

2012 Annual Report



Making the law work for people,
places, and the planet.

Since 1969, the Environmental Law Institute (ELI) has played a pivotal role in shaping the fields of environmental law, policy, and management, domestically and abroad. Today, we enter our fifth decade as an internationally recognized, nonpartisan research and education center working to strengthen environmental protection by improving law and governance worldwide.

We deliver insightful and impartial analysis to opinion makers, including government officials, environmental and business leaders, academics, members of the environmental bar, and journalists. ELI is a clearinghouse and a town hall, providing common ground for debate on important environmental issues.

ELI's Vision calls for *"a healthy environment, prosperous economies, and vibrant communities founded on the rule of law."* What ELI does to help guide society toward that vision is described in its mission statement:

ELI fosters innovative, just, and practical law and policy solutions to enable leaders across borders and sectors to make environmental, economic, and social progress. ELI:

- Builds the skills and capacity of tomorrow's leaders and institutions
- Researches and analyzes complex and pressing environmental challenges
- Promotes and disseminates the best thinking through print and electronic media
- Convenes people with diverse perspectives to build understanding through robust debate

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Contributions are deductible for federal income, gift, and estate tax purposes to the maximum extent permitted by law.

A Message From the President and Chairman

We are pleased to highlight significant achievements of the Environmental Law Institute in 2012 in pursuit of its vision of a healthy environment, prosperous economies, and vibrant communities founded on the rule of law.

Presidential Election Environmental Issues

To address important environmental issues posed by the 2012 presidential election and build understanding, ELI held two debates for officials with diverse political views: one at the National Press Club in Washington, D.C., and the other at the New York City Bar Association.

International Environmental Initiatives

ELI redoubled its commitment to strengthen environmental law and governance throughout the world by working with partners in a broad range of international and national institutions. Our landmark post-conflict peacebuilding project involving the United Nations Environment Programme published *Assessing and Restoring Natural Resources in Post-Conflict Peacebuilding*, the second book in a multi-book series. At the Rio+20 UN Conference, we joined with international jurists to sponsor a conference, the Rio+20 Colloquium on Environmental Law and Justice, where ELI received a special award at the Supreme Court of Brazil for its years of support of Brazil and its NGO community.

Another important Rio + 20 UN Conference ELI achievement was ELI's Conference on Sustainable Development in Brazil. The ELI team led a successful training course on post-conflict peacebuilding, addressing a broad range of significant issues and initiating new relationships important to advancing ELI's mission. ELI also co-sponsored events at the Rio+20 Conference, including the World Meeting of Environmental Lawyers held at Rio de Janeiro Botanical Garden Research Institute, the Rio + 20 Colloquium on Environmental Law and Justice held at the State Supreme Court of Rio de Janeiro, and the Energy Law for Sustainable Development, held at the Getulio Vargas Foundation School of Law.

We expanded our programs in Mexico, working with government officials to assist them in developing programs to implement new environmental statutes, climate change reduction requirements, and environmental law training for members of its Supreme Court. In addition to the training program for Mexico's Supreme Court staff, we carried out a range of training programs in environmental law and enforcement for judges, magistrates, and factory managers in India and Haiti. These included environmental and occupational safety and health compliance workshops in Bangalore, India, for factory managers, and a detailed training program in Jacmel, Haiti, on biodiversity conservation and environmental law for judges and magistrates. We also provided educational programs and assisted government officials, industry managers, scholars, environmental leaders, and citizens in Africa, Asia, the Middle East, Latin America, and the Caribbean.

Education Programs

We continue to emphasize the importance of environmental education to achieve a healthy environment. ELI hosted 80 seminars, courses, and special events for 5,100 environmental professionals in Washington and cities across the United



John Cruden
President



Edward L. Strohbehn Jr.
Chairman of the Board

States. One highlight in April was the special conference "Driving Innovation to Build Sustainable Cities" attended by senior representatives from corporations, nonprofits, and governments. In November, we held the Miriam Hamilton Keare Policy Forum: "Sustainable Cities: Harnessing Urbanization to Achieve Social and Environmental Goals."

Corporate Outreach

ELI expanded outreach efforts for the ELI Corporate Program, conducting site visits with 14 corporate members and prospective new members. In November, we convened a members-only meeting of corporate chief sustainability officers, environment, health, and safety vice presidents, and lead environmental counsel from over a dozen corporations to discuss cutting-edge private governance issues. The discussion addressed how private governance issues, including management standards, private benchmarking, certifications, green ranking, and supply chain monitoring and compliance, intersect with managing environmental sustainability and legal risks.

