

CIEL

Center for International Environmental Law

2006 ANNUAL REPORT





About CIEL

The Center for International Environmental Law is a public interest law organization based in Washington, D.C. with a second office in Geneva, Switzerland. Since 1989, CIEL has carried out hundreds of projects in dozens of countries throughout the world. We use and build international law and institutions to protect the environment and human health. Our work is grounded in the belief that the rule of law is critical to forge an appropriate balance between environmental protection, human rights, social equity and economic growth. We are strong advocates of transparency, public participation and accountability in decision-making. In all aspects of our work, we are committed to equity, diversity and the elimination of all types of injustice. As lawyers for the global environmental community, we work to create a just and sustainable society for ourselves and future generations. We invite you to join us!

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Cover photo courtesy of Lauren Baker

Letter from the President

Dear Friends,

CIEL continues to play a critical role in efforts to protect the environment and human health, focusing on using and building international law and institutions. As we have since our founding in 1989, we have made a significant impact through dedication to the environment and justice, unparalleled legal expertise, hard work, and integrity. CIEL's multi-cultural staff of 19 is truly extraordinary.



We have made a difference by:

- amplifying the voices of indigenous peoples through projects involving prior informed consent,
- pioneering new ways to involve developing countries in tackling climate change,
- protecting the world from toxic chemicals by working to ensure sound chemicals management,
- bringing human rights law to bear on harm to communities and individuals from environmental degradation, including by exploring the human rights implications of climate change,
- improving international trade and investment rules and dispute settlement mechanisms through involvement in selected trade and investment disputes, and
- holding international financial institutions accountable for environmental and social damage.

We have also continued to train a new generation of international environmental lawyers by hosting and training 33 interns and law fellows from 15 countries.

We greatly appreciate your support of and interest in CIEL, and we look forward to working with you to build a cleaner, safer and more wonderful world for ourselves and our children.

Best regards,

Daniel B. Magraw, Jr.

24 April 2008

CIEL's program work falls into four strategic areas:

1. *Protecting the Global Environment and Human Health*

including reducing toxic pollution, slowing the impact of climate change and protecting biodiversity and wildlife.



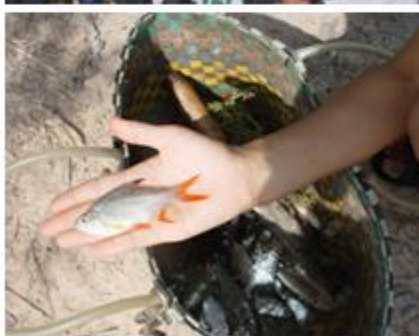
2. *Reforming International Economic Law, Policy and Institutions*

including addressing the challenges of trade and investment, achieving balance in intellectual property rights, advocating reforms in international financial institutions, and democratizing international dispute settlement processes.



3. *Promoting Human Rights and Environmental Justice*

including preventing human rights and environmental abuses in indigenous and local communities with a special focus on the legal recognition of community-based property rights and prior informed consent.



4. *Strengthening Education and Outreach* including organizing educational events, facilitating skill-sharing exchanges among CIEL partners, and sponsoring legal internships and fellowships in the CIEL offices as well as in partner public interest institutions.

CIEL works to achieve these goals by advocating for the effective implementation of international law, institutions and initiatives, strengthening the capacity of civil society organizations and networks, and developing law and policy towards those ends. Because CIEL is both a law firm and a nonprofit organization, it has a unique ability to identify the strengths and weaknesses of laws and institutions and then work strategically with activist networks to identify key leverage points that may be used to effect desired changes.

With 19 staff members (including 9 lawyers), CIEL develops and advocates innovative policy initiatives and provides a wide range of international legal services to clients and partners worldwide, including civil society organizations, governments, and intergovernmental organizations. The following examples offer a glimpse into some of this past year's activities.

Amplifying the Voices of Indigenous Peoples

CIEL advocates on behalf of rural constituencies in the developing world that are directly dependent on natural resources, with a particular focus on communities with long, place-based histories and traditions. The goal is to help indigenous and other local communities protect their environment and culture, gain legal and effective control over their local assets, and ensure that they are heard and can participate meaningfully in official decision-making processes that directly impact their lives and livelihoods.

