

CONGRESS, PRESIDENT REAGAN, COURTS AND EDITORIAL BOARDS AGREE: CITIZEN ACCESS TO COURT IS NEEDED TO ENFORCE ENVIRONMENTAL AND OTHER SAFEGUARDS

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COURTS AND CONGRESS

Defenders of Wildlife Judging the Environment website: [Access to Courts](#)

Congress has repeatedly included "citizen suit" and private attorney general provisions in a wide range of laws to ensure that essential environmental, civil rights, consumer, health, worker, property, and other legal safeguards are upheld and enforced. The Supreme Court unanimously [held](#) that a citizen who obtains relief "does so not for himself alone, but also as a 'private attorney general,' vindicating a policy that Congress considered of the highest priority. If successful plaintiffs were routinely forced to bear their own attorneys' fees, few aggrieved parties would be in a position to advance the public interest by invoking the injunctive powers of the federal courts."

In upholding the ability of individuals and organizations to sue polluters, **the Supreme Court** [recognized](#) that: "Congress has found that civil penalties in Clean Water Act cases do more than promote immediate compliance . . . they also deter future violations." Courts have [described](#) how "extensive legislative history" establishes "that Congress intended citizen suits to both goad the responsible agencies to more vigorous enforcement of the anti-pollution standards and, if the agencies remained inert, to provide an alternate enforcement mechanism." See

[Shifting the Debate: In Defense of the Equal Access to Justice Act](#), by Brian Korpics, Jay Austin, and Bruce Myers, Environmental Law Institute, Nov. 2013; and

[Citizen Suits at Thirtysomething: A Celebration and Summit](#), Widener Law Review's Symposium

[Sue and Settle: Demonizing the Environmental Citizen Suit](#), Seattle University Law Review, Vol. 37, No. 891, 2014 by Stephen M. Johnson, Mercer University Law School

President Reagan [stated](#): "I am pleased to be able to approve H.R. 2378, a bill to extend the Equal Access to Justice Act. I support this important program that helps small businesses and individual citizens right faulty government actions by paying attorneys' fees in court cases or adversarial agency proceedings where the small business or individual citizen has prevailed and where the government action or position in the litigation was not substantially justified. "

A nonpartisan Congressional Research Service [Report](#) lists "roughly two hundred statutory [attorney fee provisions], which were generally enacted to encourage private litigation to implement public policy. Awards of attorneys' fees are often designed to help to equalize

contests between private individual plaintiffs and corporate or governmental defendants. Thus, attorneys' fees provisions are most often found in civil rights, environmental protection, and consumer protection statutes. In addition, the Equal Access to Justice Act (EAJA) makes the United States liable for attorneys' fees of up to \$125 per hour in many court cases and administrative proceedings that it loses (and some that it wins) and fails to prove that its position was substantially justified."

EDITORIAL BOARDS

ENDANGERED SPECIES ACT

EDITORIAL: NC wildlife officials abandon their duties by abandoning the red wolf (*News & Observer [NC]*, 02/28/15)

"The red wolf population is now estimated at about 100, down from 130 in 2003, a decline caused mostly by hunting. To stop the toll on red wolves, the Southern Environmental Law Center on behalf of **conservation groups sued the Wildlife Resources Commission seeking a ban on coyote hunts in the recovery area. Last May, U.S. District Judge Terrence Boyle ordered a stop to the hunts** until the case could be heard. Meanwhile, the Wildlife Resources Commission and the U.S. Fish and Wildlife Service agreed to work together to manage coyotes and protect the red wolves. The **SELC later settled its lawsuit with an agreement that would ban night coyote hunting in the recovery area.** But rather than find a way to cull coyotes and save wolves, the Wildlife Resources Commission now wants to abandon the red wolf recovery effort.... **The commission's proposal contradicts its mission and the settlement agreement.** The Southern Environmental Law Center representing groups supporting the red wolf recovery – Red Wolf Coalition, Defenders of Wildlife and Animal Welfare Institute – has sent the commission a letter calling on the commission to rescind its resolutions and abide by its agreement with the U.S. Fish and Wildlife Service to promote the recovery of the red wolf. Bringing back the red wolf is challenging, and coyotes complicate the mission. But the answer isn't to give up and start shooting."

EDITORIAL: Out of the woods: Gov. Wolf revives sensible protection on drilling (*Pittsburgh Post-Gazette [PA]*, 02/02/15)

"Former Gov. Ed Rendell in 2010 banned drilling on 800,000 acres of the most environmentally sensitive areas, those that provide habitats for rare and endangered species, host fragile ecosystems or contain old-growth forests. ... Four years later, former Gov. Tom Corbett revoked the ban, saying the land could be drilled as long as there was no long-term disturbance on the surface. Naturally, that set off a debate over what constituted a long term, and **a court fight meant the \$75 million worth of new leases that Mr. Corbett had hoped to tap never came to be. With Mr. Wolf's order, a reasonable boundary has been re-established** between what is and what is not suitable land for drilling."

EDITORIAL: Tallahassee's views on conservation at odds: Battle over Amendment 1 money brewing (*Herald [Bradenton, FL]*, 01/30/15)

Gov. "Scott pledged to fully comply with the amendment, even including additional funding for such environmental initiatives as **conserving land for the Florida panther and springs.... Legal action might be necessary should the Legislature attempt to divert this dedicated**

environmental money elsewhere -- particularly to programs that the state already funds, thus freeing up dollars for other projects."

EDITORIAL: High court decision saves Captain Sam's (*Post and Courier [SC]*, 12/11/14)

"**The South Carolina Supreme Court dealt a formidable blow on Wednesday to a long-contested development** proposed by Kiawah Development Partners along a narrow strip of pristine barrier island. The court's decision should finally put an end to a bad idea....**Captain Sam's Spit serves as irreplaceable habitat for numerous shorebirds, including at least one endangered and one threatened species.... Those assets merit protection, and both the South Carolina Legislature and the state Supreme Court agree.** In the court's majority opinion, Justice Kaye Hearn wrote, "To allow the benefits to a private developer to override the interests of the people of South Carolina undermines the [S.C. Coastal Zone Management Act] statute and defeats the very purpose of the public trust doctrine.""

Editorial: Restoration pays off in record salmon returns (*Daily Astorian [OR]*, 09/15/14)

"[I]t must be noted **that little of this would have been achieved without the strong pressure provided by the Endangered Species Act and the determined legal wits of federal Judge James Redden.** And though the term "environmental group" is seldom one that engenders warm feelings in the rural Pacific Northwest, **the advocacy and legal muscle provided by groups such as Earthjustice have been key in maintaining agency focus on salmon survival.**"

EDITORIAL: Just do your job, feds, for the wolves; Our View: If the feds had done their job, they wouldn't be facing another lawsuit over the Mexican grey wolf. (*Arizona Republic*, 09/11/14)

"If the U.S. Fish and Wildlife Service had done its job, it wouldn't be facing another lawsuit over the Mexican gray wolf recovery effort.... So, you can't expect advocates for the wolf-reintroduction effort to ignore the foot dragging. A coalition of environmental groups has announced its intention to sue the feds. Defenders of Wildlife, the Center for Biological Diversity, the Endangered Wolf Center and the Wolf Conservation Center are joined by wildlife biologist Dave Parsons **...Instead of defending itself in court, Fish and Wildlife should be busy restoring a healthy, sustainable population of Mexican gray wolves in the Southwest.**"

EDITORIAL: A needed ceasefire spares NC's red wolves (*News & Observer [NC]*, 05/15/14)

"**U.S. District Judge Terrence Boyle issued an unusual stay of execution** this week. He ordered that hunters stop killing coyotes in five northeastern North Carolina counties. He did **so to end the mistaken killings of an endangered species, the red wolf....Boyle issued a preliminary injunction to stop the hunting until the start of a trial in a lawsuit brought by environmentalists** who want a permanent hunting ban near the red wolf's territory.... **The judge's order was a sensible abatement that offsets a misguided decision** by the state Wildlife Resources Commission.... The errant kills threatened an effort by the U.S. Fish and Wildlife Service to reintroduce the red wolf to the wild.... **Boyle made the right call** by sparing the coyote to spare the wolf until wildlife managers can come up with a better way to deal with the two populations. That coyotes and red wolves are similar in appearance shouldn't allow for the red wolf to be pushed back to disappearance."

Protect the Endangered Species Act: Editorial; The most successful environmental legislation ever enacted faces new threats from Congress (*Scientific American*, 03/18/14)

By The Editors: "The Yellowstone wolves are among the 6,000 or so gray wolves that now inhabit the lower 48 states thanks to the Endangered Species Act (ESA).... The ESA has prevented the

extinction of 99 percent of the 2,000 listed species. ...The latest assault comes in the form of the Endangered Species Management Self-Determination Act, ... **lawsuits filed by environmental groups have led to many of the ESA's accomplishments.**"

Editorial: Protecting red wolves: Rebounding breed should not be collateral damage (*Winston-Salem Journal [NC]*, 02/16/14)

"North Carolina boasts the world's only wild population of endangered red wolves. That population shouldn't become collateral damage to those thinning packs of pesky coyotes in the five northeastern counties where the red wolves live. **The Southern Environmental Center, representing wolf advocacy groups, is trying to stop that from happening with a suit** that seeks to block the state Wildlife Resources Commission's decision to allow coyote hunting in those coastal counties.... red wolves, which were re-introduced to the North Carolina wild in 1987, have to be protected.... one thing seems certain: In the five counties in question, the state should ban coyote hunting until it establishes firm figures on the numbers of those animals, and establishes whether its plan to prevent cross-breeding and protect the endangered red wolves is working."

Editorial: Our View: Endangered wolves need a judge's intervention (*Fayetteville Observer [NC]*, 02/12/14)

"Perhaps a federal judge will provide the stewardship North Carolina wildlife regulators have ignored. That would be the responsible course for one of the world's most endangered species. At least nine red wolves were shot and killed last year in the rural northeastern North Carolina counties that are their only home in the wild. It is possible hunters mistakenly thought they were coyotes - the two species have a remarkably similar appearance. That's why it's ludicrous that the state Wildlife Resources Commission last year approved coyote hunting in wolf-habitat counties. And **that's why conservationists went to court** this week to ask U.S. District Judge Terrance Boyle to stop the coyote hunt. ... **We hope Judge Boyle will intervene and give the wolves the protection they need** to survive and thrive in natural surroundings."

Editorial: Water over dams saves salmon (*Seattle Times [WA]*, 01/28/14)

"U.S. District Court Judge James Redden, who had knocked down three earlier versions of the plan, rejected the 2011 plan because it put the economic interests of river operations above saving endangered fish. The plan was too narrowly centered on habitat mitigation, and lacked reliable, aggressive actions, the judge ruled. **One of those points was additional flow over the dams in the spring and summer to help scoot salmon safely toward the ocean.... The plan is likely to be challenged in court**, and it will fall to federal Judge Michael Simon to see if the plan is as vague and mushy as viewed by Redden, who subsequently retired. **Two lessons seem to be operative here. One is the role of spill to improve salmon survival and returns**; no salmon were trucked before the dams appeared."

Daily Astorian Editorial: Same old story - Obama buys into the sad inertia of low expectations on salmon (*Daily Astorian [OR]*, 09/16/13)

"[T]he essential blueprint for how the federal government will meet its obligations to salmon under the Endangered Species Act. **Heroically no-nonsense federal judge James Redden, who recently retired, repeatedly held federal feet to the fire** as bureaucrats offered bi-ops that made only superficial progress toward setting salmon on a path to sustainable populations. Perhaps rolling the dice that a new judge won't want to continue in Redden's proud tradition of profound skepticism, NOAA Fisheries' latest effort remains rooted in the games of the past."

Daily Astorian Editorial: North of Falcon is good news: There are chinook and coho seasons (*Daily Astorian [OR]*, 04/15/13)

"Managers tend to react quickly to any negative trends, and slowly or not at all to unexpected strength in returns of hatchery-produced fish. This is a result of the need to rigorously protect any possible wild salmon mixed among the returnees. Minimizing the number of endangered fish that are hooked and injured before being released dictates a degree of caution ... But **from a court order that requires significant culvert restorations in Washington to dam removals on the Elwha and Klamath rivers, incremental improvements are being made.**"

Editorial: Deck stacked for developers (*Tampa Bay Times [FL]*, 03/30/13)

"There is a reason everyone kept quiet about the federal government handing the state the power to grant development permits that could hurt Florida panthers, gopher tortoises and other endangered species. It's letting the fox guard the henhouse, and it's indefensible.... There is a reason the federal government should have the authority to grant these sorts of permits and set nutrient limits to fight water pollution, a responsibility that Washington also has handed back to Florida. States too often can't be trusted to stand up to parochial powerbrokers such as developers and campaign contributors. ... two **environmental groups signaled they intend to file a lawsuit. They argue states are not intended to have the authority and that the switch violates the federal Endangered Species Act. It certainly violates the public trust.**"

EDITORIAL: Short take: Life is hell for the hellbender (*St. Louis Post-Dispatch [MO]*, 02/02/13)

"This editorial page long has been a fan of the Ozark hellbender, one of the biggest salamanders in the world, an animal so ugly it's beautiful. ... **The bad news, according to a lawsuit that two conservation groups intend to file against the U.S. Forest Service and the U.S. Fish and Wildlife Service, is that poor management in the Mark Twain National Forest is further endangering an already endangered species and its habitat.** The Missouri Coalition for the Environment and the Center for Biological Diversity say that logging and other activities in the forest are polluting the rivers and making life harder for the hellbender and four other endangered species. **We hope the federal agencies will show some hellbender love.**"

Editorial: Deadly - Keep red wolves out of coyote hunters' sights (*Fayetteville Observer [NC]*, 11/29/12)

"We knew this would happen. The N.C. Wildlife Resources Commission had to know it too. Allowing night hunting of coyotes in habitat they share with the endangered red wolf would result in dead wolves. It did. Four have been shot and killed. That's about four percent of the entire remaining red wolf population in the wild.... Telling them apart in daylight can be difficult. By spotlight at night? Nearly impossible. **Fortunately, a Wake County Superior Court judge had more sense than the commission and issued an injunction last week halting the hunt because it's a violation of the Endangered Species Act. Now the commission can go back and do what it should have done at the outset: Keep coyote hunters out of the red wolves' five-county range.**"

Editorial: Arizona desert bald eagles still need endangered species protection (*Verde Independent [AZ]*, 11/01/12)

"When it comes to preservation of Arizona's desert eagles, it only makes sense to take the better-safe-than-sorry route. That's why **our hat goes off to the Center for Biological Diversity and the Maricopa Audubon Society for their relentless legal battles against the U.S. Fish & Wildlife Service to give these birds endangered species protection. On Oct. 30, the two organizations filed their third lawsuit charging that USFWS has based its conclusion on politics instead of**

science.... The Center for Biological Diversity and the Maricopa Audubon Society **most definitely need to keep up the good fight.**"

Editorial: Public Role in Species Protection (*New York Times*, 08/30/12)

"**One of the virtues of the Endangered Species Act is its openness to citizen participation...** The enemies of the Endangered Species Act are legion, especially in the House of Representatives, ... An article in the **current issue of Science, confirms the value of citizens' petitions. ... Species nominated by petition or litigation "face higher levels of biological threat than species identified by F.W.S."** ...**without public participation in species protection, the effectiveness of the Endangered Species Act would be sharply reduced,** which is exactly what its Congressional opponents have always wanted."

