



2023 IMPACT report

FROM THE PRESIDENT AND BOARD CHAIR



Jordan Diamond
President



Robert Kirsch
Chair of the Board

In the midst of tectonic shifts and evolving challenges, it is with profound gratitude that we invite you to join us in reflecting on the Environmental Law Institute's work in 2023.

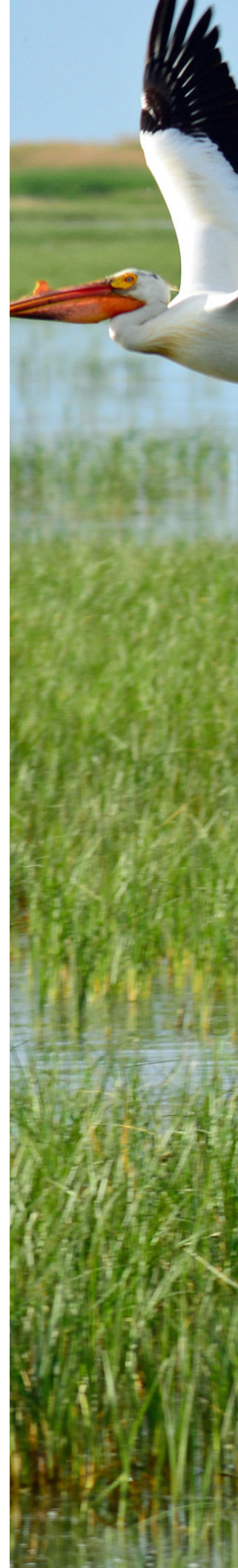
For more than five decades, ELI has been a thought leader in good governance. Devising robust and equitable governance systems is at the core of our work to address many of the most consequential environmental challenges faced today. Good governance supports decisionmakers in crafting solutions that work for communities and industry alike. Five decades of successes have taught us that solutions that best serve all are built on independent, evidence-based foundations—a proud pillar of ELI's fifty-plus-year history.

We are delighted to present our 2023 Impact Report. Inside, you will find accounts of how ELI's work supports efforts to scale up natural infrastructure for climate resilience, strengthen protection mechanisms for environmental defenders in Peru, design a marine protected area for endangered sperm whales in Dominica, and empower women water diplomats in conflict-sensitive basins. Environmental justice is a throughline that informs all of our efforts. ELI supports governance initiatives at all levels, whether providing ready-made tools for local municipalities to take climate action or articulating a global framework for water tenure.

As we begin 2024 in earnest, we extend our deep gratitude to each of you for your unwavering support. Together, we have the power to realize meaningful change and secure a brighter future for generations to come. Your continued engagement and dedication are the driving force behind our shared mission. Truly, thank you.

Jordan Diamond
President

Robert Kirsch
Chair of the Board



30+

in-house experts on environmental law, policy, science, and governance.

75

workshops, educational webinars, conferences, and other events attended by 22,166 people.

7,005

downloads of ELI research reports.

156,515

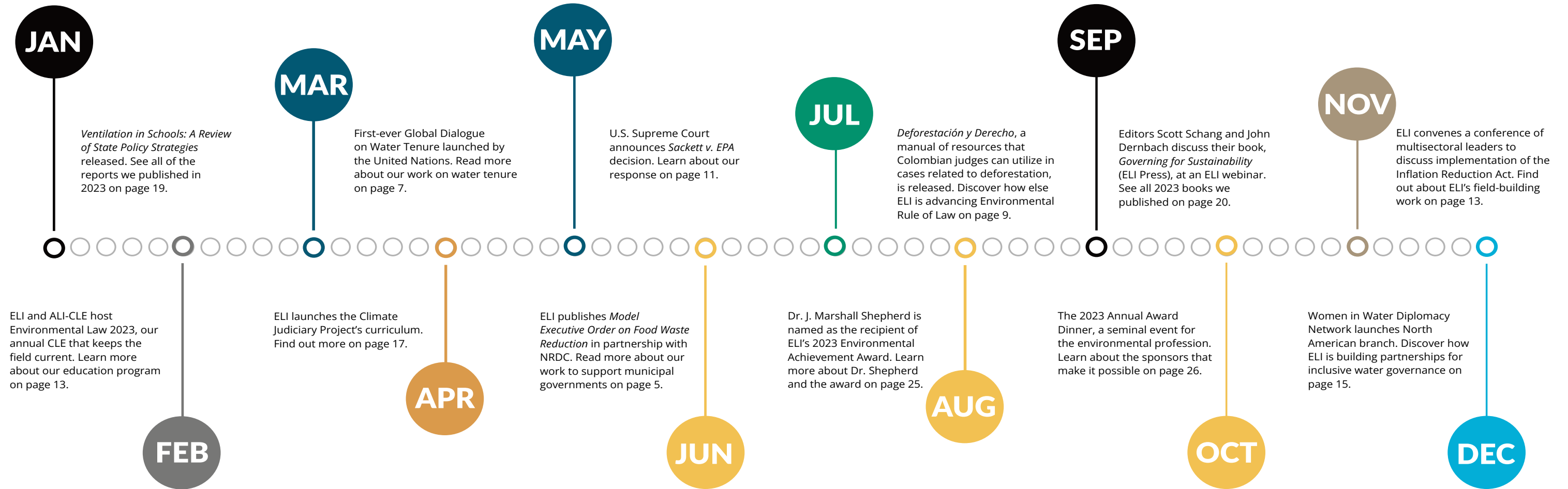
total listens of our *People Places Planet* podcast.

ELI BY NUMBERS

These numbers, just like this annual report, represent but a sliver of our work. We are excited about the work represented within these pages, but there is much more outside of them. If you want to know more, sign up for our mailing list at go.eli.org/updates.