In the Arctic – CIEL provided legal assistance to the Inuit in pursuing a human rights complaint against the United States for failing to reduce its greenhouse gas emissions. CIEL worked with Earthjustice and the Inuit Circumpolar Conference to prepare a 167-page human rights petition that was filed on December 7, 2005 with the Inter-American Commission on Human Rights. This petition received international media attention, helped to increase public pressure on the United States to curb its greenhouse gas emissions and strengthened the argument for action by introducing a moral and human rights dimension to global warming discourse. CIEL expanded public awareness about the plight of the Inuit by speaking about the petition at many events and by writing papers for several publications, including two upcoming books on climate change. The petition was excerpted in two casebooks on international environmental law and a book on legal aspects of climate change published by the American Bar Association.



In Peru – CIEL provided legal advice and direct representation to communities in Peru in a number of important cases before the Inter-American Commission on Human Rights (IACHR). For example, the National Coordinator of Peruvian Communities Affected by Mining asked CIEL to represent them in a complaint against the Peruvian government for violation of fundamental human rights, including right to life, right to health, right to property, and the right to organize. The complaint documented 15 cases involving intoxication of children, illegal expulsion from lands, contamination of water, air and land, and other problems experienced by thousands of persons located near foreign and domestic mining projects. In the San Mateo case, the Commission accepted CIEL's request for precautionary measures and requested Peru to remove the toxic mine tailings. This decision marks a landmark achievement in the effort to establish linkages between human rights, the environment, and pollution-related impacts on human health. CIEL has continued to work on this case and monitor the implementation of the precautionary measures requested by the IACHR.

Influencing International Law and Policy

Through integrated efforts from the local to the global level, CIEL seeks to ensure that progress towards sustainable development is supported and not undermined by international law, policies and institutions. We play a key role in influencing international policies in trade, chemicals, climate change, international financial institutions and other important areas.



Chemicals Management – In collaboration with the Swiss government, CIEL wrote a paper on principles and approaches of international chemicals management, including the precautionary principle. This paper provided the basis for negotiations on these issues during the preparatory conferences that culminated in the February 2006 International Conference on Chemicals Management (ICCM) in Dubai, which adopted the Strategic Approach to International Chemicals Management (SAICM). The SAICM is the world’s action plan for achieving the goal that by 2020, “chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment.” Throughout the ICCM, CIEL attorneys collaborated with the European Union and others to prevent the US government from destroying the SAICM, as they had been requested to do by representatives of the chemicals industry.

Action Targets for Climate Change – CIEL worked with NGO partners to develop a new approach to governmental climate commitments, called action targets. This novel approach would expand the range of approaches that developing countries could use to formulate and meet emission reduction commitments. If adopted, this approach could help enlist developing countries in the global effort to reduce greenhouse gas emissions and eliminate one of the excuses (lack of developing country commitments) the United States relies on for not participating in the Kyoto Protocol. CIEL also worked behind the scenes to influence domestic climate policies. For example, in March 2006, CIEL prepared a proposal on “cut-and-trade,” a domestic form of action targets, for US Senators developing domestic climate change legislation.

United Nations Environment Programme – CIEL responded to requests from UNEP for research and analysis on key issues and works to amplify the voices of civil society representatives at UNEP meetings. For example, CIEL made a presentation at a UNEP workshop on fishing subsidies in Geneva, Switzerland. Although the timeline was short and the topic complex, CIEL produced a presentation that stimulated a lively debate among participants in the workshop. CIEL prepared an informational background paper on chemicals management for the UNEP Civil Society Forum in Dubai. NGOs from around the world used the paper to help formulate common policy interests and goals and presented them to the UNEP Governing Council.

Prior Informed Consent – CIEL is a leader in advancing understandings of how the rights of communities to prior informed consent (PIC) can be implemented. CIEL advanced the discourse on PIC and protected areas through the development of several papers, including, “Prior Informed Consent and Protected Areas: Case Study of the Cordillera del Condor, Ecuador” and “Partnerships for Success in Protected Areas: The Public Interest and Local Community Rights to Prior Informed Consent” (published in Georgetown International Environmental Law Review in 2007). The case study provides an in-depth look at how PIC was implemented in a particular context, as well as recommendations for further advancing PIC in the protected areas context. CIEL’s PIC and protected areas analysis describes how the rights of communities relate to the rights of States to act in the public interest, and how the right to prior informed consent can be implemented. Additionally, CIEL prepared a paper for the IUCN on understanding and implementing PIC in the context of Access and Benefit Sharing (ABS), which was later presented to the Ad Hoc Open-ended Working Group on Access and Benefit-sharing of the Parties to the Convention on Biological Diversity. Among other things, this paper explained the importance of recognizing PIC in an international ABS regime, identified the most critical enabling conditions for PIC in the context of ABS at the international, state, local, and project levels, and presented a framework and chart that is helpful in envisioning an approach to operationalizing PIC.