Editorial: Nesting - Bet on birds, turtles to win beach wars (*Fayetteville Observer [NC]*, 07/18/12)

"The park rangers are doing what they must do: enforce federal law and policy that require them to keep the birds and turtles safe from the humans who also want to use those beaches. ... **It took a lawsuit to move the National Park Service to impose required restrictions on off-road vehicle traffic along the beaches** ... opposition to the new regulations. even includes members of the North Carolina congressional delegation, who have filed legislation to repeal the latest vehicle rules. It's hard to see, though, how our lawmakers can reconcile their actions with things like the **Endangered Species Act or the laws that require - as they surely should - national parks to protect the flora and fauna that made them unique and candidates for becoming a park in the first place.**"

Editorial: Delisting grizzlies; Court right to reject move (*Salt Lake Tribune [UT]*, 05/08/12)

" Officials working for Montana, Wyoming and Idaho and the U.S. Fish and Wildlife Service want to remove the majestic grizzly bear from the protection of the Endangered Species Act. **Fortunately, the 9th U.S. Circuit Court of Appeals ruled against the agency's bid to end the decades-long, \$20 million effort to save the bears from extinction. The court's reasonable decision will extend protection for the bears two to three years.**"

EDITORIAL: Judge Redden Asks Us to Do the Right Thing (*Daily Astorian [OR]*, 04/30/12)

"[F]ederal Judge James Redden ... spent years overseeing Columbia dams/ salmon litigation **Redden's court-ordered steps including spilling water past dams to facilitate salmon passage remain vital.**"

Editorial: Its day in court (*Gainesville Sun [FL]*, 02/23/12)

"Presidents and governors have advocated restoration of the Ocklawaha River. Members of Congress and the state Legislature have fought over it. **Now it's time for the judges to weigh in.** After nearly half a century of incarceration, **the Ocklawaha — once Florida's most unique, spring-fed subtropical river — deserves to have its day in court. Thanks to Earthjustice, the Florida Wildlife Federation and the Gainesville-based Florida Defenders of the Environment, that day may soon arrive. The groups have banded together in a lawsuit** which contends that the 44-year-old Kirkpatrick dam — originally built as part of the never completed Cross Florida Barge Canal project — is **in violation of the federal Endangered Species Act** in that it blocks manatees and rare shortnose sturgeons from access to the river. **This case is long overdue for judicial resolution ... economically and ecologically continued imprisonment of the river makes no sense. Now it falls to the judiciary to decide whether, legally speaking, the Ocklawaha should be released on its own recognizance.**"

Editorial: Ocklawaha's day in court (*Ocala Star Banner [FL]*, 02/25/12)

"Presidents and governors have long advocated restoration of the Ocklawaha River to its natural state. ... Now it's time for the judges to weigh in on the river's fate. ... the Ocklawaha — once Florida's most unique, spring-fed subtropical river — deserves to have its day in court, where hopefully justice, that is, restoration of this ecological gem as has been repeatedly recommended — again, for decades — can finally be brought to fruition. **Thanks to Earthjustice, the Florida Wildlife Federation and the Gainesville-based Florida Defenders of the Environment, that day may soon be upon us. The groups have banded together in a lawsuit** which contends that the 44-year-old Kirkpatrick Dam — originally built as part of the never-completed Cross Florida Barge Canal project — is in violation of the federal Endangered Species Act in that it blocks manatees and rare shortnose sturgeons from access to the river. This case is long overdue for judicial resolution.... Economically and ecologically continued imprisonment of the river makes no sense.... **Maybe, just maybe, the courts can do what all the Ocklawaha's advocates, no matter how powerful or well-placed, have been unable to do in the past.**"

Editorial: Hatteras still open for business (*Virginian-Pilot*, 02/06/12)

"For people accustomed to driving wherever they wished on the beach at Cape Hatteras National Seashore, the **restrictions imposed by a court order** four years ago and by a new, and long-awaited, off-road vehicle management plan may seem unreasonable. But the rules **are similar to those already in place at other seashore parks, and they appear likely, in time, to serve the interests of all visitors, as well as the environment and local commerce.**

EDITORIAL: A judge has stepped up for Idaho fish. Now it is our turn. (*Idaho Statesman*, 12/05/11)

"For more than a decade — and through three presidential administrations — **the Portland-based federal judge has been the decider on salmon. And he has been a model of consistency, rejecting recovery plans from all three administrations.... he has been a judicial purist in the strongest sense, holding the federal government to the exacting standards of the Endangered Species Act. Idaho's wild salmon have by no means recovered. But this symbol of a state, this irreplaceable component of our ecosystem, is the better for Redden's efforts and adherence to law.... a recovered and fishable wild salmon population would help restore an outdoor recreation economy in small towns** in the heart of Idaho's salmon country. That is why the Statesman supports removing the lower Snake River dams in Washington state and replacing the shipping system tied to the dams and the port of Lewiston. We believe this is the best way to protect Idaho's fish, Idaho's water and Idaho's economy"

EDITORIAL: Judge of the river (*Oregonian*, 12/05/11)

"**James Redden was more than a "salmon judge," but his biggest legacy is the fight that he's waged to force the government to recover wild fish** U.S. District Judge James Redden has carried Columbia River salmon as far as he possibly can. **Redden has rejected three federal recovery plans and pushed the government agencies charged with protecting threatened and endangered salmon to do more, spend more, collaborate more and spill more water.... Redden's been a powerful and fiercely independent force for wild salmon.**"

EDITORIAL: A Victory for Grizzly Bears (*New York Times*, 11/29/11)

"**Thanks to a federal appellate court ruling last week, grizzly bears in the Rocky Mountains will continue to enjoy protection as an endangered species.** The United States Court of Appeals for the Ninth Circuit ruled that the Fish and Wildlife Service had not only acted

prematurely when it removed the bear from the endangered species list in 2007 but had ignored clearly documented threats to the animal's food supply — in effect putting politics ahead of science. ... Federal protections have allowed the grizzly population in the greater Yellowstone region to triple to about 600 animals over the last 35 years. But, in view of the dwindling food supply, the court said, now was not the time for a “damn-the-torpedoes approach to delisting.””

EDITORIAL: Redden set a course on the Columbia River; The federal judge who has held three presidential administrations accountable for the protection of wild salmon on the Columbia River is stepping down from the case (*Seattle Times [WA]*, 11/29/11)

"U.S. District Judge James Redden has been a good and demanding steward of the Endangered Species Act and the protection of Columbia River wild salmon. He pointedly let three presidential administrations know they had not met the intent of the law and he would not accept half measures."

EDITORIAL: The ‘salmon judge’ to retire; Redden to hand off the long-standing Northwest case (*Register Guard [OR]*, 11/26/11)

"The Northwest's endangered salmon are losing their best friend. Earlier this week, U.S. District Judge James Redden notified lawyers in a 17-year legal battle over how to restore threatened and endangered fish runs in the Columbia River basin that he plans to step down before 2014. . . . **The judge's clear-eyed focus on the requirements of the federal Endangered Species Act — and the flaws in the government's “biological opinions” — already have done much to help salmon.** Because of Redden, the federal government has made unprecedented commitments in water, hydroelectric operations and habitat improvements. He has demanded greater collaboration in Columbia salmon recovery by federal agencies, Northwest states, Native American tribes and other groups. Because of Redden's unflinching oversight, the government has committed tens of millions of dollars in additional federal spending to salmon recovery..... **it was Judge Redden who required the government to make every effort to ensure the long-term survival of the Northwest's most iconic species."**

Editorial: The Salmon Deserve Better (*New York Times*, 08/12/11)

"Last week, for the third time in nearly a decade, Judge James Redden of the United States District Court in Portland, Ore., rejected as inadequate a federal plan claiming to save imperiled salmon species in the Columbia River basin. These fish have been listed as endangered or threatened under the Endangered Species Act since the early 1990s, their once-remarkable annual runs reduced to a trickle by habitat destruction and by the hydroelectric dams that impede their passage to the sea."

Editorial: Salmon Plan III gets hook; Judge sends the plan back to feds for additional work (*Register Guard [OR]*, 08/04/11)

"Environmentalists hailed Tuesday's sternly worded ruling — the third straight time the judge has rejected the federal plans, known as biological opinions — as opening the door to potential removal of four fish-killing dams on the lower Snake River....Redden's ruling contained a justifiably harsh assessment of the federal government's efforts to produce a viable recovery plan for Columbia River salmon and steelhead listed under the Endangered Species Act, efforts that have dragged on for more than a decade. He said the alternatives proposed by the government, most of them involving improving habitat in rivers, lacked scientific and financial support, and he found that a lack of credibility made the overall plan “arbitrary and capricious.””

EDITORIAL: Our View: Saving the suckers and condors, too (*San Gabriel Valley [CA] Tribune*, 06/29/11)

"But a judge brought these species back into the news this week with her ruling that federal agencies need to "take all necessary measures" to protect them and 36 other species in four national forests in Southern California - our own Angeles, and the Los Padres, the Cleveland and the San Bernardino. The effort to save the condor up in Ventura County has been famously difficult and, in the end, successful, ... save-the-sucker campaign. But they will have a much harder time surviving in our mountains so long as suction dredge mining aimed at separating gold from gravel is practiced in the San Gabriel River goes on - they can't live with the silt produced. **The judge has essentially said the mining must stop. ... there are other - and better - places to pan for gold** than the San Gabriel. There are other rocks to climb. Whereas there is no better world in which to live once we grow indifferent to this one, and all God's creatures that roam it, and soar over it, and swim in its waters, creatures that in so many cases we are given a human choice to save."

Our View: Don't handcuff the Davids in the nation (*Idaho Mountain Express*, 06/17/11)

Editorial: "The Davids of today are environmental groups that have successfully challenged the federal government in court—and won. They've been aided by a law passed during the Reagan administration called the Equal Access to Justice Act. It enables parties who carry out successful legal challenges of the federal government to recoup some of their costs. ...The Equal Access law aided them by helping the environmental Davids fight government Goliaths. It gave them a chance not only to prevail, but to live to fight another day. But Davids aren't always as popular as portrayed in stories, especially if they embarrass government officials by questioning their allegiance to the public interest and demonstrating in court that the government isn't living up to the laws intended to protect the nation's air, land, water and endangered species. So, Idaho's business and ranching interests are joining with Republican Rep. Mike Simpson and Sens. Mike Crapo and Jim Risch to get out the handcuffs, **the Government Litigation and Savings Act that would severely limit legal fees that may be recouped by a group that prevails against the federal government in court. ...No one should try to put in the fix on legal fights that keep government honest and in check and that empower citizens to seek justice.**"

Editorial: A Hole in the Endangered Species Act (*New York Times*, 04/22/11)

"Congress approved a brief rider, 11 lines long, that removes gray wolves in Idaho and Montana from the protections of the Endangered Species Act. **The rider overturns a recent court ruling, prohibits further judicial review and cannot be good for the wolf.** But the worst part is that it sets a terrible precedent — allowing Congress to decide the fate of animals on the list. The law's purpose is to base protections on science. Now that politics has been allowed to trump science when it comes to the gray wolf, which species will be next?"

Editorial: Politicizing protection; Congress takes wolves off the endangered species list (*Register Guard [OR]*, 04/16/11)

"For the first time in the 37-year history of the Endangered Species Act, Congress has directly intervened in the status of a protected species. ... Both Democrats and Republicans seem to have forgotten that one of the main reasons for passing the Endangered Species Act was to relieve Congress of the politically fraught task of legislating protections of threatened species and to leave the final determination to federal scientists and wildlife management professionals.... **Congress has made a dangerous move, one that not only circumvents the science-based process of the ESA but that also negates the oversight of the federal courts.**"

Editorial: Congress should let scientists decide wolves' fate (*San Francisco Chronicle [CA]*, 04/14/11)

"In this case, Congress for the first time is shredding the rules on wildlife when there are votes at stake. ... This kind of politicking is why the country needs strong laws on endangered species. **Let scientists work out the solutions and allow interest groups and the courts to have their say.**"

Editorial: Forest rules (*New York Times*, 03/16/11)

"There has been good news recently for America's national forests, and some that could have been better. On the decidedly plus-side was a decision by a federal district judge in Anchorage reinstating a Clinton-era rule prohibiting logging in Alaska's Tongass National Forest. ...**Judge John W. Sedwick has now invalidated the Bush rule** as "arbitrary and capricious," partly because it failed to account for public input. ... The Obama administration's proposed rules improve on the Bush rules and are full of high-minded promises about maintaining "viable" animal populations. But they are disappointingly vague on the question of how — and how often — the biological diversity of any particular forest is to be measured and what actions are to be taken to ensure its survival. The net result is to give too much discretion to individual forest managers and not nearly enough say to scientists. This is dangerous because, over the years, forest managers have been easily influenced by timber companies and local politicians whose main interest is to increase the timber harvest."

Editorial: Don't undermine endangered species (*Arizona Republic*, 12/10/10)

"Congress may fire a shot in the dark that hits endangered gray wolves. **After a court decision reversed Interior Secretary Ken Salazar's decision** to remove gray wolves in the northern Rockies from the endangered species list, **the administration is backing an effort in Congress to simply exclude those wolves** from current or future protection under the Endangered Species Act. ... Congress should not arbitrarily bypass the legal and scientific process for delisting a species that is outlined in the Endangered Species Act - especially not in the dark. ... **The Endangered Species Act is a popular, scientifically sound law that has had spectacular success recovering species like eagles, condors and wolves. Congress should not undermine it.**"

Editorial: Victory for Wolves (*New York Times*, 08/07/10)

"Donald Molloy, a Federal District Court judge in Montana, ruled Thursday that gray wolves in Montana and Idaho must be provided federal protection under the Endangered Species Act. This is a welcome decision."

