

**NATURAL
RESOURCES
DEFENSE
COUNCIL**

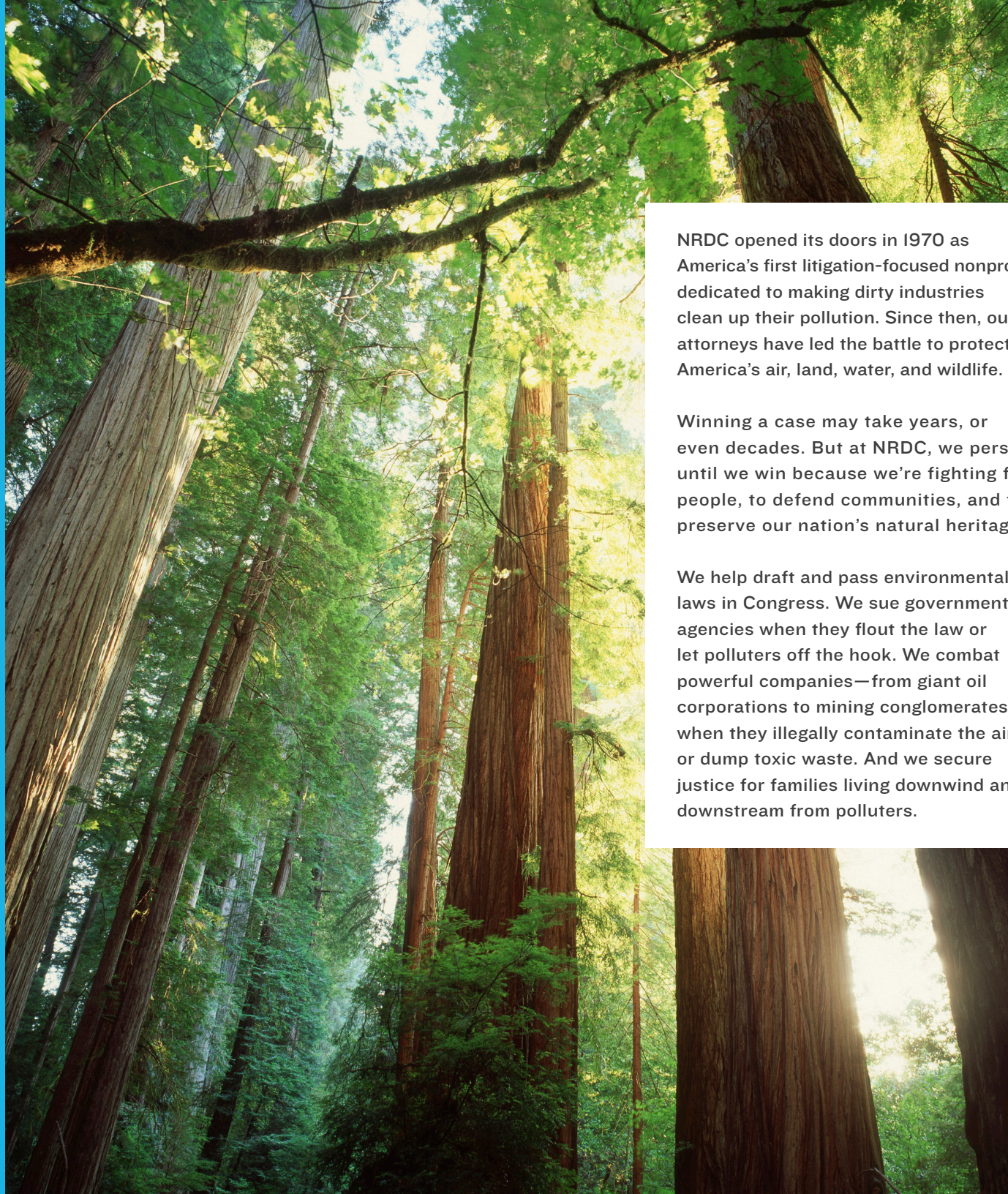
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[NRDC.ORG/ABOUT/LITIGATION](https://nrdc.org/about/litigation)

LITIGATION AT NRDC



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NRDC opened its doors in 1970 as America's first litigation-focused nonprofit dedicated to making dirty industries clean up their pollution. Since then, our attorneys have led the battle to protect America's air, land, water, and wildlife.

