

Eleventh-hour Shuffle

As its **last 100 days** get marked off the calendar, the Bush administration seems determined as ever to leave a **deeply etched trail of environmental destruction** in its wake—and to bestow bad-policy parting gifts on its big-industry allies.



Regardless of who takes the helm in 2009, the damage won't be easily undone. Among the last-minute attacks: a pair of strikes against the Endangered Species Act.

By now, we hope most Center for Biological Diversity supporters know a thing or two about these two attacks on our nation's most successful wildlife protection law. We hope—in part—because by the time you read this, the Department of Interior will already have pulled the plug on its conveniently brief period for public comment on its outrageous proposed rule changes intended to cripple the Endangered Species Act.

Fortunately, your response to our action alerts has been overwhelming: Center members and online activists have generated more than 53,000 letters to Interior Secretary Dirk Kempthorne opposing the changes.

But for those of you who may have missed the news, here again are the basics. (Those of you who

have the facts down? Check out this issue's D.C. Update for an end-of-term policy perspective from one Center staffer inside the Beltway.)

Both attacks launched in August, one so quietly it might have slipped by unnoticed if the Center's own vigilant policy wonks, and those of our allies, hadn't sounded the alarm. What the administration tried to pass off as a mere "clarification"—an innocent-enough format change to the endangered species list—actually would dramatically change the Act's substance by only protecting listed species where they're currently found.

Since most endangered species are endangered *precisely because* they've been shut out of habitat across areas of their historic range, this seemingly small pen stroke would permanently confine imperiled

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Photo from The Watchman by Robin Silver. Had a rule like the Bush administration's recent "clarification" to the Endangered Species Act gone into effect when the law was passed 35 years ago, gray wolves would never have been reintroduced to the lower 48 states—and the Mexican wolf would be extinct in the wild.

Eleventh hour *continued on back page*



ADVOCACY SPOTLIGHT

Jonathan Evans, *Staff Attorney*

Dirty Secrets of a “Clean Fuel”

Liquefied natural gas has been touted as a “clean fuel” alternative to petroleum and coal. This misnomer hides the true threats of its increased production to our oceans and changing climate.

This fall and winter, blue, grey, and humpback whales will begin their mammoth annual migration south along the fertile waters of North America’s Pacific coast on their way to breed in warmer waters. Unfortunately for marine wildlife like these whales, President Bush has continued his push to industrialize our coastal resources for fossil fuel exploitation. Much of that push has been toward increased offshore oil drilling, but another severe threat looms from increased production of liquefied natural gas.

Liquefied natural gas, or LNG, is often confused with its related forms, natural gas and compressed natural gas. But LNG specifically refers to natural gas (primarily methane) that’s been supercooled to -260 degrees Fahrenheit in order to create a liquid natural gas that’s much smaller in volume. Compressed LNG makes it possible to move natural gas overseas from areas where it’s extracted, such as Russia, the Middle East, Indonesia, and South America. (By comparison, compressed natural gas is not supercooled but is pressurized into high-pressure containers.)

Mislabeled by industry groups as a “clean fuel,” liquefied natural gas has many dirty consequences for our environment and national security. Like oil or coal, LNG is another fossil fuel harming wildlife, increasing pollution, and continuing our nation’s reliance on foreign fuels.

Tanker ship traffic and facilities for LNG threaten delicate marine and estuarine ecosystems. Several of our oceans’ most majestic marine creatures are threatened with reckless LNG development. The endangered blue, fin, and humpback whales, threatened Chinook salmon



This Technology’s Problems Run Deep: Liquefied natural gas facilities are not only energy-intensive and highly polluting, but their construction and operation, as well as increased tanker traffic, pose a multitude of threats to ocean life. Pipelines and infrastructure also threaten habitat for onshore wildlife; a last Los Angeles-area stronghold for the endangered El Segundo blue butterfly (right) is a prime example.



and steelhead trout, and many other ocean animals inhabit areas proposed for LNG facilities. The National Oceanic and Atmospheric Administration, the federal agency responsible for overseeing protection of marine wildlife, has stated on record that LNG tanker ship traffic poses a significant threat of collisions with marine mammals and sea turtles. Underwater noise from construction and operation of these facilities also could disrupt marine mammals’ migration and cause them to abandon areas important to their overall range.

The rush for liquefied natural gas in communities across the country will spark many battles over fossil fuel development. Currently, there’s a flood of 13 proposed LNG terminals along our coastlines, clustered near population centers in the Northeast, Pacific Northwest, Southern California, and Gulf of Mexico.

Take, for example, the OceanWay liquefied natural gas facility pushed by Australian oil and gas giant Woodside Petroleum. OceanWay has proposed a deepwater port staging area for tanker ships within the Channel Islands Marine Sanctuary

