SCORCHING THE EARTH TO SAVE IT

Conciliation may indeed be a trend in the new environmentalism, but if so, the folks at one firebrand group never got the memo. Which, to judge by its success, might be a good thing.

BY JOHN SKOW

PHOTOGRAPHS BY MICHAEL LLEWELLYN

ATTACK ENVIRONMENTALISM, OR SUING THE bastards, is not much in fashion in these gentle days of "win-win" development deals, consensus clear-cuts, and count-your-fingers land exchanges with timber-and-condo outfits. So you hear. Certainly the big national environmental groups—save a couple that escape this grouchy assessment—are breathing very little fire. It could be argued that the Clinton administration, its Interior Department, and the U.S. Forest Service, our official environmental shepherds, are breathing even less.

But the many adversaries of a small Tucson advocacy group, the Southwest Center for Biological Diversity, are breathing hard indeed, and occasionally giving off a whiff of burning insulation. Since it first rumbled into battle in 1991, the Southwest Center has filed more than 100 Endangered Species Act lawsuits in federal court, winning an impressive 82 percent of them. It secured an "endangered" listing for one of Arizona's rarest birds, the southwestern willow flycatcher. It squeezed the Forest Service's arm until the agency banned cattle on 350 miles of the Gila River. It is in the process of forcing the U.S. Fish and Wildlife Service to designate the upper San Pedro River region as critical habitat for the pygmy owl and a kind of floating parsley called the water umbel, two species that only made the endangered species rolls thanks to the Center's lawsuits. And it scored a truly seismic environmental victory in 1995 and 1996 when its lawsuit to secure a "threatened" listing for the Mexican spotted owl shut down all public lands logging in Arizona and New Mexico. This in the face of the congressional class of 1994's one-year moratorium on new endangered species listings and the 1995 salvage logging rider that effectively suspended all timber regulations in national forests. As salvage logging decimated old-growth forests around the country, chain saws sputtered to a halt in the Southwest.

They call it "the legal train wreck" approach, and although other grassroots outfits have put it to good use, the Southwest Center is its undisputed master. Throw a pile of thorny lawsuits on the tracks, and the logging, mining, and wildlife bureaucrats have to clear them off before the trains can run. Like it or not, it's a strategy that has made the Center one of the most effective regional environmental groups in the country, and certainly the most in-your-face.

"Yeah, we go in with guns blazing," admits—or brags—Kierán

Kierán Suckling on the banks of the San Pedro

Suckling, the Center's founding director. The 34-year-old one-time Earth First! activist and sometime Ph.D. candidate in philosophy likes the blazing guns image, and clearly has noticed that reporters scribble in their notebooks when he hauls it out. In fact, most everyone at the Southwest Center likes his rhetoric spicy. Cofounder Robin Silver, 48, throws words such as "corrupt" and "functionally lobotomized" against the wall and then watches with satisfaction as they slide down. "There's just no more room for compromise," says Silver, the emergency room doctor who runs the Center's almost all-volunteer Phoenix office out of his suburban home. "Maybe decades ago, but not now." And then there's the third founder, Peter Galvin, 33, another Earth First! veteran and the Center's conservation biologist and litigation coordinator. "The developers and the extractors have eaten nine pieces of a ten-piece pie," he rants, "and they want to negotiate about the tenth piece. I'm happy to stick my fork in their hand."

It's millennial environmentalism, combat-style. They're not selling calendars full of idyllic nature photography. They're throwing torts like hand grenades.

WHETHER OR NOT THE CENTER'S STRIDENT APPROACH FORETELLS future environmental tactics, it's at least crystal clear from its opponents' reactions that the Southwest Center's salvos hit their mark. "They want the Southwest to be pre–European settlement, period," Charles "Doc" Lane of the Arizona Cattle Growers' Association told *High Country News* in March 1998. "You don't kill a fly with a sledgehammer. But that's their only solution."

"They move like a band of guerrilla insurgents in their battle for public lands," chimed in the ranching lifestyle magazine *Range* last year. "Hundreds, if not thousands of public land ranchers, loggers, and miners have had their livelihoods destroyed by the ultra-effective strategies of the Southwest Center."