Winning a case may take years, or even decades. But at NRDC, we persist until we win because we're fighting for people, to defend communities, and to preserve our nation's natural heritage.

We help draft and pass environmental laws in Congress. We sue government agencies when they flout the law or let polluters off the hook. We combat powerful companies—from giant oil corporations to mining conglomerates—when they illegally contaminate the air or dump toxic waste. And we secure justice for families living downwind and downstream from polluters.

We Believe

All people have a right to clean and healthy neighborhoods.

Polluters should fix the harm they cause.

Governments have a duty to safeguard every community's health and environment.

Creativity and innovation in advocacy make a difference in people's lives.

We ground our work in science, law, and fact.

We fight for justice, no matter how long it takes.

Assuring Environmental Justice

Too often, people of color and low-income communities suffer first and most from polluting industries. When it comes to building a sewage-treatment plant or a dirty factory, polluters are likely to locate where people of color and poor people live, work, and attend school.

NRDC stands shoulder-to-shoulder with grassroots allies fighting for environmental justice. We have joined with local groups to reduce foul odors from sewage-treatment plants in the South Bronx in New York, to curb mounds of dangerous fossil-fuel waste in low-income Chicago communities, to cut diesel exhaust in neighborhoods near the ports of Long Beach and Los Angeles, and to address lead contamination in drinking water that has threatened the health of thousands of children in Flint, Michigan.

NRDC looks for innovative legal strategies to pursue environmental justice. In 2013, NRDC attorneys represented residents of New York City public housing who suffered from asthma associated with chronic mold, moisture, and unhealthy indoor air. We developed a novel legal theory that the city was violating asthma victims' civil rights under the Americans with Disabilities Act by allowing mold and moisture to go unchecked. The city agreed to a settlement that requires timely repairs that cure the root causes of the unhealthy conditions. We are now working for similar improvements in other cities.

**“We stand up for
ordinary people
and grassroots
groups against very
powerful forces.
A little bit of justice
is a beautiful thing.”**

—MITCH BERNARD,
NRDC Chief Operating Officer and founding Litigation Director

A Dedicated Litigation Team

In 2006, NRDC formed a specialized team of attorneys to bolster our trial expertise and to target cases with a big impact in the areas of environmental justice, air and water pollution, public health, and marine mammal protection, among others.

In addition to litigating major cases, the NRDC legal team draws on its extensive experience to:

Develop novel legal theories and cases

Train young lawyers in all aspects of litigation, from writing briefs to examining witnesses at trial to arguing appeals in state and federal court

Protect and expand public access to the courts and to government records

Collaborate closely with policy experts and scientists to determine how litigation can assist broader advocacy campaigns, such as removing antibiotics from livestock feed or preventing unsafe oil drilling in the Arctic Ocean

Expanding the Scope of Environmental Law

Maine People's Alliance and NRDC v. Mallinckrodt

For years, the giant chemical company Mallinckrodt dumped mercury into Maine's Penobscot River. Even at low levels, mercury can cause reproductive disorders and developmental harm. Yet residents regularly ate local fish and shellfish that had absorbed and magnified mercury contamination. The Maine People's Alliance vowed to push for a cleanup, but the government didn't have the will to take the company on.

NRDC refused to accept that status quo. Mercury hadn't just lingered around the discharge pipe. It had flowed downstream, contaminating much of the estuary with pollution that was expected to persist for decades. While many environmental cases call for addressing a leaking landfill or a dirty factory yard, NRDC believed the federal hazardous waste law could be applied to the entire Penobscot River estuary.