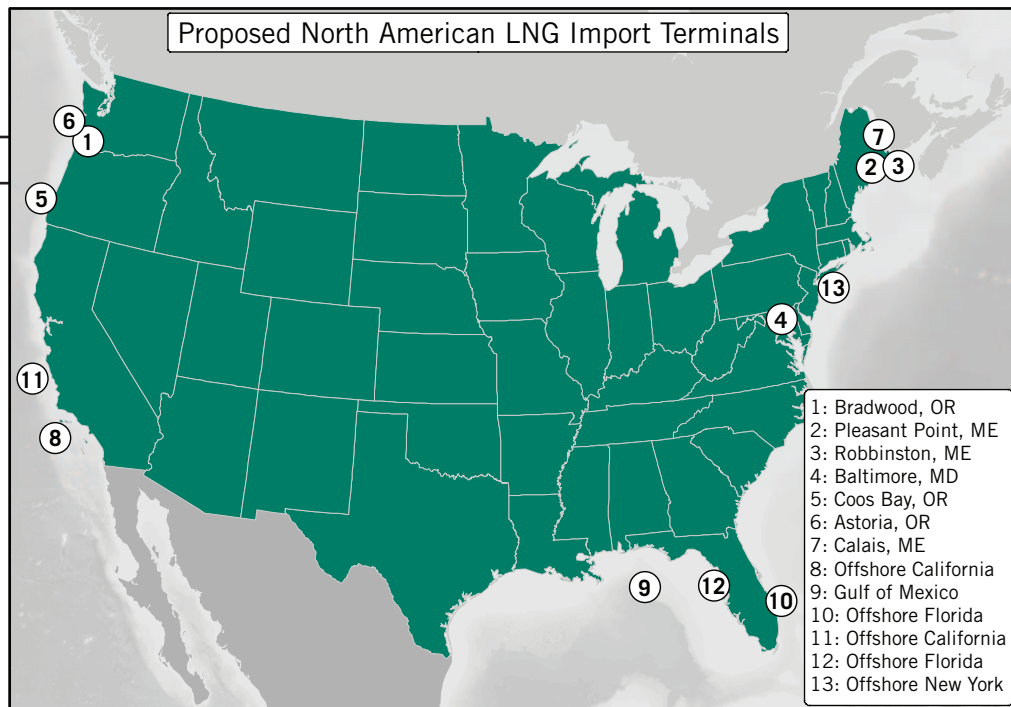
near Southern California's Catalina Island. But increasing industrial ship traffic in our marine sanctuaries is in no way compatible with protecting and restoring these critically important ocean refuges.

The pipelines and infrastructure for LNG also have serious consequences for wildlife on shore. Trans-oceanic tanker ship traffic is linked to onshore urban demand through massive new natural gas pipelines that cut through fragile coastal areas. A case in point: On a small patch of sand dunes and coastal buckwheat in Los Angeles remains one of the final strongholds of the El Segundo blue butterfly, an endangered species. This tiny, speckled-blue-and-orange butterfly has already been eliminated from almost all of its historic habitat. Now one of its last homes in the El Segundo Blue Butterfly Habitat Preserve near LAX airport is threatened by massive natural gas pipelines from the OceanWay facility.

These are just a few of the many reasons why the Center for Biological Diversity has joined the growing coalition No Way On OceanWay in the fight to protect wildlife along the California coast and Santa Monica Bay. We submitted comments to the city of Los Angeles and U.S. Coast Guard emphasizing that OceanWay must be denied because of its numerous environmental problems.

Another destructive natural gas pipeline has been proposed for a LNG facility along the rugged southern coast of Oregon in Coos Bay. This pipeline would slash through more than 220 miles of rich evergreen forest supporting spotted owls, Pacific fishers, and marbled murrelets, and would add sediment, contamination, and drilling mud to rivers supporting salmon and steelhead. In fact, expected landscape destruction and contamination levels are so great that pursuing the project would require the government to condemn homes along the pipeline's path.

Increasing liquefied natural gas production also threatens quality of life and wildlife habitat on a global scale by worsening our growing climate crisis.



Map by Curt Bradley, Center for Biological Diversity

Use of LNG produces significantly more greenhouse gas pollution than domestic natural gas. Unlike uncompressed natural gas, LNG requires a tremendous amount of energy to supercool the gas into liquid, transport it across the ocean from foreign fossil fuel sources, and “regassify” the LNG in the United States. All of this energy from LNG processing adds up to more carbon dioxide—a chief greenhouse gas pollutant contributing to global warming.

Worse, researchers at Carnegie Mellon University concluded that LNG can produce almost as much greenhouse gas pollution as the dirtiest of fossil fuels, coal. LNG processing from just one plant can generate more than 24 million tons of greenhouse gases per year. That's equal to a year's greenhouse gas pollution from roughly 4.4 million cars, or over 5 percent of California's greenhouse gas emissions in 2000.

At its core, liquefied natural gas is another highly polluting foreign source of fossil fuel that destabilizes both our natural and political environments. LNG extraction across the world has resulted in massive environmental and social degradation. On Sakhalin Island in the Russian Far East, natural gas exploration has damaged the marine home of the critically endangered western Pacific gray whale and has devastated native communities. The Camisea gas project in Peru has opened up the Amazon rainforest—a biodiversity hotspot—to massive resource

exploitation. The billions spent on LNG speculation undermine what should be our fight to stabilize the climate crisis, support renewable energy, and reduce our dependence on foreign sources of energy.

That's why the Center has stepped in to fight several destructive LNG projects, including OceanWay and Chevron's abandoned proposal for a LNG terminal in Baja California, Mexico, that would have devastated nesting habitat for endangered seabirds. We've also intervened to force the California Energy Commission to consider greenhouse gas emissions—and ways to reduce those emissions—for a proposed power plant in San Diego county that would rely on liquefied natural gas as a fossil fuel. With our members' and supporters' help, we'll continue to fight for a clean energy future of renewable energy that doesn't rely on foreign sources of polluting fossil fuels that harm both our environment and ourselves. •

ON THE WEB:

www.biologicaldiversity.org/campaigns/oil_and_gas_development/

www.nowayonoceanway.org

www.lngpollutes.org

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Summer's dog days give way to wolf-friendly fall

September was a magnificent month for gray wolf populations from the West to the Midwest to the Southwest. Now all wolves in the contiguous 48 states again enjoy Endangered Species Act protections.

