

# Environmental Integrity Project 2008–2009



# A LETTER FROM THE EXECUTIVE DIRECTOR AND THE PRESIDENT

The new Administration that has taken office in Washington, DC confronts daunting environmental challenges. Global warming threatens the very survival of our planet, and meeting that threat will require transforming industrial economies that have been built on fossil fuels. Meanwhile, the Environmental Protection Agency's new leadership has pledged to restore law, science, and the public interest to decision-making that only recently was held hostage by industry lobbyists.

The current recession may seem to complicate the environmental agenda; in fact, the transition to cleaner sources of energy is the key to our economic recovery. Fossil fuels are dirty, expensive, and increasingly scarce, and both our children's prosperity *and* their environmental future depend on our finding new ways to travel, light our homes, and power our factories.

While global warming may be the defining issue, we cannot forget that, according to the EPA, 90 million Americans still live in neighborhoods where the air is considered unhealthy to breathe, or that 400,000 miles of our rivers and streams fail water quality standards set by Congress more than 30 years ago. Much of that pollution results from our laws being inconsistently enforced, or not enforced at all.

At the Environmental Integrity Project, we have targeted violations by some of the biggest sources—coal-fired power plants, refineries, factory farms—because of the disproportionate impact they have on the environment and quality of life for their neighbors. We will play an increasingly active role in the global warming fight, but without walking away from communities that need help fighting pollution in their own backyards.

The challenges are formidable, but so are the opportunities. With seven years of experience, the Environmental Integrity Project and its team of lawyers and technical experts is ready to play its part. That expertise is valuable whether we are tackling global warming or more local pollution. For example,

we are contesting permits for the construction of new coal plants that would overwhelm the planet with millions of tons of global warming pollutants—while fighting the dumping of coal ash near creeks and drinking water supplies of rural communities that might otherwise be forgotten.

Holding corporations and governments accountable is at the heart of EIP's mission. We do this through the courts, by enforcing environmental laws too often ignored, and in the court of public opinion, through uncompromising and accurate reports that draw attention to lax bureaucracy or illegal pollution. We help David fight Goliath by representing local communities that lack the resources to push back against big polluters.

We are excited about the opportunity to work with President Obama's Administration, and optimistic about the possibilities for change. However, we have always been a nonpartisan organization, and will remain so. We won't hesitate to challenge backsliding or bureaucratic indifference wherever we find it. In the end, we think the environment benefits from the kind of tough love we offer to the agencies charged with protecting it.

We invite you to join us as we reflect upon EIP's accomplishments, and look forward to the challenges that the new era will present.



