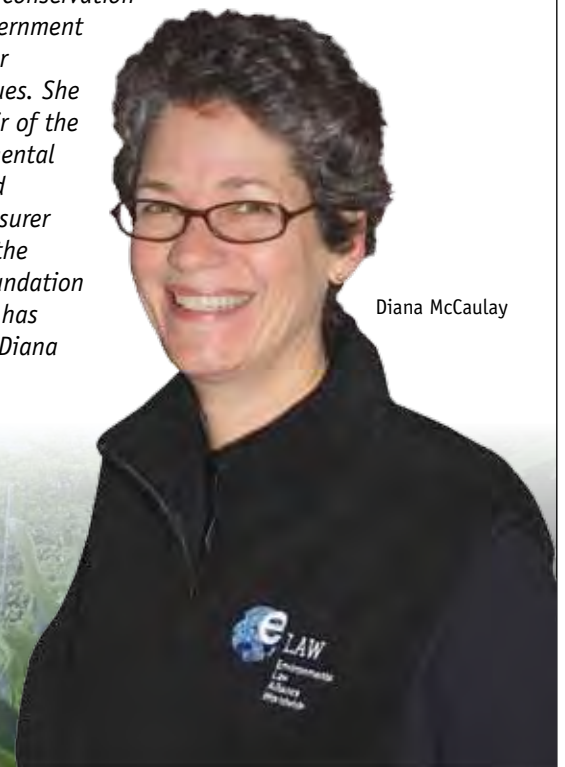
Diana McCaulay is a creative tour de force. Her documentary film, *Jamaica for Sale*, had its Seattle premier at the University of Washington on April 14, and her new novel, *Dog-Heart*, was published in March. Diana gave a reading from *Dog-Heart* at the University of Oregon in Eugene on April 15.

Diana co-produced *Jamaica for Sale* with filmmaker Esther Figueroa. The documentary counters the dominant view that tourism is the savior of the Jamaican people. Lively and hard-hitting, with powerful voices, arresting visuals and iconic music, *Jamaica for Sale* documents the environmental, economic, social and cultural impacts of unsustainable tourism development.

Annie Paul at the University of the West Indies writes: "Dog-Heart is an uncompromising story imaginatively told; it is a tale of the class imbalance of postcolonial societies, of how vast the gap is between those damned by the (Babylon) system and kept outside and those who reside comfortably inside. The expendability of life in the ghetto and the perpetual injustice meted out to its inhabitants by the state and so-called civil society lie at the heart of this tale of postcolonial darkness . . . McCaulay, who wrote a weekly column in the country's leading newspaper for many years, showcases her formidable writing skills in this ambitious, heart-breaking work to excellent effect."

*Dog-Heart* is Diana's first novel.

Diana holds a Bachelor of Science Degree in Management Studies from the University of the West Indies. In 1998, she left her private sector job to join the Jamaica Environment Trust as full-time Chief Executive Officer. She was the recipient of a Hubert Humphrey Fellowship at the University of Washington in 2000 and went on to complete a Master's Degree in Public Administration, with majors in environmental policy and international development. Between 2003 and 2005 and again in 2008, she served as a member of the Board of the Natural Resources Conservation Authority, the government regulatory body for environmental issues. She is also a past Chair of the National Environmental Societies Trust and has served as Treasurer and Vice Chair of the Environmental Foundation of Jamaica. ELAW has collaborated with Diana since 2003.



Diana McCaulay

## ELAW Fellowships Unforgettable

*ELAW Fellows are doing great work! In February, we welcomed Francis Colee from **Liberia**, Kwesi Instiful from **Ghana**, and Merab Barbakadze from **Georgia**. In March, we welcomed Mariana Méndez from **Panama** and Jean André Victor from **Haiti**. ELAW Fellows dedicate their lives to seeking justice for the world's most impoverished communities. Before returning to Tblisi, Merab shared a common sentiment: "I feel myself charged with new positive energy, skills, and knowledge!" Read more about our recent Fellows in the following.*

**"It's been great and wonderful working with ELAW staff . . . You all contributed to making my stay here joyous."**

Kwesi Instiful

**Kwesi Instiful** is a lead attorney at the Center for Public Interest Law in Accra. He represents residents living near gold mines in western Ghana. Gold has been mined here for 100 years, but the villagers reap few benefits. "There is no tap water, the roads are terrible, and all homes have cracks from the explosions. You have your crops and the next day trucks move in and everything is gone," says Kwesi.

**Francis Colee** works at Green Advocates, Liberia's only public interest environmental law firm. Green Advocates is calling on Firestone to clean up polluting rubber processing facilities on the Farmington River. Green Advocates is also working to strengthen laws protecting forests and other natural resources.

Kwesi and Francis spent two weeks at ELAW to build skills promoting sustainable mining, forestry and climate change practices and policies, thanks to a grant from the U.S. State Department's Bureau of Educational and Cultural Affairs.

**Merab Barbakadze** serves on the Compliance Committee of the Aarhus Convention, a European body that ensures that citizens have a voice in decisions about the environment. His ELAW Fellowship helped strengthen ties between Merab and ELAW partners around the world, thanks to support from the Trust for Mutual Understanding.