Most recently, a federal judge's landmark ruling rebuked the U.S. Fish and Wildlife Service for removing Endangered Species Act protection for gray wolves in the Great Lakes region, where the wolves have just begun to recover, and ordered the government to relist them.

The ruling—a response to a conservationist lawsuit in which the Center participated—is the latest in a series of knuckle-rappings by the courts against an administration that's tried to punch loopholes in the Endangered Species Act



Gray wolf

Photo by Terry Spivey/USDA Forest Service

by dividing gray wolves into “distinct population segments” for the political purpose of removing their protections rather than furthering their management and recovery.

Earlier in September, northern Rockies gray wolves also regained

federal protection when—thanks to a legal victory for the Center and 11 allies, represented by Earthjustice—the Service agreed to restore the wolves' place on the endangered species list.

A March 2007 Service decision to delist gray wolves resulted in months of persecution under state management plans in the northern Rockies, with about 100 Idaho and Wyoming wolves shot and hundreds more targeted. Our suit brought a reprieve in July 2008, when a judge temporarily restored protections, and it resulted in the Service's September agreement to withdraw the delisting.

Even the Southwest's beleaguered Mexican gray wolf—North America's most imperiled mammal—got happy news in September when Arizona's Apache-Sitgreaves National Forest, where Mexican wolves roam, proposed requiring timely disposal of carcasses from livestock killed by non-wolf causes, helping prevent wolves from developing a taste for domestic stock instead of natural prey. We're requesting the provision's use on all lands governed by the Apache-Sitgreaves Revised Forest Plan.

Border fence has damming consequences

Just after the height of the Southwest's monsoon season, late this summer we obtained a report showing that the U.S.-Mexico border wall has

been significantly blocking the natural flow of water in Organ Pipe Cactus National Monument. As we predicted would happen where it crosses the San Pedro River watershed, the wall has become a dam, trapping floodwater and debris and causing grave ecological effects.



Border fence near the San Pedro

Photo by Robin Silver

The Organ Pipe Cactus National Monument, home to endangered species from the majestic Sonoran pronghorn to the tiny Quitobaquito pupfish, also contains 26 types of cacti, including its towering namesake.

But the new report, produced by the National Park Service, shows that the border wall is causing serious damage to the National Monument—including significant erosion, infrastructure damage, and diversion of floodwaters into open deserts.

This reality starkly contrasts the Department of Homeland Security's 2007 environmental analysis, which said the fence wouldn't impede water flow and Customs and Border Protection would remove post-rain debris to prevent backwater flooding. Since that analysis, Homeland Security Secretary Michael

Chertoff has exempted the border wall from all environmental laws.

According to the Park Service, the wall will keep affecting resources and infrastructure in the National Monument and also on neighboring U.S. and Mexican lands.

Road ruling helps keep Death Valley alive

August 11 was a great day for Death Valley, Calif., when a federal judge largely tossed out a lawsuit by Inyo County to open highways through pristine roadless areas of Death Valley National Park.

With its suit, filed against the National Park Service, the county hoped to grab control of three little-used paths and canyon bottoms and turn them into two-lane highways by using the ancient, repealed right-of-way law R.S. 2477.

Fortunately for Death Valley's bighorn sheep, desert tortoises, and countless other species, the routes were included in Bureau of Land Management wilderness study areas back in 1979. Since the county didn't make its move within the 12-month statute of limitations, the court sided with the National Park Service—along with the Center and allies, who intervened in the suit—and dismissed its demand to open routes within park wilderness areas in Greenwater Valley, Greenwater Canyon, and Last Chance Canyon.

Death Valley National Park, the biggest national park in the lower 48, is not only home to imperiled species; it also contains fascinating archeological features like Greenwater Canyon's 300-plus petroglyphs. One of eastern California's most valuable natural and cultural assets will now be better preserved.



Desert tortoise

Photo © Gary Nafis/californiaherps.com

The tortoises' new home was anything but welcoming—local rodent populations had plummeted in the drought, leaving slim pickings for area coyotes. Dumped into unfamiliar territory, the tortoises were easy targets: Starving coyotes killed at least 23 tortoises within two weeks after their eviction from Fort Irwin. Adding illness to injury, diseased resident tortoises at the relocation site could infect healthy tortoises released there.

"This whole debacle needs to be significantly rethought," says Center biologist Ileene Anderson—so we'll keep pressuring the Army and Bureau to re-think the consequences of moving desert tortoises in the future. *If* translocation must resume, we recommend moving the fewest tortoises necessary, moving only healthy tortoises into healthy populations, and reserving better, safer habitat for relocated tortoises with humane protection from predators as well as from off-road vehicles and other disturbances.

Center fights for Sierra species' safety net

The Center is teaming up with the Sierra Club, Sierra Forest Legacy, and Defenders of Wildlife to

bring vital protections back to bellwether species in Sierra Nevada national forests. The Bush administration removed key protections last year by eliminating specific monitoring requirements for the Sierras' indicator species, in a move favoring logging interests over endangered wildlife.