Editorial: Wolves regain legal shelter, Judge restores federal protection in Idaho, Montana (*Register Guard [OR]*, 08/07/10)

"A federal judge Thursday reinstated Endangered Species Act protections for gray wolves in Idaho and Montana. That's good news for the estimated 1,700 wolves in the Rocky Mountain region that, if U.S. District Court Judge Donald Molloy's ruling stands, will be saved from gradual extinction at the hands of state governments that have not given up mankind's age-old war on wolves."

EDITORIAL: Idaho's wolf hunt comes to an abrupt end (*Times-News [ID]*, 08/06/10)

"To the surprise of no one, U.S. District Judge Don Molloy put wolves back under federal protection on Thursday.... Molloy, a federal judge in Missoula, Mont., ruled that the Interior Department's removal of wolves from the endangered species list in those two states but not in Wyoming was a political decision and violated the Endangered Species Act. In so doing,

he agreed with arguments by Defenders [of] Wildlife and 13 other environmental groups that had sued to return wolves to federal protection.... Will Molloy's decision stick? Probably."

Editorial: License to Kill (*New York Times*, 07/22/10)

"As a coalition of environmental groups has been arguing in federal court in Montana, there also is no scientific or legal basis for splitting the management of contiguous wolf populations among the states. The wolves should be restored to the endangered species list and returned to federal management."

Editorial - We can protect turtles and protect fishermen, too (*Wilmington Star-News [NC]*, 05/15/10)

"It took a woman who rescues sea turtles to get the N.C. Marine Fisheries Commission to put some sensible restrictions on the use of gill nets. Those nets can bring in lots of fish, but they also snare turtles and other sea creatures.... Her frustration over the state's foot dragging led her to file a lawsuit accusing the state of violating the federal Endangered Species Act. The suit was settled this week when the Fisheries Commission unanimously approved limits on the size, location and times for "soaking" gill nets. Beasley and other turtle advocates are not anti-fishing. They just want better controls to reduce the chances that endangered species will become "bycatch." ... They are based on scientific evidence rather than sheer emotion, and they recognize that regulations should not put fishermen out of business.

EDITORIAL: Rare cranes in precarious situation (*Corpus Christi Caller-Times [TX]*, 02/04/10)

"In December, a coalition of environmentalists filed paperwork in preparation to suing the state, alleging that regulators have allowed too much water to be taken out of the Guadalupe-Blanco river watershed, to the detriment of the cranes. ... the survival of the species is connected with the health of the river.... the necessity of protecting downstream flows is becoming ever clearer as underlined by the stress being placed on the last surviving members of a magnificent species.... the big birds' situation shouldn't be made worse by being squeezed out of their share of freshwater river flows, if the evidence says that is happening."

EDITORIAL: Obama was right; So it's time for his NOAA to release scientific findings on the salmon plan (*Daily Astorian [OR]*, 12/17/09)

"After NOAA released a timid salmon plan, groups such as Save Our Wild Salmon asked to see the testimony of scientific review But NOAA denied the request. Slowly, the scientists' findings are dribbling out, as federal District Judge James Redden demands them. Eventually Judge Redden will have all of the scientific review."

Editorial: It's succeeding despite obstacles (*Arizona Republic*, 12/15/09)

"In a wintry forest in eastern Arizona, wolf howls cut the cushiony silence of falling snow. It is eloquent testimony to the success of the Mexican-gray-wolf reintroduction effort. ... The three-strikes policy was ended as part of a settlement of a lawsuit by a coalition of environmental groups. In addition, the settlement makes it clear that the U.S. Fish and Wildlife Service has the final authority over wolf recovery, not a committee of agencies that was formed after the reintroduction effort began. Dumping the odious three-strikes rule was necessary. Clarifying the chain of command was also important because environmentalists raised troubling questions about whether the committee was too easily influenced by local ranchers. This is not a local issue.

The preservation of species diversity is a national goal reflected in the federal Endangered Species Act."

EDITORIAL: A victory for Yellowstone; Federal court ruling returns grizzly bear to threatened species status (*Las Vegas Sun*, 09/26/09)

"Federal Judge Donald Molloy in Montana ruled Monday that the tree devastation and the adverse effect it is having on the bears are why it was a mistake for the U.S. Fish and Wildlife Service under the Bush administration in 2007 to remove the Yellowstone grizzly from the threatened species list.... Molloy said the agency ignored scientific research, including the conclusion of its own scientists ...48 bear deaths were recorded in the Yellowstone area last year **Environmental groups** led by the Greater Yellowstone Coalition, which **sued the government** to return the bears to threatened status, stated those deaths represented the most in a single year since the 1970s."

Editorial: Live and let live; End the war on wolves (*Salt Lake Tribune [UT]*, 09/14/09)

"The gray wolf is a top predator, an essential part of the ecosystem, a symbol of the West. ... There's no need for wolf slaughters disguised as "management plans." Wolves will manage quite well if just left alone. **Hopefully, the judge will come to that conclusion.**"

EDITORIAL: Wasteful dams (*Tampa Tribune [FL]*, 08/24/09)

"If the Obama administration is sincere about wanting to eliminate government waste, it will remove four hydroelectric dams on the Snake River in Washington. ... **Several species of salmon are threatened with extinction. One already has gone extinct.... A judge must approve the administration plan and has rejected the last one submitted by the Bush administration because it violated the Endangered Species Act.** The administration should go with the choice that will create jobs, cut government waste and restore a valuable natural resource."

Salt Lake Tribune Editorial : Judge is right to allow [sage grouse] lawsuit (*Salt Lake Tribune [UT]*, 05/13/09)

"Western Watersheds Project, based in Idaho, is suing the Bureau of Land Management for failing to take the plight of the hen-size bird into account when it formulated 18 Resource Management Plans affecting more than 34 million acres of public land in six Western states, including Utah. On Monday, U.S. District **Judge B. Lynn Winmill rightly refused to either dismiss or split apart the sweeping lawsuit,... Winmill is correct** in recognizing that global warming and the impact of human activities such as drilling are not limited by state or judicial boundaries. **In protecting the sage grouse, we protect ourselves and the scenic wonders we treasure from the headlong rush to extract more fossil fuels, to pollute our air,** and to mar our most fragile landscapes with excessive ATV traffic. When creatures like the sage grouse become endangered, so do we."

EDITORIAL: Administration Stalks Wildlife (*Tampa Tribune [FL]*, 01/02/09)

"The Bush administration's effort to free federal agencies from the Endangered Species Act is bad environmental policy and a waste of tax dollars.... The courts a few years ago found a similar attempt by the Bush administration to exclude the expertise of wildlife experts in federal decisions was improper. The 2004 rule change would have allowed the Environmental Protection Agency to determine whether pesticides posed a threat to endangered species without consulting with wildlife experts. **The courts tossed it.... In all likelihood, the courts will reject the Bush administration's last-minute effort to gut the Endangered Species Act.** But if that doesn't occur, the Obama administration should move quickly to reverse this"

EDITORIAL: An Interior Department Attack on the Endangered Species Act (*Washington Post*, 12/27/08)

"THE BUSH administration had the good sense to stop trying to push through last-minute regulations that would have made it easier to build coal-fired plants and other polluting facilities near national parks.... But it couldn't leave well enough alone when **it issued regulations that essentially gut the Endangered Species Act.** Because the rule will take effect before Barack Obama assumes the presidency, he's stuck with it. **But relief could come by way of the courts.... No doubt environmental groups will sue to stop the regulation.**"

EDITORIAL: Bush Administration Throws Environment Parting Punch (*Kennebec Journal [ME]*, 12/15/08)

"From the bald eagle to the whooping crane, the grizzly bear and the peregrine falcon, the federal Endangered Species Act has been a crucial tool in protecting our country's diminishing wildlife:... After the Endangered Species Act's protection of hundreds and hundreds of species from extinction in the United States during the last 35 years, the Bush administration last week endangered the act itself. ... **As a lawsuit immediately filed by conservationists against the move stated, "The final regulations provide federal action agencies with unprecedented authority to unilaterally assess the impact of their own actions on listed species."** In other words, the fox is in charge of the henhouse. ... The response of Jamie Rappaport Clark, former director of the U.S. Fish and Wildlife Service (whose scientists conducted most of the reviews of proposed projects's impacts to endangered wildlife) was typical: "These changes are going to result in more species being put in jeopardy," Clark said. "But more importantly, we are not going to know what we don't know anymore."

EDITORIAL: Eleventh hour environmental mischief; The Bush administration is quickly tinkering with environmental rules that would not stand scrutiny outside of this busy period of presidential transition (*Seattle Times [WA]*, 12/15/08)

"Last week, the Interior Department finalized rules that blithely allow government agencies to decide if one of their projects are a threat to an endangered species. Interior Secretary Dirk Kempthorne described the change as a "clarification," of Section 7 of the Endangered Species Act. Instead of consulting independent reaction from the Fish and Wildlife Service or the National Oceanic and Atmospheric Administration to assess consequences, it would be up to an agency's own self-serving discretion. **Hard-earned experience has taught the environmental community this is a bogus approach, and they filed suit in federal court to challenge changes they view as illegal.** The Interior Department is also trying to change language that covers the breadth of a designation of endangered status."

EDITORIAL: The next president's challenge: Extinction and protection (*Santa Fe New Mexican*, 10/20/08)

"Until this latest round of opinions came out of Interior, the Endangered Species Act could prohibit any federal actions that would either jeopardize species listed under that law or even ``adversely modify" critical habitat. That act is credited with saving the bald eagle, the grizzly bear, the manatee and other high-profile animals and many others more crucial to nature's balance. These memos freeing greenhouse gases from responsibility for what they do to animals and habitat, have the effect of new rules _ so conservationists are understandably upset. It's hard to imagine much can be done between now and January to restore the old rules; **it'll probably take environmental lawyers filing injunctions to stop an end-of-a-presidency rush for construction permits and other commitments to destruction.**"

EDITORIAL: Endangered Species: Flood zone sense (*Seattle Post-Intelligencer [WA]*, 10/01/08)

"Pushed by a court decision, the U.S. Fish and Wildlife Service has issued an opinion that federal flood insurance encourages development along rivers in the Puget Sound region, further threatening protected salmon and orcas. Under the Endangered Species Act, the Federal Emergency Management Agency now must decide how it will revise the flood insurance program to protect the threatened species. One promising option would be imposing rules requiring low-impact development practices to minimize the damaging effects of runoff. Taxpayers for Common Sense and millions of everyday taxpayers long have objected to subsidizing construction in disaster-prone areas. FEMA should be resolute about rigorous controls that protect the environment, taxpayers and what's left of federal budget responsibility."

EDITORIAL: 'Narrow' change of rules 1,353 reasons to defend the Endangered Species Act (*Daytona News-Journal [FL]*, 08/26/08)

"Several years ago Western environmental groups were urging the demolition of several dams on the Columbia and Snake Rivers to protect endangered species of salmon. Through an astonishing opinion issued by one of the administration's agencies in December 2004, Bush ruled out removing the dams on the grounds that the dams had become as much a part of the salmon's environment as the rivers they swim. (In July, **fortunately, a federal judge ruled California's Central Valley dams had to be modified to protect threatened salmon from extinction.**) ... The proposed rule aims to break one of the federal government's most effective and publicly favored successes. The Endangered Species Act doesn't need fixing. It needs saving from the grasping, 11th-hour opportunism of the Bush administration."

EDITORIAL: An endangered act (*Herald [Rock Hill, SC]*, 08/24/08)

"Since 1973, the Endangered Species Act has sought to protect plants and animals on the brink of extinction. Some of its notable successes include the rescue of the bald eagle, the gray wolf, the American alligator, the whooping crane and the grizzly bear. Now, in its waning days in office, the Bush Administration seeks to gut an essential portion of the act, a move that would directly benefit special interests such as the timber, building, oil drilling and mining industries. **If the administration can't be dissuaded from following through on this ill-conceived proposal, it should be challenged immediately in the courts.**"

EDITORIAL: Improper threat to the Endangered Species Act (*Concord Monitor [NH]*, 08/20/08)

"[N]o one has dared to go as far as Interior Secretary Dirk Kempthorne, who's trying to place the Endangered Species Act on the extinction list beside the dodo and the passenger pigeon.... Kempthorne proposed drastic changes to the rules governing the Endangered Species Act.... The notion that agencies whose missions are building roads and leasing land and waters for mines and oil drilling have the objectivity, let alone the expertise, to honestly assess and effectively gauge environmental harms is laughable. The independent environmental reviews that are mandated by the Endangered Species Act have helped scores of species' recovery and brought some, like the California condor and the Florida panther, back from the brink of doom. ... **If, at the end of a 30-day public comment period that's already begun, the rule goes into effect, it will, like other Kempthorne attempts to weaken environmental laws enacted by Congress, probably be tossed out in court**"

EDITORIAL: Gutting the law (*St. Louis Post-Dispatch [MO]*, 08/19/08)

"Interior Secretary Dirk Kempthorne ... said... His new rules will "provide clarity and certainty" to the Endangered Species Act. In fact, the law's purpose and process already are clear. The

administration's changes would weaken it significantly. This is hardly the first time the administration, having failed to persuade Congress to change environmental laws it dislikes, has tried to recast the law by issuing new regulations. It took that route in 2005 to weaken parts of the Clean Air Act. ... In 2006, **federal courts struck down a similar effort that would have given the Environmental Protection Agency authority to approve pesticides without input from Fish and Wildlife Service scientists.** The Endangered Species Act has helped rescue the bald eagle, other animals and plants from the brink of extinction over the past three decades. **This latest assault is certain to face the same legal challenges that derailed the pesticide regulations. It should suffer the same fate, too."**

Editorial: Our Opinion Don't cripple the law that protects endangered species (*Honolulu Star-Bulletin*, 08/16/08)

"UNABLE to persuade Congress to disarm the Endangered Species Act, President Bush is proposing to weaken it by regulation.... Fish and Wildlife experts are well-schooled to determine the effects of global warming on wildlife. ...**Action is needed in the courts and Congress to prevent the proposed rule change from taking effect."**

Editorial: An endangered act; A new proposal would let all kinds of federal agencies make decisions about what species to protect. (*Los Angeles Times*, 08/14/08)

"The Bush administration has shown extraordinary disdain for the Endangered Species Act over the years, dragging its heels on listing some species (polar bear, sage grouse, wolverine) and removing vital protections for others (gray wolf, arroyo toad, red-legged frog, spotted owl). **Time after time, it has been pulled into court for flouting the law, and most of the time it has lost and been ordered to do its job."**

Editorial: Bush endangers rules protecting at-risk species (*San Jose Mercury News [CA]*, 08/14/08)

"The last year in office can bring out the best or worst in an American president. For President Bush it's the worst, as he maneuvers to circumvent Congress and gut the Endangered Species Act. The president must not be allowed to achieve this dishonorable goal. ... **Organizations should prepare to file lawsuits, since the rules ignore the spirit of the Endangered Species Act."**

Editorial: Don't let fox oversee hens; Threat to endangered species (*Ventura County Reporter [CA]*, 08/14/08)

"This week, the Bush administration proposed major changes to the Endangered Species Act, which basically let federal agencies judge whether or not projects will harm endangered plants or animals.... The Star opposes this wholesale rewriting of the law since it would surely gut its grand purpose: to protect species that might otherwise become extinct.... **It is trying to do an end run around Congress and the courts. There is no denying the effectiveness of the Endangered Species Act that was signed into law in 1973."**

Editorial: An Endangered Act (*New York Times*, 08/13/08)

"The Endangered Species Act has, on the whole, been successful in arresting the decline of many species that might otherwise have gone extinct. ...In 2006, **courts struck down a similar if narrower effort to give the Environmental Protection Agency authority to approve pesticides without consulting** with the Fish and Wildlife Service or National Marine Fisheries Service. Mr. Kempthorne's latest assault deserves a similar fate."