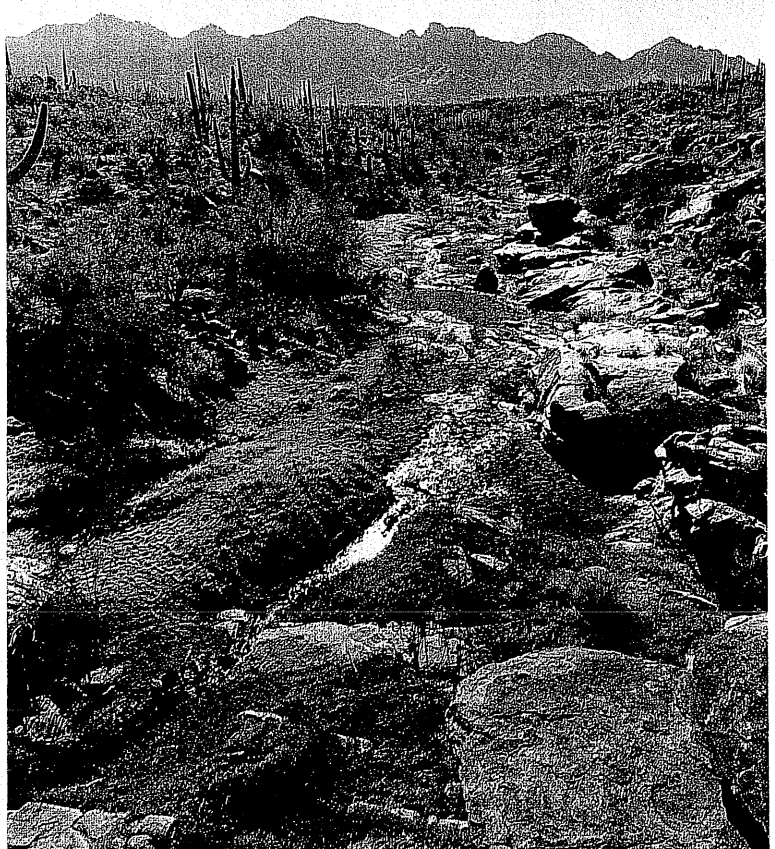
"A drive-by shooting," former Arizona governor Fyfe Symington called one of its lawsuits, declaring that the Center was "well known for its radical views."

Symington was complaining about the Center's fight against the U.S. Army's Fort Huachuca, a high-tech listening post near the Mexican border, and its dependent town, Sierra Vista. The two were basically sucking dry the aquifer beneath the San Pedro River, a 130-mile stream that, with sightings of 400 of the 800 or so birds identified in North America, is one of only two National Riparian Conservation Areas. The obvious next step in the San Pedro's environmental collapse—as a team of international hydrologists had certified, in what was NAFTA's first investigation of a U.S. environmental mess—was that the river itself would be sucked down into the parched subsurface and stop flowing.

What scared the Army, local boosters, and politicians like Symington was not that they might soon lose their river, but rather that in 1993 the Southwest Center had filed the first in a string of federal lawsuits to force Fish and Wildlife to protect the San Pedro (this first suit was on behalf of the spikedace, a small fish, but the umbel and the owl followed). This meant that excessive groundwater pumping would have to stop. Fort Huachuca might have to decamp, taking its economic boon with it.