Export Credit Agencies – CIEL continued to play an important role in the international ECA campaign strategy around the Organization for Economic Co-operation and Development (OECD), working with NGO colleagues to support stronger implementation of the OECD’s “Recommendation on Common Approaches on Environment and Officially Supported Export Credits.” Additionally, CIEL supported the international ECA campaign by undertaking legal analysis of particular international law issues. In October 2005, CIEL presented a survey of litigation undertaken against ECAs in domestic courts at an ECA and Human Rights Conference organized jointly by ECA-Watch and the Economic, Social, and Cultural Rights Network.



Providing Leadership for Civil Society Networks and NGOs

Given our comprehensive expertise in public international law, institutions, and processes, CIEL is frequently looked to as an expert and leader by our partners. We are an international leader among civil society networks and NGOs in a number of program areas.

Secretariat for the POPs Network – CIEL houses the secretariat of the International POPs Elimination Network (IPEN), a global coalition of more than 350 groups working to reduce and control persistent organic pollutants (POPs). CIEL staff members have served as legal experts, strategists, and spokespersons for the network at numerous national and international meetings. We also helped draft and negotiate the IPEN Dubai Declaration, a collaborative document which establishes the new, expanded mandate of IPEN to go beyond the current laws governing toxic chemicals and campaign more broadly for a toxic free future by 2020.

President of IASCP – CIEL played a key role in the International Association for the Study of Common Property (IASCP) 11th biennial conference. This conference was held in Bali, Indonesia on June 19-23, 2006 and was attended by approximately 500 participants from more than 50 nations. A CIEL staff member officially took over as IASCP president during this conference. CIEL was highly involved in preparation for the conference and carried out a number of activities and presentations throughout the event.

The South Centre – Since 1999, CIEL has worked with the South Centre, a nonprofit organization based in Geneva, to build the capacity of developing countries to represent their interests in intellectual property (IP) discussions in the World Trade Organization and other international fora, including the World Intellectual Property Organization. Through meetings, publications, technology transfer and other activities, CIEL and the South Centre help developing country delegates understand the issues at stake and respond in appropriate and effective ways. The South Centre and CIEL produce the *IP Quarterly Update*, a newsletter designed to facilitate a broader perspective of international intellectual property negotiations by providing a summary of relevant issues and recent developments.

European Chemicals Policy – CIEL played an active role in boosting awareness and action among dozens of US NGOs and policy makers in response to REACH, the European Union's proposed chemicals legislation that was opposed by the Bush Administration and the US chemical industry. To provide a more balanced perspective on the growing movement for US reform, CIEL prepared "Cloudy Skies, Chance of Sun: A Forecast for U.S. Reform of Chemicals Policy," and released it in Europe and North America. We also briefed congressional staff on the details of the EU legislation and political process, and collaborated with environmental, health and labor advocates in calling for the United States to regain international leadership on chemicals management.

Strengthening the Public Interest Environmental Movement

CIEL has played a catalytic role in the creation and institutional strengthening of various public interest law institutions, including Papua New Guinea's Centre for Environmental Law and Community Rights, the Indonesian Center for Environmental Law, the Legal Rights and Natural Resources Center and Tanggol Kalikasan in the Philippines, Tanzania's Lawyers' Environmental Action Team, Kenya's Institute for Law and Environmental Governance, the Zimbabwe Environmental Law Association, and the Centro Terra Viva in Mozambique. We continue to work closely with these and other public interest law organizations, including supporting the professional development of public interest environmental attorneys.