Our Opinions: Bush White House ignores another law (*Atlanta Journal Constitution*, 08/13/08)
Jay Bookman for the editorial board: Federal courts have reached a similar conclusion. By one recent count, **78 cases have been filed, heard and settled in federal court since January 2001, claiming that the Bush administration had failed to abide by the Endangered Species Act. The administration has lost 77 of those cases, many heard by judges appointed by Republican presidents.**

Editorial: A Stay of Execution for the Wolves (*New York Times*, 07/26/08)

"A federal judge in Missoula, Mont., has given Rocky Mountain gray wolves a well-deserved reprieve. In February, the federal Fish and Wildlife Service had effectively sentenced hundreds of wolves to death by lifting the protections provided by the Endangered Species Act. ... Judge Donald Molloy issued a preliminary injunction last week restoring federal protections. That ends the slaughter, at least for now. And while the case is far from settled, the dozen conservation groups that brought the suit are hopeful that his injunction will survive further court tests and that the Fish and Wildlife Service will be forced to provide a better plan to protect the wolves."

Editorial: 428 Wolves (*New York Times*, 05/30/08)

"Until March 28, the fate of the gray wolf in the Rocky Mountains was in the hands of the federal government because the wolf was listed as an endangered species. But once it was removed from the list — a decision that is being challenged in court by a dozen conservation groups — the gray wolf fell under the protection of individual states. That is turning out to mean almost no protection at all. ... A federal judge will soon decide whether to uphold or overturn the government's decision to delist the gray wolf. We hope he will restore the wolf to the endangered species list."

EDITORIAL: In Our View - Victory for Salmon (*Columbian [WA]*, 05/28/05)

"Thursday's message from a federal judge to the federal government could be summarized in three words: not so fast. U.S. District Judge James Redden of Portland rejected the Bush administration's \$6 billion plan to improve the dam system in the Columbia River basin, ruling that it does too little to protect a dozen stocks of salmon listed under the Endangered Species Act. "It is apparent that the listed species are in serious decline and not evidencing signs of recovery," Redden wrote. So it's back to the drawing board for the National Marine Fisheries Service, which must recraft the plan to balance the region's salmon and hydroelectric power needs. Kudos to Redden for making the federal government work harder on one of the most critical issues in the Pacific Northwest."

EDITORIAL: Bears on thin ice: Caught between their melting world and renewed push for Arctic drilling, polar bears find a friend (*Houston Chronicle*, 05/03/08)

"The Interior Department leadership continues to delay making a decision on the bears' status, letting a self-imposed Jan. 1 deadline come and go. Fed up with the inaction, four environmental groups sued in federal court in California to force action. The government asked for an extension until June to make a decision, but U.S. District Judge Claudia Wilken gave Interior officials until May 15. "Defendants offer no specific facts that would justify the delay," the judge wrote in her opinion. She found that the government was in violation of the law and congressional intent that time is of the essence in listing endangered species. There's an abundance of evidence that the melting of sea ice, which reached record proportions last summer, is raising the death rate of bear cubs and causing malnutrition among adults. Unfortunately for the

bears, that scientific data is being subordinated to political and economic factors.... **Judge Wilken observed that the Chukchi drilling could threaten the bears' existence if they do not receive protection under the Endangered Species Act. ... The courts should not have to tell the administration to enforce environmental statutes rather than undermine or ignore them."**

Editorial: Fair shake for ORVs in Hatteras plan (*Virginian-Pilot*, 04/20/08)

"Sea turtles, piping plovers and other vulnerable species of wildlife are emerging as the winners in a bitter, long-running dispute over beach access on the Outer Banks. And so are the people who've grown accustomed to driving their vehicles right up to the ocean to fish, surf or simply enjoy the view. Last week, the key parties in a federal lawsuit - the National Park Service, environmentalists and an alliance of off-road vehicle users, among others - filed a proposed settlement in Raleigh that strikes a welcome, long-overdue balance between protecting natural resources and preserving a generations-old tradition."

Editorial: When Protection Vanishes (*New York Times*, 04/05/08)

"At midnight on March 28, the gray wolves in Wyoming slipped out of the protection of the Endangered Species Act and became other kinds of creatures: trophy game animals to be hunted in the state's northwest corner and predators to be shot on sight elsewhere. ... **Environmental groups plan to sue to reverse the lifting of these protections, but they are barred from doing so for 30 days — plenty of time for more wolves to die."**

EDITORIAL: OUR OPINION; Under Bush, no endangered species need apply (*Honolulu Star-Bulletin*, 03/27/08)

"In the past seven years, only 59 domestic species have been placed on the endangered list the Fish and Wildlife Service, which oversees the program, decided that if it identified a species for potential listing, citizens would not be allowed to file petitions for the same. Because petitions trigger a legal deadline for the agency to accept or reject a species, the plant or animal would fall into a limbo of delays. **This continued for two years until a federal judge realized the tactic let the agency off the hook and overturned the policy..... 369 lawsuits involving the listings were filed against the Bush administration, more than double the number for the previous one. But the suits largely arose from obstacles the administration put up. In a case from Hawaii, endangered listing for 12 picture-wing flies was first proposed in 2001. A lawsuit finally prodded the government to act in 2006, four years after its deadline."**

EDITORIAL: Redden won't let the salmon debate end easily (*Idaho Statesman*, 12/16/07)

"U.S. District Judge James Redden has positioned himself as the conscience of the Northwest salmon debate. If -- or, we hope, when -- the Northwest agrees on an effective strategy to bring salmon back from the verge of extinction, this will happen because the Portland-based judge has refused to settle for less. Redden has rejected federal salmon recovery plans twice before, one written by the Clinton administration and one from the Bush administration.... Idaho sockeye salmon were added to the federal endangered species list in 1991; Idaho chinook were added to the list in 1992. Even the feds suggest that time may be running out for the sockeye. That isn't acceptable to us -- so **it's encouraging to see Redden bring some sense of urgency to the process."**

EDITORIAL Our Opinion: Homeland Security chief defies judge, endangers San Pedro, insults Arizonans (*Tucson Citizen [AZ]*, 10/24/07)

"Michael Chertoff has got a lot of nerve, but he evidently doesn't have much respect for Arizona, for the federal judiciary or for the rule of law. The Homeland Security secretary is waiving several federal laws and waving the bulldozers ahead in southern Arizona's treasured San Pedro Riparian National Conservation Area. **Chertoff blithely dismissed U.S. District Judge Ellen Huvelle's Oct. 10 order** to delay building fences in the area's fragile habitat until an environmental review can be done. ...**In essence, he is saying: Damn the free-flowing San Pedro River, its flora, fauna and thousands of bird species – and full speed ahead. ... Laws that Chertoff is sidestepping range from the National Environmental Policy Act and Endangered Species Act to the National Historic Preservation Act and the Antiquities Act.**"

EDITORIAL: Same old, same old: Forest Service favors industry, not forests (*Salt Lake Tribune [UT]*, 08/21/07)

"After losing a court battle in March over a rule revision that favored Bush's friends in the logging, mining and energy-extraction industries, the agency is floating a barely changed version of the same rule ... **A federal district court judge ruled that the process violated the requirements set down in the National Environmental Policy Act, the Endangered Species Act and the Administrative Procedures Act....it will undoubtedly be challenged again in court, as it should be.... Courts have slapped the hands of the Bush Forest Service several times for trying to undermine environmental laws.** Yet it pushes forward with only one goal: to open access to our forests, the last bastions of solitude and quiet beauty, to industry's noise, pollution and degradation. **The environmental watchdogs who won this battle in March should take it on again. We can't afford to lose this war.**"

Editorial: Tiny delta smelt deserve equal attention with whales (*San Jose Mercury News [CA]*, 05/30/07)

"A state court ruled in March that the state is violating the California Endangered Species Act by repeatedly failing to protect the smelt and endangered salmon over the past two decades. ... Last week, U.S. District Judge Oliver Wanger jumped into the debate, throwing out the federal permit that regulators used to allow a high level of fish kill.... the real solution lies in a broader rethinking of the whole delta water strategy.... The smelt's decline should be a wake-up call to policy-makers: They need to act soon to stabilize and restore the delta's health."

EDITORIAL: Stealth attack: Congress won't weaken the Endangered Species Act, so the administration tries a backdoor approach. (*Houston Chronicle*,04/10/07)

"The act is one of the nation's most significant and successful environmental laws, protecting some 1,300 species ... The U.S. Forestry Service pursued a similar strategy three years ago, adopting rules that made facilitating economic activity on federally owned lands a high priority at the expense of protection of wildlife and habitat. Last month **a federal district judge suspended those rules, finding that the agency failed to adequately assess the environmental impact of the new rules and did not provide the public with reasonable notice and input. Congress should act quickly to prevent a similar attack on the Endangered Species Act** before it is necessary to go to court to save our nation's biological heritage."

Courts quash Bush's attempts to end-run enviro laws (*Idaho Mountain Express*, 04/03/07)

Idaho Mountain Express editorial: "Three times in less than a week, federal courts have ruled decisively against Bush attempts to cater to the wishes of industry by ignoring or fiddling with the wording of laws he was sworn to uphold.... Then, in the West, two federal district jurists—Judge

Phyllis Hamilton, of the District Court of Northern California, and Judge Ricardo Martinez, of the District Court of Western Washington—put brakes on attempts of the Forest Service to ignore or rewrite rules for managing upwards of 200 million acres of federally owned forests. In separate rulings, **the federal judges chastised the Bush administration for ignoring requirements of the National Environmental Policy Act, the Endangered Species Act and the Administrative Procedures Act, an indication of how far the Bush White House will go in submitting to wishes of the timber and mining interests** to open up precious public lands to bulldozers, chainsaws and drilling rigs."

EDITORIAL: Our Views: Upholding law is judges' job (*Victoria Advocate [TX]*, 10/12/06)

"U.S. district judges across the West have issued rulings to protect clean air, forests, fish and wildlife, ... They have acted because the Bush administration has failed to do so. In the rulings, the judges are expressing growing frustration at that executive branch negligence or willful failure....With a few notable exceptions in both chambers, congressional Republicans let Bush trample on that branch's constitutional authority ... Contrast that with what the Western judges are doing to uphold both the law and the integrity of their separate, co-equal branch of the national government. U.S. District Judge James Redden of Portland, Ore., has presided over a case involving endangered salmon as long as the Bush administration has been in office. So the judge should have a pretty good idea of what the evidence says and if it shows that the executive branch is or is not doing what the law requires. He recently ruled that the responsible federal agencies "have repeatedly and collectively failed to demonstrate a willingness to do what is necessary," as the Endangered Species Act requires, to save those fish in the Columbia and Snake rivers. An independent judiciary is an absolutely necessary bulwark "

Editorial: Nature under siege (*Las Vegas Sun*, 10/09/06)

"Recent federal court rulings suggest that judges across the West are growing increasingly impatient with Bush administration environmental policies that they say are failing to protect forests, water, wildlife and clean air.... U.S. District Court judges in California, Montana, Oregon and Wyoming have sharply criticized federal decisions that are direct results of Bush's environmental policies.... Yet the Bush administration's environmental assault continues. When the Senate reconvenes next month, the Agriculture, Nutrition and Forestry Committee is to consider a **bill that would allow federal agencies to bypass environmental reviews - as required by the Endangered Species Act and the National Environmental Policy Act** - in order to issue logging permits in forests that have been damaged by such catastrophes as fire, drought and excessive rain....**This is a bad bill** ... par for the course in Bush's affront on the natural areas that Americans treasure."

OUR OPINION: Exposed to extinction Proposed changes in the Endangered Species Act favor landowners at the expense of vulnerable creatures (*Atlanta Journal Constitution*, 10/05/05)

"Hundreds of native plant and animal species, from the lordly bald eagle to lowly darters, could disappear from the American landscape unless their habitats continue to be protected from the two-legged predator stalking the wilds of Capitol Hill. A slim majority in the House of Representatives recently approved a harmful rewrite of the Endangered Species Act ... The most foolhardy and costly change to the law would allow landowners to get compensation from the federal government by claiming their development rights were somehow trampled by the demands of species protection. ... the bill's blank-check provision would invariably invite unscrupulous private landowners to allege damages on expensive projects that they have no intention of building. The intent is to make the

law so expensive as to be unenforceable.... **It's difficult to tell if other types of flora and fauna are also headed for trouble since the Bush administration has rarely listed any new species or habitats for federal protection without a court order. "**

EDITORIAL: A welcome revival of 'roadless rule' Triumph for wilderness - and the laws of rulemaking. (*Minneapolis Star Tribune [MN]*, 10/01/06)

"We applaud last week's court decision reinstating the "roadless rule" for national forest lands, and not only because it restores needed protections for some of this country's last, best wilderness. The ruling is also a plain rebuke of the Bush administration's dishonest approach to remaking law it doesn't like.... **as a federal judge in California noted last week, this repeal was undertaken without the analysis clearly required by the Endangered Species Act and the National Environmental Policy Act.** Indeed, she found that the administration had failed to offer any evidence to support its action."