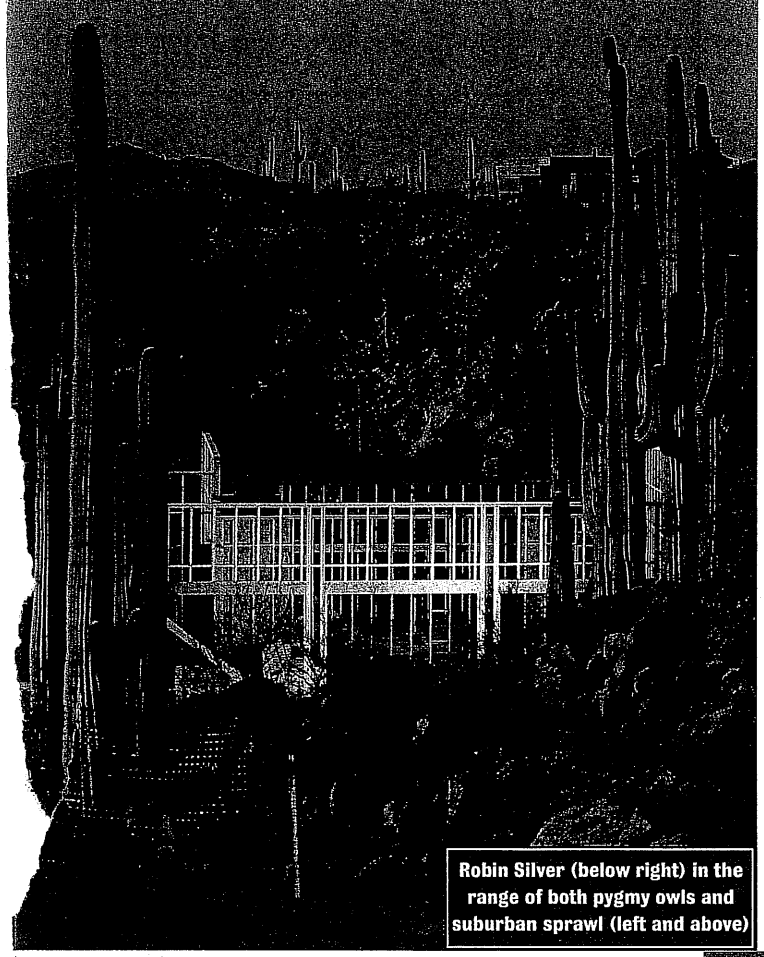
Evasive rhetoric began flowing instantly. Fish and Wildlife, as it often does in such cases, refused to designate the San Pedro as critical habitat, reasoning that if birdwatchers and real estate developers knew where to find the spikedace or the umbel or the owl, the species would be further endangered. The Army said it was conserving water. Sierra Vista said it planned to conserve. The Center's position was clear, as summed up in a letter back in 1991 from Robin Silver to the fort's commander that began "Re: 1) Continuation of the U.S. Army's San Pedro River campaign of prevarication, denial, and deceit." It sued again—and won again—in what has become a recurring dance with Fish and Wildlife. Finally, last November, after five years of litigation, a federal judge ruled on behalf of the river.

"The developers have eaten nine pieces of a ten-piece pie," says cofounder Peter Galvin, "and they want the tenth piece. I'm happy to stick my fork in their hand."



FOR A WATERCOURSE THAT HAS BEEN IN COURT AS OFTEN AS THE San Pedro, this modest river seems remarkably inoffensive. A ban on cattle within a mile of its banks has let shrubs and grasses grow back to something like their natural state. A few trespassing cows do still wander in, though, and here and there the banks are trodden-down mudflats. On either side big cottonwoods, leafless and a light, ghostly gray in January, rise eerily over scraggly salt cedars. If you frame these just right, with a glint of water in the foreground, you can make a pretty postcard photo.

Suckling and Galvin are hiking upstream, talking strategy. They rarely talk about anything else, but today the buzz is intense, and the two seem greatly cheered by the newest squabble. Yesterday a roundtable group at University of Arizona's federally funded Udall Center issued a report saying that although cattle grazing caused damage in the nineteenth century, ranchers can be good stewards. And so that they aren't forced to sell out to developers ("cows or condos," as some environmentalists disparage the



Robin Silver (below right) in the range of both pygmy owls and suburban sprawl (left and above)

argument), they should be subsidized and protected from "a rash of lawsuits designed to remove cattle from the land." The report went on to praise "the western way of life," quoting a roundtable-hired polling outfit which concluded that, because "federal agencies have become gridlocked by challenges to their management," the Endangered Species Act should be "reformed."

Stepping over a pile of cowflop, Suckling launches into the anticattle screed that's been a top hit of western environmentalists since Edward Abbey waved a .44 revolver during a 1985 speech at the University of Montana and called cattlemen, who made up most of the audience, "welfare bandits." Ranchers are subsidized already, the argument goes. They lease BLM or Forest Service rangeland at below market prices. Their cows, says Suckling, getting worked up, "are the greatest single cause of species loss in the Southwest." They devastate habitat, especially along rivers—trampling banks, polluting water, and turning grasses and tree shoots into so much cud. This western way of life on federal land, Suckling and Galvin continue, indignantly rational as only two dudes from Massachusetts can be, produces only about 3 percent of beef cattle raised in the country.