Monitoring indicator species—those whose health reflects an ecosystem's overall well-being—has long been a crucial component of forest planning, and it's a common-sense way to inform decision-making that could otherwise jeopardize entire ecosystems. Legally, if the U.S. Forest Service finds that logging or other projects could harm indicator species, it must protect those species and their habitat before revving up the chainsaws.

But in 2007, extending its history of weakening long-standing environmental protections, the Forest Service inexplicably slashed the number of species to be monitored from 60 to just 13. Logging in the Sierras got a whole lot easier—and species like the northern goshawk, bighorn sheep, and California condor were out of luck.

Accordingly, the Center and allies sued in September to force the Forest Service to reinstate former monitoring requirements and restore a safety net for Sierra forests and wildlife.

A separate, earlier Center lawsuit brought

about a piece of good news for the endangered Sierra Nevada bighorn sheep this August, when the U.S. Fish and Wildlife Service finalized the species' protected critical habitat—including more than 400,000 eastern Sierra Nevada acres crucial for the bighorns' survival and recovery.

Oregon owl logged out of house and home

This August, the Center hauled the U.S. Fish and Wildlife Service to court for failing to reconsider how logging mature and old-growth trees in Oregon's Elliott State Forest harms the northern spotted owl.



Northern spotted owl

Photo by John & Karen Hollingsworth/USFWS

Under a 1995 "habitat conservation plan," the Service let the Oregon Department of Forestry log 22,000 acres of spotted owl habitat, which along with existing habitat loss and fragmentation was expected to reduce owl territories from 35 to 13. 2003 surveys confirmed that within just eight years, owls had indeed been

Army halts tragic tortoise translocation

In our last issue of *Endangered Earth*, we exposed the disastrous consequences of the Army's decision to relocate hundreds of desert tortoises to make room for Fort Irwin's tank-training expansion into some of the Mojave Desert's finest tortoise habitat. In July, the Center sued the Army and the Bureau of Land Management to stop the relocation, which has now resulted in more than 90 tortoise deaths. We're happy to report that in early October, the Army suspended the flawed translocation program.

In 2001, Congress authorized Fort Irwin's expansion into tortoise territory, stipulating that the tortoises—protected under both the federal Endangered Species Act and California's version—be relocated to lands to be managed by the Bureau of Land Management. The Army airlifted and trucked about 770 tortoises from Fort Irwin to drought-stricken areas of the Mojave in March 2008.

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reduced to 13 territories; what hadn't been predicted was that six of the remaining territories also housed barred owls, competitors and predators of spotted owls.

In light of heightened threats posed by barred owls, habitat loss, and disease, the Center's suit—filed with Umpqua Watersheds Inc., Cascadia Wildlands Project, and Klamath-Siskiyou Wildlands Center—seeks to end clearcutting in Elliott spotted owl habitat.

Meanwhile, the Bush administration has slashed the owl's federally protected habitat by 23 percent. Last year, a federally appointed scientific panel found that the administration's plans to drastically reduce the owl's critical habitat not only "failed to make use of the best available science," but—true to form—selectively pulled snippets from scientific studies to patch together a justification for the cut.

And speaking of meddling with science

Continuing our campaign to defend scores of species harmed by political interference with science, the Center filed five lawsuits October 2 to help save six animals and plants robbed of Endangered Species Act protections by corrupt Interior Department officials.

Our suits seek to regain critical habitat protections for the



Munz's onion

western snowy plover, California tiger salamander, southwestern willow flycatcher, Buena Vista Lake shrew, San Jacinto Valley crowscale, and Munz's onion.

We officially began our Litigating Political Corruption campaign in August 2007, when we declared our intent to sue Interior over politically tainted decisions affecting 55 species—many the work of Julie MacDonald, a high-ranking Interior official forced to resign after a report proved she'd illegally edited scientific documents to reduce endangered species' protections.

Since then, our list of species for this campaign has grown to nearly 60, we've sued for 26, and we've had substantial success: The administration has agreed to re-designate critical habitat for 15 species and to reconsider an endangered listing for the Mexican garter snake.

All six species in our October suits experienced drastic reductions in critical habitat, with cuts totaling more than 300,000 acres and ranging from 23 to 100 percent of areas scientifically deemed "essential" to recovery.

This administration just keeps the work coming

As we geared up to sue for the six corruption-harmed species in the update above, two rodents we've been watching over due to politically tainted science in *their* management also had protections stripped.

In late August, the Bush administration removed the West Virginia northern flying squirrel from the endangered species list. Interior's utter disregard for science in its delisting proposal for the squirrel last year prompted the Center to include the species in our Litigating Political Corruption campaign.

The West Virginia flying squirrel lives in the Southern Appalachians on isolated mountaintops harboring boreal-like forests, relicts of the last ice age. According to the squirrel's science-based recovery plan, any systematic threat to its high-elevation habitat—including global warming—should bar delisting.

Despite the Endangered Species Act's mandate that measurable criteria in recovery plans be met before protections are removed, the U.S. Fish and Wildlife Service wrote off the squirrel's criteria as mere "guidance." The Center and numerous allies filed comments strongly opposing the furry hang-glider's unfair delisting.

Three years after a failed effort to delist the Preble's meadow jumping mouse throughout

its range, this July the administration changed tactics and removed its protections in Wyoming—safeguarding only Colorado populations of the tiny streamside mammal.

Like the flying squirrel, the jumping mouse is part of our Litigating Political Corruption campaign—in this case, because tainted science justified the administration's 2003 critical habitat designation for the mouse, which slashed 26,000 acres from the first-proposed 57,000.