A YEAR IN REVIEW

A snippet of ELI's 2023 Work



WORLDWIDE IMPACT

The Institute's work to advance good environmental governance spans the globe. Given our global footprint, we know that each community's needs are different. Partnering with and empowering local communities is a core aspect of how ELI is furthering environmental justice.

LOCAL GOVERNANCE FOR CHANGE

Empowering Municipal Action on Climate and Waste Reduction

With federal efforts often stymied by gridlock, cities and states are stepping up. ELI's municipal climate work is reducing the *transaction* costs of taking action by creating off-the-shelf tools and resources for local governments.

For small-and mid-size cities, climate initiatives are often under-staffed and under-resourced—sometimes with one employee for an entire city! ELI enables these and other cities to act on climate challenges by creating toolkits and drafting model ordinances and policies based on extensive best practices research.

Much of the local governance work begins on the ground in Nashville, Tennessee, and is templated for cities and towns across the country. Published materials cover topics such as food waste reporting and compost procurement. In 2024, the initiative will release a model community composting ordinance in addition to a new toolkit on actions to increase the availability of and public engagement on the benefits of plant-based proteins.

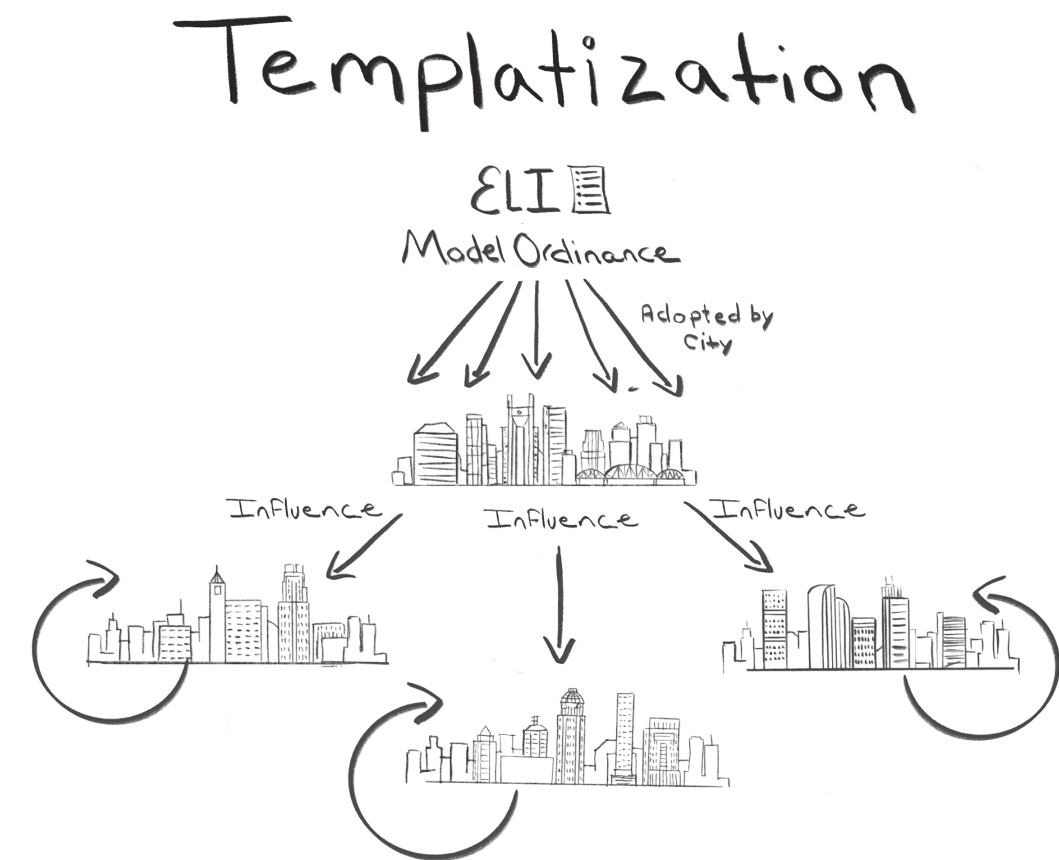
"The model municipal policies and tools that ELI and NRDC have been developing together are vital ways to help cities understand and act to reduce food waste, thereby also lessening the climate, environmental, economic, and social impacts that accompany the wasting of food. NRDC values this partnership tremendously; these essential resources would not exist without the impressive technical and policy expertise of the ELI team."

-Darby Hoover,
Natural Resources Defense Council

TEMPLATIZATION

(noun)

ELI's local governance work catalyzes momentum for ambitious climate action by municipalities and other local governments. Its model ordinances & policies, toolkits, and briefs can be tailored to the specific interests and needs of individual municipalities—and make it easier to take action by reducing the transaction costs of research and drafting: a process we call templization.



WHEN IT COMES TO WATER USE, WHO DECIDES?

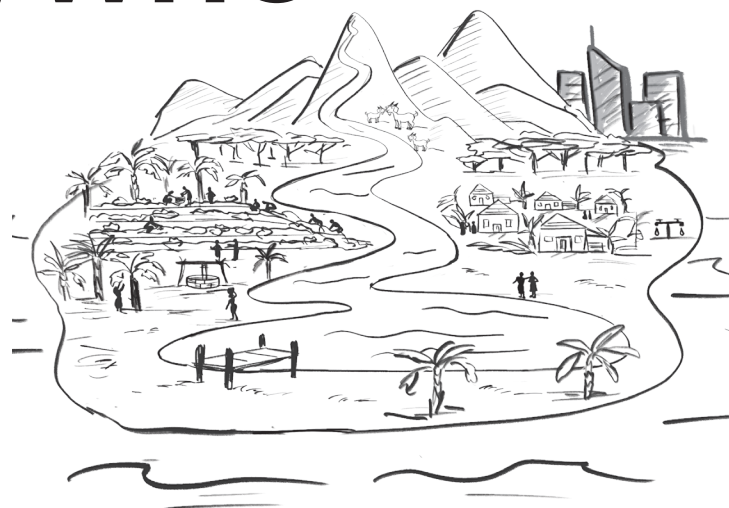
WATER TENURE

(noun)

The concept of water tenure encompasses the diverse rights, rules, customs, and practices (including formal, informal, legal, and illegal) that shape how individuals and groups access and use water resources at different scales, also referred to as water tenure arrangements.