ERIC SCHAEFFER

*Executive Director, Environmental Integrity Project*

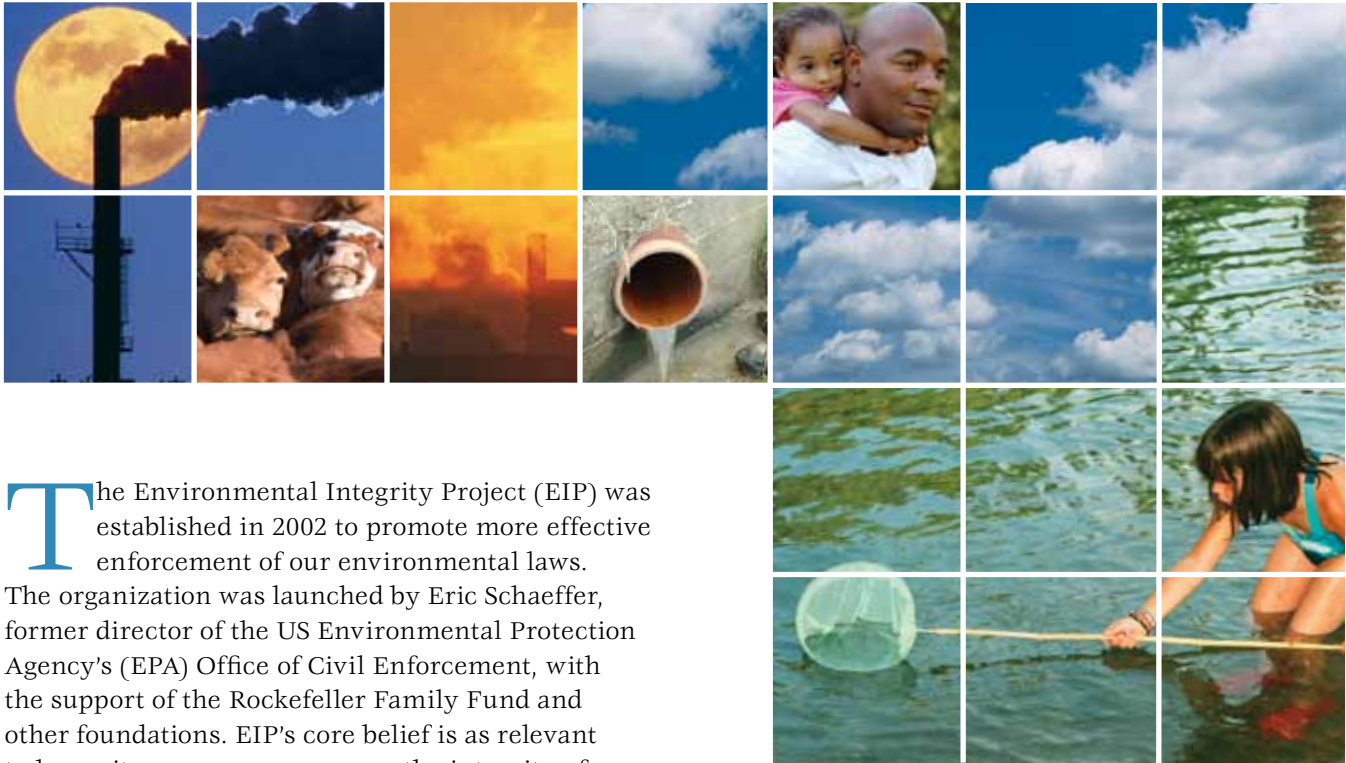


LARRY SHAPIRO

*Board President, Environmental Integrity Project*

*Associate Director for Program Development,  
Rockefeller Family Fund*

# ABOUT THE ENVIRONMENTAL INTEGRITY PROJECT (EIP)



The Environmental Integrity Project (EIP) was established in 2002 to promote more effective enforcement of our environmental laws. The organization was launched by Eric Schaeffer, former director of the US Environmental Protection Agency's (EPA) Office of Civil Enforcement, with the support of the Rockefeller Family Fund and other foundations. EIP's core belief is as relevant today as it was seven years ago—the integrity of our environmental laws rests upon the uncompromising enforcement of those laws.

EIP's outstanding environmental lawyers team up with technical experts (who guide data collection, environmental sampling, and analysis) and media consultants, under the leadership of a dedicated Board of Directors. Together, we target some of the worst sources of pollution, especially those that contribute to global warming. We are dedicated to a future in which all Americans can enjoy the clean air and fresh water that are promised by our environmental laws.

EIP also partners with small grassroots organizations in communities nationwide, as well as national environmental groups like Sierra Club and Earthjustice. Although EIP shares the environmental goals of our partners, our mission is unique, because no other organization is so sharply focused on the vigilant enforcement of environmental laws. We are a small, agile, and responsive team that can spring into action when new environmental threats arise.

*I am so grateful to the Environmental Integrity Project team! When local, state, and even federal government agencies failed my community, EIP showed us the law and how to use it to protect ourselves. With their knowledge, leadership, and experience they empower citizens.*

— CATHY LODGE, resident of Robinson Township, PA, a community that is fighting hazardous air pollutants from a nearby waste coal power plant

# AMERICA'S TRANSITION TO CLEANER ENERGY

**E**IP promotes the use of cleaner energy sources by targeting dirty coal projects for enforcement and working to clean up oil refineries. Our projects include:

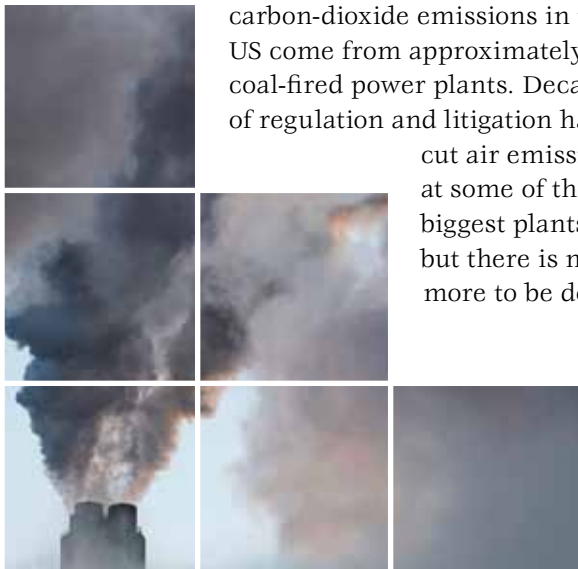
- Challenging construction of new coal plants that would add millions of tons of greenhouse gases to the atmosphere, while seeking cleanup or retirement of the oldest sources of such pollution;
- Obtaining stricter standards to stop the leaking of toxic metals from hundreds of coal ash disposal sites; and
- Protecting local communities from toxic oil refinery emissions, while discouraging the refining of dirty tar sands (an environmentally devastating process).

## Targeting Dirty Coal

Coal's environmental "footprint" is enormous, due to the pollution generated from the mining, burning, and disposal of this fossil fuel. Mountaintop mining fills streambeds with toxic rubble, coal combustion generates more than 130 million tons of hazardous fly ash and other wastes each year,

and one-third of all manmade carbon-dioxide emissions in the US come from approximately 400 coal-fired power plants. Decades of regulation and litigation have

cut air emissions at some of the biggest plants, but there is much more to be done.



EIP, Sierra Club, and other groups are working in tandem to **stop the spread of new conventional coal-fired plants** that, according to the US Department of Energy, would increase carbon dioxide emissions from electricity generation 14 percent by 2030:

- In Texas, NRG Energy has proposed new coal-fired boilers that would increase mercury, carbon dioxide, and other airborne toxins in the region. EIP and Sierra Club challenged NRG's proposal in court for failing to limit toxic emissions and greenhouse gas pollutants. Our challenge was upheld, and now NRG must meet more stringent standards for toxic pollutants; our greenhouse gas claims are still pending.
- Waste coal combustion (which uses the piles of waste that accumulate after the extraction of virgin coal from mines) generates even more greenhouse gas emissions, fly ash, and other waste than conventional coal combustion. Following EIP's investigation, Pennsylvania denied a permit for Sithe Global's proposed waste coal plant, due to an incomplete permit application and the failure to meet emission limits for hazardous air pollutants. Pennsylvania also required Robinson Power to come up with more stringent hazardous emission limits for its proposed facility. EIP will challenge Robinson Power for violating the terms of its construction permit.

**EIP pushes for the cleanup of old coal plants**, which are the biggest source of air pollution and greenhouse gases in the US.

- EIP has served notice of our intent to sue a power plant in Texas for failing to meet soot standards and operating above its permitted capacity, two common problems with old coal plants. A similar notice letter in Maryland prompted the state to investigate violations of soot standards.



Power plants generate an estimated 130 million tons of ash and other combustion waste every year, enough to fill a line of boxcars stretching from the US to Australia. **EIP is pushing EPA to set safer standards for disposal** to keep toxic pollutants from coal ash from leaking into groundwater, rivers, and streams.

- Just before Christmas of 2008, a ruptured dike at one of the Tennessee Valley Authority's (TVA) massive ash ponds spilled more than 1.1 billion gallons of toxic sludge over a 300-acre area and into the Emory and Clinch Rivers near Kingston, Tennessee. TVA estimates that cleaning up the mess could cost nearly \$1 billion. EIP staff worked through the holidays to test samples gathered by local volunteers; our lab results documented hazardous levels of arsenic and other pollutants near the spill site and pressured TVA and government authorities to move quickly to contain the problem.
- A retired fisherman and his wife in Charles County, Maryland, saw that fish were dying off in the Zekiah Swamp, one of the region's most valuable hardwood wetlands. EIP investigated, analyzed water samples, and found more than 12,000 instances of illegal toxic discharges from a nearby coal waste storage facility. After we threatened litigation, the state took enforcement action and is negotiating a cleanup. EIP is investigating violations at other sites in Maryland and Pennsylvania.
- The TVA catastrophe prompted the EPA to promise stricter standards for coal ash waste sites, which are often little more than open dumps. EIP and Earthjustice are leading efforts by public interest groups to get these standards in place as soon as possible. EIP also has released a series of reports documenting widespread contamination at other ash sites throughout the US.