Suckling and Galvin tend to view things environmental in terms of white hats and black hats, and here they see the hand of The Nature Conservancy's local chapter at work. (The group had loaned its prestige and two of its staff to the 16-member roundtable.) Nationally, they say, The Nature Conservancy has also backed attempts in Congress to soften the Endangered Species Act, a move that the Southwest Center provocateurs regard as high treason. They are disgusted, loudly and lengthily.

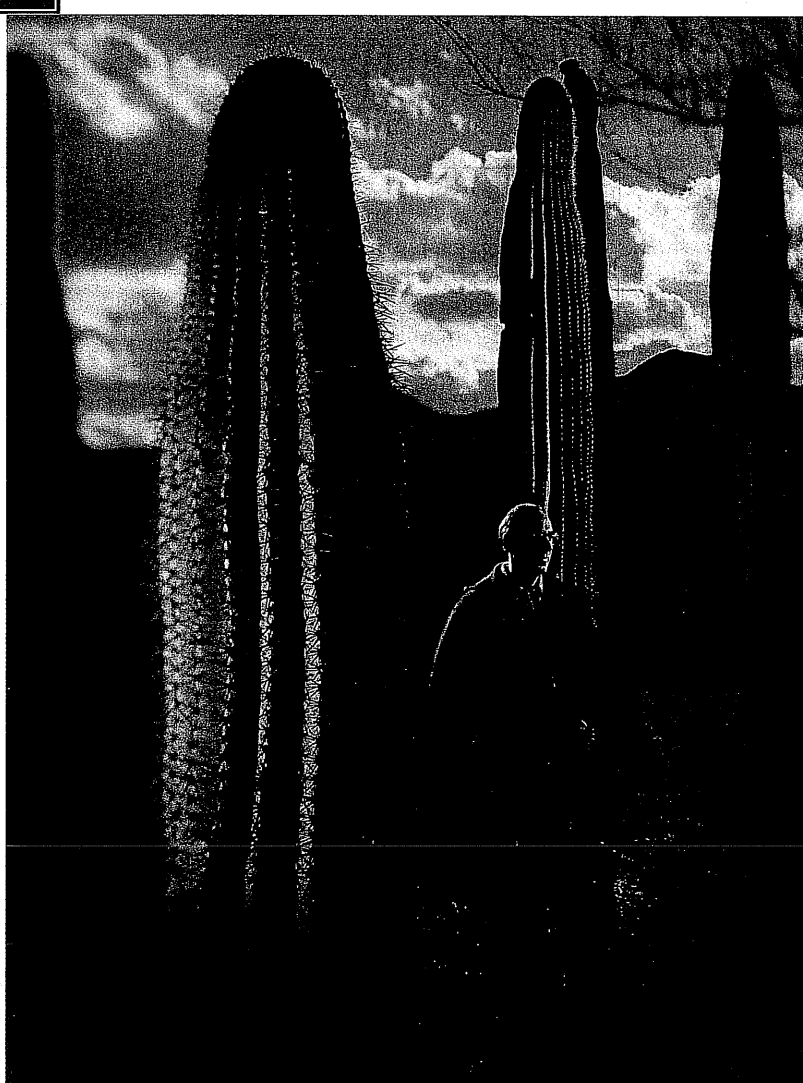
"They're a joke," says Galvin. "How can they call themselves green?"

Nature Conservancy vice-president Les Corey, a roundtable member who directs the Arizona chapter, says the Center doesn't have room to talk. "This is an open process," he says, "and they have never attended a roundtable meeting. They're not willing to sit down and talk about a new way of managing these landscapes because they have had success with their tactics." Sure, he continues, "In a perfect world, you could say remove all the cattle. But we're trying to work with the ranchers. I think people are tired of acrimony."

This is an old quarrel about motives and environmental effectiveness, and it goes well beyond the Southwest Center and the Conservancy. Attack or negotiate? Litigate or collaborate?