Freshwater and Ocean Program

ELI is playing a leading role in developing better legal systems to govern long-neglected ocean resources. Our Freshwater and Ocean Program promotes the sustainability of water resources and improved laws and policies that affect the ocean environment. We undertook a number of initiatives to improve management of complex ocean ecosystems, reduce pollution of coastal areas, and strengthen enforcement of fishery laws. And as part of ELI's significant Gulf of Mexico activities, we published a detailed study on marine policy.

Annual Dinner

Finally, ELI's Annual Award Dinner brought together more than 700 members of the environmental profession for a memorable evening. ELI honored the city of New York with the 2012 ELI Environmental Achievement Award for outstanding contributions to the improvement of environmental law, policy, and management. Under Mayor Michael Bloomberg's leadership, the city has set an outstanding example for the smart cities of the future. ELI honored Mayor Bloomberg and the city of New York for bringing together business and environmental leaders and showing the way to a sustainable future for the world's megacities.

We thank ELI's many members, donors, volunteers, and friends for their indispensable contributions to ELI's success. We thank our extraordinary staff for its remarkable achievements and our Board of Directors for their superb support.



John C. Cruden
President



Edward L. Strohbahn Jr.
Chairman of the Board

Environmental Law Institute Annual Report 2012

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**ELI Research Assistants
provide invaluable
contributions to the
organization.** (L-R)
Gwendolyn Brown, Lynsey
Gaudio, Ariana Spawn,
Cory Connolly, Judy
Amsalem, and Valerie
Pinkerton.



North America

In May, ELI helped clarify legal ambiguities with our updated *Clean Water Act Jurisdictional Handbook*. Federal courts across the country continue to struggle with the scope of the Act in the wake of the Supreme Court's 2006 ruling in *Rapanos v. United States*, which has now been interpreted, applied, or cited in over 90 different cases arising in 35 states. Our updated handbook provides clear checklists of the legal tests that can be used to determine whether a water body is covered by the Clean Water Act and an up-to-date, comprehensive summary of all post-*Rapanos* rulings from the federal courts highlighting the types of waters at issue in each case and the kinds of evidence the court considered.

A report urging new stewardship and disclosure conditions for some farm-subsidy recipients to reduce water pollution costs to the public was released in June. The report, *Subsidies With Responsibilities: Placing Stewardship and Disclosure Conditions on Government Payments to Large-Scale Commodity Crop Operations*, offers a practical approach for leveraging the U.S. framework for farm subsidies so as to better tackle the difficult problem of nutrient pollution from large agricultural operations. ELI recommendations focus on large-scale commodity crop operations, commodity farms that gross \$500,000 or more in annual sales.



ELI continued working to ensure our homes are safe from radon, a radioactive gas that can accumulate indoors when it enters buildings from the soil and rock below. Indoor radon exposure is the second leading cause of lung cancer in the United States. Our report, *Radon in Homes: Strengthening State Policy to Reduce Risk and Save Lives*, recommends policy strategies for certifying radon professionals and for reducing radon risk in new construction and existing homes.

ELI provided the land trust community with a guide for rigorously evaluating the liabilities associated with mitigation projects, and planning for long-term management of these sites. *Wetland and Stream Mitigation: A Handbook for Land Trusts* informs land trust professionals of the tools they need to determine whether and to what degree they should get involved in restoration and protection projects that are linked to the federal or state wetland and stream compensatory mitigation programs.



ELI hosted or co-hosted 80 seminars, courses, and special events for 5,200 environmental professionals in Washington, Berkeley, and San Francisco, with live sessions in Cambridge, Massachusetts, New York, Portland, Oregon, and Philadelphia, Pennsylvania. We also convened a highly regarded April 16 event at the National Press Club on the 2012 presidential debates—"The Questions That Should Be Asked: Environment, Energy, and Natural Resources in the Presidential Race."

Over 100 senior representatives from corporations, nonprofits and governments attended the ELI conference "Driving Innovation to Build Sustainable Cities" in Washington, D.C. Held on April 30th, the conference focused on the numerous barriers to building sustainable cities, from a rapidly increasing global population to the unique challenges faced by individual cities, as well as on the roles of government, business, nonprofits, and citizens in overcoming those barriers. The conference was made possible by a generous grant from IBM.