EIP is also challenging the placement of ash in abandoned coal mines. Our studies have shown

that this practice can promote the leaching of toxins like arsenic into groundwater and creeks; in response, Pennsylvania is proposing increased monitoring of these sites and is evaluating other safeguards.

## Monitoring Refineries

Oil refineries feed America's demand for cheap fuel but can foul the air in nearby neighborhoods. Refineries also can be a major source of greenhouse gas emissions, especially when they rely on Canadian tar sands. Squeezing oil out of tar sands uses huge amounts of water and natural gas, uproots fragile forest ecosystems, and releases three times more greenhouse gases than the drilling and processing of conventional oil.

- Our expertise and in-depth review of refinery permits paid off for the citizens of Roxana, Illinois, where our intervention convinced Conoco-Phillips to cut back on pollution from flaring (the practice of burning off waste materials through chimneys). The company also agreed to be the first US refinery to measure and reduce greenhouse gas emissions.
- EIP has helped citizens in Texas, California, and other states review and challenge permits that would allow toxic refinery emissions to escape detection.
- EIP is working closely with Earthjustice and Sierra Club to negotiate new federal rules for refineries that could significantly reduce exposure to toxic pollutants, while actually improving operating efficiency by reducing waste. Thanks to a recent court victory, we are on the way to closing loopholes that allow refineries to evade responsibility for pollutants released during plant accidents.

# ACCOUNTABILITY—KEEPING THEM HONEST

**E**IP helps make government and corporations more accountable through a strategic combination of legal action and data-rich reports. These two strategies draw attention to lax enforcement and shine a light on major sources of pollution. This is the tough, tedious work that creates real change in local communities.

## Building Stronger State Environmental Programs

Most environmental enforcement programs are run by state agencies that too often are understaffed or overwhelmed by industry interests. EIP takes advantage of federal laws that allow citizens to challenge weak enforcement programs. EIP also helps state enforcement agencies find the resources they need to do their job more effectively and protect our environment.

- Maryland's legislature found another \$11 million to support clean air programs — after EIP pointed out that federal law required these programs to be adequately funded. Meanwhile, our legal challenges have prompted Maryland to start issuing permits that are long overdue. Without these permits, citizens are kept in the dark about which emission limits apply to nearby plants, and whether those limits are being met.



- EIP asked the EPA to take legal action to force state agencies in Illinois and

Iowa, two of the biggest farm states, to enforce the Clean Water Act against factory farms. Industrial farming operations warehouse masses of hogs, chickens, and dairy cows; they also release breathtaking levels of ammonia and other air pollutants. EIP is working with Illinois Citizens for Clean Air and Water to help local residents obtain and analyze samples that can be used to document Clean Water Act violations and push state enforcement agencies to force these facilities to stop polluting.

## Defending our “Right to Know”

Our environmental laws depend on the accurate measurement of pollution, but too often the data is misleading, wildly inaccurate, or missing altogether. For example, a recent refinery study showed that actual emissions of benzene (a known carcinogen) can be 100 times greater than working estimates, which are based on outdated methods developed nearly 30 years ago.

- EIP has pushed relentlessly for accurate monitoring data in permits for coal-fired power plants, oil refineries, incinerators, cement kilns, factory farms, and other industrial facilities. This persistence recently paid off. In August 2008, responding to a legal challenge from EIP and other groups, a federal appeals court struck down a Bush-era rule that prohibited environmental agencies (such as state EPAs) from requiring that permits for major polluters include accurate emissions monitoring. The court's decision will make it easier for communities to know what kinds of pollutants local industries are releasing into the air they breathe.

*EIP has been and continues to be an important resource to the City [of Houston].... They were the “ghostwriters” for the petition the Mayor filed with the EPA challenging the entire scheme under which refining and petrochemical companies account for their emissions.... EIP has specialized staff who know the ins and outs of this tedious and technical area, and there is no way we could have prepared this petition without their work....*

— ELENA M. MARKS, Director of Health and Environmental Policy, Mayor’s Office, City of Houston

- EIP helped the Mayor of Houston file a petition challenging outdated and inaccurate methods used to estimate emissions from large petrochemical plants. In response, EPA has agreed to revise these methods, and innovative measurement work has already begun in the Houston area.