EDITORIAL: Rewrite of Endangered Species Act would gut it; The Star's view: A California lawmaker wants to gut the Endangered Species Act and replace it with a law that does little for threatened plants and animals (*Arizona Daily Star*, 09/26/05)

"The Endangered Species Act that has protected endangered plants and animals for more than 30 years is under assault in Congress.... According to the Defenders of Wildlife, the bill would make it more difficult for the federal government to protect habitat, a fundamental element in saving species. Further, plans to protect endangered species would become "nonbinding guidance," meaning that there would be no real protections. And, according to the Defenders of Wildlife, it would use public money to pay landowners who voluntarily comply with the law.... **And Pombo is wrong when he blames the act for creating "rampant litigation." It is Congress that has, through its backdoor attempt to undermine the act, forced an adversarial form of government oversight through litigation. Without the lawsuits, the government would be powerless in protecting species.**"

EDITORIAL: Mother Nature Is No Lab (*Hartford Courant [CT]*, 08/20/06)

"[A] **U.S. District Court judge** in Hawaii had harsh words for the USDA's Animal and Plant Health Inspection Service, which grants permits for genetically engineered crops. The judge **concluded that the agency allowed such crops to be planted on four islands without first determining whether they posed a threat to the 329 endangered or threatened species that call Hawaii home. ... The judge called USDA's regulatory heedlessness "arbitrary and capricious" and "an unequivocal violation of a clear congressional mandate."** Those findings recall similar conclusions reached by the USDA's own auditors last year. ... Unless the USDA can prove capable of doing a far better job of regulating crops, the courts and Congress should consider imposing a moratorium on new permits."

EDITORIAL: Endangered Species: Eroding progress (*Seattle Post-Intelligencer [WA]*, 09/28/05)

"[T]he GOP's long-sought goal -- passage of **a bill to gut the Endangered Species Act.** ... little more than a thinly disguised attempt to make sure no one is ever really bothered by protecting species. For instance, **there would be fewer opportunities for court actions like the one Tuesday calling Washington state to task for a timber harvest plan's failures to protect salmon and spotted owls....** There's every reason for senators to reject Pombo's changes. The bill creates serious new obstacles to endangered species protection, dramatically weakens the role of science and creates loopholes wide enough to accommodate fleets of bulldozers. The bill also

requires the Department of Interior to drain its budget by paying full-market value for losses landowners may suffer from any restrictions whatsoever."

EDITORIAL: An endangered act: Congressional foes put act that protects endangered wildlife in crosshairs (*Houston Chronicle*, 08/12/05)

"Since President Richard Nixon signed it in 1973, the Endangered Species Act has prevented the extinction of hundreds of species of American plants and animals, restoring many to sizable populations. In the process of designating 1,370 species eligible for protection, the act also has generated court battles by opponents who chafed at restrictions on commercial development of essential habitat. ... several members of Congress are pushing **legislation that would gut what some consider the most important environmental law in U.S. history.** U.S. Rep. Richard Pombo, R-Calif., who chairs the House Resources Committee, has offered a draft **bill that would replace the Endangered Species Act and cancel all agreements to protect threatened species.**"

EDITORIAL: Threatened species: Judge rightly upholds rule protecting old-growth forests (*Salt Lake Tribune [UT]*, 08/08/05)

"A million acres of old-growth forests in the Northwest that may be home to endangered and threatened plant and animal species could be affected by the outcome of a court dispute over a reasonable Clinton-era rule that requires Forest Service managers to look for those species before logging. Those old-growth forest habitats must be protected. Last week, **U.S. District Judge Marsha Pechman in Seattle ruled correctly that the Bush administration acted illegally in eliminating the look-before-you-log rule before federal agencies determined whether threatened species would be adequately protected** without it.... **Pechman agreed with environmental groups that the species surveys are necessary to satisfy the "foundational objectives" of the 1994 plan.... In July a different federal judge ruled that the elimination of public review and appeals of some national forest timber projects was illegal.**"

EDITORIAL: Endangered protections (*Los Angeles Times*, 07/16/05)

"According to the Bush administration, a human-built dam is as much a part of the natural ecosystem as, say, a canyon. No one needs to mess with dams that impede endangered wild salmon, according to administration reasoning, because the fish are doing fine -- you can tell by looking at how many of them are produced in human-operated fisheries. **Fortunately, a judge put an end to this nonsense involving the salmon of the Snake and Columbia rivers after environmentalists and fishermen sued, contending correctly that the federal plan to protect the fish fell short. Another lawsuit successfully challenged off-roading and livestock operations in areas where the desert tortoise lives. So when property-rights advocates say the Endangered Species Act produces a lot of litigation, they're right. When law is undermined by the government, and negotiations and complaints fail, the only recourse is to sue.**"

EDITORIAL: A win for salmon: Judge rejects government's recovery plan (*Register Guard [OR]*, 05/29/05)

"A federal judge in Oregon rightly rejected the Bush administration's pricey pretense of a plan for protecting endangered salmon species in the Pacific Northwest.... **The ruling is a major victory for environmental groups and Northwest tribes"**

EDITORIAL: Hawaii has much to lose if Congress weakens Endangered Species

Act (*Honolulu Star-Bulletin*, 07/18/04)

"Despite their disarming titles, these bills would reverse many years of positive efforts in Hawaii to conserve threatened and endangered species and their habitat....**HR 2933 also would remove legal deadlines for designating critical habitat ... Over the years, in an effort to perpetuate our unique Hawaiian heritage for future generations, citizens have taken action to compel the listing and designation of critical habitat for more 250 threatened and endangered Hawaiian plants and animals....** Citizen organizations, scientists and elected officials have worked hard for decades to increase protection for imperiled Hawaiian species and increase the chances that they will recover someday. We have so much to lose in Hawaii if the Endangered Species Act is weakened."

EDITORIAL: Pesticides ruling reflects realities (*Kitsap Sun [WA]*, 02/19/04)

"It's a good lesson in the environmental facts of life.Last month, **a district court judge ruled that the Environmental Protection Agency had failed to fully examine the effects of some pesticides on threatened and endangered salmon species. The ruling came in a lawsuit filed by the Washington Toxics Coalition against the EPA....** Similarly, the city of Bremerton was sued by a Seattle-based environmental watchdog group because of storm water problems that overloaded the city's sewer systems, spilling sewage into waterways.... The bottom line in all of this is that environmentally, Kitsap isn't an island -- or even an isolated peninsula. **...If we want to do things our way, they'd better conform with environmental requirements."**

EDITORIAL: Salmon protection from lawn to farm (*Seattle Times [WA]*, 01/26/04)

"**Agricultural interests — and taxpayer-supported salmon-recovery efforts — were ill-served by the Environmental Protection Agency ignoring pesticide hazards for years.... Federal District Judge John Coughenour Thursday ordered temporary buffer zones around salmon-bearing streams, and restricted the use of dozens of pesticides until the EPA drafts permanent rules to protect salmon. After years of being out of compliance with the Endangered Species Act, the agency was ordered by Coughenour in 2002 to protect salmon from harmful pesticides. The lawsuit was brought by commercial-fishing and environmental groups. His latest ruling establishes temporary protection while the bureaucratic process putters along, but the judge was not opining about process. Coughenour clearly acknowledges actual harm is being done and protection is needed."**

EDITORIAL: Risky business (*Baltimore Sun*, 08/24/03)

"**But the Bush administration has dragged its feet for so long on calls to ban the chemical that the federal courts should sharply restrict atrazine use until action is taken. At risk is not only the environment but human health as well.... NRDC has gone to the U.S. District Court in Baltimore seeking help in goosing the agency along. In a lawsuit filed under the Endangered Species Act, the group is asking the court to order restrictions on the use of atrazine until the EPA finally decides whether to ban it. Such restrictions are clearly called for. Twenty-one endangered species, including four types of sea turtle in the Chesapeake Bay, are believed to be harmed by atrazine.... If the court acts quickly enough, the restrictions could be in place before next year's planting season begins."**

EDITORIAL: Miissouri River; Threatened species need protection (*Minneapolis Star Tribune [MN]*, 08/01/03)

"In balancing the needs of commerce against the rhythms of nature on America's rivers, the U.S.

Army Corps of Engineers faces a challenge that is never easy. But it should be easier than usual in a protracted dispute over three endangered species in the Missouri River. ... **The judge should tell the Corps that law and science are on the side of the endangered species.**"

EDITORIAL: Endangered species face new hazards; The issue: A Bush proposal would eliminate citizens and courts from the process of protecting rare plants and animals. (*Honolulu Star-Bulletin*, 04/15/01)

"**THE BUSH administration, through its budget plan, proposes to give the Interior secretary the authority to control listings of endangered species, taking away from the courts and the citizenry an effective tools for protecting plants and animals in danger of extinction.** If put into practice, this plan would not be good for Hawaii, which has 365 endangered species, the most in the nation. The state bird, the nene and the state flower, the yellow hibiscus, are endangered and lack designated habitats crucial to their survival. Hawaii has 15 species considered threatened and 130 species that are candidates for the endangered list. **President Bush's proposal would allow Secretary Gale A. Norton to waive a provision in the 1973 Endangered Species Act that allows citizens and environmental groups to sue the department to get rare plants and animal listed.... But this provision is vital. In Hawaii, only five endangered species have received habitat protection without a lawsuit,** according to the Earthjustice Legal Defense Fund, a nonprofit organization that represents citizens and conservation groups."

EDITORIAL: Bush's dead letter (*Seattle Post-Intelligencer [WA]*, 04/15/01)

"**Here's the Bush budget proposal on the Endangered Species Act, offered, we presume, with a straight face: Nullify the portion of the law that gives citizens the right to sue their government to assure that endangered species are listed as such.** The sole authority for deciding whether a species is to be designated as endangered would rest with the Interior Secretary, Gale Norton, who has a history of dissing the ESA. **Give us a break. It's been mostly the threat of citizen lawsuits, not diligent interior secretaries, that has kept the government attentive to preservation of species....** Congress should discard the environmental portion of Bush's budget. It's a dead letter."

EDITORIAL: Endangered Species (*San Francisco Chronicle [CA]*, 04/12/01)

"President Bush wants Congress to kill a provision of the 1973 Endangered Species Act that allows citizens to sue the federal government to force the protection of species on the brink of extinction. **Such lawsuits have been a favorite tool of environmental groups to require the U.S. Fish and Wildlife Service to protect endangered species and set aside habitats needed for their survival.** Bush wants to cut the amount of money the agency could spend responding to lawsuits or complying with court orders on endangered species. **That would effectively render most suits meaningless. ... it would be particularly detrimental to California, where 92 percent of all endangered-species listings in the last nine years "were as a result of either a citizen petition or court order or most often both,"** according to the Defenders of Wildlife."

Editorial: Spare those trees; A judge rightly holds the Forest Service to a deal (*Pittsburgh Post-Gazette [PA]*, 08/18/99)

"**Now a federal judge, the same man who saved the spotted owl, is holding the government's feet to the fire, actually requiring it to live by the terms of the agreement. Bravo....** U.S. District Judge William Dwyer was not amused. "The plan's requirement that surveys be conducted

cannot be dropped simply by the issuance of memoranda concluding that field surveys are not needed," he wrote.... **Judge Dwyer got it right, again."**

[OP-ED] Salmon habitat and water quality: Every Oregonian has a stake in stream protection (*Oregonian*, 08/05/11)

By Christopher Winter, Bill Bakke and Jim Lichatowich: "The recent decision by the 9th U.S. Circuit Court of Appeals, NEDC v. Brown, is a major step forward in addressing this long-standing problem. That decision will require the timber industry to get permits where they are discharging polluted stormwater from active logging roads directly to a river through a ditch or culvert. The permit program will apply to a small subset of logging roads that have the worst impacts on salmon habitat. The court's decision in no way threatens the 25,100 jobs directly related to the timber industry"

Abroad at Home; The Two George W. Bushes (*New York Times*, 04/14/01)

ANTHONY LEWIS: "The latest environmental move is notable for its sweeping character and slippery means. That is the **Bush budget proposal that would undermine lawsuits to require the listing of particular animals and plants as endangered species.** Instead of trying directly to amend the Endangered Species Act, **the proposal would prohibit the expenditure of any funds to carry out court orders for listing -- orders that up till now have forced most of the protective steps. Officials would be required to disregard court orders: a terrible proposition in a country that prides itself on adherence to law."**

CLEAN AIR

EDITORIAL: Uphold EPA's mercury rule; Supreme Court to hear challenge by industry, states (*Register Guard [OR]*, 03/25/15)

"At the direction of Congress, which felt strongly enough about the problem that it amended the Clean Air Act in 1990, the Environmental Protection Agency has studied the environmental effects of mercury and other toxic metals on public health. ... but the work was compromised during the George W. Bush administration, which disregarded science in ways that showed more concern for the health of the energy industry than for that of children. **The Bush administration's version of the rules was so diluted that environmental groups successfully sued, arguing that the toxic metals regulations failed to satisfy the minimum requirements of the Clean Air Act."**

EDITORIAL: Drillers' duty (*Toledo Blade [OH]*, 01/09/15)

"Nine environmental groups filed suit this week to force the U.S. Environmental Protection Agency to add gas and oil extractors to the list of industries that must report emissions to the federal toxic release inventory.... after trying for 2½ years to get the agency to change its mind, the environmental groups are suing to force a change. ...**If the EPA won't impose the reporting requirement on gas and oil extractors, the court should."**

EDITORIAL: Emissions reporting: Drillers have the same duty as other industries (*Pittsburgh Post-Gazette [PA]*, 01/09/15)

"A coalition of nine **environmental groups filed suit Wednesday to force the Environmental**

Protection Agency to add gas and oil extractors to the list of industries that must report emissions to the federal Toxic Release Inventory....In 1997, the EPA unwisely decided to exempt the industry from the emissions reporting requirement. Now, after trying for two and a half years to get the agency to change its mind, the environmental groups filed suit in U.S. District Court in Washington, D.C., to force a change....**If the EPA won't impose the reporting requirement on gas and oil extractors, the court should."**

Editorial: Invest in future, not past (*Times-Union [NY]*, 10/14/14)

"**The Sierra Club lawsuit seeks to reverse the state Public Service Commission's approval** of the plan's financing, which calls for National Grid customers across New York — including here — to pick up the tab over the next decade for retrofitting the plant. **The Sierra Club has it right."**

EPA's new rules would clear the air near oil refineries: Editorial (*Daily Breeze [CA]*, 07/23/14)

"Oil refineries in the South Bay and Long Beach are likely to be facing some tough and long-needed restrictions that will help residents breathe a little easier. It's too bad it took a lawsuit to get there. ...**The proposed regulations on the country's 149 refineries only came after pro-environmental groups Earthjustice and the Environmental Integrity Project, on behalf of several local groups, sued the agency in 2012 for failing to update its toxic air emissions and monitoring rules intended to protect public health. Be glad they did.... It shouldn't take lawsuits to keep air clean, but it has."**

EDITORIAL: Muscatine activists provide relief for entire Q-C (*Quad City Times [IL, IA]*, 04/05/14)

"Breathe easy, Quad-Citians, and thank a zealous group of Muscatine families for the privilege. Four years of community organizing by Clean Air Muscatine and litigation by the Iowa Attorney General led Muscatine's Grain Processing Corp. to **a court-approved settlement that will curb air pollution that is hurting Muscatine families and our entire Quad-City region's economic development** potential....This time, the settlement spells relief....Even without Clean Air Muscatine's intervention, **GPC knew for years it was exceeding state and federal emission limits. Still, it took volunteer community organizers along with the state attorney general to convince a judge to hold GPC accountable.** That accountability won't put GPC out of business. Instead, it will require it to stop hurting the hometown community that provides the workforce and raw materials vital to its success. GPC should be thanking Clean Air Muscatine for forcing this long-delayed solution. All of our Quad-Cities should thank them for winning a victory against a company whose emissions threatened economic growth throughout the region."