“At times, the problems facing us seemed much greater than our community group could ever imagine tackling, but NRDC provided invaluable support and helped us fight this pollution for more than 15 years.” —JESSE GRAHAM, *Maine People's Alliance*

We took that idea to federal court. Mallinckrodt mounted a full-throated defense. The company retained a stable of experts; NRDC had one. Yet we prevailed. In 2002, the judge held Mallinckrodt liable for its pollution.



The judge also appointed a panel of scientists to study mercury in the river. They discovered that mercury had fouled 20 miles of the waterway at levels as much as 10 times higher than at similar sites, and had accumulated to dangerous levels in songbirds and edible fish and shellfish. On the basis of this information, the state closed part of the Penobscot lobster and crab fishery. The panel of scientists recommended cleanup measures that Mallinckrodt opposed. So NRDC went to trial again in 2014—and won again. In 2015, the judge ordered Mallinckrodt to conduct a full-scale evaluation of means by which to restore the river.

Our long legal battle set an important precedent and showed polluters that they could be held accountable by the people they harmed. Another major mercury polluter threatened with an NRDC lawsuit said, “We know what you did in Maine,” and quickly settled.

Fighting Against Environmental Racism

NRDC v. County of Dickson, Tennessee

Sheila Holt-Orsted grew up in an African-American community in rural Tennessee. Her yard was lined with woods, but through the trees she could see the Dickson County Landfill. The landfill collected industrial waste by the truckload, and soon dangerous chemicals linked to birth defects, liver damage, and cancer were leaching into the groundwater.

Like many of the area's residents, Holt-Orsted's family depended on well water for drinking, but because of the landfill leaching, the family's well was contaminated by trichloroethylene (TCE), sometimes at levels more than 20 times the legal limit. Holt-Orsted discovered that government officials had warned white families not to drink water from wells near the dump and provided clean water for them. But officials assured Holt-Orsted's family members, who were black, that their water was safe.

Though Dickson County covers nearly 500 square miles, and black residents make up less than 5 percent of the county's population, the only cluster of waste facilities was placed amid the small, mostly black community.

When Holt-Orsted's father died from cancer and she was diagnosed with cancer as well, she decided to make a stand. She reached out to NRDC, and in 2008, we sued the



local governments and polluting companies for failing to control and respond to the contamination. The government and the industrial polluters dug in their heels, retaining several of the most prominent law firms in Nashville. They tried to bury NRDC in legal papers and delay.

NRDC instead redoubled our efforts. On the night before the trial, our opponents settled. They agreed to pay to identify areas at risk of TCE pollution, to close wells in the most endangered zone, and to connect residents to public water lines that brought in uncontaminated water.

The Dickson victory received national attention. It serves as a caution for government officials and polluters that if they don't protect people from pollution, they will be held accountable.

"I wouldn't wish this on my worst enemy, what we've been through. And now, because of what NRDC has done, maybe no one else will have to."

—BEATRICE HOLT, *mother of Sheila Holt-Orsted*

Taking on Giant Oil Companies

NRDC and Delaware Audubon v. Texaco

Delaware City is a small town on the Delaware River. It has historic houses, quiet farms, and beautiful marshlands. It is also home to a massive oil refinery that dumped cancer-causing toxins into the river for decades. Yet because the refinery was owned by some of the biggest names in the oil business—from Texaco to Saudi Aramco—it continued to pollute with impunity.

NRDC set out to change that. We fought the companies' stonewalling tactics for nearly 20 years until they were forced to clean up their act.

“Despite some pretty overwhelming odds, [we] took on a corporate Goliath. The settlement will result in tangible environmental benefits for Delaware and the Delaware City community.”

—MARK MARTELL, *President, Delaware Audubon Society*


It started in 1988, when NRDC scientists uncovered evidence that Texaco had knowingly discharged oil, grease, and other toxins into the river for several years. Together with our partners at the Delaware Audubon Society, we sued the company; in 1992, a federal judge ordered the refinery to comply with the Clean Water Act

and penalized Texaco for violating the law. At the time, it was one of the largest civil penalties ever assessed in a Clean Water Act citizen suit.