After we submitted comments last November opposing the mouse's proposed Wyoming delisting, the Fish and Wildlife Service pledged to reconsider that proposal and the inadequate habitat designation.



Northern flying squirrel

But despite its own acknowledgement that past decisions for the Preble's meadow jumping mouse were politically tainted, the Service maintains that Wyoming jumping mice don't need protection because threats there aren't quite as bad as they are in Colorado.

Looks like we'll be redressing corrupt decisions long after the Bush administration packs up its meddling tools and hits the road.●

Honesty: It's Such a Lonely Word

While Alaska's governor deservedly owns the Center's 2008 Rubber Dodo Award (see page 10), if we gave out a Double Talk Award this year's would surely go to 2007 Dodo winner Interior Secretary Dirk Kempthorne. Consider these mind-boggling feats of unintended irony:

Q: How do you waste taxpayer money, throw a bone to big industry, and destroy our nation's most powerful wildlife-protection tool—in one fell swoop?

A: Wrest Endangered Species Act oversight from federal wildlife agencies (whose primary responsibility is, by definition, *protecting wildlife*) and thrust it into the hands of the agencies charged with building roads, permitting logging, and leasing oil and gas rights.

Q: How do you rip the “recover” right out of the Endangered Species Act's wildlife recovery goal?

A: In the Bush-Kempthorne era, you pretend to merely face-lift the *format* of the endangered species list while cleverly changing its *substance* to protect imperiled plants and animals only where they now “persist”—a “formatting” change that erases an endangered species' historic range and commits it to permanent endangerment (or extinction) at the same time!

Q: How do you even begin to reprimand the Minerals Management Service, an Interior Department agency recently found by the department's Inspector General to have accepted extravagant gifts from oil companies it's supposed to bill for drilling on public lands, and to have spent taxpayers' money on drugs and parties?

A: In this administration? You give the agency an “ethics award” the day before the story breaks.

Q: How do you deal with the scientific reality of global warming that threatens our own human future and countless other species?

A: You speak in broad platitudes about global warming but do nothing when pressed—because we can't really “prove” global warming is the “cause” of a species' decline, and anyway, doing something would hurt oil companies' profits.

Q: How do you list the polar bear as a “threatened” species under the Endangered Species Act—yet attempt to deny polar bears any protections that weren't already provided by the Marine Mammal Protection Act?

A: You go one better and attempt to violate even the marine mammal protections the bears *already had*, by rushing through new oil leases in their already threatened habitat. Oh, and you ask Center lawyers to sue in federal court to set the law straight once again.

Yes, Kempthorne's record inspires superlatives—no wonder he's often hailed as the worst Interior Secretary for the environment since Reagan's James Watt. But the better analogy dates back to the early 1920s from the tale of President Warren Harding and the Teapot Dome Scandal. The facts are eerily familiar. Before Dick Cheney was even born, Wyoming's oil fields attracted the backwater of Beltway



Bill Snape, Senior Counsel
Center for Biological Diversity

Habitat: Washington, D.C.

politicians. Harding's Interior Secretary, Albert Fall, was convicted on bribery charges for accepting payments-in-kind resulting from oil leases given by his department to Republican barons. Today, Bush's former Deputy Interior Secretary Steve Griles is in jail for similar in-office criminal violations, and Kempthorne has done nothing to clean house—as the recent Minerals Management sex, drugs, and oil scandal illustrates.

Today, however, the stakes are much higher. Global warming has heated Arctic ice so much that it may soon be absent in the summer for the first time in millennia. Life hangs in the balance. As the Bush administration seeks a massive increase in offshore oil and gas drilling, it refuses—with every waning power it possesses—to institute energy conservation measures that would prevent fossil fuel pollution and arrest global warming.

To be fair, our current Congress has done only slightly better—mostly because it hasn't done much. Tax breaks for proactive endangered species measures? No. Comprehensive global warming legislation? No—and even the “good” climate bill we saw from the 110th wouldn't have gotten us near the mark set by leading climate scientists like Dr. James Hansen for reducing greenhouse gas emissions enough to avoid calamity. Tax credits for renewable energy sources like wind and solar? Yes! But—oops—only *after* rescinding moratoria on offshore oil drilling and public-lands oil shale extraction, and *increasing* subsidies to old school refineries. Action to reduce black carbon—which would slow Arctic ice-melt faster than slashing emissions from any other pollutant? No—because that bill's been blocked by Sen. Tom Coburn, R-Okla., who's blocked *any* bill that increases federal spending by a penny (though he did vote “yes” on the \$700 billion mortgage bailout package).

So what's the Center doing about all this? We're fighting for plants and animals already palpably threatened by global warming. We're leading the charge to expose political corruption where it tampers with science and harms endangered species, and to continue our hard-hitting media campaign to ensure the story gets told. In D.C., we're organizing meetings and briefings with members of both parties and multiple federal agencies, which still hold people interested in the best available science.

Our work isn't always popular or fun, and we often face the just plain bizarre. Welcome to the urban jungle of our nation's capitol. •

Tourist Paradise *or* Paradise Lost?

The Center's International Program is dedicated to protecting some of our planet's richest hotspots for biodiversity. Unfortunately, some so-called "ecotourism" projects that purport to preserve remote wild places and the ecologically and culturally significant treasures they contain are not what they seem—but their marketing materials may reel you in. We bring you two green-washing case studies from Latin America's shores.