If the recovery of the San Pedro is any indication, attack environmentalism seems to be working. Now, at low flow in the dormant winter months, the river is unimpressive—an apologetic little stream that a six-year-old girl could wade across without getting her knees wet. But the San Pedro is nothing if not resilient, and in the green months, during the spring runoff and in the summer rainy season, it fills its channel and floods its subsidiary washes. It is the last free-flowing river in the Southwest, and it is largely thanks to the politics of no compromise that it is flowing at all.

GIVEN BRAWLS LIKE THE SAN PEDRO FIGHT, I HAD EXPECTED SUCKling and Galvin to be down-in-flames fanatics, the Center something of a seething hive of hollow-eyed hippies. The two easterners could



still be cast as ecoterrorists, but it would be a stretch. Suckling is skinny and medium-tall, with a small, roundish face somewhat lost behind bushy black eyebrows and a goatee; Galvin is skinny, a bit shorter, and has long, lank brown hair, a mustache, and a beard. It's Suckling who attracts most of the controversy, which is unsurprising given such public statements as, "Yes, we are destroying a way of life that goes back 100 years, but...ranching is one of the most nihilistic lifestyles this planet has ever seen. Good riddance."

But instead of fire and brimstone, I get dry, dreamy academic talk. Suckling, the perpetual grad student, is on last-chance status at the State University of New York at Stony Brook to finish his Ph.D. thesis. His gossamer notion is to find and explore a parallel between the world's loss of biological diversity and its loss of languages.

This seems a far cry from the days of old. "They were wild as woodchucks," commented the *Phoenix New Times* about Suckling and Galvin's activist beginnings in 1991, when they were squatting on a ranch 17 miles from Luna, New Mexico, spotting spotted owls for the Forest Service in the

"They're good at litigation," says a fellow activist, "but they don't have a

summers and living on unemployment the rest of the time. It was then that their ideas began to shift from Earth First!'s direct confrontation to science-based activism. Galvin had met Robin Silver and told Suckling about Silver's spotted-owl work. On a whim, after driving a friend to the Phoenix airport, Suckling called him up.

"He was amazingly intense," Suckling recalls. "He said, 'What are you working on?' and I mentioned a petition that wasn't going very well, to list the southwestern willow flycatcher as endangered. 'OK, come out to the house,' he said. I stayed there two months, but we got the petition done." In 1993, Suckling and Galvin moved to Silver City, both to be near southwestern New Mexico's "political center," says Galvin, and because they were kicked off the ranch. They stepped up their litigation efforts and, as their focus grew more regional, headed to Tucson and set up shop.