For the past 50 years, the Environmental Law Institute has been driven by an unwavering commitment to community engagement and representation, a mission that lies at the heart of our work in advocating for the legal recognition and protection of Indigenous and local communities' land and resource governance rights. Despite significant strides in recognizing and safeguarding land and forest tenure, the concept of water tenure has been overlooked due to challenges in defining how the concept of tenure applies to this "fugitive" and necessarily shared resource. Yet the equitable management, use, and governance of freshwater are essential to the realization of communities' food security, sustainable livelihoods, health, cultural integrity, and climate resilience.

Since 2017, ELI has worked to remedy the gaps in data, understanding, and advocacy around Indigenous Peoples' and community-



based water tenure to show that, despite the inherently unique aspects of water, it is possible to articulate a core set of water rights that comprise—in varying formulations—the diverse water tenure regimes found around the world. Taking this "bundle of rights" approach can enable countries to identify critical areas for harmonization across the water, land, forest, fisheries, and other key resource-sector legislation. This, in turn, provides an important basis for improved, integrated, and more equitable land and water governance.

Additional work with the International Water Management Institute (IWMI) has furthered understanding around legal recognition and protection of customary water tenure. Recent ongoing work with the United Nations Food and Agriculture Organization (FAO) has enabled ELI to contribute to the development and application of national-level water tenure assessment methodology and the creation of a roadmap for an FAO-led global consultative process to develop principles for responsible governance of water tenure.

Marine Tenure to Support Sustainable Fisheries

In addition to ELI's work on freshwater tenure, ELI has worked extensively on marine tenure—the relationship people have with ocean resources. Marine tenure is critically important to communities around the world, whose livelihoods depend on stable and continuous access to ocean resources, including fish.

When marine tenure is clearly articulated in the law, communities gain certainty about their rights, as well as increased food and economic stability. Secure tenure also enables communities to protect their rights from claims by others, reduce conflict, and encourage communities to invest their efforts into sustainable management of ocean resources. However, marine tenure rights are not always included in the law, and when they are included, references to marine tenure can be vague or insufficient

to provide rights holders with procedures and mechanisms to protect their rights. ELI analyzes marine tenure regimes around the world and, much like with freshwater tenure, we are a global leader when it comes to marine tenure.

This past year, ELI, jointly with the Pacific Community, wrote the *Legal Guide to Enabling and Strengthening Coastal Fisheries Co-Management in the Pacific*, which helps countries revise their laws by recognizing customary rights and incorporating or strengthening specific fisheries co-management mechanisms. In Mozambique and South Africa, a two-year project helped governments and stakeholders better understand concepts of sustainable small-scale fisheries governance, international best practices, and ways to improve their countries' legal frameworks. In Belize, ELI is supporting sustainability of fisheries by helping small-scale fishing communities and other stakeholders understand the state of fisheries and potential pathways to improving fisheries management.

"Without doubt, the Environmental Law Institute remains the global leader on the conceptualization and legal recognition of community-based/customary water tenure, forging and inspiring worldwide strategic partnerships at the same time."

—Barbara van Koppen,
Scientist Emerita at the International Water Management Institute

STEERING THE COURSE

Environmental Rule of Law

Environmental Rule of Law (EROL) is a foundational concept emphasizing the critical role of legal systems in safeguarding the environment and environmental rights. It operates on the principle that robust, enforceable laws integrated with fundamental rights are vital for the protection and sustainable management of natural resources, and for addressing critical issues such as pollution, climate change, and biodiversity loss. For decades, ELI and its partners have been at the forefront of EROL.

In 2023, ELI collaborated with the United Nations Environment Programme and partners to release a second *Environmental Rule of Law Report*. This report frames the next generation of environmental law globally and focuses on law that is both just and justly promulgated. EROL serves as the cornerstone for ensuring enforcement, compliance, and accountability on a global scale, providing the necessary framework to uphold environmental standards and safeguard our planet for future generations.

"It is through the tenets of the environmental rule of law that we nurture the aspiration that [...] transformations find realization, transcending theoretical intent to become tangible realities."

— Patricia Kameri-Mbote,
*Environmental Rule of Law: Tracking
Progress and Charting Future Directions*