Editorial: Rule on soot standards was overdue (*San Francisco Chronicle [CA]*, 06/20/12)

"The Environmental Protection Agency is tightening the nation's standards for soot pollution. **It only took a court order and five years of delay for them to do the right thing. ... Earthjustice attorney Paul Cort, who represented the Lung Association and the National Parks Conservation Association in a successful lawsuit that is forcing the EPA to issue this rule, estimates that the new regulations will save 8,000 lives per year....It's about time the EPA did the right thing for the public's health."**

Editorial: Deadly Particles in the Air (*New York Times*, 06/19/12)

"Thirteen states and various environmental groups challenged the old standards as too weak and, in 2009, a federal appeals court ordered the E.P.A. to come up with new limits."

EDITORIAL: Unhealthy politics: On mercury and soot, the EPA is a strong guardian (*Pittsburgh Post-Gazette [PA]*, 06/17/12)

"Forced by a federal court to abide by the Clean Air Act, the EPA last week updated its air quality standards for fine-particle pollution, including soot. The new standard would lower the amount of soot permitted from diesel trucks, buses and power plants. **The move is a great day for public health**, because microscopic particles can penetrate deep in the lungs and are linked to serious health issues -- premature death, heart attacks, strokes, acute bronchitis and asthma in children. Nor is this uneconomical; a healthier population means lower health costs."

EDITORIAL: Our View: Blowing in on the wind; Ruling against Ohio's clean-air ploy is good news for Pennsylvania (*Beaver County Times [PA]*, 02/09/10)

"It's hard for Pennsylvania to meet federal clean-air standards when its neighbors won't play by the rules. **Fortunately, Ohio, a major contributor to our out-of-state air pollution, has been told by a federal judge that it needs to clean up its regulatory act....** ordered the Ohio Environmental Protection Agency to lift an exemption that it has been giving since 2006 to emitters of 10 tons of pollution or less per year. **Abel agreed with the Sierra Club that Ohio EPA was improperly granting the exemption without the permission of the federal government.... residents can now sue their states to follow the law.**"

EDITORIAL: Filling the gap: When the state won't take on a dirty job (*Houston Chronicle*, 08/24/09)

"City of Houston officials have wrestled for years with this dilemma: **How do you prevent industrial facilities from violating clean air standards if the state agency entrusted with that responsibility doesn't do the job? Environmental groups frustrated by that inaction are now taking polluters to court, with encouraging results.** In the latest example, the Sierra Club and Environment Texas have filed a federal suit to force Chevron Phillips Chemical to reduce emissions of air toxics at its Cedar Bayou chemical plant **The litigation is being brought under a provision of the Clean Air Act empowering private citizens affected by illegal pollution discharges to file federal suits if state and federal regulators do not take action.** This is the second time that the two groups have used the citizen suit provision against a Houston-area company. Last year the target was the Shell Oil Deer Park refinery and petrochemical complex. **That resulted in a landmark settlement in which Shell agreed to reduce emissions and pay nearly \$6 million for past Clean Air Act violations.**"

EDITORIAL: Clean Slate on Clean Air (*New York Times*, 03/08/09)

"**In a series of major decisions, the federal courts have effectively done away with nearly all of the Bush administration's clean-air regulations — most of them wrongheaded.** That gives President Obama a clear shot at fashioning a new and coordinated attack on pollutants like smog, soot and mercury."

EDITORIAL: Yellowstone sleds: Phase out snowmobiles in the park (*Salt Lake Tribune [UT]*, 09/18/08)

"[A]llowing more of them into Yellowstone National Park in winter would pollute the air excessively, stress wildlife and disturb the peace. That's why **a federal judge was right to strike down a plan by the National Park Service to increase their numbers in the park.** To do so, the judge ruled, violates the law that protects park resources and ignores the Park Service's own scientific studies on the machines' impacts."

EDITORIAL: Tracking pollution: A court ruling allowing states to enhance monitoring of industrial emissions won't help Houston (*Houston Chronicle*, 08/25/08)

"A federal appeals court has rightly swatted down the Environmental Protection Agency's effort to prevent state and local governments from getting tough with industrial polluters. That's the good news.... Earthjustice attorney Keri Powell, who argued the case for a coalition of environmental groups, called the decision "a huge victory for everyone who breathes." Not quite everyone....The federal court ruling against the EPA is a victory for people living in states with aggressive air pollution enforcement."

EDITORIAL: Achieving clean air; Federal appellate court delivers welcome ruling that will be good for the lungs (*Las Vegas Sun*, 08/23/08)

"Environmentalists, led by the Sierra Club, scored a major victory for those of us who appreciate clean air by persuading a federal appellate court to reverse an Environmental Protection Agency rule that would have caused more pollution if left intact. The 2-1 ruling announced Tuesday by the U.S. Court of Appeals for the District of Columbia Circuit means that state and local government agencies will regain authority under the Clean Air Act to require industrial polluters to increase their air pollution monitoring when the agencies determine it is necessary.... we're glad the court ruled the way it did."

Editorial: Need strict mercury limits (*Waco Tribune-Herald [TX]*, 02/22/08)

"The Bush administration and those who build coal-fired power plants suffered a set-back when a federal court ruled that more needed to be done to protect the public from mercury emissions. **The commendable ruling by the U.S. Court of Appeals for the District of Columbia chastised the Environmental Protection Agency for violating the Clean Air Act** in 2005 when it exempted coal plants from the strictest emission controls for mercury and other toxic substances. It's a shame that it takes court rulings to force government regulators to comply with environmental protection laws. This is not the first such court setback for Bush. Last year the Supreme Court ruled the EPA had not complied with the Clean Air Act when it failed to regulate greenhouse gases from automobiles. Another court ruling found that the EPA must require utilities to install pollution controls when upgrading power plants. Of course, that's what the Clean Air Act said all along."

EDITORIAL: Judicial Rebukes on Clean Air (*New York Times*, 02/18/08)

"The federal courts have been a bulwark against the Bush administration's relentless efforts to weaken 40 years' worth of environmental law, including statutes protecting the nation's forests, wetlands and endangered species. **The courts have been especially important in resisting the administration's assault on the 1970 Clean Air Act** ... In 2006 and 2007, the United States Court of Appeals for the District of Columbia and the Supreme Court ordered the Environmental Protection Agency to follow the law and require utilities to install pollution controls when upgrading power plants.... The D.C. Circuit, by no means a radical group of judges, has become so exasperated that it has taken to quoting Lewis Carroll."

EDITORIAL: An oily solution (*Times Daily [AL]*, 10/11/05)

'[A] federal appeals court annulled the Environmental Protection Agency's revision of air monitoring regulations, calling them a Bush administration attempt to "pull a surprise switcheroo."... In the U.S. Court of Appeals for the District of Columbia, a three-judge panel sharply criticized the EPA's attempt to circumvent its own regulations. the gist of **the case, which grew out of an EPA settlement with the utilities and oil refinery industries in 2004 on air pollution monitoring,**

prevents state and local environmental regulatory agencies from adopting standards tougher than those used by the EPA. The court was especially displeased with EPA's efforts to avoid seeking further public comment before adopting the new regulations."

EDITORIAL: Forward-Looking Settlement Clears Air (*Albuquerque Journal [NM]*, 03/14/05)

"An environmental lawsuit against Public Service Company of New Mexico led to a settlement that cleans up the Four Corners airshed, puts PNM in the forefront of coal-burning utilities and boosts the Farmington area's economy."

EDITORIAL: A win and a loss (*Gainesville Sun [FL]*, 01/03/04)

"Christmas came one day early last week for those who oppose the Bush administration's efforts to gut the Clean Air Act....a U.S. Circuit Court of Appeals in Washington blocked the administration from implementing a new rule ... The loophole was deemed so egregious that a dozen states, several cities and a coalition of **environmental groups joined in a legal battle to oppose its implementation.** The court ruling isn't the end of the battle. But it is an indication that the courts recognize that the rule change could result in significant harm to the natural environment and public health."

EDITORIAL: Quietening the Roar in Yellowstone; A federal judge properly blocks a plan to expand snowmobile use in the nation's premier national park. (*Oregonian*, 12/21/03)

"Last week a federal judge overturned the Bush administration's plan to expand snowmobile use of Yellowstone, and reinstated a phase-out of the machines ordered by former President Clinton. The judge was right to nix the Bush plan ... Winter air quality at Yellowstone sometimes deteriorates to the levels found in Los Angeles. ... If the Bush administration is unwilling to craft a careful plan to severely limit snowmobile use in Yellowstone, **Judge Sullivan is right to order them all out.**"

EDITORIAL: Crafting a Real EPA (*Bangor Daily News [ME]*, 11/03/03)

"Maine and a dozen other states, plus several cities **and environmental groups, have gone to court to compel the Environmental Protection Agency to regulate carbon dioxide emissions and to challenge changes in the Clean Air Act** that allow plants to make major upgrades without installing pollution-control equipment....As Utah Gov. Michael Leavitt takes over the agency, he could start by making a commitment to improve, not weaken, regulations. He could do this by adding carbon dioxide to the agency's list of pollutants and by repealing the new source review rule changes."

EDITORIAL: A DIZZYING SPIN ON THE ENVIRONMENT (*Roanoke Times [VA]*, 01/24/97)

"Gov. George Allen lost his argument in the U.S. Supreme Court. The state had disputed the federal Environmental Protection Agency's authority to demand that Virginia let citizens challenge air-pollution permits.... the right the state was trying so tenaciously to protect was its right to deny citizens access to the courts.... he insisted that lawmakers include language that Virginia would not make the change unless the Supreme Court essentially forced it to by ruling in favor of the EPA.... With the race for Allen's successor starting to take shape, and polls showing wide support among Virginians for environmental protection, the Republican administration would love to repackage itself in green. So far, there has been more spin than turnaround on environmental policy."

CLEAN WATER

EDITORIAL: Offshore drilling would threaten the NC coast (*News & Observer*

[NC], 02/01/15)

"The Obama administration's plan to open the waters off the shores of Virginia, North Carolina, South Carolina and Georgia to offshore drilling puts North Carolina's tourism and other industries at risk. **There should be a strong legal and political push to keep oil rigs out of the Atlantic waters. Environmentalists and some communities on North Carolina's coast will no doubt provide the legal objections....** Given the political clamor for drilling, **North Carolina's best protection from it happening may rely on the courts,** findings that oil resources off the coast are scarce and a continuation of current low prices for oil. With those three factors involved, the drilling may never come to pass.... Given the reality of global warming and the memory of the 2010 Deepwater Horizon spill into the Gulf of Mexico, the time for such balance is past. The United States should be building to an energy future based on renewable sources without environmental hazards."

The Register's Editorial: Good things could flow from water lawsuit (*Des Moines Register*

[IA], 01/26/15)

"**The lawsuit the Des Moines Water Works contemplates filing** against three Iowa counties is not a war against rural Iowa, as some would have it. Rather, it is **a civilized approach to resolving a threat to public health. The public utility that provides drinking water to a half-million customers in central Iowa has turned to the courts for a remedy for water pollution that the legislative and executive branches of Iowa government have failed to deliver....** the Water Works would be asking a federal court to declare that emissions from the drainage districts managed by the three named counties fall under the definition of "point sources" under the federal Clean Water Act. ... If Iowa farmers and state officials are serious when they say they are determined to clean up the state's water, then they have nothing to fear from a lawsuit that aims to make sure the steps they are taking are having a measurable effect."

EDITORIAL: Backtracking on the Bay (*Baltimore Sun*, 01/22/15)

"Baltimore County has no shortage of polluted water. ... it came as a bit of surprise to hear Baltimore County Executive Kevin Kamenetz offer ... that **he'd like to see the timetable for court-ordered water quality improvements delayed** beyond the current 2025.... **Here's the real craziness of it all:** No matter who serves as this state's governor, the EPA is going to hold Maryland accountable for these violations of the Clean Water Act.... it's not even clear whether existing state standards are sufficient to meet cleanup goals. **The Chesapeake Bay Foundation and other environmental advocates are already in the process of taking the Maryland Department of the Environment to court** on the grounds that subdivisions aren't meeting the requirements of existing stormwater permits and won't do enough to reduce polluted runoff.... it's been a tough week for the Chesapeake Bay and anyone who cares about its health — or the billions of dollars in economic benefits and thousands of jobs that are associated with it."