ELI continued to work toward more effective policies to prevent the introduction and spread of invasive species. Senior Attorney Read Porter, Director of ELI's Invasive Species Program, presented the findings of an ongoing study of how state and federal plant regulations and bioenergy incentive programs account for invasive species at the University of Georgia Law School and the Ecological Society of America's Annual Conference in Portland, Oregon. He also participated in a National Wildlife Federation expert workshop to consider policy responses to ensure that bioenergy development does not lead to the introduction or spread of invasive species.



Former Pennsylvania Governor Ed Rendell was a key speaker at the event.

Gulf of Mexico

A new ELI study in marine policy provided quantitative evidence that the introduction of catch shares for fisheries management results in significant changes to enforcement practice and compliance behavior. Catch share programs are fishing management systems that dedicate a secure privilege to harvest a specific area or percentage of a fishery's total allowable catch to individuals, communities, or associations. Authored by ELI's Ocean Program team, *Enforcement and Compliance Trends Under IFQ Management in the Gulf of Mexico Commercial Reef Fishery* notes that U.S. fisheries are increasingly relying on catch share programs for fisheries management, and the shift to catch shares has yielded minor but expected changes in enforcement activity.

ELI educated the public with new materials explaining Gulf restoration processes and related developments. This included an overview of BP's criminal plea agreement for Deepwater Horizon, which called for \$4 billion in criminal fines and recoveries and represents the largest resolution of a criminal case in U.S. history; and detailed analyses of the RESTORE the Gulf Coast States of Act of 2012, innovative legislation that directs a portion of civil and administrative Clean Water Act penalties associated with the Deepwater Horizon disaster toward Gulf Coast restoration and recovery.

ELI hosted educational workshops focused on informing the public about Gulf restoration and recovery, including sessions in Florida, Alabama, Mississippi, and Louisiana. The sessions targeted a variety of audiences, including directly affected community members, local and state government staff, and community and organizational leaders. Information about the sessions and ELI's materials are available at www.eli-ocean.org/gulf.



Since 2010, ELI has engaged in broad-based effort to educate Gulf Coast communities and the general public about the restoration and recovery processes initiated following the Deepwater Horizon disaster. Through a series of workshops and other events, easily accessible materials, and a dedicated website, ELI works to equip Gulf Coast communities to decide whether, when, and how to participate in the ongoing recovery efforts.

"The Gulf has struggled for decades to balance its resource potential and the needs of coastal communities and ecosystems, resulting in numerous plans, projects, and programs at various scales. Today's priority is coordinating and integrating those existing strategies with the massive new restoration and protection efforts that target the devastation caused by Deepwater Horizon."

Jordan Diamond
ELI Ocean Program Deputy Director

Latin America and the Caribbean

In Mexico, ELI developed legal tools to adapt to climate change needed by farmers in the Mexican state of Chiapas. ELI is working to build community capacity to adapt to climate change and to conserve the treasured Lacandon Tropical Rain Forest. Working the Chiapas area *ejidos* (areas of communal land used for agriculture on which community members individually possess and farm a specific parcel), we are teaching farmers how to respond to climate change by identifying threats to their livelihoods and to the Lacandon rain forest ecosystems. Response measures include controlling the use of fire in agricultural activities and avoiding hunting practices that target endangered species.



ELI President John Cruden addresses a judicial education seminar in Mexico.

In Brazil, ELI co-sponsored three conferences in advance of the Rio + 20 U.N. Conference on Sustainable Development.

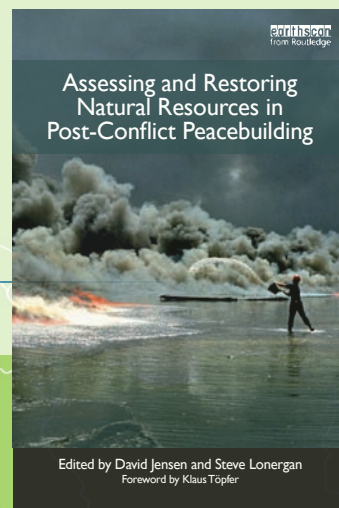
Led by President John Cruden, ELI's team at the June 20-22 Rio + 20 Conference in Rio de Janeiro conducted a successful training course on post-conflict peacebuilding, gave presentations on a range of significant issues, met with many ELI partners, and initiated a number of new relationships. The World Meeting brought together hundreds of environmental lawyers from around the globe to discuss the full range of environmental legal issues.

ELI designed and developed a "Training and Specialization Program in Environmental Law and Class Actions" for the Supreme Court of Mexico. The program, delivered to a group of 16 officials responsible for drafting the decisions signed by Mexico's Supreme Court Justices, was developed in three phases, two in Mexico City and one in Washington, D.C. (August – October). Faculty included top scientists, governmental officials, and experts in Mexico and the United States.