Moving Beyond Theory: Actualizing Good Governance

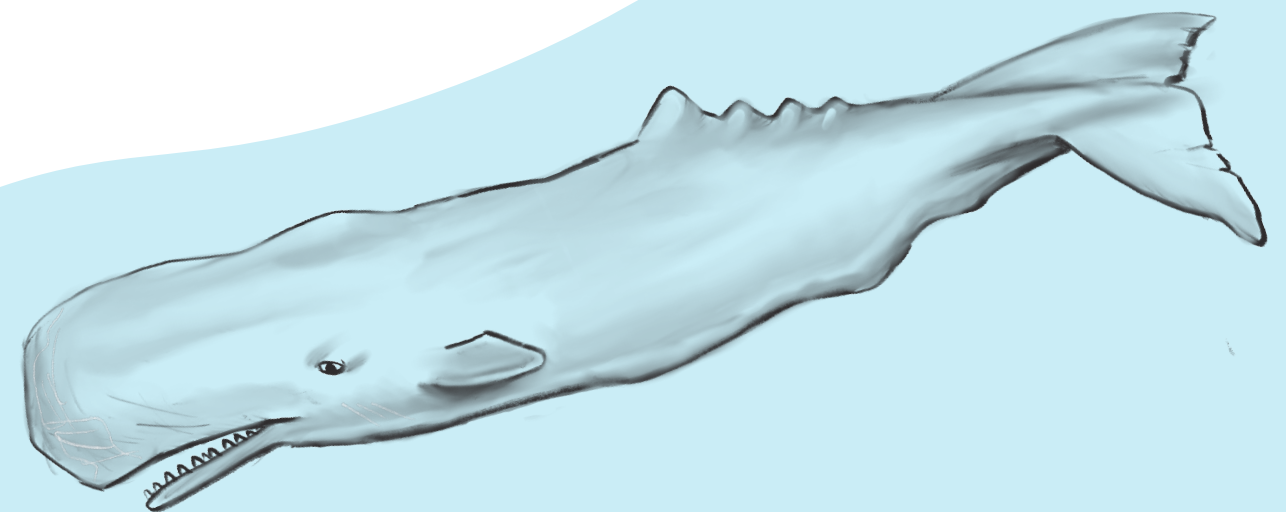
Beyond ELI's thought leadership, ELI also leads the charge on operationalizing rule of law. In 2023 alone, ELI worked to strengthen protection mechanisms for environmental defenders in Peru, bolster institutional capacity for addressing natural resource crimes in Guatemala and Honduras, and launched a judicial manual in Colombia to make informed decisions on cases pertaining to deforestation.

Our work to operationalize the rule of law extends to conservation, too. ELI's Ocean Program helps the Commonwealth of Dominica to draft national legislation to create a reserve for sperm whales, who are at risk of fatal ship strikes. The main purpose of the reserve is to protect sperm whales and their habitat, as well as to regulate activities related to humans' interactions with sperm whales and other cetaceans.

International Network for Environmental Compliance and Enforcement

In addition to country-specific work, ELI serves as the Secretariat for the International Network for Environmental Compliance and Enforcement (INECE).

Environmental challenges transcend national borders. Therefore, the creation of global mechanisms for accountability and enforcement are essential to effectively addressing transboundary issues. INECE is the only global organization focused exclusively on achieving compliance with environmental law through effective compliance promotion and enforcement strategies, including administrative, civil, criminal, and judicial enforcement.



CRITICAL ECOSYSTEMS

Wetlands for Climate Resilience

Navigating a Post-Sackett World

The May 2023 ruling by the Supreme Court in *Sackett v. EPA* underscores the critical significance of ELI's work on wetlands. Following this decision, numerous wetlands previously under federal jurisdiction have lost their protection. Consequently, the responsibility for wetland protection now falls primarily on states and local authorities. At the same time, there is a growing understanding of wetlands as critical safeguards against climate change. This shift is poised to result in a fragmented landscape of wetland protection, highlighting the urgent need for cohesive and comprehensive conservation strategies.

Wetlands are critical ecosystems that provide many important benefits for people and wildlife and are integral to local communities' culture and economy. Wetlands benefits include flood protection, coastal resilience, carbon storage, and water quality improvement and protection.

Following the *Sackett v. EPA* decision, the spotlight on wetlands protection has intensified. More than ever, we are aware of the value we offer wetlands professionals and communities—timely, balanced information on wetlands law, policy, science, and management.

2023 Wetlands Award Winners

Through initiatives such as the Wetlands Awards program, we feature local champions and their work to protect wetlands.



Adam Davis
Business Leadership



Matt Hough
Promoting Awareness



Rebecca Swadek
Wetlands Program Development



Scott Fisher
Local Stewardship



Bingqing Liu
Scientific Research

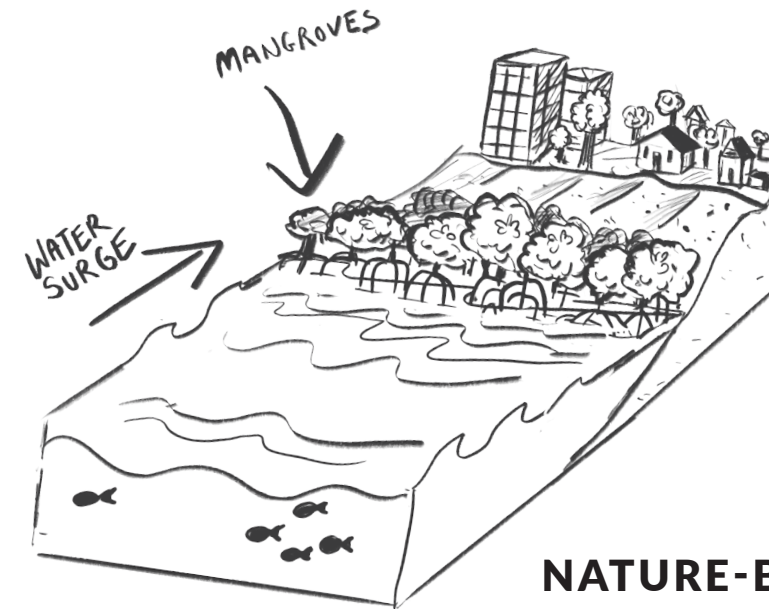


Charlotte Michaluk
Youth Leadership

Scaling Up Natural Infrastructure for Climate Resilience

In 2023, ELI worked with partners and communities across the country to identify challenges and opportunities for using natural infrastructure as hazard mitigation strategies. Across many communities, the missing piece of the puzzle is often local capacity to push forward these solutions. ELI's mission is to bridge these gaps by building capacity, fostering partnerships, and connecting communities with the tools and resources needed to incorporate natural infrastructure into mitigation planning. From 2021 to 2023, ELI identified strategies

and tools to scale up and support nature-based infrastructure projects affecting the Mississippi River and its tributaries. After extensive collaboration with regional partners, ELI published a suite of reports examining key, cross-cutting problems and presenting viable solutions. These reports tackle issues like permitting nature-based projects; prioritization of nature-based alternatives; advancing use of nature-based solutions for hazard mitigation; and overcoming barriers to access to crucial funding sources.