Each year, EIP releases comprehensive reports that help the media and public to understand the impacts of pollution and take action on behalf of



their communities. These include:

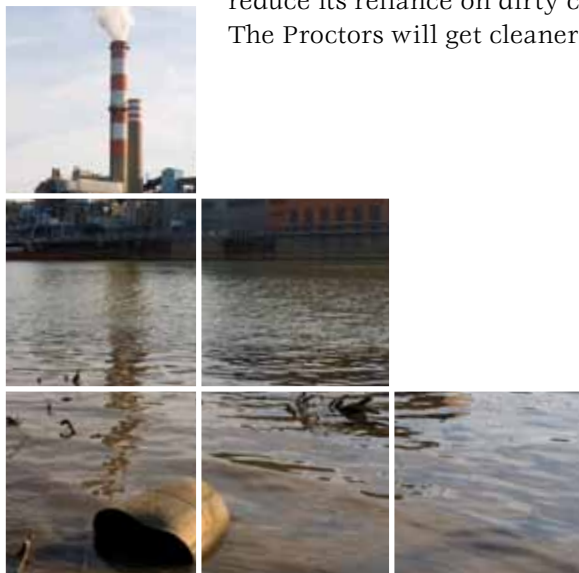
- *Disaster in Waiting—Toxic Coal Ash Disposal in Surface Impoundments*, which was cited by *The Washington Post* in its coverage of the TVA Kingston fly ash spill, and *Coming Clean*, which analyzed EPA findings showing that ash ponds can greatly increase the risk of cancer and endanger wildlife.
- EIP’s annual *50 Dirtiest US Power Plants* report, which draws the public’s attention to the polluters in their own backyards. The 2008 edition of this much-anticipated report was cited in more than 170 media articles.
- *Tar Sands: Feeding US Refinery Expansions with Dirty Fuel*, which explored the environmental and public health threats posed by the fact that two-thirds of planned refinery expansions intend to use crude oil from Canadian tar sands, a process that generates three times more greenhouse gasses than conventional refining.

Our investigations, legal actions, and reports prompt government to go after the worst polluters; the communities we help breathe easier knowing that their environmental laws are finally being enforced.

## HELPING ORDINARY CITIZENS ACHIEVE EXTRAORDINARY RESULTS

Our laws give citizens the right to be heard, but navigating the complex web of government agencies responsible for protecting our environment is a daunting process. EIP helps citizens claim their rights through a combination of media savvy, in-depth technical knowledge, experience in government relations, and litigation skills. We think our government is more responsive to the people that it is supposed to protect when the voices of everyday citizens are heard in courtrooms, in the media, and in our legislatures.

- In Pittsburg, Texas, Bill and Emogene Proctor own a family farm in the shadow of a large coal-fired power plant. Mrs. Proctor suffers from asthma and worried about soot and carbon-monoxide emissions from the plant, which were released at levels far above what the law allows. The plant was supposed to limit emissions of particulate matter on an hourly basis, but EIP's investigation showed that no one had actually measured emissions in more than 20 years. After EIP filed a federal lawsuit, the company took action to reduce sooty discharges and agreed to install monitors that will record air emissions around the clock. The company also agreed to purchase 65 megawatts of wind energy to reduce its reliance on dirty coal. The Proctors will get cleaner air



and, for the first time, will know exactly what the company is emitting from its stacks.

- As a local resident living on a fifth-generation family farm, Karen Hudson saw first-hand the ways that illegal dumping and spraying of pollutants from large hog and dairy farms eroded the natural environment and the quality of life in West Central Illinois. Gagging stenches, manure runoff, rotting silage piles, and gas plumes had killed off more than 10 species of fish in nearby streams and were making local residents physically ill. EIP has worked with Karen and two grassroots organizations, Families Against Rural Messes (FARM) and Illinois Citizens for Clean Air and Water (ICCAW), providing legal and technical support for a petition to withdraw Illinois' authority to administer the Clean Water Act, communicating with the regional EPA, and interpreting data from water samples collected near local factory farms. EIP has helped FARM and ICCAW build a stronger environmental advocacy movement.

The transition to cleaner energy sources has to engage everyone—it has to mean something to people *where they live*. EIP gets out into local communities and helps people effectively engage the government bureaucracies that are supposed to protect them, but often must be prodded to listen.

## WHAT'S NEXT FOR EIP?

Major issues on EIP's agenda for the coming year include:

- Millions of tons of fly ash are dumped into pits every year that leak toxic pollutants into drinking water, rivers, and streams across this country. EPA has pledged to close this loophole, and we will work to make sure that this promise is kept.
- EIP will keep working to shrink the footprint of the coal industry, which is such a dominant part of America's energy legacy. EIP's efforts will help stop the spread of new coal plants that would accelerate global warming, while we push for the cleanup or retirement of the dirtiest plants already in operation.