In addition, CIEL organizes conferences, presents workshops, and carries out other educational activities in the United States and elsewhere to help lawyers identify and discuss common issues, problems and strategies. Topics include such areas as public interest environmental litigation, international trade and investments, environmental and human rights standards, access to courts, obtaining information about development plans, environmental impact statements, environmental abuses and degradation, and ways to sustain the practice of public interest environmental law. The goal is to prepare lawyers to be better advocates for responsive and responsible government policy and corporate behavior. CIEL has a long-standing relationship with American University's Washington College of Law, and also collaborates with other institutions.

Climate Change Conference – In November 2005, CIEL helped organize a conference on the Legal Dimensions of Climate Change with the Washington College of Law and the American Bar Association and served as co-host of this event. The event was attended by attorneys and law students and was reported on in several journals, including *Sustainable Development Law & Policy*.



International Financial Institutions Conference – In March 2006, CIEL and the

Washington College of Law at American University organized a conference on International Financial Institutions (IFIs) and International Law. The conference focused on the rights and responsibilities of IFIs under international law; the scope of the organizational immunity of the IFIs under international and municipal law; and the mechanisms under international and domestic law for enforcing the legal rights and responsibilities of IFIs.

Preparing the Next Generation of Environmental Attorneys

CIEL staff members give lectures at leading law schools and encourage qualified candidates to consider career opportunities in public interest law. Internships and fellowships at CIEL allow students to receive one-on-one mentoring from experienced public interest attorneys and receive on-the-job training through their involvement in CIEL projects throughout the world. Over the years, CIEL has welcomed more than 250 fellows and interns from 43 countries.



Internships and Fellowships – In 2005-2006, CIEL welcomed 33 interns and fellows from 15 countries. These young lawyers were involved in preparing briefs for hearings, developing proposals, conducting research, writing reports, presenting workshops, and a wide range of other activities.

Louis B. Sohn Fellowship – This financially supported fellowship offers a recent law school graduate the opportunity to work at CIEL on projects that link human rights and environmental protection. The fellowship is given in honor of Louis B. Sohn, a renowned law professor, scholar, and practitioner who was a leader in the fields of both international human rights law and international environmental law.

Sponsoring Cross-Border Conversations

CIEL works to build capacity and promote cross-country collaboration among public interest environmental activists in different countries. By drawing on an extensive network of contacts, CIEL helps public interest attorneys to make linkages with other attorneys or groups with relevant expertise and with funding sources.

Intellectual Property – In February 2006, CIEL worked with the Washington College of Law at American University and other partners to organize a workshop in Washington, D.C. on “Intellectual Property, Free Trade Agreements, and Sustainable Development.” The workshop provided a forum for negotiators and stakeholders from developing countries to meet with their US counterparts and exchange experiences and information on the challenges of negotiating and implementing intellectual property provisions of bilateral trade agreements.



Community-Based Property Rights – CIEL co-hosted a standing-room-only pre-conference workshop on Community-Based Property Rights (CBPRs) at the 11th biennial conference of the International Association for the Study of Common Property (IASCP) held in Bali, Indonesia in June 2006. Additionally, CIEL organized three panel discussions that touched upon the interface between national and international laws and CBPRs, and sponsored the participation of 14 people from seven countries, including partners from East Africa, Southern Africa, Southeast Asia and Melanesia. The international representation at the IASCP conference provided an excellent venue for lawyers and legal theorists to interact with people from other disciplines and analyze, promote and articulate prospective national and international legal norms for recognition and protection of community-based property rights.

Free Trade and Sustainable Development – In June, CIEL and the Berne Declaration co-organized a discussion in Geneva on “Free Trade Agreements and Sustainable Development: The Example of the European Free Trade Association and other Upcoming Challenges.” The discussion addressed concerns raised in relation to ongoing bilateral trade negotiations in Thailand and Indonesia as well as specific issues raised by developing country negotiators, civil society groups, and other stakeholders at a CIEL workshop held earlier in the year in Washington, D.C.

Monitoring the WTO and Investment Disputes

CIEL monitors World Trade Organization (WTO) and investment dispute settlement and works to ensure that trade and investment rules do not overrule and compromise legitimate environment and health policies of WTO Members and Parties to international investment treaties. Especially in the area of investment, there is an increasing trend toward the use of mandatory binding arbitration to resolve disputes arising under international investment agreements (IIAs). The arbitration clauses included in IIAs often allow foreign investors to challenge host governments for alleged violations of host state obligations under the treaty. Thus, while under the WTO disputes occur between State Parties, IIAs

allow investors to sue States directly. CIEL attorneys work to ensure that the procedural rules in both types of arbitration processes are made with the full participation and understanding of the people who will be governed by them. CIEL is one of the only NGOs systematically tracking WTO and investment dispute settlement relating to the environment and human health. CIEL alerts other groups and governments of breaking developments and provides legal analysis necessary for concerted action.