Victor Flatt, Judge Merideth Wright, John Dernbach, John C. Cruden, and Lynsey Gaudioso in Rio.

Africa and the Middle East



ELI organized and led a workshop on the National Benefit-Sharing Trust for Community Forestry Development Committees in Gbarnga, Liberia. In May, an ELI team led by Senior Attorneys Lisa Goldman and Sandra Nichols joined with local partners to host a workshop attended by 27 community members from 10 Community Forest Development Committees (CFDCs). Liberia's National Benefit-Sharing Trust receives money from a portion of the land rental fees paid by timber companies to the Liberian government. Regulations set forth the procedures to be followed by CFDCs that wish to use funds in the Trust. During the workshop, the ELI team covered the operation of the Trust, the procedures for communities to access the funds, project management, and reporting requirements. The workshop resulted in the publication of a handbook to help communities obtain funds from the trust for development projects.



ELI convened Arab and U.S. experts to discuss the proposed National Environmental Strategy for Iraq.

The Government of South Sudan received ELI assistance in finalizing its forest policy. ELI provided analysis to the Ministry of Agriculture, Forestry, Cooperatives, and Rural Development to consider when revising the draft Forests Bill and for harmonizing the forest policy with other sectoral policies. Carl Bruch, Co-Director of ELI's International Programs, was present in South Sudan from September 15 through September 29, where he worked with the U.S. Forest Service. South Sudan is now finalizing the forest policy.



In South Sudan, ELI helped finalize the country's forest policy.

Asia

Asia



ELR India Update completed its third year of publication. This quarterly newsletter reports on the recent environmental law and policy developments relevant to those working in or sourcing from India.

During 2012, we created ELR China Update, a quarterly newsletter on environmental developments in China intended for those who manufacture in or source from China. The newsletter is written by legal practitioners in China and edited by ELI attorney-editors.

Forty-five participants took part in an ELI-led national dialogue on adaptive law and governance to conserve biodiversity in a changing climate in Paro, Bhutan, where rising temperatures are causing glaciers to melt and pose a risk of devastating floods. Climate change is also linked to an increased risk of wildfires and to the spread of invasive species, pests, and diseases. The workshop addressed these and other issues through sessions focused on climate-related threats to biodiversity resources, the legal and regulatory framework governing biodiversity in Bhutan, and key adaptation needs and priorities. The event was the fourth in ELI's series of national dialogues on regional approaches to adapting to climate change.

Workshops on regulatory reform and water security were conducted in Jordan and the Philippines. Over 40 individuals participated in an ELI workshop in Amman to explore options for regulating water service providers in Jordan. A later workshop entitled "Strengthening Water Security in the Face of Climate Change" brought together 50 stakeholders from government, NGOs, academia, and the private sector to explore water security issues in the Iloilo watershed in the Philippines. This event was part of our assessment for USAID looking at water security in the light of climate change.



A Vietnamese contingent took part in the Bhutan dialogue.

Our International Programs published *Assessing and Restoring Natural Resources in Post-Conflict Peacebuilding*, the second volume in our series on post-conflict natural resource management. This book, by 35 authors, examines the experiences of more than 20 countries and territories in assessing post-conflict environmental damage and natural resource degradation and their implications for human health, livelihoods, and security and explores both the risks and opportunities associated with natural resources.

Global Commons



ELI's Ocean Program took a critical look at international fisheries and aquaculture certification by releasing a study clarifying that international fisheries and aquaculture ecolabelling codes of conduct and guidelines cannot credibly be used as seafood certification standards. The U.N. Food and Agriculture Organization (FAO) maintains a Code of Conduct for Responsible Fisheries Management to assist governments in creating fisheries management policy, as well as institutional and substantive guidelines that provide a framework for the proper structure and operation of seafood ecolabelling and certification systems. However, our analysis shows that the code and guidelines were never intended to be seafood certification standards. ELI's study encourages retailers and consumers to scrutinize systems offering certification to FAO standards and to select only certification systems that are credible and independent.



In August, C-SPAN aired live coverage of Protecting Marine Mammals and Endangered Species, an ELI Ocean Program Seminar led by ELI Ocean Program Co-Director Jordan Diamond.

