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COMMITMENT TO ENVIRONMENTAL ENFORCEMENT: THE NEXT GENERATION

*By Travis Medlock**

For decades South Carolinians have been concerned about the pollution and destruction of their natural resources. Long before the current environmental movement began, a handful of South Carolina conservationists labored tirelessly on behalf of the state's environment. Today, the number of conservationists has skyrocketed. The Palmetto State possesses lakes, rivers, swamps, forests, beaches, marshlands, and mountains virtually unsurpassed in aesthetic quality and natural beauty. Few disagree that these must be saved. Indeed, we owe to future generations a state as environmentally sound as we wish for ourselves.

The rise of South Carolina's environmental awareness parallels the State's quest for economic growth. Since World War II, the State has made a concerted effort to develop an economy that is competitive with the rest of the nation. From its cotton-based agricultural roots, the economy has now become diverse and complex. Political leaders have successfully lured new industry, which in turn has created new businesses and jobs.

The growth of South Carolina's industrial base has fueled the State's environmental awareness. As development has begun to change our lives, our desire to preserve South Carolina's quality of life has increased. We have seen the devastating effects of massive, unplanned industrialization in the northeastern United States. We do not want this environmental destruction to occur here. Industrial toxic waste dumps locating within the State have also heightened our concern for our natural resources. To secure environmental order during South Carolina's push for industrialization, the legislature enacted many new laws to protect the environment.

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Environmental watchdog groups and citizen coalitions rapidly multiplied and public environmental awareness increased enormously. These are positive steps toward sound environmental policies.

Much debate has focused on determining the best legal means to protect citizens from conduct that is harmful to the environment. For various reasons, state policy has not been completely consistent, nor has enforcement always been vigorous. Some have questioned the sufficiency of administrative oversight. Others have suggested that criminal sanctions are necessary. Even with such criminal sanctions, some have questioned the adequacy of our criminal investigative structure.

As the 21st century approaches, we must address these questions. Many commentators recently noted that the environmental movement is poised to enter its second generation. As it does, we should consider where we have been and where we are headed. In the coming years we must develop a plan of action that demands environmental quality without sacrificing economic growth. We must empower South Carolina's citizens by making them major players in environmental protection.

This article will provide some historical perspective regarding South Carolina's track record for environmental enforcement over the past three decades. It will suggest proposals for legislative strengthening of criminal investigation and enforcement and will offer some general ideas for long-range environmental quality consistent with economic growth.

Historical Overview

Before 1950 South Carolina had no significant criminal statute for the protection of the environment. However, the State could punish persons for environmental harm.¹ Local prosecutors occasionally handled environmental threats by seeking indictments for the maintenance of a public nuisance. In 1828 the City Court of Charleston indicted William Purse for filling adjacent dwellings with "noxious and unwholesome smells" coming from his "necessary house" at St. Michael's Alley. The

¹ See Code of Laws of S.C. § 1504 (1942) (law prohibiting manufacturers from unlawfully discharging corrosive material into air and water); Code of Laws of S.C. § 1770 (1942) (law prohibiting poisoning lakes and streams to catch fish).

state attorney general, James Louis Petigru, appealed the trial court's quashing of the indictment.² He contended that the indictment sufficiently set forth the offense, and the court of appeals agreed.³ Employing language and analysis that can be found in today's environmental decisions, the court reasoned that "whether the defendants [sic] in this case has been guilty of unnecessarily erecting a building in a situation which is offensive to a neighborhood . . . is a question which belonged to the Jury to determine, and not to the Court."⁴ Thus, the court reversed the judgment in favor of the defendant.⁵ This was one of South Carolina's first environmental victories. As this case showed, prosecutors used public nuisance law to protect the environment but it became obvious that this remedy would become inadequate as South Carolina became more industrialized.