NATURE-BASED SOLUTIONS

(noun)

refers to the strategic integration of natural elements into infrastructure development to mitigate climate change effects, diminish flood hazards, enhance water quality, protect wetlands, and yield other co-benefits. Nature-based solutions is an umbrella term encompassing natural infrastructure, green infrastructure, and natural climate solutions.

STATE OF FLOW

Supporting Inclusive Water Governance Across North America

From the Nile to the Colorado

This year, at least 40 U.S. states anticipate water scarcity. Water management requires, more than ever, knowledge exchange, collective dialogue, and mobilization. The Women in Water Diplomacy Network launched its North American Network in 2023 in response to the escalating challenges posed by water scarcity and fueled by the Network's commitment to empower members and validate shared experiences.

Beginning in the Nile Basin in 2017, the Network was created in response to unsustainable water management where women and girls are both disproportionately impacted and vastly underrepresented. The Network has since grown into a global community of women water leaders (and male champions supporting gender equality), working collectively to strengthen women's leadership in transboundary water decisions. The Network extends across the Nile and Orange-Senqu Basins in Africa, Central Asia and Afghanistan, and, most recently, North America.

As disagreements over water management become more complicated in a changing climate, water diplomacy is an ever more important tool to ensure equitable water management. Effective water diplomacy hinges on diverse actors contributing unique skills, knowledge, and experience, as no single person possesses all the necessary tools for successful water management.

"By coming together with each other and our allies we create opportunities to further protect the land and water for future generations."

—Chairwoman Amelia Flores, Colorado River Indian Tribes



Illustration:
Radhika Gupta/SIWI

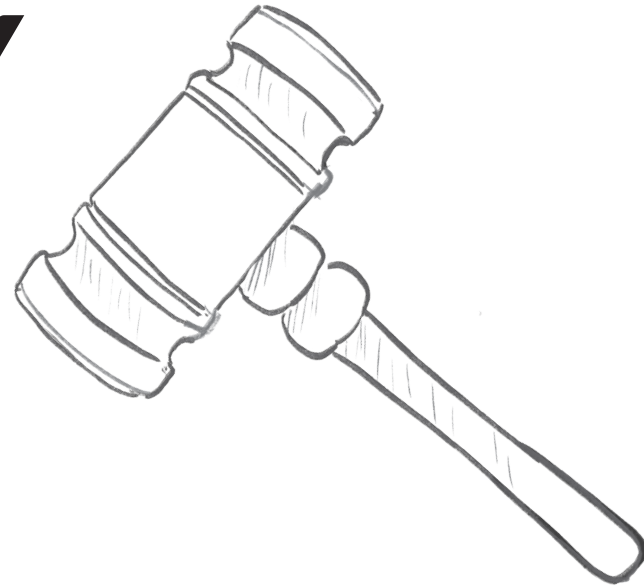
Advancing Effective Water Management

While the North American Network may be new, ELI has been at the forefront of addressing water quality and scarcity issues in North America for decades. This includes our annual, week-long water quality training workshop that brings together staff from States, Tribes, Territories, and EPA. Together they foster a network of practitioners, enhance coordination, build technical skills in water quality data management and restoration plan development, and ultimately improve Clean Water Act implementation.

ELI also has developed a catalogue of resources over the years documenting and analyzing approaches, successes, and

shortcomings in water management at all levels of government in the United States. Most recently, ELI and the Alliance for Water Efficiency released the third iteration of the *State Policy Scorecard for Water Efficiency and Sustainability*, which encourages state action to advance water efficiency, conservation, sustainability, and affordability by identifying exemplary laws and policies as well as opportunities for improvement across the country. The scorecard evaluates each state's adoption of laws and policies aimed at advancing water efficiency, conservation, sustainability, and affordability, with the goal of guiding and advocating for improved water management practices nationwide.

CLIMATE JUDICIARY PROJECT



Amid a growing wave of climate-related case filings brought in many different areas of law, judges are increasingly called upon to address this growing body of science and law. As with other complex or technical topics that arise in the courtroom, from medicine, to tech, to neuroscience, judges value access to objective educational information on climate science. ELI has answered this call with the first-of-its kind Climate Judiciary Project (CJP).

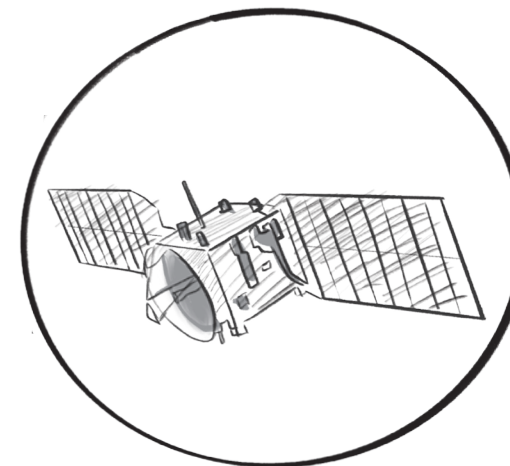
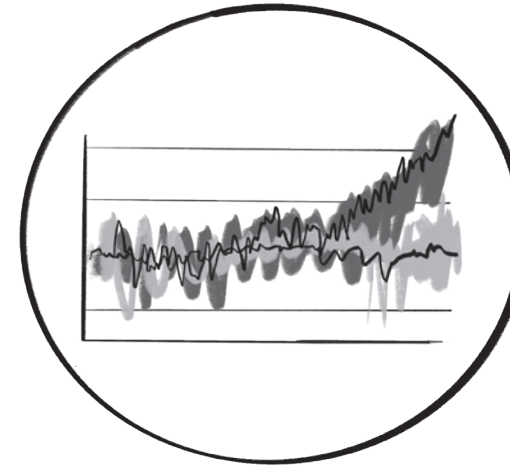
Through its educational events, CJP has reached an estimated 1,800 judges with authoritative, objective, and trusted education about the science of climate change as it is understood by the expert scientific community. CJP educational events are organized through established judicial education institutions, and include a program designed to grow a nationwide network of judges who work to advance judicial education on climate science in their own jurisdictions. Such events, led by judges who participated in CJP programming,