Latin American countries have long offered beautiful, exotic destinations for ecotourists. Increasingly, they're also offering attractive retirement investment opportunities for North American jet-setters who are looking for sound, environmentally-friendly real estate investments.

As a result of the popularity of investing in so-called "eco-resorts"—which often aren't tourism resorts at all but are instead full-blown residential developments—some Latin American governments are exploiting their money-making resources to the brink of total collapse. In some cases, this overexploitation of resources is the calculated result of maximizing their financial value. In other cases, it's the result of poor planning or government corruption.

Making matters worse, some unscrupulous developers are marketing their projects as "eco-friendly" or "green" while actually harming the environment and communities in which they're situated. Two such misleadingly marketed eco-resorts opposed by the Center for Biological Diversity are Paraíso del Mar, in La Paz, Mexico, and Red Frog Beach, of Bocas del Toro, Panama.

Paraíso del Mar, "Paradise of the Sea," is a resort neighborhood situated on the tip of a peninsula across the bay from La Paz and comprises about 1,700 acres, with five miles of beach frontage on the Sea of Cortez. Paraíso del Mar developers plan to include 294 luxury houses and more than 400 condominiums. While they claim the planned neighborhoods are "fully sustainable," the developers continue to find themselves in

trouble for failing to adequately protect the environment.

Local environmental groups allege numerous transgressions: that Paraíso del Mar dredged to install electric wiring without government authorization, that it conducted construction within 100 meters of mangrove forests in violation of Mexican law and deforested more than 11,000 square meters of mangroves; and that the environmental impact statement it submitted does not consider the development's impacts on the whale shark and other marine species.

The whale shark is the largest living fish in the world, growing up to 46 feet long and weighing up to 15 tons. Notwithstanding its size, the shark poses no threat to humans because it's a filter feeder, swimming along with its mouth open to net a

meal of small organisms like plankton and krill. The International Union for the Conservation of Nature has identified the species as vulnerable, and scores of tourists flock to La Paz annually for the opportunity to swim with these gentle giants.

Despite the allegations of non-compliance with local environmental laws, Paraíso del Mar prominently advertises its claim as "Mexico's only Audubon International Signature Development" on its Web site's homepage. Under scrutiny, however, that claim quickly unravels.

For one thing, according to Audubon International's Web site, Paraíso del Mar has not met its criteria for a signature development—one that has gone through a comprehensive environmental planning process so that project design can achieve both





Photo courtesy badwishespanama.org



Photo by Cynthia Elkins

Trouble in Paradise: Scores of tourists flock to La Paz, Mexico, for the opportunity to swim with the whale shark (left), an awesome gentle giant—but a planned resort neighborhood billed as ecologically friendly has come under criticism for failing to consider its own impacts on the whale shark and other marine life. Below left, a young member of the Ngobe tribe looks over a stretch of beach threatened by the Red Frog Beach development on Panama’s Islas Bastimentos. Opposite page: Sites of both developments of concern.

del Toro Archipelago. These secluded islands are known for their biological diversity; like

the famed Galapagos Islands of Ecuador, the Bocas del Toro are home to numerous plant and animal species that may be found nowhere else in the world but on individual islands in the chain.

The province spans lagoons, mangroves, estuaries, coral reefs, and ocean coastal waters, and its pristine beaches provide critical breeding habitat for endangered leatherback, green,

and hawksbill sea turtles. Among the other diverse wildlife species of Bastimentos are night monkeys and three-toed sloths, and the area is also popular with birdwatchers, who can see trogons, antbirds, forest wrens, puffbirds, tanagers, parrots, and motmots. Red Frog Beach itself is named for the strawberry poison dart frog that inhabits the island—nearly 33,000 acres of which lie within the protected Parque Nacional Bastimentos.

Yet both Phase I and Phase II of the development have been approved despite local protest—including vigilant opposition from the indigenous Ngobe-Bugle people, whose culture and way of life remain intimately linked with the island’s bays, reefs, and mangroves. The luxury residential resort area covers 1,500 acres with three miles of beachfront—roughly 9 percent of the island’s total area—and includes plans for 250 single-family lots and 550 condominium units.

As in the case of Paraíso del Mar, Red Frog Beach was also seeking Audubon International approval. That approval became irrelevant, however, when ANAM, Panama’s national

environmental authority, rejected the developers’ plans to include a golf course in the project.

Furthermore, human-rights and environmental groups have challenged Phase II of the project for failing to adequately account for its impacts on the area and its wildlife. Additionally, in September 2007, Red Frog Beach developers were fined \$130,000 and required to create a 25-hectare forest buffer to mitigate for uncontrolled erosion from construction activities. According to local sources, the project has been at a standstill for about two years—possibly due to a labor union strike and financing issues. More than 4,500 Center supporters generated letters to Panama’s minister of tourism as well as ANAM helping us voice our early opposition to Phase II, and we’ll continue to keep an eye on the development if it progresses.

Unfortunately, such cases are increasingly common, as currently there are no global guidelines or certification processes for eco-resorts. Also, there are no domestic laws that explicitly protect investors’ rights when it comes to the misuse of green marketing to tout real estate developments abroad, and many of these developments require investors to sign a contract that limits their rights to bring suit in the United States.