Criminal sanctions for environmental harm evolved slowly. The General Assembly created the Pollution Control Authority and gave it jurisdiction over air and water pollution.⁶ However, the Water Pollution Control Authority could not use criminal sanctions to accomplish its purpose.⁷ In 1970 the Pollution Control Act (PCA) repealed the earlier acts and adopted penalties for violations.⁸ The PCA made it unlawful to discharge, negligently or willfully, contaminants into the air or water.⁹ It also made it a criminal offense to violate knowingly any provisions,

² State v. Purse, 15 S.C.L. (4 McCord) 472 (1828).

³ *Id.* at 473-75.

⁴ *Id.* at 475.

⁵ *Id.*

⁶ 1950 S.C. Acts 2153, No. 873 (*repealed by* 1970 S.C. Acts 2512, No. 1157).

⁷ *See* 1965 S.C. Acts 687, No. 383 (*repealed by* 1970 S.C. Acts 2512, No. 1157).

⁸ 1970 S.C. Acts 2512, No. 1157 (current version at S.C. CODE ANN. §§ 48-1-10 to -350 (Law. Co-op. 1987 & Supp. 1993)).

⁹ *Id.* at 2520, § 13.

rules, regulations, orders, or final determinations made under the authority of the PCA.¹⁰

Five more years passed before South Carolina prosecuted a criminal case under the PCA. During these years, the Department of Health and Environmental Control (DHEC) perceived its role not as an environmental watchdog or enforcer, but as a consultant to businesses. This policy of assisting businesses in complying with the new law reflected the general sentiment of federal and state regulators. Regulators preferred civil and administrative sanctions to criminal enforcement. Moreover, prosecutors lacked the resources needed to attack complex environmental cases. Prosecutors believed that environmental cases did not have the necessary jury appeal for success when compared with drug offenses, rapes, and murders. Their concerns were not misplaced. Environmental protection had little support from the public.

However, public sentiment began to change in the late 1970s and early 1980s. The EPA and DHEC began to realize the shortcomings of civil and administrative sanctions thus recognizing the need for criminal sanctions. The administrative fines imposed were little more than ordinary business expenses or simple inconveniences easily passed on to the customer. The ineffectiveness of these fines dictated a stronger environmental antidote more consistent with public sentiment.

Accordingly, in 1975 South Carolina prosecuted its first environmental case under the PCA. In *State v. Yarborough*, the defendant pled nolo contendere to a violation of the PCA. Greenville County Solicitor Thomas Greene and DHEC alleged that Yarborough destroyed a waste lagoon and allowed chemical wastes to pour into a tributary of the Enoree River. The court sentenced Yarborough to six months in prison, but suspended the sentence upon payment of a \$400 fine.

Other prosecutors brought similar actions. In 1980, Laurens County Solicitor William T. Jones won a conviction against Barker Industries and its president. This was the first criminal case against a corporation brought in South Carolina. Barker Industries repeated the violation two years later and its president became the first person in South Carolina *incarcerated for an environmental crime. In 1984 Florence County

¹⁰ *Id.* at 2527, § 35.

Solicitor Dudley Saleeby, assisted by my office and DHEC, successfully prosecuted James C. Wilmouth and Billie W. Simpson. The jury convicted them of violating the PCA by falsifying waste water monitoring reports.

While there were few successful prosecutions during this period, the prosecutor's efforts were nonetheless significant. The six prosecutions initiated far exceeded South Carolina's previous efforts. Moreover, use of the PCA was clearly superior to the old public nuisance remedies and marked a turning point away from reliance upon administrative sanctions. Criminal sanctions became an important weapon in the environmental arsenal.

The tide of environmental enforcement began to turn in 1986 when DHEC and Lewis Shaw, DHEC's Director for Environmental Quality Control, created the Office of Criminal Investigations, which was staffed by two full-time investigators. DHEC sought experienced criminal investigators and trained them in environmental law. It selected Hudson A. Waller, formerly an agent with the United States Bureau of Alcohol, Tobacco and Firearms, and Norman C. Shumard, formerly an agent with the Drug Enforcement Agency. Those individuals have served as chief investigators for virtually every environmental criminal prosecution in South Carolina since 1986, and their efforts resulted in a substantial increase in the number of environmental prosecutions in South Carolina. This increased priority afforded environmental cases in recent years has been instrumental in successful prosecutions. My office and many circuit solicitors now have special environmental prosecution units in operation. The prosecution of these crimes has generated a new respect for environmental laws in South Carolina producing substantial results.