The court also ordered Texaco to study the lingering effects of its pollution, but the company repeatedly defied court orders. Texaco waged a war of attrition, expecting NRDC to give up. We didn't, instead fighting back for two decades.

Finally, on the eve of a contempt trial in 2007, NRDC secured a settlement holding the company accountable for continuing to break the law. Texaco agreed to pay \$2.5 million to help restore the environment around Delaware City.





“Selling millions of toxic toys to kids is not the way to dispose of them, as the law clearly states.”

—DAVID ARKUSH,
Director, Public Citizen's Congress Watch division

Protecting Children from Toxic Chemicals

NRDC and Public Citizen v.

U.S. Consumer Product Safety Commission

Used to soften plastics in consumer products, phthalates leach from plastic toys and are absorbed through the mouth and skin, especially in teething children. Exposure to these chemicals during sensitive periods of human development interferes with sex hormones and can cause reproductive harm, including delayed puberty, infertility, and testicular cancer. In 2008, in response to these health risks, Congress banned the manufacture and sale of children's toys and child-care products containing more than trace amounts of six different phthalates, effective February 2009. The same six phthalates had been banned in European toys for nearly 10 years at that point.

Shortly after this law was passed, the Consumer Product Safety Commission announced that it would allow retailers to stockpile and sell banned children's products indefinitely, as long as they were manufactured before the ban went into effect. That contravened the purpose of the law: to protect infants and children from the risk of exposure to dangerous chemicals.

NRDC and our ally Public Citizen filed suit immediately. Less than three months later—and one week before the ban was scheduled to go into effect—the court ruled in our favor. As a result of this swift litigation victory, toys and other children's products containing the banned chemicals were removed from store shelves nationwide.

Reviving a River and Its Wildlife

NRDC v. Rodgers

It would seem obvious that a healthy river requires water. Yet for decades the U.S. government drained 60 miles of California's San Joaquin River, threatening the region's economy, wildlife, and larger ecosystem.

The San Joaquin had once sustained one of the largest Chinook salmon runs on the Pacific coast of North America. Settlers compared the noise of migrating salmon to a waterfall and described fish so abundant, you could walk across the river on their backs. One of our witnesses recalled fishing with his grandfather for salmon so dense that they caught them with a pitchfork.

The river supported thriving commercial and recreational fisheries until the 1940s, when the U.S. Bureau of Reclamation began operating the Friant Dam near Fresno, California. The bureau diverted most of the river's natural flow to irrigate crops, drying out 60 miles of river except during floods, and eliminating salmon runs from the upper San Joaquin.

In 1988, NRDC sued the bureau for violating state dam and fishery laws. The bureau and the irrigators put up a long fight, but NRDC litigators stuck with the case for 18 years. In 2006, we reached a settlement, ultimately approved by Congress, that requires the bureau to restore a continuous flow to the river and to establish a comprehensive program to revive the San Joaquin and the fish and jobs it can support.



Reintroduced Chinook salmon will soon sow the seeds for a reborn fishery, expanding recreational opportunities and helping certain species avoid extinction. More work needs to be done, but NRDC's litigation helped restore a living river that benefits local communities and all Californians.

“This has been a long time coming, but after 60 years...we have now started down the road to restore one of the West Coast’s premier salmon runs and, along with it, fishing jobs in California’s coastal communities.”

—ZEKE GRADER,
Pacific Coast Federation of Fishermen's Associations

Protecting a Community from a Dirty Industry

Interfaith Community Organization and NRDC v. PPG Industries

Many people living in a largely African-American and Latino community in Jersey City, New Jersey, knew a nearby industrial complex was full of toxic waste. The PPG Industries complex was one of the largest sites contaminated with cancer-causing hexavalent chromium—the same pollutant Erin Brockovich fought against in California.

When the company tested soil and groundwater, it found chromium at levels more than 2,500 times the state cleanup standard. The contamination didn't stay on-site, but it seeped into homes and schools. The state of New Jersey called on PPG to clean up the site in 1990, but the company dragged its heels, counting on government inattention and a community without the means to challenge a powerful corporation.