took place this year in states across the country, including California, Indiana, Kentucky, Maryland, New York, and Oregon.

In addition to our educational events, 2023 saw the completion of 13 modules of CJP's *Climate Science and Law for Judges Curriculum*, authored by leading climate scientists and legal scholars, and the launch of a new resource website.

CJP is uniquely qualified and positioned to meet the growing demand from judges for the basic science they need to make informed decisions in cases involving climate science. Looking ahead, CJP will educate a new cohort of judicial leaders, strengthen and enlarge its robust network of experts and partners, continue to disseminate and build on its curriculum, and explore opportunities to educate judges internationally.

Find the *Climate Science and Law for Judges Curriculum* at cjp.eli.org.



"I was honored to serve as Indiana's 2022 delegate to CJP's 2-week course on climate science fundamentals from the field's brightest minds. This training and the Project's supplemental support enabled me and local experts to present a seminar on *Climate Science and Our Hoosier State* at the Indiana Judiciary's Spring 2023 Judicial College. The seminar was well-received, and I can envision climate-related programming serving as a semi-regular component of Indiana's ongoing judicial curriculum. I thank CJP for its great work."

—**Judge Stephen E. Scheele**
*Lake Superior Court,
Civil Division – Indiana*

2023 REPORTS, BRIEFS, AND TOOLKITS

Note: Environmental justice is not segmented out as a separate focus area because ELI strives to infuse environmental justice into all its programs.



Scan the QR code to view and access the full list or visit go.eli.org/r23

Air Quality

Ventilation in Schools: A Review of State Policy Strategies

Database of State IAQ Laws

Wildfire Smoke: State Policies for Reducing Indoor Exposure

Empowering Municipal Action

Research Brief: An Overview of Hands-on Resources for Hosting Accessible Events

Model Executive Order on Municipal Leadership on Food Waste Reduction: With and Without Commentaries

A Toolkit for Implementing Share Tables in Municipal Schools

Model Ordinance Establishing a Pay-As-You-Throw Program for Residential Municipal Solid Waste: With and Without Commentaries

State and City Food Waste Reduction Goals: Context, Best Practices, and Precedents

Food Waste Prevention Guide Series

Background Memorandum, Model Executive Order on Municipal Leadership on Food Waste Reduction, co-authored with Natural Resources Defense Council

Wetlands & Freshwater Governance

Filling the Gaps: Strategies for States/Tribes for Protection of Non-WOTUS Waters

USACE Project Partnership Agreements: Problematic Provisions for Non-Federal Sponsors

2022 State Policy Scorecard for Water Efficiency and Sustainability

2023 National Training Workshop on Water Quality Data, Assessment, and Plans: Final Project Report and Training Workshop Proceedings

Women in Water Diplomacy Network Engagement in the 2023 UN Water Conference

North American Women in Water Diplomacy Network Launch Event Report

Advancing Nature-Based Solutions

Unlocking Nature's Potential: A Guide to Navigating Federal Permits and Environmental Reviews to Facilitate Use of Nature-Based Solutions

Overcoming Barriers Created by Cost Share Requirements: Considerations for Advancing Natural Infrastructure Throughout Mississippi River Basin

Prioritization and Acceleration of Natural and Nature-Based Solutions: Pathways to Phased Implementation of Complex Water Resource Projects

Embedding Natural Resource Expertise in Hazard Mitigation Planning: Opportunities for Integration in the Mississippi River Basin

Oceans

Transboundary Marine Species at Risk & Their Recovery in a Changing Climate: Workshop Report

Full Report on Stakeholder Workshops and Meetings Held in Belize June 12-16, 2023

Legal Guide to Enabling and Strengthening Coastal Fisheries Co-Management in the Pacific

Energy & Land-Use

Texas Offshore Wind Energy for Framework 2023

Fish Forward: Best Practices for Sustainable Land-Based Aquaculture in Maine

Takeaways From 2023 Implementing the IRA and Accelerating the Energy Transition Conference

Environmental Rule of Law

Environmental Rule of Law: Tracking Progress and Charting Future Directions

Deforestación y Derecho: Manual para el Abordaje Judicial de la Deforestación en Colombia

Environmental Peacebuilding

Toolkit on Monitoring and Evaluation of Environmental Peacebuilding

Primer on Monitoring and Evaluation of Environmental Peacebuilding

Addressing the "Green Resource Curse" in Sub-Saharan Africa

ELI Publications

Environmental Law Reporter
Navigate to elr.info to see all of 2023's articles.

Environmental Forum
Find all of 2023's articles at go.eli.org/tef.

Governing for Sustainability
edited by John C. Dernbach & Scott E. Schang

Principal Trends on Brazilian Environmental Law
edited by Marcelo F. Dias

Remarkable Cities and the Security and Sovereignty of Food and Nutrition
by Jonathan Rosenbloom

PFAS Deskbook
by James B. Pollack

Toxic Intent
by Joshua Ozymy & Melissa Jarrell Ozymy

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Our work wouldn't be possible without ELI's incredible staff. Thank you, team ELI, for all that you do!