EDITORIAL: The EPA's move to regulate 'coal ash' is a step forward (*Washington*

Post, 01/02/15)

"EPA's latest move to regulate huge accumulations of "coal ash" is, if anything, too modest.... coal ash pits saw major spills — one in Tennessee in 2008 and one in North Carolina in 2014 — that fouled rivers and endangered people and wildlife. Environmentalists report dozens more instances

of air or water contamination ...Environmental activists warn that the EPA declined to classify coal ash as hazardous waste, a designation that would have triggered stricter federal oversight. ... **EPA is largely leaving enforcement to the states, which have been the only overseers before now, though private citizens and environmental groups will be able to sue to demand adherence to the rules.** The regulations leave room for extremely lengthy delays"

EDITORIAL: EPA falls short on coal-ash rule (*Lexington Herald-Leader [KY]*, 12/26/14)

"Regulations issued last week by the Environmental Protection Agency for waste from coal-fired power plants are welcome but fall short of fully protecting the public. Coal ash — the residue left over after coal is burned to produce electricity — contains varying amounts of carcinogenic and toxic metalsThe EPA, which was under a federal court's deadline to issue a regulation by Dec. 19, decided not to classify coal ash as hazardous, categorizing it instead as solid waste, the same as household garbage. That decision, which disappointed environmentalists and will save utilities billions, means there still will be no direct federal scrutiny of coal-ash landfills and impoundments. **Instead the new federal rules will be enforced by state environmental agencies and, more likely in Kentucky, which has a high tolerance for coal industry shortcuts, by citizen lawsuits.**"

EDITORIAL: Chance missed (*Greensboro News & Record [NC]*, 12/26/14)

"Federal regulators considered classifying coal ash a hazardous waste that requires special disposal. Instead, they will consider it no different than the banana peels and candy wrappers you put out in a can at your front curb. EPA passed up a chance to set high standards. The Obama administration took far too long to produce the rules, only publishing them under court order.... The biggest shortfall of the federal rules is that they will not be actively enforced. ...**self-compliance seems dubious. More likely, it will be up to citizens to take them to court to enforce the law.**"

Editorial: EPA's decision on coal ash rule is a disappointment (*Knoxville News Sentinel [TN]*, 12/22/14)

"**Under a court-ordered deadline, the EPA announced** Friday it would implement the less stringent of two options for regulating coal ash. Essentially, the agency's choices were to treat coal ash as hazardous waste or as little more than municipal garbage. The EPA chose the latter, a keen disappointment.... **The adopted rule establishes minimum standards for impoundments but leaves regulation up to the states and citizen-initiated lawsuits. While it is much better than having no restrictions at all, the rule risks uneven enforcement** between states and encourages costly and time-consuming court battles. The new federal rule is a welcome alternative to the status quo, but the EPA missed an opportunity to provide the highest level of protection for communities where coal-fired power plants operate."

Editorial: New top environmental regulator should work for citizens, not 'customers' (*Gaston Gazette [NC]*, 12/11/14)

"**And three times the state stepped in to halt environmental groups' lawsuits aimed at forcing Duke Energy to clean out its ash ponds. Under federal law, a lawsuit headed for the courts may be delayed if the state announces its intent to take action. But in North Carolina's case, that action was much less than the environmentalists were seeking. Questions about the cozy relationship between DENR staff and the businesses they regulate did not originate with this administration; it has been an ongoing issue.** Regulators do not have to be unnecessarily obstructionist."

Editorial | Starving the beast (*Courier-Journal [KY]*, 12/01/14)

"Ruling in a case involving alleged violations by the Frasure Creek Mining Co., Judge Shepherd found that state cuts over the past 10 years have "drastically and adversely affected the ability of the cabinet to do its job in implementing the Clean Water Act."...Even more troubling is that **it took an outside group of citizens' advocates to uncover the problems** and bring them to the state's attention. Groups including Appalachian Voices, Waterkeeper Alliance and Kentuckians for the Commonwealth found some coal companies falsified reports they are required to file with regulators. Prodded to act, state regulators ... did little to investigate the actual environmental harm, then attempted to enter into a modest settlement ... **Judge Shepherd rejected the settlement as one that sends the message that "cheating pays."** He also rejected the attempt of the state to **cut the outside citizens' groups out of its final settlement** with Frasure Creek Mining, ordering they be included."

EDITORIAL: Coal's costs keep adding up (*Lexington Herald-Leader [KY]*, 11/30/14)

"Judge Phillip J. Shepherd laid bare the charade that is Kentucky's enforcement of coal industry compliance with the Clean Water Act. The judge described a state agency that barely even goes through the motions of enforcing the law.... **The massive violations were discovered by citizens who threatened to sue.** The cabinet agreed to a consent decree under which Frasure Creek would pay \$310,000. **The cabinet also fought — and lost — all the way to the state Supreme Court to exclude citizens from any involvement in deciding the case.** Shepherd ruled the penalties were too small coal. It's not cheap, though. The costs are high — they just get pushed onto someone else, the disabled or dead miners, or Kentuckians who depend on water, ruined by surface mining, that flows from the mountains across our state."

Louisiana House should kill bill intended to nullify levee lawsuit against oil, gas:

Editorial (*Times-Picayune [LA]*, 05/28/14)

"What the legislation does is severely limit which agencies can file suit and for what sort of damages....and would leave residents in greater New Orleans with no practical remedy for the increased risk of storm damage caused by coastal erosion....SB 469 would take away the rights of other local government entities to pursue "any right or cause of action arising from any activity" involving permitting under the Coastal Zone Management program and some provisions of the federal Clean Water Act and the federal Rivers and Harbors Act. ... Those residents and the levees and pumps built to protect them are threatened by the wetlands loss created by oil and gas pipelines. Why shouldn't the industry be asked to pay part of the cost to repair it?"

Editorial: Judge rightly lets environmental groups in on coal ash case (*Winston-Salem Journal [NC]*, 05/12/14)

"**Cheers to Superior Court Judge Paul Ridgeway**, whose ruling last week will allow environmental groups to have access to documents from Duke Energy and the state Department of Environment and Natural Resources relating to groundwater leaching from the company's coal ash dumps. Ridgeway **ruled that a coalition of environmental groups can participate in the state's enforcement action against Duke Energy for the leaching, ...That's how it should be. Good for Judge Ridgeway.**"

Editorial: Two wins for the Everglades; OUR OPINION: Protecting region's clean water supply remains a challenge (*Miami Herald*, 04/15/14)

"The first decision came from U.S. District Judge Kenneth Karas in the Southern District of New York in a case involving regulations for "water transfer" practices throughout the country. **Part of the federal Clean Water Act case involves a decade-long suit filed by environmental groups**

against the South Florida Water Management District's occasional back-pumping of polluted farmwater runoff from canals into Lake Okeechobee.... Judge Karas ruled that back-pumping that jeopardizes the supply of drinking water can be construed as a violation of the Clean Water Act. That includes actions that affect Lake Okeechobee. **It's a good decision....** In all likelihood, the district, the state of Florida or even the EPA will appeal the ruling, though it would be better for everyone, taxpayers especially, if the district were to accept the decision and end the costly litigation."

EDITORIAL Our Views: Don't limit court actions (*Advocate [Baton Rouge, LA]*, 04/09/14)

"We'd prefer a political answer to the coastal catastrophe in which the many parties who compromised Louisiana's wetlands over the years help pay the billions it will cost to repair them. But without the threat of court action, what's the incentive for powerful corporate interests to come to the negotiating table? Decades of political expedience led to the environmental disaster of Louisiana's vanishing coastline. These bills seem like more of the same, and that's bad news for a state so vulnerable to continuing coastal decline."

Editorial: Victory for clean water (*Tampa Bay Times [FL]*, 04/04/14)

"A federal judge brought long-awaited clarity and common sense last week to the state's age-old practice of pumping polluted water into South Florida's Lake Okeechobee. U.S. District Judge Kenneth Karas' finding that the practice violated the Clean Water Act is a victory for public health and Florida's environment"

EDITORIAL: Before coal ash spill, GOP was bashing environmental rules, groups (*News & Observer [NC]*, 03/22/14)

"McCrorry's push to put "job creators" first also played a role in DENR shielding Duke Energy from lawsuits – over coal ash leaks – that were about to be brought by the Southern Environmental Law Center on behalf of several environmental groups. And it was only last December that state Department of Transportation Secretary Tony Tata mocked the SELC as "ivory tower elitists" for filing a lawsuit that has blocked construction of a replacement for the Bonner Bridge on the Outer Banks.... **What those "ivory tower elitists" have been doing is trying to protect people from toxic coal ash while the McCrorry administration was thwarting their efforts....**The governor can say all he wants to Duke Energy, but it won't mean much until he, his appointees and Republican legislative leaders admit they have a new appreciation for the value of environmental regulation and the groups dedicated to protecting the environment."

EDITORIAL: Our View: No time to ease pressure on Duke Energy (*Fayetteville Observer [NC]*, 03/09/14)

"The Southern Environmental Law Center sued in 2012 over the failure of the N.C. Department of Environment and Natural Resources under Perdue's watch to regulate Duke's coal-ash dumps effectively. The group says the situation changed under McCrorry-appointed DENR chief John Skvarla - it got worse. **A judge's ruling Thursday condemned Duke's behavior and DENR's haplessness. ... the state should apply a firm hand in enforcing the judge's ruling** while looking for other violations."

Editorial: McCrorry needs to make a full response to coal ash questions (*News & Observer [NC]*, 02/26/14)

"The coal ash spill is a major event with statewide implications for the safety of drinking water....DENR was willing to let Duke Energy resolve state concerns about two leaking coal ash sites by paying a \$99,000 fine with no requirement to move the ponds. **The proposed settlement –**

held up for review after the Dan River spill – came after the state pre-empted suits planned by the Southern Environmental Law Center. When the SELC sued two South Carolina utilities over unsafe coal ash storage, the suits resulted in settlements that had the ash removed to dry storage in lined landfills or recycled as part of building materials. Why didn't DENR let the same course be taken here?"

Editorial: Coal ash, other ills flowing from N.C. (*Virginian-Pilot*, 02/13/14)

"The massive coal ash spill upriver from Danville has provided ample evidence why it's such an awful idea to put doctrinaire anti-environmentalists in charge of a state's government. From the moment coal ash started spilling from a Duke Energy holding pond into the Dan River, North Carolina officials have put the health of the river and people who use it at immense and unnecessary risk. ... Consequences flowed across state lines. The coal ash that spilled from the Duke facility carried lead, arsenic, mercury and countless other contaminants into the Dan River, which is upstream from the water supply for Hampton Roads.... environmental groups tried three times in just the past year to use the Clean Water Act to force Duke to clean leaky coal ash dumps. **The groups sought help from federal courts only after North Carolina regulators refused to act despite evidence of massive groundwater contamination. "Each time, the state agency blocked the citizen lawsuits by intervening at the last minute to assert its own authority under the act to take enforcement action in state court,"** the AP reported."

EDITORIAL: The River of ash (*Greensboro News & Record [NC]*, 02/06/14)

"**Other utilities have adopted cleaner means of coal ash disposal. Duke should do the same....** "Duke's coal ash pollution is threatening rivers, lakes and drinking water in every part of North Carolina," Frank Holleman, an attorney for the **Southern Environmental Law Center**, said just last month. His group is **leading a lawsuit seeking to force Duke to clean up coal ash pollution....more should be done** to prevent the next accident there or somewhere else."

EDITORIAL: Our View Getting ahead of the next coal ash leak (*Charlotte Observer [NC]*, 02/05/14)

"**What can Duke do? Clean the unlined ponds. Recycle the coal ash or move it to dry, lined landfills. That's what two South Carolina utilities have agreed to do in settling a lawsuit with the Southern Environmental Law Center, Catawba Riverkeeper and other groups.... Duke also is facing a lawsuit, this one from state of North Carolina and environmental groups,** over more than a dozen coal ash ponds, including Riverbend's. The groups note that Riverbend's ponds already are leaking small amounts of chemicals into Mountain Island Lake, something Duke acknowledges."

Editorial: Federal court puts Arctic drilling on ice; Shell Oil called off its 2014 plans for drilling in offshore Alaska, after a federal appeals court challenged federal leasing practices. (*Seattle Times [WA]*, 02/03/14)

"His decision follows the federal appeals court ruling that said the U.S. Department of Interior's oil and gas leases in the Chukchi Sea violated the law, with faulty oil production estimates that had consequences for forecasting environmental hazards.... **the court is saying it wants serious evaluations of environmental and safety risks with real numbers** — not the back-of-the-envelope estimates previously accepted so lucrative auctions can proceed."

Editorial: EPA should opt for more restrictive rules on coal ash (*Knoxville News Sentinel [TN]*, 11/07/13)

"**A federal judge has ordered the U.S. Environmental Protection Agency to stop dragging its**

heels on establishing new rules for the disposal of coal ash.... **The ruling came in a lawsuit filed by 13 environmental and health advocacy groups.** ... East Tennesseans — particularly those living in Roane County — understand the need for better regulations for coal ash. ... **Judge Walton recognized that the EPA has had plenty of time to review the data and sift through public comments. It is high time the agency finish the job.** EPA should opt for the more restrictive, more effective alternative so that disasters such as the Kingston spill do not occur in the future."

Editorial: EPA must protect Florida waterways (*Palm Beach Post [FL]*, 12/12/12)

"For three years, Florida tried to stall on setting tougher anti-pollution standards for the state's lakes, rivers, streams and estuaries. **Finally, and correctly, it appears that Florida has lost** — for now. On Nov. 30, **U.S. District Judge Robert Hinkle refused to give Florida any more time** in trying to set state rules that are weaker than those established by the Environmental Protection Agency. **Earthjustice attorney David Guest said of the environmental groups that brought the federal lawsuit seeking enforcement of the Clean Water Act, "We won this case."** ...Florida missed that 2004 EPA deadline. So Earthjustice and other groups filed suit in 2008."

Editorial: High court validates roadless conservation rule: The U.S. Supreme Court ended a decade of legal wrangling when it refused to review a challenge to roadless policies in national forests (*Seattle Times [WA]*, 10/05/12)

"**More than 20 conservation organizations and four states, including Washington, have fought a sustained legal battle to protect 46 million acres of national forestland. Affirmation of the roadless rule provides a uniform standard for national forestland in 36 states. This is a healthy outcome for the nation's water supply, recreational opportunities and treasury.**"

EDITORIAL: TVA's ash spill liability (*Chattanooga Times [TN]*, 08/25/12)

"**A federal judge reasonably decided this week that TVA is legally liable for the damages caused by the huge toxic ash spill** four years ago at its Kingston power plant. ... Every attempt by the EPA or the Obama administration to tighten rules on toxic emissions from the dirtiest electric utilities and other big polluters results in political rebuttals by Republicans of companies' rights to pollute the environment.... **The suit TVA has just lost involves more than 800 plaintiffs** - mainly citizens and owners of destroyed homes and now uninhabitable land."