In 1990 my office and Tenth Circuit Solicitor George Ducworth prosecuted the first criminal case brought under the South Carolina's Hazardous Waste Management Act (HWMA).¹¹ The HWMA imposes criminal penalties for the unlawful management of hazardous waste.¹²

¹¹ 1978 S.C. Acts 1356, No. 436 (current version at S.C. CODE ANN. §§ 44-56-10 to - 840 (Law. Co-op. 1985 & Supp. 1993)).

¹² S.C. CODE ANN. §§ 44-56-140 (Law. Co-op. 1985).

In 1990, Oconee County successfully prosecuted Herbert Silver, chief executive officer for Graphix International, Inc., and a company employee for violating the HWMA.

Many other significant environmental prosecutions have been brought throughout South Carolina. In 1990, Charleston County Solicitor Charles Condon won a conviction of Carl Evans under the PCA for the illegal disposal of asbestos. In 1991, Greenville County Solicitor Joseph Watson successfully prosecuted John J. Gibson under the PCA for causing an oil spill in the Reedy River. Consequently, the State required Gibson to pay the cost of the cleanup. Also in 1991, my office and Solicitor Condon prosecuted Carl Roberts for illegally disposing of gas cylinders in a Charleston County lake.

My office continued to prosecute significant environmental cases in 1992. In Anderson County, my office successfully prosecuted Jimmy Ray Peeples for four counts of violating the HWMA by illegally storing and disposing of various types of hazardous waste. In the first environmental case to go before a jury, my office prosecuted Barry Boggero and several of his employees for illegally dumping waste in the Abbeville sewer system.

In 1992, Richland County Solicitor Dick Harpootlian obtained a nolo contendere plea against the president and general manager of the Columbia Organic Chemical Company for violations of the PCA and HWMA. Solicitor Watson prosecuted William J. Browning in Greenville for the illegal disposal of a 55-gallon waste drum. Solicitor David Schwacke successfully prosecuted Randy Lee Ellis in Charleston for a violation of the PCA. In the first known felony conviction for an environmental crime, Solicitor Schwacke prosecuted Harold Gerhold for a violation of South Carolina Code Section 16-11-700, which criminalizes the dumping of litter in an unauthorized area.¹³ Gerhold illegally dumped over 500 pounds of waste.

South Carolina has made significant gains in environmental enforcement in the past 20 years. Criminal prosecutions increased along with environmental consciousness. We have progressed from the enactment of the first criminal penalty to the first fledgling efforts at prosecutions under

¹³ S.C. CODE ANN. § 16-11-700 (Law. Co-op. 1976 & Supp. 1993).

those laws and now to regular prosecution of environmental crimes. Through these actions, we have shown our commitment to environmental protection.

In addition to criminal prosecutions, our commitment to environmental protection reflects in numerous civil environmental cases. In 1990 DHEC promulgated a regulation that requires a demonstration of need before a new hazardous waste facility may be constructed or an existing facility expanded.¹⁴ A trade association comprising hazardous waste treatment, storage, transportation, and disposal facilities attacked this regulation. My office, DHEC, the Governor's Office, the Sierra Club, the Energy Research Foundation, Citizens for Clean Air and Water, Citizens Asking for a Safe Environment (CASE), and Environmentalists, Inc., defended this regulation in federal court.¹⁵ The court found that the regulation was necessary to check the proliferation of hazardous waste facilities in this state.