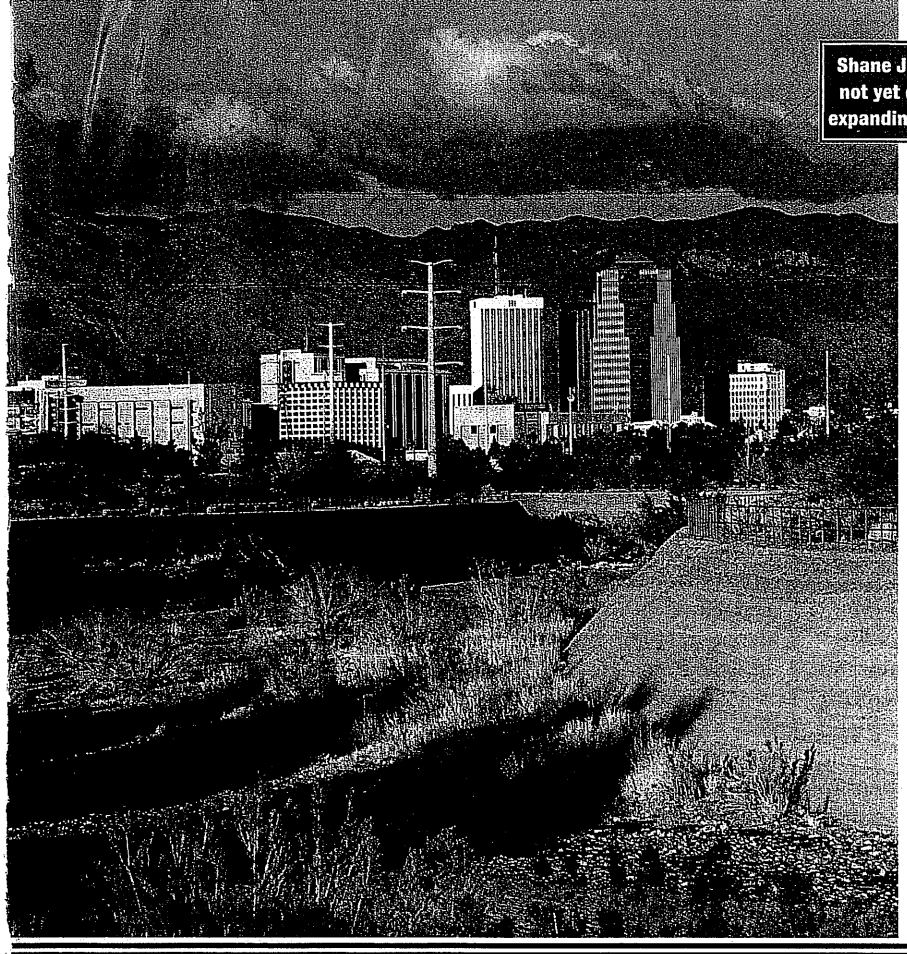
In the early days in Tucson, the Center compensated for its paltry wages by offering room and board. The staffers all lived in and around the Center's rambling adobe house, fueling rumors of the weirdo-hippie-commune variety. Today the 11-member staff lives in separate houses or apartments. "We got older," Galvin explains. "We were tired of it." The office moved to a couple of one-story houses linked by a storage garage, with a total of perhaps 14 rooms. The place is reasonably neat and clean, and director Suckling has a nice corner office, so that if a senator's aide shows up to scold him for subverting the American way, the fellow can sit down without fear of infection. There has been a certain loss in funk, true enough.

Most of the staff is young—a few women, more men, some with long hair, some not. They dress like grad students, since that's what most of them were not long ago. They all eat veggie, maybe because it's cheaper. But the atmosphere of the place doesn't suggest university. Everyone is too intense, too wired. A guy with a degree in atmospheric sciences is learning the delicate art of extracting Fish and Wildlife's research data via the Freedom of Information Act. Suckling and Galvin are, as usual, talking legal strategy. What we might have here is a young, small computer firm, just after it has grown out of someone's garage and just before big money falls from the sky.

Back in the Luna days, big money meant Silver's emergency room salary, which bankrolled their work. None of the three had any practical knowledge whatsoever, and they knew nothing about litigation until Jasper Carlton, founder of Colorado's Biodiversity Legal Foundation, showed them what could be done. They couldn't even raise money until one organization refused their fumbling request but added instructions on how to write a grant. These days the largest institutional donor is Ted Turner's Turner Foundation, which donated $85,000 in 1998, and the largest source of funding is the money sent by the Center's 4,450 members.

The latest budget reported an income of just over half a million dollars. After a recent pay hike, Suckling makes $20,000 a year; his wife, Stephanie Buffum, the development director, makes $16,500. Galvin gets $16,000; assistant director Shane Jimerfield $15,000; and so on down to Silver, who takes no pay. Biologist Noah Greenwald, 31, who has a wife and a four-year-old son, signed on a year and a half ago for $700 a month, which hasn't been a living wage since before he was born. But, as he points out, he just got a raise—to $1,200. They all work full time.

The threadbare pay scale is well publicized, and it gives the Center the moral high ground when it is time, for instance, to ask a lawyer to work for zilch. Most of the Center's lawsuits are filed pro bono. If they win, the lawyers are paid by the loser, generally Fish and Wildlife or the Forest Service. "Reasonable legal fees" for suc-



Shane Jimerfield on soil not yet consumed by an expanding Tucson (below)

good sales line: 'We hate people and love snails'?"

cess and starvation for failure may account for the Center's win rate.