CIEL also tracks international trade and investment laws, including those established under the WTO and through international investment treaties. These laws typically are aimed at increasing trade and investment flows, and reducing or eliminating any barriers that might affect those flows. As a result, the rules can limit countries' ability to protect their environment and public health. By monitoring these rules and informing key stakeholders, CIEL works to ensure that these rules are crafted or reformed in ways that allow countries to retain the right to protect their environment and human health.

Brazil-Retreaded Tyres Case – CIEL worked with NGOs from Brazil and other developing countries in the region, as well as some government officials and academics to discuss the legal issues surrounding Brazil's ban on the importation of retreaded tires, which was challenged by the European Union at the WTO. Brazil defended its import ban of retreaded tires on environmental and health grounds, arguing that tires contain highly combustible and polluting materials; that tire incineration releases toxic gases that contaminate Brazil's soil, water and air; and that tires provide ideal breeding grounds for mosquitoes carrying dengue and malaria. CIEL published a background paper and co-organized a workshop in May 2006 in Brazil to discuss the case and to begin the preparation of an *amicus curiae* brief. CIEL also strongly promoted transparency and public participation in this case; CIEL wrote letters to the Dispute Settlement Panel of the WTO to hold open hearings (preferably web-cast) and to the European Commission to request access to documents in that case. Our work in this case has shown us that developing countries like Brazil (traditionally suspicious of NGOs and transparency) appreciate the expertise that NGOs, such as CIEL, can offer, and also are beginning to see the advantages of transparency and public participation.



Photo courtesy of Margaret Prystowsky

Genetically Modified Organisms – In February 2006, a Dispute Settlement Panel at the WTO issued a long awaited report in a dispute against the EU's import restrictions on genetically modified products. CIEL provided the first in-depth legal analysis of the WTO report, including an overview of the main findings and a discussion of cross-cutting issues such as transparency, public participation, and the relevance of multilateral environmental agreements in interpreting WTO rules. Through that report, CIEL was able to demonstrate the deficiencies of the WTO's dispute settlement system with respect to the WTO's consideration of multilateral environmental agreements and its restrictive approach to the precautionary principle. Many of the criticisms have been acknowledged by governments and academics and will gradually lead to an improvement of the rules through interpretation. Because so few organizations have the time and expertise to read and understand this type of lengthy and complicated text, CIEL's analysis has been especially important and influential in protecting the public from environmental and public health risks associated with GMOs.

Providing Expertise in International Environmental Law

As a public interest law firm, CIEL attorneys pay particular attention to the treaties, customary international law, and soft law instruments that are intended to protect human rights and the environment, or that otherwise affect those efforts. CIEL is unique in civil society in its ability to serve this function, and partners around the world depend on CIEL to understand and interpret the fine print in complicated instruments and procedures. Examples of CIEL's work in this respect include our explication of prior informed consent by communities in the context of the Convention on Biological Diversity and our work establishing that pollution can violate (and in fact did violate) the human rights of the residents of San Mateo, Peru, under the American Convention on Human Rights, as well as other work described above.

In this and other work, CIEL provides expertise in international law, institutions and processes that is vitally necessary for civil society to play an effective part in protecting the environment and human health.



Researching, Writing and Publishing

CIEL's publications and concept papers, and those of its partners, are widely read and requested, and play a key role in educating readers on important issues. The following is a selection of our publications from 2005-2006.

Cloudy Skies, Chance of Sun: A Forecast of U.S. Reform of Chemicals Policy (May 2006)

Daryl Ditz

Chemical policy reform is long overdue in the United States but faces major obstacles at the federal level. This report identifies some of the international business drivers and domestic political forces that are raising expectations for progress. Greater awareness of the dangers posed by largely unregulated chemicals, along with concrete actions by local and state governments, are creating the foundation for a new US framework for managing industrial and consumer chemicals.