My office also appeared in environmental cases in Michigan¹⁶ and New York¹⁷ that impacted South Carolina waste issues. The New York court, which was ultimately affirmed by the United States Supreme Court, upheld the right of South Carolina to close the Chem-Nuclear low-level radioactive waste landfill in Barnwell.¹⁸

I also joined the National Association of State Attorney Generals in supporting federal legislation that positively impacts environmental issues in South Carolina. When important issues to South Carolina are in dispute in environmental cases nationwide, my office appears as amicus

¹⁴ S.C. CODE REGS. 61-99 (1993).

¹⁵ *Hazardous Waste Treatment Council v. South Carolina*, 766 F. Supp. 431 (D.S.C. 1991), *aff'd*, 945 F.2d 781 (4th Cir. 1991).

¹⁶ *Michigan Coalition of Radioactive Materials Users v. Griepentrog*, 769 F. Supp. 999 (W.D. Mich. 1991), *rev'd*, 954 F.2d 1174 (6th Cir. 1992).

¹⁷ *New York v. United States*, 757 F. Supp. 10 (N.D.N.Y. 1990), *aff'd*, 942 F.2d 114 (2d Cir. 1991), *aff'd*, 112 S. Ct. 2408 (1992).

¹⁸ *Id.*

curiae. We are currently appearing as amicus curiae in litigation concerning the Laidlaw hazardous waste disposal facility in Pinewood.¹⁹

However, the question remains whether these efforts are sufficient to carry South Carolina through the 1990s and into 2000. It may be necessary to put more teeth into enforcement. South Carolina may need to take environmental enforcement to a higher level.

Legislative Recommendations

Because technology is becoming more complex, South Carolina can no longer afford to rely on present criminal provisions. Widespread industrial development and full-scale economic growth create a need for better tools to fight polluters. We cannot count on every person to be environmentally responsible; therefore, we must deal effectively with those who are not. My job as South Carolina's chief prosecutor is to ensure that the state's natural resources are fully shielded from lawbreakers. Because I need to assure the public that South Carolina will not give competitive advantages to businesses that pollute, I recently recommended two major environmental proposals to the General Assembly. Through these proposals I hope to provide more effective investigative power to prosecutors and to strengthen the sanctions for those who intentionally harm the environment.

The first proposal would expand the investigative and prosecutorial powers of the state grand jury to include environmental offenses.²⁰ The state grand jury's jurisdiction is currently limited to cases involving narcotics, dangerous drugs, obscenity, public corruption, and election laws.²¹ The use of a federal grand jury to prosecute federal environmental violations shows the grand jury's utility. Expanding the jurisdiction of the state grand jury will give state prosecutors the ability to compel testimony and the production of documents, transcribe testimony, grant

¹⁹ County of Sumter v. Laidlaw Env'tl. Serv., Inc., No. 3:92-3518-17 (1992); Hazardous Waste Treatment Council v. County of Sumter, No. 3:92-3604-17 (1992).

²⁰ S. 491, 110th Leg., 1st Sess. (1993); H.R. 3644, 110th Leg., 1st Sess. (1993).

²¹ S.C. CODE ANN. § 14-7-1610 (Law. Co-op. Supp. 1993).

immunity, and expedite environmental investigations and prosecutions. This expansion is crucial in situations where the victims cannot report the offense or provide information or evidence about the offender's activities. The grand jury is also essential in situations where the only witnesses are beholden to the offender. The state grand jury proved its worth in other areas. It is certain to make a valuable contribution to the investigation of environmental crimes.