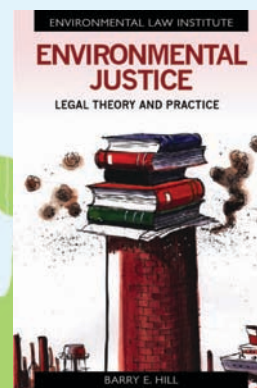
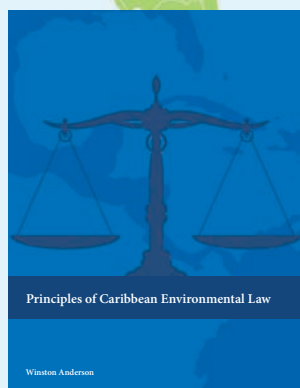
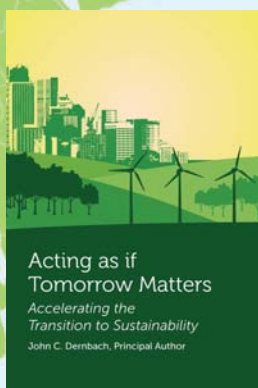
In "Keeping Up With the Megatrends: The Implications of Climate Change and Urbanization for Environmental Emergency Preparedness and Response," ELI examined the effects of climate change and urbanization on environmental emergencies. The study considers how climate change and urbanization affect the scope and scale of environmental emergencies, as well as what these trends mean for emergency preparedness and response. The study also details several opportunities emerging from these trends, such as greater use of the Environmental Emergencies Centre (EEC), a joint effort of the U.N. Office for Coordination of Humanitarian Affairs (OCHA) and the U.N. Environment Programme (UNEP). The report was prepared for the Joint UNEP/OCHA Environment Unit by ELI International Programs Co-Director Carl Bruch and Senior Attorney Lisa Goldman.



Co-Director of ELI International Programs, John "Jay" Pendergrass and Research Associate Marion Boulicault (center) pose with 25 judges, magistrates, and government officials at an ELI judicial workshop in Jacmel, Haiti. ELI also led judicial training workshops in Mexico and Guinea during 2012. By the end of that year, ELI had trained more than 1,300 judges in 25 countries.

ELI published and disseminated the best legal resources on earth. ELI launched a completely new web platform and website for *Environmental Law Reporter (ELR)*, the most respected resource in our field. The new site adds greater ease of navigation, functionality and searchability, and the ability to store favorite articles. *ELR News & Analysis*® has been rated the fourth highest environmental law journal in terms of impact and the most often-cited environmental law journal according to Washington & Lee University.

The Environmental Forum is the leading policy magazine for professionals in environmental law, policy, and management, and *National Wetlands Newsletter* covers the law and management of wetlands, floodplains, and coastal areas.



Published five new books, including John Dernbach's *Acting as if Tomorrow Matters: Accelerating the Transition to Sustainability*, which also became our first e-book. Justice Winston Anderson's *Principles of Caribbean Environmental Law* is the first of its kind textbook on environmental law in the Caribbean island communities. Russell V. Randle's *Oil Pollution Act Deskbook (2nd edition)* interprets the intricacies of the Oil Pollution Act, provides valuable insight into the policies that shaped the act, and reflects on what the act may become. The *TSCA Deskbook (2nd edition)*, by Caroline Hathaway, William Rawson, Ann Claassen, and Julia Hatcher, is a one-stop resource for understanding and managing the complex chemical regulation issues of the Toxic Substances Control Act. Barry E. Hill's revised and updated edition of *Environmental Justice: Legal Theory and Practice* addresses the legal and social aspects of the important field of Environmental Justice, as well as its relation to sustainable development. ELI Press also celebrated the publication of Frank Friedman's *Practical Guide to Environmental Management (11th edition)* in Chinese, which is being marketed and distributed by Shanghai People's Publishing House.

Awards

Annual Dinner

ELI's Annual Award Dinner, held November 8 at the Omni Shoreham Hotel in Washington, D.C., provided an outstanding and memorable occasion for more than 700 members of the environmental profession. ELI honored the city of New York with the 2012 ELI Award for Achievement in Environmental Law, Policy, and Management. Under Mayor Michael Bloomberg's leadership, the city has set an outstanding example for the smart cities of the future. ELI honored Mayor



Bloomberg and the city of New York for bringing together business and environmental leaders and showing the way to a sustainable future for the world's megacities.