There are times, however, when the Center's moral pedestal is not so high, when winning can carry a political price. Suckling doesn't disdain politics—"We've done the science. Most of our lawsuits are about politics now," he says—and it's a good thing. Witness the Center's expected victory in a pending decision to secure an astonishing 750,000 acres of protected pygmy owl range. In its efforts to halt the development of suburban Tucson, which has been expanding into saguaro country like so much spilled pancake batter, the Center has found itself up against a few sacred cows: namely, education, science, and the pope.

When the Amphitheater school district broke ground on a new high school on 160 acres of cactus-grown desert right near a recent pygmy owl sighting, the Southwest Center sued. It was "a public relations nightmare," Suckling admits. After singer Jackson Browne announced plans to play a benefit for the Southwest Center last fall, Suckling says that the spokeswoman for the Amphitheater parents' group told Browne the Center "had made a lot of children's lives miserable." Browne sang anyway, and the Center won the lawsuit.

Another nightmare is its drawn-out legal battles against the University of Arizona, Ohio State, Germany's Max Planck Institute, and—Galileo's revenge—the Vatican, over a telescope complex amid 600 acres of old-growth ponderosa pines on Mount Graham, near Phoenix. The Center and its colitigators contend that, in addition to being sacred to the Apache, the mountaintop hosts plants and animals found nowhere else. But, in one of the Center's rare losses, the last of several telescopes is due for completion in 2001.

It is here that the "yes, but" factor begins to emerge. Is not astronomy a good thing? Is the Southwest Center a good thing? And at what cost their reforms? Aren't ordinary people exasperated by heroic attempts to save something as obscure as the water umbel?

Even some grassroots environmentalists find fault with this court-as-battlefield approach. "They're litigious," says Tim Hermach of the Native Forest Council, the Oregon group that first advocated "zero-cut" logging and has moved on to "zero-extraction"— no logging, no new trails, no nothing. "They're good at it, but they don't have a good sales or marketing line for the American public. 'We hate people and we love darters and snails'? They don't tell a story of a policy or philosophy overarching their litigious efforts, and I think that's unfortunate."

BACK ALONG THE SAN PEDRO, SUCKLING AND GALVIN and I call it quits. We haven't really been looking for a pygmy owl on our hike along the San Pedro, and we haven't seen one. No water umbels, either. What we have seen is what most small southwestern rivers once looked like: no cows, no dams. We hike back to our car along a singleton railroad track and head to Tucson through Sierra Vista. It's just a town, not beautiful, not ugly, growing and sucking water.

At the Center everyone is soldiering on as usual. Nobody has enough time. Call the office at 2 A.M. and somebody will be there, beavering away at too much work. Ask a question and you get several chapters of fiery answer. I asked Daniel Patterson, a young staffer, something about the San Pedro as he headed out the door on a bird-counting mission. Twenty minutes later he was still there, downloading facts and enthusiasm.

In a little over three hours at the office one January day, Suckling and his staff, on a "yes," "no," "later," and "forget it" basis, raced halfway through an arm's-length list of present and future litigation. And this was just the timber meeting. The creatures they're battling for include the jaguar, the Mexican gray wolf, the grizzly (which they would like to reestablish in the Southwest), the Sonoran tiger salamander, two kinds of goshawk, and the Chiricahua dock, a southwestern plant. Some, like the coho salmon, the Queen Charlotte goshawk, and the beluga whale, are not even desert creatures. But the Southwest Center is spreading faster than Tucson. A few weeks ago Peter Galvin was in northern California working with the Environmental Protection Information Center, known for its efforts to preserve old-growth redwoods, on a lawsuit to force critical habitat designation for the coho, whose spawning grounds have been trashed by logging. In Alaska, in a fight for the beluga whale in the Cook Inlet, the Center is schooling such local groups as the Sitka Conservation Society in their litigation techniques.

And last September, in its most audacious effort yet, the Southwest Center organized 20 local and national environmental outfits to challenge—for the first time—logging on *all* federal lands until the Forest Service comes up with a broad environmental impact statement and a credible no-logging alternative.

Who do they think they are? Do the Center and its allies really believe they can shut down all public lands logging? "Oh, sure," says Suckling absently, his mind already on other mischief.

A longtime contributor to *Outside*, John Skow wrote about Canadian mountain man Dick Person in the April 1998 issue.