The second proposal is the Omnibus Environmental Penalties Bill (OEPB), which would strengthen criminal sanctions and increase criminal liability for environmental violators. The OEPB is modeled after federal law and would demonstrate South Carolina's commitment to tough criminal enforcement together with civil and administrative sanctions. Generally, the OEPB would increase the offense level in four existing environmental statutes, making violations felonies instead of misdemeanors. It would increase prison terms and fines. The OEPB would also make the falsification or destruction of documents used for compliance with environmental statutes or regulations unlawful and provide penalties for violations. Additionally, it would create criminal liability for knowingly placing any person in imminent danger of death or serious bodily injury. The four major existing environmental statutes provide only misdemeanor offenses for intentional violations.²² Only two create criminal liability for record-keeping violations.²³ All these statutes provide sentences of only one or two years and fines ranging from \$10,000 to \$25,000.²⁴ These statutes do not signify total commitment to environmental quality. Inflicting intentional harm on the environment is often the same as putting lives at risk, and we must approach such

²² See S.C. CODE ANN. §44-55-90 (Law. Co-op. 1976), S.C. CODE ANN. §44-56-140, (Law. Co-op. 1976), S.C. CODE ANN. § 44-93-150, (Law. Co-op. Supp. 1993), S.C. CODE ANN. § 48-1-320 (Law. Co-op. 1987).

²³ S.C. CODE ANN. § 44-55-80(b) (Law. Co-op. 1976); S.C. CODE ANN. § 48-1-320 (Law. Co-op. 1976).

²⁴ S.C. CODE ANN. § 44-55-90, S.C. CODE ANN. § 44-56-140 (Law. Co-op. 1976 & Supp. 1993), S.C. CODE ANN. § 44-93-150 (Law. Co-op. 1976 & Supp. 1993), S.C. CODE ANN. § 48-1-320 (Law. Co-op. 1976 & Supp. 1993).

environmental offenses with the appropriate amount of concern. The following proposed bills would be part of the OEPB and would encourage such an approach.

Hazardous Waste Management Act

The proposed amendments to the Hazardous Waste Management Act would provide enforcement provisions and penalties similar to the federal Resource Conservation and Recovery Act (RCRA).²⁵ The 1984 Amendments strengthened criminal penalties for convictions under RCRA to their present status.²⁶ To impose similar sanctions for state hazardous waste offenses, the OEPB would make the following amendments:

- (a) amend the required conduct from willful to knowing;
- (b) increase the penalty from misdemeanor to felony;
- (c) increase the maximum punishment from one year of imprisonment to five years of imprisonment per day of violation and double the punishment for subsequent convictions;
- (d) increase the fine from \$25,000 to \$50,000 per day of violation and double the fine for subsequent convictions;
- (e) emphasize that the criminal penalty is in addition to civil sanctions;

²⁵ 42 U.S.C.A. §§ 6901-6987 (West 1983 & Supp. 1993).

²⁶ See 42 U.S.C.A. § 6928 (West 1983 & Supp. 1993).

- (f) create criminal liability for knowing use of false statements and provide for a maximum term of imprisonment of two years and a \$50,000 misdemeanor penalty per day of violation, with the offense becoming a felony with a maximum term of imprisonment of five years and the fine doubling for second or subsequent offenses; and
- (g) create criminal liability for knowing endangerment of another with death or serious bodily injury and provide for a maximum term of imprisonment of 15 years and a \$250,000 penalty or a \$1,000,000 penalty for an offender other than an individual.

Pollution Control Act

The proposed modification to the PCA would not affect the current provisions for negligent violations or records violations. The proposed modifications would increase penalties and provide for knowing-endangerment offenses, as did amendments to the federal Clean Water Act²⁷ and Clean Air Act.²⁸ The proposal is:

- (a) negligent violations are retained;
- (b) the required conduct for intentional violations is amended from willful to knowing;
- (c) the penalty for knowing violations is increased from misdemeanor to felony;
- (d) the maximum punishment for knowing violations is increased from two to five years imprisonment;

²⁷ 33 U.S.C.A. § 1251-1387 (West 1986 & Supp. 1993).

²⁸ 42 U.S.C.A. § 7401-7671a (West 1983 & Supp. 1993).

- (e) the maximum fine is increased from \$25,000 to \$50,000 per day of violation and the minimum fine of \$500 is retained;
- (f) emphasis is provided that the criminal penalty is in addition to civil sanctions; and
- (g) the knowing endangerment of another with death or serious bodily injury is made unlawful and a maximum term of imprisonment of 15 years and \$250,000 penalty or a \$1,000,000 fine for an offender other than an individual is provided.

