

# ANNUAL REPORT

Environment Now  
Selected Program Achievements  
2006



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## COASTAL PROGRAM ACHIEVEMENTS

### SANTA MONICA BAYKEEPER PUSHES TO ENFORCE TOTAL MAXIMUM DAILY LOADS

On April 6, 2006, the L.A. Regional Water Board (LARWB) ordered the regulated parties to revise the implementation plan to commit to an integrated water resources approach that meets Total Maximum Daily Load (TMDL) limits. Heal the Bay and program partners, the Natural Resources Defense Council and Santa Monica Baykeeper (SMBK), successfully pushed LARWB to incorporate the Santa Monica Bay Bacteria TMDL into the 2001 county permit, making regulated parties jointly responsible for violations. SMBK breaks new legal ground with this achievement, providing a path for other water quality advocates.

### CA SUPREME COURT UPHOLDS CHALLENGE TO REDUCE L.A. COUNTY WATER POLLUTION

In 1999, a federal court ordered the L.A. Regional Water Board (LARWB) to comply with the Clean Water Act to reduce water pollutants through a total maximum daily load program. In 2001, LARWB adopted a 14-year program to eliminate trash discharges. Twenty-one L.A. cities sued LARWB in state court to stop the program. The Courts of Appeal upheld the program, citing an amicus curiae brief written by program partner, Santa Monica Baykeeper. The cities appealed the case to the California Supreme Court, asking the entire program be set aside. In April 2006, the court refused to hear the case, successfully leaving the Los Angeles River program in place.

### CALIFORNIA COASTKEEPER ALLIANCE FORCES AGRICULTURAL WASTEWATER REGULATION

On June 22, 2006, the California Coastkeeper Alliance (CCKA) prepared a detailed fact sheet and organized other keepers to attend and testify at the L.A. Regional Water Board (LARWB) hearing. The keepers successfully pushed LARWB in making agricultural industry water quality sign-ups mandatory (previously voluntary) and requiring disclosure to LARWB of all farm names in coalitions. This makes California the first state in the nation to regulate agricultural wastewater.



## FRESHWATER PROGRAM ACHIEVEMENTS

### COURT RULES AGAINST TAKINGS CLAIM IN COLVIN CATTLE LAWSUIT

Program partner, Georgetown Environmental Law Clinic (GELPI), aggressively challenged property rights advocates who argued that government restrictions on water rights are unconstitutional takings. In *Colvin Cattle v. United States*, a ranching company argued for unfettered access to federal grazing land because the company holds a state water right. The court and GELPI agreed: federal restrictions do not comprise an unconstitutional taking of a water right. GELPI's legal expertise forced a favorable ruling in this case, helping turn the tide on the property rights movement's egregious grab for water rights.

### THE PLANNING AND CONSERVATION LEAGUE HALTS DELTA MENDOTA INTERTIE PROJECT

In 2005, the Planning and Conservation League (PCL) sued the Bureau of Reclamation (BOR) for failure to consider environmental impacts of the Delta Mendota Intertie, a pipeline that increases water exports and connects federal and state water projects. In 2006, PCL obtained a temporary restraining order and preliminary injunction, halting construction until court resolution of the lawsuit. In May 2006, BOR agreed to meet PCL's settlement demands: an environmental impact report and mitigation. PCL's actions prevented this further threat to the Delta and forced BOR to comply with environmental laws.

### WATER QUALITY STANDARDS PROTECTED IN THE BAY-DELTA

In February 2006, after years of litigation, the Third District Court of Appeal reversed the trial court's ruling, stating that the State Water Resources Control Board's "Decision 1641" violated state water law by failing to comply with the 1995 Bay Delta Water Quality Control Plan. Program partner, California Water Impact Network, and attorney Stephen Volker, opposed seven petitions filed to rehear the ruling. The court denied all petitions, including four additional petitions seeking California Supreme Court review. This year's ruling is expected to increase spring and summer Delta flows by 50%.

## FOREST PROGRAM ACHIEVEMENTS

### IN A PRECEDENT-SETTING RULING, U.S. FOREST SERVICE CHASTISED FOR ECONOMIC INTERESTS

In March 2006, the Ninth Circuit Federal Court of Appeals ruled in favor of program partner, John Muir Project (JMP), to halt U.S. Forest Service's (USFS) Fred & Power timber sales. The court chastised USFS for its economic conflict of interest as well as its failure to consider harm from logging to the spotted owl and to management indicator species. In addition to stopping two salvage logging projects in the Sierra Nevada, the ruling set important legal precedents, which have already been successfully applied by JMP to stop two toxic herbicide spraying proposals on USFS land.

### JUDGE HALTS FOREST SERVICE'S MANAGEMENT FOR GIANT SEQUOIA NATIONAL MONUMENT SPI PERMITS

A coalition, led by the California Attorney General and three forest program partners—Sequoia Forestkeeper, John Muir Project, and Sierra Forest Legacy—won two companion lawsuits filed to protect the Giant Sequoia National Monument. In August 2006, U.S. District Judge Charles Breyer ruled that the Forest Service's (USFS) pro-logging plan for the Monument was illegal and required USFS to produce a more protective plan. He also halted four other logging projects within the Monument to protect the imperiled Pacific Fisher.

### EBBETTS PASS FOREST WATCH WINS ON CUMULATIVE IMPACTS OF CLEARCUTS

Ebbetts Pass Forest Watch was victorious in a five year litigation addressing the cumulative impacts of Sierra Pacific Industries' (SPI) clearcuts. The win compels the California Department of Forestry (CDF) to analyze impacts of SPI's million-acre clearcutting harvest plans. The Fifth District State Court of Appeal overturned three of SPI's harvest permits in Tuolumne County. CDF plans can no longer be approved without limiting logging, maintaining larger trees, and increasing buffers on rivers and streams. SPI has appealed the decision to the California Supreme Court.



## SUSTAINABILITY PROGRAM ACHIEVEMENTS

### THE PORTS OF LOS ANGELES AND LONG BEACH ADOPT STRONG CLEAN AIR ACTION PLAN

As a result of program partners' Natural Resources Defense Council and the Coalition for Clean Air efforts the Ports of Los Angeles and Long Beach adopted a strong Clean Air Action Plan for the San Pedro Bay ports. This five-year plan includes measurable goals and deadlines with an aggressive attempt to control diesel pollution from cargo ships, trains, and trucks by more than 50 percent.

### HEALTH RISK REDUCTION PLAN APPROVED FOR LEAD SMELTER COMPANY

Due in large part to the work of our program partner, the California Environmental Rights Alliance, the South Coast Air Quality Management District approved a \$5,000,000 health risk reduction plan for Quemetco, Inc., a secondary lead smelter in the City of Industry with the highest cancer burden of any facility in the South Coast air basin. The new controls will result in a 92 percent reduction in arsenic emissions, a 92 percent reduction in lead emissions, and a 50 percent reduction in nickel emissions.

### COURT REVERSES DECISION, ORDERS RETRIAL OF PORT OF STOCKTON EXPANSION CASE

In a unanimous decision, the Courts of Appeal sided with plaintiffs—program partners Deltakeeper and Natural Resources Defense Council as well as homeowner groups—in challenging the Port of Stockton's expansion plans to triple its size. The court ordered that the case be reconsidered and key environmental documents that had been kept out of trial court be part of the administrative record.