While the Center’s International Program will continue to work in coalition to oppose unsound development in some of the planet’s most vital biodiversity hotspots, investors themselves should be wary. If you’re thinking of investing, don’t rely on developers’ representations of “green” resorts; instead, do your research and make a site visit first. Eco-resorts can be good for the environment and local communities, but investors have the ultimate responsibility to ensure their investments don’t degrade the earth’s last remote and wild places. ●

—Article by Jacki Lopez, legal researcher, International Program

economic and environmental objectives. And contrary to Paraíso del Mar’s claim, two already existing developments in Mexico—Tambora in Chamela and Entre Mares in La Paz—*have* met the criteria to qualify as signature developments.

But most significantly, Audubon International is not at all affiliated with the U.S.-based National Audubon Society, nor any other familiar state or regional Audubon Society. Rather, it was created in 1996 for the purpose of providing certificates for developments that conform to certain standards—one notable particular being standards for golf courses, as one of Audubon International’s principle sponsors is the U.S. Golf Association. In fact, National Audubon Society has spoken out against Audubon International and developments that advertise its endorsement, stating that National Audubon Society does not endorse golf courses nor developments and that it condemns the confusing use of the name “Audubon International” to promote such development.

Another so-called eco-resort is the Red Frog Beach development, located on Isla Bastimentos in Panama’s Bocas

As Arctic heats, hot-under-collar industry sweats

This September, the National Snow and Ice Data Center reported that Arctic sea-ice extent had fallen to its second-lowest level ever documented. Not only is this grave news for polar bears, ice seals, penguins, walruses, and other animals that depend on ice for survival—it's a scary reminder of what global warming means for the whole planet. Here's news on some key warming-threatened creatures and what the Center's doing to fight what ails us all.

Polar bear's opponents queue up

Since Interior Secretary Dirk Kempthorne announced the polar bear's "protection" under the Endangered Species Act last May, things haven't gone so well for the Arctic giant. Besides a threatened lawsuit by the Pacific Legal Foundation, the bear's less-than-solid listing has been challenged by trophy-hunting group the Safari Club, groups representing the oil and gas, mining, and manufacturing industries, and the state of Alaska, led by Alaska Governor—and now vice-presidential candidate—Sarah Palin.

In mid-September, the Center recognized Palin for her ardent campaign to doom the polar bear, ignore climate change science, and further global warming when we honored her with our prestigious Rubber Dodo Award. Honorable mention goes to last year's recipient, Kempthorne himself.

Of course the Center, besides intervening in the Safari Club lawsuit, has filed our own suit over the polar bear's listing—only *we're* going to court on the bear's side.

Ice seals, penguins, and pikas see progress

While the polar bear swims in place at the center of a national debate, some less-famous warming-threatened species are forging small steps toward protection. Early this September, the bearded, ringed, and spotted seals gained ground when the National Marine Fisheries Service responded positively to a Center petition to protect them under the Endangered Species Act. Announcing it was launching a full status review of all three ice seals, the agency set a May 2009 deadline for its final decision.

Also in September, 10 penguin species waddled closer to Endangered Species Act protection when a federal judge approved a settlement between the Center and the U.S. Fish and Wildlife Service, giving the Service until December 19 to complete its way-overdue finding on the flightless birds' fate. Though each of the penguin species faces a unique set of threats, they're all at risk from reduced food availability caused by fast-warming, less-icy seas. The Center first petitioned for the penguins' protection in 2006.

As for the land-locked American pika—well, at least things are moving forward. Since the California Fish and Game Commission denied our 2007 petition to list the little mammal under the state's Endangered Species Act—and the U.S. Fish and Wildlife Service ignored our federal petition—the Center sued both agencies. We're determined to defend the furry, cold-adapted rabbit relative against rising temperatures that not only change its habitat and food availability, but also can directly kill pikas through overheating.



As Temperatures Go Up, So Do Pikas: These cold-adapted rodents must move upslope to escape death by global warming—and they can only move so high.

Photo © Larry Master/masterimages.org

Straight to the source: We tackle emissions

Besides defending species from climate change already at large, the Center has continued to tackle the problem at its roots: greenhouse gases.

Less than a month after we warned the administration we'll sue over its failure to address global warming pollution from ships and airplanes, we filed comments in August spotlighting gaping holes in the Bush administration's latest proposed fuel-economy standards for automobiles. As we point out, officials set the standards laughably low by using a decidedly out-of-touch analysis—assuming, for example, that gas will cost a miraculous \$2.36 per gallon in 2020.

On the same day we filed comments, the Ninth Circuit Court of Appeals denied the administration's request to revisit a landmark 2007 decision in our lawsuit against the Department of Transportation, requiring the administration to set fuel-economy standards at the "maximum feasible level" and to fully analyze their environmental consequences.

And in a huge victory for California *and* the Center, a judge ended a Center and Sierra Club lawsuit in August by rejecting a proposal for the Palmwood project—a 2,600-home resort and golf course planned near Joshua Tree National Park—for failing to address greenhouse gases. Besides emitting enough global warming pollutants to fly in the face of the California Environmental Quality Act and California Global Warming Solutions Act, the resort would decimate habitat for numerous rare species. •

Staff appearances highlight big lies, little owl

Oh—you meant *losing* record

The Center's Biodiversity Program Director Noah Greenwald traveled to Washington, D.C. in July to participate in a discussion panel titled "Conservation in a Hostile Climate" at the "Rejuvenating Public Sector Science" national conference.