Infectious Waste Management

The proposed modifications to the Infectious Waste Management Act²⁹ would make the criminal sanctions of section 44-93-150 of the South Carolina Code mirror those of the 1988 Federal Medical Waste Tracking Act.³⁰ Unlike the federal provisions, South Carolina currently provides only for a misdemeanor offense with a maximum term of imprisonment of one year and a \$10,000 per day maximum fine. Infectious waste statutes in South Carolina do not contain provisions addressing records violations or the knowing endangerment of others. The OEPB contains the following amendments:

- (a) amend required conduct from willful to knowing;
- (b) increase the penalty from misdemeanor to felony;
- (c) increase the maximum fine from \$10,000 to \$50,000 and the maximum prison sentence from one

²⁹ S.C. CODE ANN. § 44-93-10 (Law. Co-op. Supp. 1993).

³⁰ 42 U.S.C.A. § 6992 (West Supp. 1993).

year to five years per day of violation and double for a second or subsequent offense;

- (d) emphasize that the criminal penalty is in addition to civil sanctions;
- (e) make it unlawful to knowingly use false statements and provides for a maximum two year prison term and a \$50,000 misdemeanor penalty per day of violation and double fine and five year felony for a second or subsequent offense; and
- (f) make it unlawful to knowingly endanger another with death or serious bodily injury and provide for a maximum 15 year prison term and a \$250,000 penalty or a \$1,000,000 penalty if the offender is other than an individual.

State Safe Drinking Water Act

Proposed amendments to section 44-55-90(e) of the State Safe Drinking Water Act³¹ would make it consistent with proposed amendments to the Hazardous Waste Management Act, Pollution Control Act and Infectious Waste Management Act. The provisions would also make the State Safe Drinking Water Act consistent with sanctions imposed by the federal Safe Drinking Water Act,³² and the Clean Water Act.³³ The State Safe Drinking Water Act proposed amendments would require that violators need act only with knowledge, rather than willfulness. I would also create criminal liability for knowing endangerment similar to those found in RCRA, the Clean Air Act, and the Clean Water Act. The State Safe Drinking Water Act currently provides for a one-year term of

³¹ S.C. CODE ANN. § 44-55-90(e) (Law. Co-op. Supp. 1993).

³² 42 U.S.C.A. § 300f-300g (West 1991 & Supp. 1993).

³³ 33 U.S.C.A. § 1251-1387 (West 1986 & Supp. 1993).

imprisonment for a misdemeanor offense and a \$10,000 fine for misrepresentation of facts.³⁴ The OEPB would not amend this provision. The proposed amendments are as follows:

- (a) amend the required conduct from willful to knowing;
- (b) increase the penalty from misdemeanor to felony;
- (c) increase the maximum possible punishment from one year to five years imprisonment per day of violation and double for subsequent convictions;
- (d) increase the maximum fine from \$10,000 to \$50,000 per day and double for subsequent convictions;
- (e) emphasize that the criminal penalty is in addition to any civil sanction; and
- (f) make it unlawful to knowingly endanger another with death or serious bodily injury and provide for a maximum 15 years imprisonment and a \$250,000 penalty or a \$1,000,-000 penalty if the offender is other than an individual.

Contractor Disqualification

The OEPB also contains an amendment regarding contractor disqualification. The current version of the Procurement Code grants the appropriate chief procurement officer authority to debar or suspend environmental offenders from consideration for awards of state contracts.³⁵ Reasons for debarment or suspension include convictions of certain state or federal offenses and conviction of any offense indicative of "a lack of business integrity or professional honesty which currently, seriously and directly

³⁴ S.C. CODE ANN. § 44-55-80(b) (Law. Co-op. Supp. 1993).