EDITORIAL: Ogeechee decision: Win for Georgians (*Savannah Morning News [GA]*, 07/24/12)

"**GEORGIANS WHO believe in open government, clean rivers and playing by the rules should cheer Monday's court decision by a Bulloch County judge. Superior Court Judge John R. Turner ruled that the Ogeechee Riverkeeper, an environmental group that's representing the interests of many people in this part of Georgia, does have standing to challenge the private agreement that the state Environmental Protection Division reached last year with King America Finishing.** That's the Chicago-based company that operates a plant in Screven County that had been pumping illegal discharges into the Ogeechee River for five years.... A backroom deal reached without public participation isn't in the public's interest or the Ogeechee River's. **Georgians have every right to be heard in regard to state actions that affect their waterways. If they don't have standing to demand answers and hold their public officials accountable, who does?"**

Editorial: This time, keep Everglades promise (*Palm Beach Post [FL]*, 06/23/12)

"**Fortunately, because of the lawsuit the federal government still has leverage over the state. Environmental groups also remain engaged. David Guest, an attorney for Earthjustice,**

represents some of those groups. "We will be back in court," he said, "if (the state) gets off this track."

EDITORIAL: Administration slapped by court; Clean Water Act not written for coal (*Lexington Herald-Leader [KY]*, 05/02/12)

"In a unanimous rebuff of the Beshear administration's environmental cabinet, **the Kentucky Supreme Court has upheld citizens' rights to be heard in clean water enforcement actions. "Federal law encourages the states to permit interested citizens to intervene and be heard in state court enforcement proceedings." Justice Lisabeth Hughes Abramson wrote for the seven justices. The unanimous opinion also cites "Congress's express declaration that public participation in efforts to control water pollution is a priority of the Clean Water Act."** Yet, the Beshear administration, which is responsible for enforcing the Clean Water Act in Kentucky, had insisted it would be "an unwarranted burden" to allow interested citizens groups and individuals to object to a settlement between the Cabinet for Energy and Environment and two of the state's largest coal companies. **The administration tried to exclude the citizens groups even though they uncovered the massive violations and filed a notice to sue**, which, under federal law, triggered the state investigation that led to the proposed settlement.... The cabinet's attempt to exclude the citizens groups was defeated in the Court of Appeals and now the Supreme Court. This has been one of the most shameful chapters in the long and shameful history of state government's cozy relationship with the coal industry.... the administration tried to make the embarrassment go away with a settlement in which the groups that discovered the state's massive dereliction of duty could not even be heard."

EDITORIAL: For clean water in Florida, depend on judge, not state (*Palm Beach Post [FL]*, 12/06/11)

"With the state Department of Environmental Protection reverting to what critics once derisively called "Don't Expect Protection," **Floridians who want clean rivers, lakes, streams and estuaries must depend on the federal courts....In 2008, the environmental law firm Earthjustice filed a lawsuit, alleging that the U.S. Environmental Protection Agency was not enforcing the Clean Water Act** in Florida. Martin County residents in the St. Lucie River estuary - where fresh water meets salt water - who have seen canals turn green from pollution-laden runoff understand the damage from this failure. As a result of the lawsuit, EPA agreed to set specific anti-pollution standards if the state didn't propose its own sufficient standards. ... **Fortunately, Earthjustice went back to back to court last week.** Officially, the defendant is the Department of Environmental Protection, but the lawsuit is a reaction to the EPA backing down. **Perhaps the courts can persuade Florida that never is too long to wait on clean water.**"

Kalamazoo River: Enbridge oil spill case cries out for a courtroom (editorial) (*Kalamazoo Gazette [MI]*, 09/04/11)

"The Enbridge Inc. oil spill into the Kalamazoo River and Morrow Lake in Comstock Township is **an environmental nightmare in need of a lawsuit....the circumstances are so alarming, the environmental damage so vast and the questions so troubling that we see no other effective way to sort it out but in a court of law....We won't be surprised if a class-action lawsuit is filed.... we would view a lawsuit as a positive development ... A lawsuit could shine a spotlight on exactly what transpired; compel information to be produced through discovery; disclose facts that may have a bearing on what happened; hold those who are responsible for what happened accountable for their actions or their failure to act; and penalize any wrongdoers with significant fines and costs that could be considerable. When the legislative branch fails**

to protect the people — in this situation by not reforming how oil pipelines are monitored and maintained and adjusting the penalties for failure to adequately do so — the judicial branch can effectively act in the interests of the people."

Beach monitoring cuts another blow to water: BRADENTON HERALD EDITORIAL | Florida continues worrisome trend on quality (*Herald [Bradenton, FL]*, 08/14/11)

"This state action continues a disturbing trend from the Scott administration on water quality -- in effect, a wholesale assault that will diminish a vital resource to the state's economy. To wit: Florida is fighting implementation of tough federal regulations to comply with the Clean Water Act. Instead of the state's current lax narrative standards, the EPA wants to impose strict numeric restrictions to limit nitrogen and phosphorus levels in Florida to reduce widespread pollution and improve water quality. But last week, **a federal appeals court dismissed Florida's appeal of the 2009 settlement between the EPA and environmental groups, which sued the agency to force the federal government to enforce the Clean Water Act in the state.**"

Editorial: State working against citizens, for coal (*Lexington Herald-Leader [KY]*, 08/09/11)

"**The Cabinet for Energy and Environment plans to keep challenging the right of citizens groups to have a say in a court action against two coal companies that have admitted to thousands of water-pollution violations.** The groups, which include Kentuckians for the Commonwealth, uncovered the violations and late last year filed a notice of intent to sue in federal court. Instead, the cabinet launched its own investigation and reached a settlement with Frasure Creek Mining and ICG Hazard and Knott County. The state settlement prevented a suit from going forward in federal court. The citizens groups were dismayed when the cabinet proposed levying fines of just \$660,000 for violations that could have cost millions and asked to intervene in the settlement. Franklin Circuit Judge Phillip Shepherd allowed them in.... the state Court of Appeals denied the state's request to exclude the citizens' groups.... Nonetheless, **a cabinet spokesman says an appeal is planned to the Supreme Court, tying up state resources in a dubious fight to exclude citizens from a decision about the water on which all Kentuckians and all life depend.**"

Editorial: Survivor: Chesapeake; The legal battle over the Chesapeake Bay cleanup continues to escalate (*Free Lance-Star [VA]*, 05/31/11)

"Chesapeake Bay advocates fired back at the powerful farm lobby, which is fighting the EPA's plans to put the bay on a "pollution diet." The battle is over the agency setting "total daily maximum loads," or TDMLs, of the pollutants that have damaged the bay's ecosystem. **The Chesapeake Bay Foundation (which previously filed suit against the EPA over the slow pace of restoration efforts) supports the agency's plans, and has forged an alliance with such groups as Citizens for Pennsylvania's Future, Defenders of Wildlife, the Midshore Riverkeeper Conservancy, and the National Wildlife Federation.** On the other side is the American Farm Bureau Federation, which has filed a lawsuit against the EPA's proposal in federal court in Harrisburg, Pa., and is joined by the Fertilizer Institute, the National Pork Producers Council, the National Corn Growers Association, the National Chicken Council, the U.S. Poultry and Egg Association, and the National Turkey Federation."

EDITORIAL: Gansler's fracking lawsuit: Polluters and watchdogs; Our view: Maryland's attorney general goes after a Pennsylvania gas driller but chooses not to champion a critical environmental cause closer to home (*Baltimore Sun*, 05/09/11)

"Lawsuits brought by government and private parties to address damage done to the environment became a necessary fact of life in this country long ago. In a perfect world,

perhaps nobody would pollute — or at least those who did would immediately and appropriately be corrected by a government agency. But the real world sometimes requires court orders.... Maryland Attorney General Douglas F. Gansler ... supported legislation to give environmental groups greater "standing" in court to bring lawsuits against polluters and balky regulators. ... So it is more than a little ironic that while Mr. Gansler is leading the charge against the environmental consequences of fracking in the Keystone State, he is simultaneously being far more cautious about such civil actions here"

EDITORIAL: Ruling a victory for environment, common sense (*Tampa Tribune* [FL], 07/02/10)

"Now a federal judge is correctly taking steps to reverse the appalling failures of the powerful federal agency, whose final approval gave the green light for construction. **In a blistering ruling on a lawsuit by environmentalists** Wednesday, Royce C. Lamberth, chief U.S. District Court judge in Washington, D.C., said **the Corps didn't follow federal law -- the National Environmental Policy and Clean Water acts.** The Corps allowed the developers to put their profit goals above the need to protect the environment; didn't make them prove why a smaller footprint or fewer parking spaces are "impractical;" and didn't prepare the required environmental impact statement. "Unfortunately," Lamberth wrote, "this is a familiar course of action for the Corps when processing permit applications. As another member of this Court has stated, the Corps 'resorted to arbitrary and capricious meaning -- manipulating models and changing definitions when necessary -- to make this project seem compliant ... when it's not.' The record here shows a similarly disturbing pattern" It was a colossal blunder by the chief federal agency responsible for protecting wetlands. It is reprehensible any regulator would fall for the developers' sales pitch that their project shouldn't be scaled back simply because they wouldn't see a high enough return. **For the sake of such a flimsy argument, the Corps jeopardized a city's drinking water source.**"

Editorial: Court rulings protect tourism, fishing industries; Pollution, beach decisions serve public interest (*Herald* [Bradenton, FL], 06/20/10)

"Two major court rulings on Thursday protect the lifestyle and careers of countless Floridians who depend on our beaches and waterways for both pleasure and income. Both decisions are critical to the Sunshine State's tourism and fishing industries. In one, the U.S. Supreme Court decided unanimously that beachfront homeowners do not hold exclusive rights to the beach that abuts their property and government can dump sand there in renourishment projects. In the other, **the Florida Supreme Court held that commercial fishermen can sue for economic damages when water pollution cuts into their incomes. This opens the door to claims against BP for oil that fouls fishing grounds in state waters.**"

EDITORIAL: Pollution Lawsuits (*Richmond Times-Dispatch* [VA], 04/27/07)

"It's hard to imagine the world can be made much better by increasing the number of lawsuits. But a recent decision by the Virginia Supreme Court holds out the possibility. The court ruled that groups such as the Chesapeake Bay Foundation can sue in court to challenge state pollution controls. The decision stems from a case in which the Bay Foundation had tried to challenge a water pollution permit for a Philip Morris plant The claim held that the foundation's members faced specific harm on account of their attempts to replenish aquatic grasses downstream **the possibility that the courts might intervene could increase the level of care taken by regulators.** The net result might be an improvement in the quality of environmental oversight"

EDITORIAL: DEVELOPMENT STANDING (*Bangor Daily News* [ME], 02/20/02)

"The ability of environmental groups to intervene in development drew wide attention in 1972

... The court eventually agreed the Sierra Club had standing to block the Disney Corp. from building a ski resort in what is now part of Sequoia National Park because its members hiked on that land and would suffer a specific loss or injury if the development occurred. The BEP standards follow this pattern, so **it is common to see, for instance, the Natural Resources Council of Maine given standing on issues connected with undeveloped land in northern Maine. The Audubon Society and other environmental groups receive similar consideration.** ... Area residents who are concerned about its effect on the environment would be foolish not to explain their position to the state's environmental board, and the board would be negligent not to accept their testimony."

EDITORIAL: SILENCING THE CITIZENS; Bills moving through the Legislature limit the ability of citizens to challenge environmental decisions made by state agencies (*Gainesville Sun [FL]*, 04/27/01)

"The bill would severely restrict a citizen's standing to sue agencies for failure to protect the state's air, water and other natural resources.... they deserve the governor's veto.

EDITORIAL: EVERYBODY'S BUSINESS (*Ledger [Lakeland, FL]*, 04/19/00)

"Environmental protection is everybody's business. Last week, the U.S. Supreme Court said as much when it upheld the right of citizens to go to court to seek redress when contamination has occurred.... **The court essentially upheld the right of citizens to intervene legally against polluters when public agencies fail to do so. That's an important right, because environmental protection really is everybody's business.**"

EDITORIAL: CITIZENS PROPERLY KEEP RIGHTS TO SUE POLLUTERS (*State [SC]*, 01/24/00)

"A South Carolina case led the U.S. Supreme Court to make one of its most important and progressive environmental rulings in recent years. **The court upheld the right of private citizens to use federal laws in lawsuits to stop pollution. Had the court ruled the other way, this nation would have lost a vital tool to rein in those who despoil our air, ground and water.** In recent years, the court had begun to weaken the ability of citizens to take polluters to court."

EDITORIAL: DON'T GUT ENVIRONMENTAL SUITS AGAINST POLLUTERS (*State [SC]*, 10/18/99)

"In a South Carolina case argued last week before the U.S. Supreme Court, **a citizen's right to take polluters to court over violations of the Clean Water Act is at stake. Over the years, hundreds of citizens - mostly through environmental groups - have used provisions in the Clean Water Act to force companies and individuals that pollute to stop polluting and pay fines to the government. If this right were eroded, it would be a setback for people everywhere who value clean rivers, lakes ...**"

EDITORIAL: AIR AND WATER EXTEND 'STANDING' TO CITIZENS (*Roanoke Times [VA]*, 04/03/96)

"**IT IS** past time Virginia gave citizens the right to go to court if they have reason to fear that an air- or water-pollution permit will do them harm.... Hearing officers may indeed hear both sides before deciding on permits. But they know that **often only one side - the party seeking the permit - can sue. That can color decisions.** And environmental lawyers, who have researched standing cases nationwide, say there is no flood of lawsuits where citizens do have standing. Rather, all parties get a fairer hearing in the administrative process, with officials taking greater care to follow

the law. That might take somewhat longer, true, but **it is only fair. It also conforms with the public's clearly demonstrable, strong and abiding interest in environmental protection.**"

OP-ED [In My Opinion: Glades vows kept thanks to the courts](#) (*Miami Herald*, 07/21/12)
Carl Hiaasen: "without judges who are willing to yank a federal agency chief or even a governor into court, what remains of the Everglades has no chance of rebounding. To leave its fate in the hands of Tallahassee and Washington would be a death sentence."

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