The city's 2007 PlaNYC program set out a path-breaking sustainability design for New York City, America's largest local government. PlaNYC was created as a bold agenda to build a greener, greater New York. In its 2011 review of PlaNYC's accomplishments, the city reported that in four years New York City added more than 200 acres of parkland, preserved more than 64,000 units of affordable housing, and enacted ambitious laws to make existing buildings more energy-efficient. In addition, greenhouse gas emissions fell 13 percent below 2005 levels. The PlaNYC 2011 update established 132 new initiatives, continuing the city's commitment to achieving a more sustainable New York City.

Owing to the devastation left by Hurricane Sandy when it struck New York on the evening of October 29 just 10 days before the ELI event, Mayor Bloomberg was unable to accept the Award in person. Carter Strickland, Commissioner of the New York City Department of Environmental Protection, stood in for Mayor

Bloomberg to accept the award. Commissioner Strickland was introduced by EPA Administrator Lisa Jackson, herself a former Commissioner of the New Jersey Department of Environmental Protection.

On the afternoon preceding the dinner, the Commissioner spoke at ELI's annual 2012 Miriam Hamilton Keare Policy Forum "Sustainable Cities: Harnessing Urbanization to Achieve Social and Environmental Goals." The Forum discussed innovations needed to create these cities and the role of government, industry, and nonprofit organizations will play in bringing about needed changes. In addition to Commissioner Strickland, panelists included former Deputy Secretary of the Interior Lynn Scarlett (moderator); Shlomo Angel, Adjunct Professor of Urban Planning, New York University; and Ken Cornelius, Head-Global Center of Competence Americas, Siemens Infrastructure & Cities.

"I always look forward to the Annual Award Dinner—it's an annual meeting of the clan. An event not to be missed!"

*Ray Ludwiszewski
Partner at Gibson,
Dunn & Crutcher;
ELI Board Member*



Panelists on the ELI-Keare Forum on "Sustainable Cities."

National Wetlands Awards

Every year, ELI honors recipients from across the country who have been recognized for their exceptional and innovative contributions to wetlands conservation across six categories. The 2012 National Wetlands Award recipients were honored at a ceremony on May 10, 2012, at the U.S. Botanic Garden near the U.S. Capitol. These award winners have restored, researched, and protected thousands of acres of wetlands nationwide. Their examples have inspired many members of their community to act and make a difference to protect and improve these vital natural resources.



Keynote speaker U.S. Senator Tom Udall kicked off the 2012 National Wetlands Awards ceremony in the U.S. Botanic Garden.



2012 National Wetlands Award Winners with Senator Tom Udall. From left (with award categories): John "Tony" Sedgwick (Landowner Stewardship), Tim Swanson (Conservation and Restoration), Florence LaRiviere (Wetland Community Leader), Senator Tom Udall, Chris Craft (Science Research), Gary Kreamer (Education and Outreach), and Ron Brockmeyer (State, Tribal, and Local Program Development).

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We are grateful to the following individuals for including ELI in their estate plans.

Leslie Carothers
Elissa Parker

Stephen Dujack
Ann Powers

Ridgway M. Hall, Jr.
David Sive

Craig Mathews

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Financial Statements

Statements of Financial Position

<i>Years Ended December 31,</i>	2012	2011
Assets		
Current assets		
Cash and cash equivalents	\$1,245,218	\$1,194,119
Accounts receivable		
Grants and contracts	792,299	674,451
Royalties	939	12,548
Other	67,806	74,061
Allowance for doubtful accounts	(2,729)	(2,729)
Net accounts receivable	858,315	758,331
Contributions and foundation grants receivable	486,892	364,949
Investments	4,281,186	4,013,721
Prepaid expenses and inventory	177,140	249,083
Total current assets	7,048,751	6,580,203
Property and equipment, at cost		
Furniture, equipment and software	402,512	332,971
Leasehold improvements	32,331	32,331
Total	434,843	365,302
Less: Accumulated depreciation and amortization	(285,596)	(261,017)
Property and equipment, net	149,247	104,285
Other assets		
Security deposit	25,815	25,815
Total assets	\$7,223,813	\$6,710,303
Liabilities and Net Assets		
Current liabilities		
Accounts payable and accrued liabilities	\$173,315	\$179,862
Accrued payroll and vacation	327,546	309,636
Provision for project losses	130,000	168,500
Deferred revenue	455,717	449,698
Deferred rent	25,523	33,104
Total current liabilities	\$1,112,101	\$1,140,800
Net assets		
Unrestricted	4,493,016	4,100,634
Temporarily restricted	1,618,696	1,468,869
Total net asset	6,111,712	5,569,503
Total liabilities and net assets	\$7,223,813	\$6,710,303

Additional financial information can be obtained from www.eli.org.