³⁵ S.C. CODE ANN. § 11-35-4220(2) (Law. Co-op. Supp. 1993).

affects responsibility as a state contractor."³⁶ Currently, debarment is only a possible sanction for entities convicted of environmental offenses.³⁷ However, the proposed amendments would mandate the debarment of those convicted of environmental offenses.

Litter Control

The OEPB also contains proposed amendments to section 16-11-700 of the South Carolina Code. The General Assembly significantly strengthened this statute in 1991. However, the proposed amendments would distinguish commercial and noncommercial violations and increase the maximum sentence from one to five years imprisonment for litter violations exceeding 500 pounds or 100 cubic feet. Additionally, the disposal of any quantity of litter for commercial purposes would be a violation punishable by one to five years imprisonment.

South Carolina cannot expect the federal government to shoulder the responsibility for enforcement of environmental violations. Passing this burden to the federal government is no more acceptable in the environmental protection area than it is in other areas. South Carolina must send the message that intentional environmental violations will not be tolerated, and polluters will be punished. This state must do everything possible to enhance the survival of our natural resources. I believe the legislative proposals discussed above will provide the tools needed to protect and improve the quality of life in South Carolina.

The Future

I am committed to bring about effective criminal sanctions to punish environmental offenders. However, because of limited resources, a policy of punishment enforced only after the criminal conduct has occurred will never suffice. We must look beyond criminal sanctions to pollution prevention. Although we should continue to punish in order to discourage

³⁶ *Id.* § 11-35-4220(2)(b).

³⁷ See S.C. CODE ANN. § 11-35-4220 (Law. Co-op. 1986 & Supp. 1993).

harmful conduct, we must also reward and encourage good behavior. We can achieve this in several ways. Rational economic growth is absolutely necessary. We must start with the idea that environmental quality is good business. Many businesses in South Carolina already understand this. Most businesses comply with environmental laws and regulations, and some even go beyond the legal requirements. To encourage this momentum, we must create incentives for industries to pursue environmental quality. Environmental regulation should supplement environmental innovation and promotion.

Protecting South Carolina's natural resources does not mean having to choose between jobs and the environment. Organizations committed to environmental quality and businesses committed to economic growth need not be at odds. Instead each should seek partnerships with the other. The adversarial stance taken by environmentalists and businesses in the past now should change into a relationship of mutual respect. We should seek to couple environmental quality with economic health.

Business and industry must be given financial incentives to reduce pollution. Creativity and innovation should be encouraged to inspire industries to experiment with cleaner technologies. The profit motive can be a strong incentive to improve environmental quality. South Carolina must focus on the recruitment of industries with sound environmental policies. Although we cannot guarantee that environmental renegades will not locate in South Carolina, we must do everything possible to insure that all companies are committed to a clean environment.

South Carolina must set priorities of its environmental needs. Budget shortfalls are commonplace and we do not have the resources to do everything we would like. Until our resources increase, we must determine our priorities in terms of the greatest needs and the highest risks. The public and local communities must be given a strong voice in addressing environmental concerns. It is unfair and unwise to leave the setting of environmental priorities to the government bureaucracy. Environmental quality cannot be achieved without public input.

Conclusion

South Carolina has made great gains in environmental enforcement over the past three decades. Although late in getting started, we made great progress by enacting the PCA and prosecuting criminal cases under it. The legislature has continually improved upon this environmental legislation. Environmental criminal prosecutions have increased over the past ten years. We must now toughen the sanctions to increase the price of knowingly destroying the environment. Although tougher sanctions will help, they alone will not be enough. Preserving the environment is everyone's concern, and everyone must be part of the effort and a component of the solution. South Carolina can retain its natural beauty if everyone puts forth enough time and commitment. Future generations either will be hampered by our failings or will reap the rewards of our foresight. Every South Carolinian must be part of the next generation committed to environmental quality to prevent future generations from characterizing Neil Young's lyrics as a prophecy, "look at Mother Nature on the run."