This community decided to take on PPG and asked NRDC to represent it. When we sued the company in 2009, PPG sought to derail our lawsuit by negotiating a backroom cleanup deal with the state. But the state agreement would still have allowed chromium at unsafe levels. When the federal judge allowed our case to proceed, PPG capitulated, agreeing to a cleanup standard four times more protective than the state's enforceable limit.



“This is a victory for environmental justice, for public health, and for the economic rebirth of an area that for half a century has been a toxic wasteland in the midst of a densely populated section of Jersey City. It’s a victory that will mean more jobs and less cancer.”

—REVEREND WILLARD ASHLEY,
Abundant Joy Community Church



Where We Are Going

NRDC has always taken on the toughest environmental challenges. Today those challenges include climate change and lawmakers bent on gutting our nation's bedrock environmental laws. These are major threats, but NRDC is ready to tackle them. We continue to deepen our expertise and push the boundaries of environmental protection.

Expanding Partnerships

NRDC is joining forces with new allies to broaden the definition of what constitutes environmental law, from helping workers protect themselves against unsafe conditions to advocating on behalf of prison inmates exposed to pollution they cannot avoid.

Extending Environmental Law

NRDC is working to strengthen public access to the courts to reform the food-production system. Industrial agriculture directly affects people's health and environment, but the law has not caught up with the science. NRDC lawsuits on antibiotics in animal feed and other hazards help spur safer practices.

Enhancing Access to Justice

NRDC will continue to expand what we can accomplish in the courts by advancing our distinctive capacity to handle any kind of litigation—on any issue, in any forum—including trials that require intensive fact and expert discovery.

Private polluters have political and economic might; that will not change. Government regulators lack the resources—and sometimes lack the will—to hold them accountable by enforcing the law. That is why NRDC's litigation is essential.



Litigation Victory Timeline

1971

NRDC wins its first lawsuit, reducing the amount of water from California's American River diverted for irrigation.

1974

NRDC prevails in the nation's first lawsuit to curb acid rain.

1978

NRDC forces the EPA to create a health standard for airborne lead.

1981

NRDC wins a California case requiring a 50 percent reduction in energy use in new homes.

1983

NRDC secures a Supreme Court victory preserving the right of states to reject new nuclear power plants.

1986

NRDC wins a settlement requiring the EPA to take action to cut ozone-depleting CFCs.

1992

NRDC prevails against a Texaco refinery, winning a judgment requiring steep penalties and compliance with strict clean water requirements.

1993

NRDC wins a breakthrough case banning carcinogenic pesticides in foods.

1999

NRDC forces the EPA to require coal-fired power plants to monitor and publicly report mercury emissions.

2002

NRDC wins a liability order against a giant chemical company, resulting in an investigation that discovers serious mercury pollution over 20 miles of Maine's Penobscot River.

2003

NRDC wins a federal court case stopping the worldwide use of a U.S. Navy sonar system that threatens whales and other marine mammals.

2005

NRDC compels the EPA to require chemical manufacturers to safeguard children from rat poison.

2006

NRDC reaches a settlement in an 18-year effort to restore water flow to the San Joaquin River and allow a Chinook salmon run to recover.

2011

NRDC forces PPG Industries to clean up cancer-causing hexavalent chromium in Jersey City, New Jersey, after 25 years of the company's negligence.

2011

NRDC protects a Dickson, Tennessee, community from toxic drinking water in a landmark environmental justice victory.

2011

NRDC blocks a California legislative raid of \$155 million collected through surcharges on residents' natural gas

bills and reserved by law for programs to promote energy efficiency and support low-income households.

2013

NRDC secures a landmark settlement with the New York City Housing Authority to address mold and indoor air quality in public housing.

2015

NRDC forces the U.S. Navy to put vital ocean habitat around Southern California and Hawaii off-limits to destructive sonar and explosives used in training exercises.