*[The day after the Tennessee Valley Authority Kingston disaster] EIP helped United Mountain Defense field personnel adapt to multiple testing protocols being imposed by the various labs [to which were sending environmental samples].... EIP found us a certified lab and helped us at every stage of the collection and testing process. EIP rapidly became more to our efforts down here than another nonprofit—they became partners in the work... we need 10 more organizations just like them.*

— CHRIS IRWIN, Attorney, United Mountain Defense



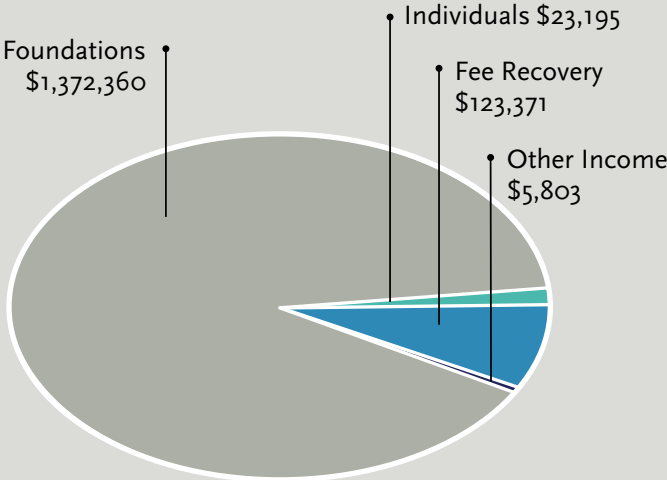
- EIP will push for a crackdown on flaring at refineries, oppose the use of tar sands at US plants, and seek to limit greenhouse gases released during oil refining or exploration.
- EIP will continue to investigate other big polluters, such as factory farms (major sources of both groundwater and air pollution) and cement kilns (a huge, and growing, source of mercury pollution). As always, we will advocate for more honest data and decisions that are based on the best facts available.
- As a small and flexible organization, we will move quickly to take advantage of new opportunities and to keep the media and the public informed with research and analysis that keeps polluters on the hook and challenges our environmental agencies to do their best.

The new Administrator of the US Environmental Protection Agency, Lisa Jackson, has pledged that “as your Administrator, I will uphold the values of scientific integrity, rule of law, and transparency every day.”<sup>2</sup> This marriage of law, science, and the public's right to know is the basis of EIP's work and bodes well for our ambitious agenda in the coming year.

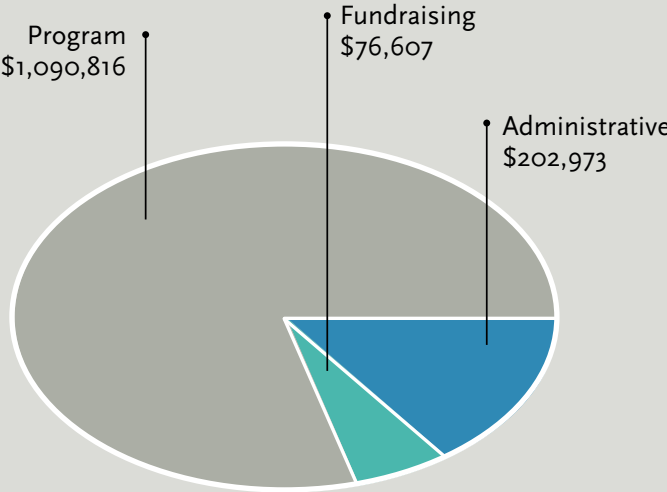
2. Memo to EPA Employees from Lisa P. Jackson, EPA Administrator, January 23, 2009.

# INCOME AND EXPENSES

## 2008 INCOME: \$1,524,729



## 2008 EXPENSES: \$1,370,396



# FOUNDATIONS AND MAJOR DONORS 2008–2009



Bancroft Foundation  
The Brown Foundation, Inc. of Houston  
Changing Horizons Fund  
Civil Society Institute  
Clean Air Task Force  
The Energy Foundation  
Flora Family Foundation  
Fund for Change  
The Heinz Endowments  
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