The theme for the day: the many failings of the Bush administration with regards to environmental policy. Jim Furnish, former deputy chief of the Forest Service under both the Clinton and most recent Bush administrations, set the tone with a scathing criticism of the administration for not only failing to move forest protections forward under its watch, but also undoing vital conservation measures set in place by the Clinton administration. Dominick DellaSala, chief scientist with the National Center for Conservation Science and Policy, quoted from e-mail messages by U.S. Fish and Wildlife Service employees to similarly blast the Department of Interior—including the department's current deputy secretary Lynn Scarlett—for interfering with the findings of its own scientists in order to limit protection for old-growth forest and the northern spotted owl.

A clearly riled Scarlett—the next to speak—claimed no memory of redirecting government biologists from protecting owl habitat, and asserted that her administration boasts a endangered species record similar to that of the Clinton administration.

Our own Noah followed Scarlett with a perfectly timed presentation of hard facts demonstrating the Bush administration's abysmal record of implementing the Endangered Species Act—including protecting the fewest number of new species of any administration since the Act was passed.

Following Noah's presentation, Scarlett's only response was to clarify that when she said that the Bush administration's record was comparable to Clinton's, she only meant that they had a similar record at *losing lawsuits* over endangered species—hardly a badge of honor.

Soon after using it to debunk one of the administrations's tall tales in D.C., Noah presented his data on Endangered Species Act implementation at the annual meeting of the Society for Conservation Biology in Chattanooga, Tenn. Also making an appearance at the conference was Center climate scientist Dr. Shaye Wolf, who presented her doctoral work on predicting the likely effects of climate change on the Cassin's auklet, a West Coast seabird.

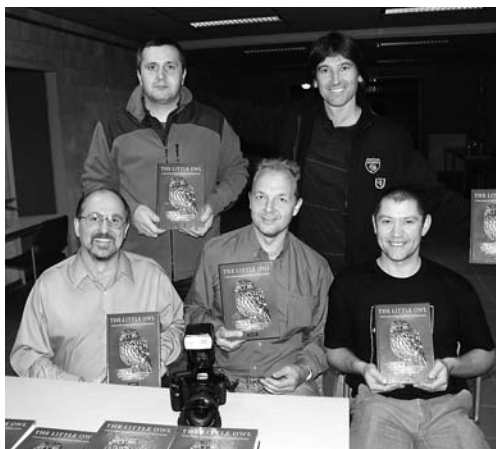
And if that's not a hoot. . .

On the other side of the world, David Johnson, director of the Center's Global Owl Project, debuted his new book on the ecology of the little owl this fall at the 4th International Little Owl Symposium in Herzele, Belgium.

The book—*Ecology and Conservation of the Little Owl*—represents a substantial contribution to our knowledge of the little owl, a bellwether species that occupies agricultural and semi-open landscapes from the UK to China. Many cultures have a deep affiliation with this particular owl, revered in ancient Greece as the owl of the goddess Athena.

The NHBS Environment Bookstore has awarded the book an "Editor's Choice" award as one of their very best new titles. Johnson and his co-authors attended the book release and signing during the September symposium, which drew 250 attendees.

The Global Owl Project, a recent addition to the Center's Biodiversity Program, unites hundreds of scientists, geneticists, and students in 62 countries around the world working on founding science and conservation strategies for owls. •



Little Owl, Big Deal: The Center's David Johnson, lower left, was joined by fellow senior little owl researchers from Poland, Spain, Slovenia, and Belgium for the debut of a new book on the ecology of the species.

Endangered earth

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Eleventh hour *continued from front page*

plants and animals to a range too limited to support their recovery. Had such a rule been in place when the Act became law 35 years ago, the gray wolf would never have been reintroduced in the lower 48 states—and the California condor would survive only in zoos.

The second strike on the Act was an all out bomb-drop: a rule change that would give the federal agencies that permit logging, road-building, oil drilling, and other projects on public lands the power to decide for themselves whether those projects may harm endangered species. Under this proposal, those agencies—which are powerfully influenced by the same special interests they're supposed to regulate—would no longer have to consult with the federal wildlife agencies whose stated goal is, of course, to protect and recover wildlife.

The new rule also would exempt agencies from factoring in a project's potential contribution to global warming before they green-light the project—

crushing agencies' just-budding (and critically important) efforts to ensure projects plan to combat climate change.

Letting federal agencies determine the impacts of their own projects to endangered wildlife is a classic case of letting the fox guard the henhouse. It's also a proven failure: Five years ago, a Bush administration plan allowed the U.S. Forest Service and the Bureau of Land Management to self-consult rather than obtain Endangered Species Act approval from the Fish and Wildlife Service, in order to “streamline” the process for proposed logging projects that supported the National Fire Plan. A federally ordered review of the policy found that the Forest Service and Bureau violated the Endangered Species Act in 68 percent of their projects. Conveniently, the Interior Department suppressed that report's publication.

With the public comment period coming to a close, Congress out of session for the year, and a new presidency on the eve of election (as

we go to press), the fate of the Bush administration's 11th-hour attacks on the Endangered Species Act is uncertain. What *is* certain is that if the administration cements its proposals into policy, that policy will carry the force of law—without Congressional vote—and won't be easily undone by a new administration.

But just as we've conducted vigorous campaigns to mobilize media coverage of these attacks and public opinion against them, we'll continue to mobilize members of Congress and agency insiders—those who believe in abiding by science and the law—to fight policies that undermine our flagship environmental law. And if we must, we'll go to court to defend it. •

ON THE WEB:

www.biologicaldiversity.org/campaigns/esa_in_peril/