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Throughout its history, ELI has been governed by a diverse group of leading experts in the field. To all of our directors, we are incredibly grateful for your support and service!

Big thanks to King & Spalding and Granta Nakayama for generously hosting us on your rooftop for ELI's June 2023 board meeting.



Dr. J. Marshall Shepherd

2023 Environmental Achievement Award

Dr. J. Marshall Shepherd is a leading climate scientist, an award-winning teacher, and a trusted public speaker who believes deeply in the importance of communicating his work and its significance to the public and policymakers—what he calls “end-to-end” science education. In 2021, Dr. Shepherd was elected to the National Academy of Sciences, the National Academy of Engineering, and the American Academy of Arts and Sciences, three of the highest academic honors in the nation. His research has cast new light on climate justice issues by describing the effects of urban heat islands and climate change on increased flooding in disadvantaged communities.

AWARD DINNER SPONSORS

ELI's Environmental Achievement Award is presented annually to one individual or organization that has made a profound contribution to environmental protection, conservation, and sustainability. It is awarded and celebrated at our annual Award Dinner, which in 2023 was attended by nearly 600 guests.

Thank You!

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In recognition of Judge Nancy B. Firestone, and with the generous support of **Patricia Payne** and the rest of the Firestone family, ELI hosted an inaugural policy forum in Judge Firestone's honor on October 24, 2023 (pictured below). The Firestone Policy Forum serves as an annual occasion to bring the environmental community together around a cutting-edge question of environmental policy or practice, to imagine, educate, dialogue, problem solve, and co-create together, reflecting the special qualities of the Firestone Policy Forum's namesake.