Environment and Trade: A WTO Guide to Jurisprudence (December 2005)

Nathalie Bernasconi-Osterwalder, Daniel B. Magraw, Maria Julia Oliva, Marcos Orellana, and Elisabeth Tuerk

This handbook provides an accessible, comprehensive compendium of environment and trade jurisprudence, as well as analyses of how environment and trade have been treated under GATT and the WTO. CIEL released this book in December 2005 at the Sixth World Trade Organization (WTO) Ministerial Conference in Hong Kong, China. The authors also shared information from this book in panel presentations at the conference.

Using International Law and Institutions to Protect Children's Environmental Health (June 2005)

(CIEL and Physicians for Social Responsibility) Anne Perrault and Joanna Levitt

A guide to the international law and institutions that impact children's health. This guide provides a conceptual approach for using international law and institutions to protect children's health and identifies the most significant international laws and institutions that can be used in that effort. The guide is a tool for understanding and accessing these international processes.

EC-Biotech: Overview and Analysis of the Panel's Interim Report (March 2006)

Nathalie Bernasconi-Osterwalder and Maria Julia Oliva

This note provides an overview of the WTO panel's 1000-page analysis of the EC's measures regarding the regulation of biotech products. It sheds light on the interpretation of the WTO's SPS Agreement and the relationship between multilateral environmental agreements (MEAs) and the WTO.

Principles and Approaches of Sustainable Development and Chemicals Management for a Strategic Approach to International Chemicals Management (SAICM) (July 2005)

Glenn Wiser and Daniel B. Magraw, Jr.

Written in consultation with Switzerland, this study was undertaken to identify principles and approaches of sustainable development and chemicals management that might be incorporated into the SAICM, enhance understanding of them, and clarify how they might be addressed by the SAICM.

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Center for International Environmental Law
Statement of Financial Position
For Fiscal Year Ending June 30, 2006

Assets:

Current Assets

Cash & Cash Equivalents	\$ 1,118,845
Foundation Pledges Receivable (Short-Term)	981,438
Other Grants and Contracts Receivable	43,142
Miscellaneous Receivables	13,387
Prepaid Expenses and Deposits	30,536
Total Current Assets	\$ 2,187,348

Other Assets

Office Equipment and Furniture	\$ 121,070
Less: Accumulated Depreciation	(102,706)
Long-Term Investments	6,888
Total Assets	\$ 2,212,600

Liabilities and Net Assets:

Current Liabilities

Accounts Payable	\$ 44,372
Accrued Employee Benefits Payable	39,707
Deferred Revenue	19,164
Total Liabilities	\$ 103,243

Net Assets

Unrestricted Net Assets	\$ 353,435
Temporarily Restricted Net Assets	1,755,922
Total Net Assets	\$ 2,109,357

Total Liabilities and Net Assets	\$ 2,212,600
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Audited financial statements are available upon request.

Center for International Environmental Law
Comparative Statement of Activities and Change in Net Assets
For Fiscal Year Ending June 30, 2006

Revenue:

Foundation Grants and Contracts	\$ 1,667,421
US Government Grants and Contracts	330,761
Foreign Government Grants and Contracts	73,052
Other Grants and Contracts	284,239
Salaries In-Kind	111,143
Contributions	65,147
Interest Income	38,882
Miscellaneous Income	30,700
Total Revenue	\$ 2,601,345

Expenses:

Program Services:

Protecting the Global Environment & Human Health:

Climate Change Program	\$ 138,158
Biodiversity and Wildlife Program	10,000
Chemicals Program	678,423

Reforming International Economic Law, Policy and Institutions:

Trade and Sustainable Development Program	789,859
International Financial Institutions Program	103,290

Promoting Human Rights and Environmental Justice:

Human Rights Program	44,898
Law and Communities Program	552,157

Strengthening Expertise and Capacities in Environmental Law:

Miscellaneous Projects	50,660
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Total Program Services	\$ 2,367,445
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Supporting Services:

General and Administrative	\$ 81,266
Fundraising	149,701

Total Expenses	\$ 2,598,412
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Changes in Net Assets	\$ 2,933
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Beginning Net Assets	\$ 2,106,424
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Ending Net Assets	\$ 2,109,357
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Auditors/Certified Public Accountants:

Halt, Buzas & Powell, LTD 99 Canal Center Plaza, Suite 230, Alexandria, Virginia 22314

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