Merab, Kwesi and Francis participated in the 28th Annual Public Interest Environmental Law Conference at the University of Oregon School of Law and met one-on-one with many national and international environmental leaders, including ELAW partner and Goldman Environmental Prize winner Rizwana Hasan from Bangladesh and Goldman Prize winner Marc Ona from Gabon.

They also benefited from environmental law and human rights classes at the University of Oregon School of Law and met with leading environmental lawyers in Oregon, including Doug Heiken at Oregon Wild and Dan Kruse at Cascadia Wildlands. The Fellows traveled to Portland with ELAW Staff Attorney Jennifer Gleason to hear Dan Kruse argue in front of the U.S. Court of Appeals for the Ninth Circuit. Dan is defending a judgment that the U.S. Forest Service is appealing. Dan briefed the Fellows about the case before they departed.

**Mariana Méndez** is an engineer working with El Centro de Incidencia Ambiental (CIAM) in Panama. She had a busy 10 days at ELAW building skills and tapping scientific expertise to protect natural resources in Panama.

Mariana worked one-on-one with ELAW Staff Scientists and participated in conference calls with dam experts Rich Bower (Northwest Hydropower Reform Coalition), and Gary Carnefix and Chris Frissell (Pacific Rivers Council). She also tapped the expertise of ELAW Staff Attorney Jennifer Gleason on energy policy and issues concerning wind and other non-conventional renewable energy sources.

Mariana spoke with ELAW Director Glenn Miller, a mining expert at the University of Nevada at Reno, about phasing out hard rock mining in Panama. They discussed strategies to advance

a better legal framework for mining operations in Panama, how best to use mining policies and regulation models from other Latin American countries such as Chile, and ways to improve Environmental Impact Assessments.

**Jean André** is an environmental attorney, an agronomist, and a law professor. Read more about his ELAW Fellowship in the summer ELAW Advocate.



Left to right: Francis Colee, Merab Barbakadze, Kwesi Instiful



Mariana Méndez

**Thuli** (continued from pg.1)

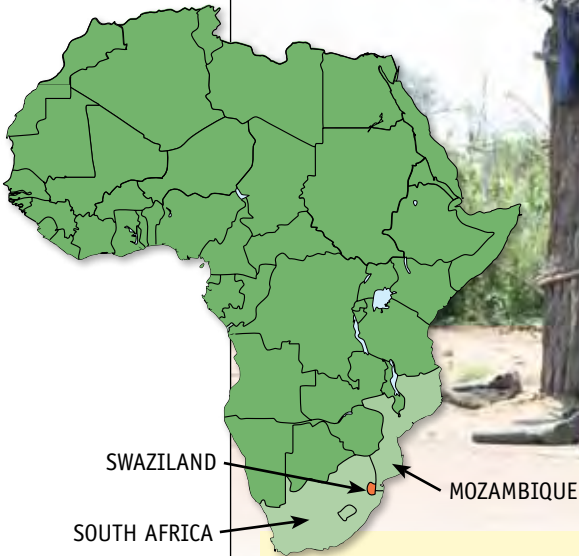


PHOTO: Hosea Jemba

Swaziland is a small landlocked country in the far eastern corner of southern Africa. It is a little bit larger than Rhode Island and is surrounded by Mozambique in the east and South Africa on the north, south and west.

The majority of people in Swaziland are subsistence farmers who depend on the environment to support their families. The countryside is a combination of steep hills and fertile valleys.

The political situation in Swaziland is somewhat unique. It is an absolute monarchy, which means that the King appoints the Prime Minister and also many members of the legislative branch. Public participation is allowed, but many citizens are powerless.

Swaziland is known for its wildlife. White rhinos, elephants, lions, giraffes, zebras, crocodiles, hippos and mamba snakes all thrive in the diverse ecosystems of Swaziland. Tourists can visit the Hlane Royal National Park, Mlilwane Wildlife Sanctuary, Mkhaya Game Reserve, and Mbuluzi Game Reserve to see the diverse wildlife. These national treasures are managed by Big Game Parks. News reports allege serious acts of violence against members of local communities by BGP staff.

For generations, local people lived on and preserved the land. But when BGP took over management of the conservation areas, they were evicted without proper compensation, leaving them destitute and unable to feed their families. Thuli and Yonge Nawe have documented serious acts of violence against members of local communities, allegedly by BGP staff.

In August 2008, a young man named Musa Gamedza was approached by uniformed men who accused him of poaching wildlife. He protested, to no avail. The men – later described in the press as police officers and a game ranger – shot and killed him in front of his family, including his young children. Nobody has ever been arrested or charged with the killing despite many who witnessed the entire episode. News reports allege that the Reillys were involved.

Musa Gamedza was not the first – and may not be the last – to lose his life to a system that allows important game protection laws in Swaziland to be administered not by a government ministry, but by a private company.

Thuli continues to challenge the obvious conflict of interest that these policies create, and does so at great risk. She has been threatened and harassed for her advocacy. But Thuli continues to fight to preserve her communities' historic role in conserving resources for future generations. She knows that the best way to protect endangered wildlife is to ensure that local people are given a stake.

ELAW has collaborated with Thuli since 2003 and nominated her for the Goldman Prize. Congratulations to Thuli, Yonge Nawe, and the people of Swaziland!



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