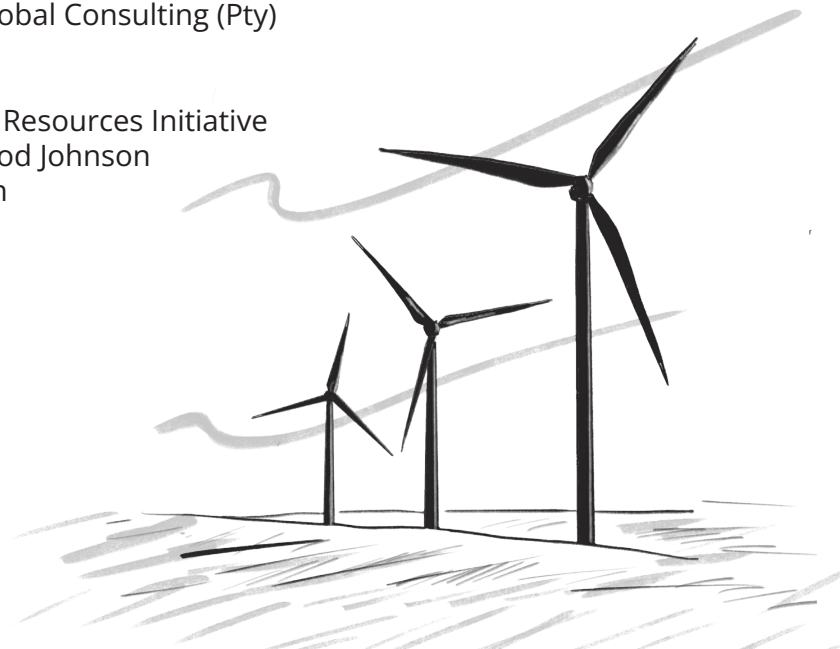
Inaugural Firestone Policy Forum

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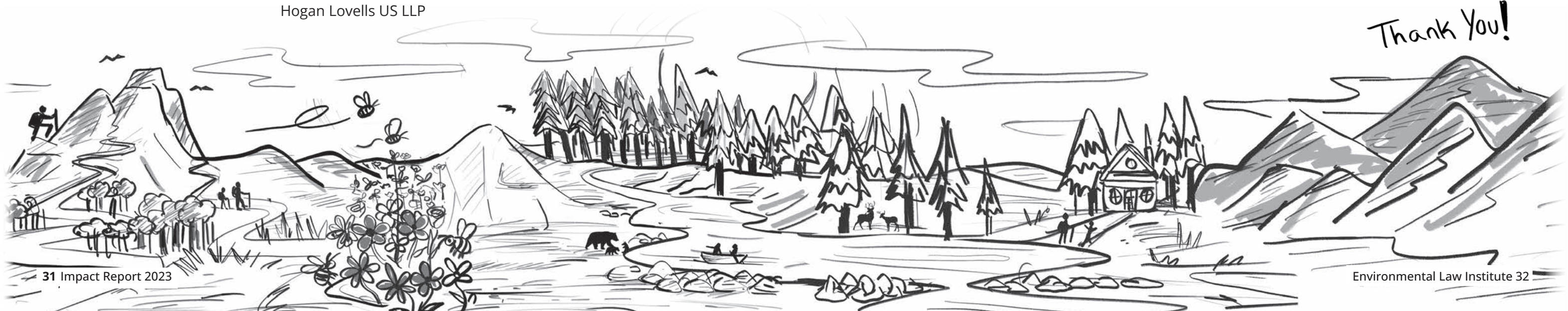
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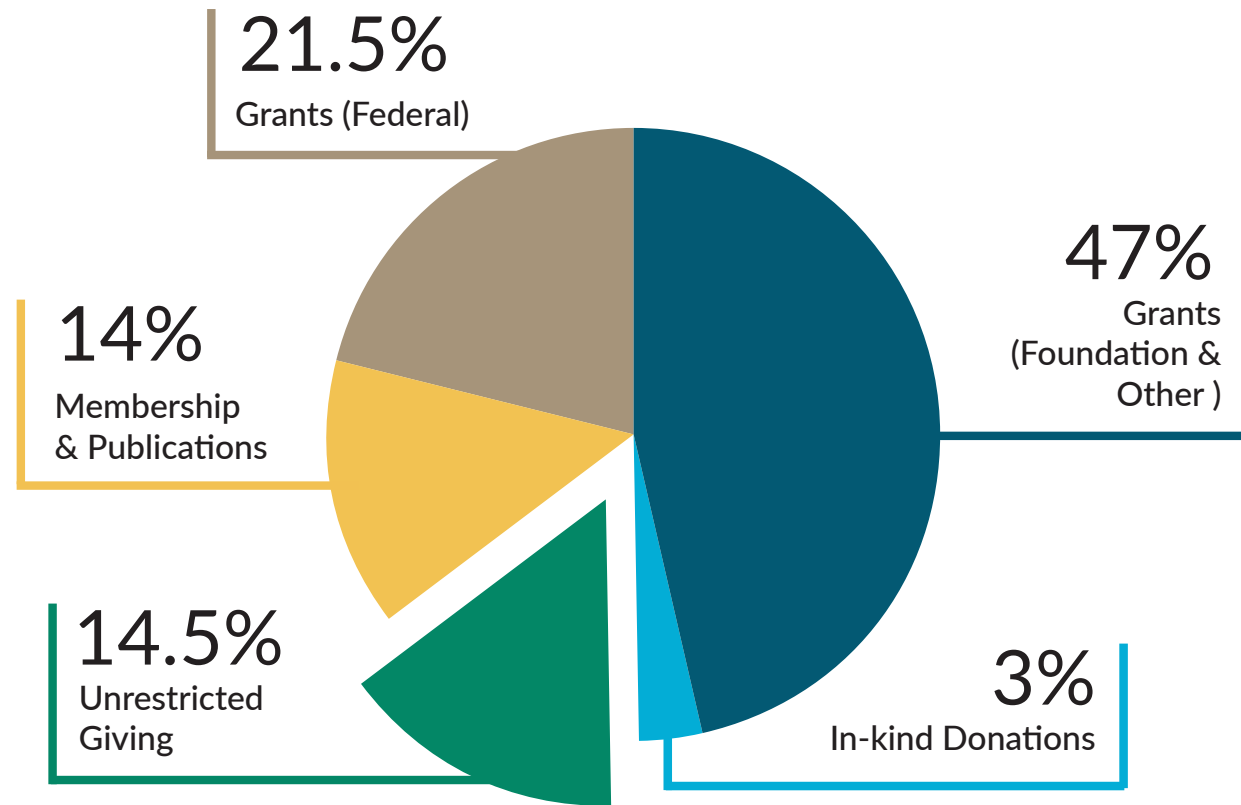
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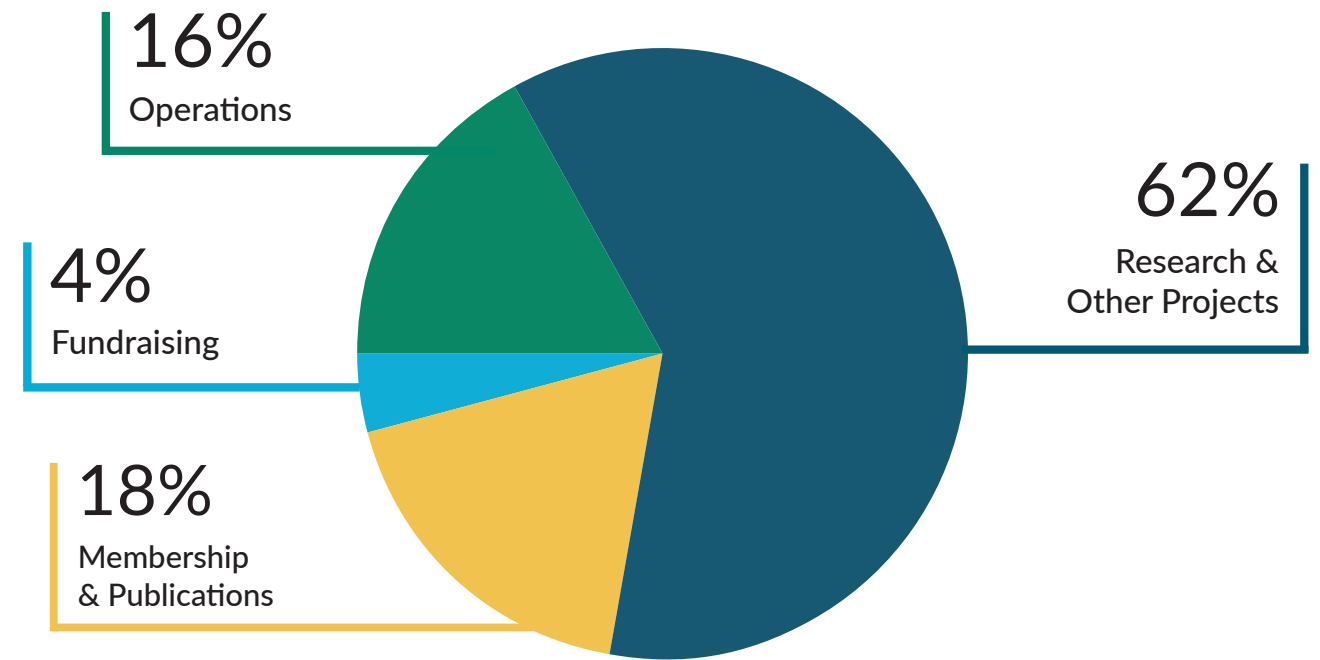
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