

DAY IN THE LIFE

BY WILL HARLAN

During an all-day downpour in the mountains last month, attorney D.J. Gerken hiked 40 miles of mud-slick trails in North Carolina's Tellico Recreation Area.

"I spent more time on my butt than on my feet," says Gerken.

Years of abuse by off-road vehicles have rutted deep ditches in the trails—some more than seven feet deep. Rain and sediment funnels down these ditches and into the Tellico River, which has become clogged with sediment and pollution. Off-road vehicles have also cut dozens of illegal trails into the public recreation area. The U.S. Forest Service has ignored the Clean Water Act and the agency's own rules in allowing these abuses to continue, which has prompted several outdoor groups to enlist the help of Southern Environmental Law Center's D.J. Gerken. Last month, Gerken filed a 60-day notice of intent to sue the U.S. Forest Service unless they improve their management of the area.

While corporate attorneys sit in leather chairs all day, Gerken sits in a mud puddle to gather evidence for his clients. With his video camera, GPS system, and digital camera, he records the water run-off along the rutted Tellico trails. During one particularly muddy stretch, it takes him three hours to hike one mile.

"It beats sitting behind a desk all day," he says.

Gerken passed up big paychecks from high-powered corporate legal firms to work for Southern Environmental Law Center (SELC). Because he represents volunteer-based organizations and grassroots groups whose members often have other jobs, Gerken's work day typically extends well into the night. He attends dozens of meetings each month across the Southeast, and he meets regularly with legislators to discuss key issues. As much as 50% of Gerken's time is spent on advocating for smarter laws and policies, so that he can avoid litigation in the first place.

Here's what a typical day looks like for Gerken:

7am

Breakfast with wife Juli and play time with four-year-old daughter Ruby Grace.

9am

Organize 500 photos, eight hours of video footage, and dozens of GPS readings from the Tellico Recreation Area site visit. From these photographs and footage, Gerken compiles affidavits and prepares evidence. He also compares the data gathered from his site visit with the U.S. Forest Service's own studies, which reveal that streams affected by the Tellico Off-Road Vehicle Area have 100 times more mud in them than unaffected streams.

ENVIRONMENTAL ATTORNEY D.J. GERKEN



10am

Facilitate meeting with environmental organizations, neighborhood groups, and the Asheville Board of Realtors regarding development in the mountains. At the meeting, Gerken helps brainstorm ways for realtors and community groups to work together in containing development and preserving the mountains.

11am

Conference call with the National Park Service and U.S. Representative Shuler's office regarding a financial settlement for the North Shore Road. The Park Service recently announced that a cash settlement was its preferred alternative for the North Shore Road proposal. Gerken discusses the legal details of the cash settlement and suggests ways of obtaining the necessary funding from Congress over a period of several years.

11:30am

Meeting with Congressman Ray Rapp regarding the Steep Slopes Bill in the North Carolina state congress.

The already watered-down bill simply would have required development on mountainsides to undergo a geotechnical analysis before proceeding, but the bill was postponed for further study. Gerken is disappointed by the postponement, but hopes the study will lead to a stronger bill with more teeth in it.

Noon

Lunch with Mountain Voices Alliance and Environmental Conservation Organization to discuss land use policies being developed in Henderson and Madison Counties. The two counties are experiencing exponential growth but currently do not have zoning or comprehensive land-use plans in place, which has led to conflict and unchecked sprawl.

1pm

Reply to 60-80 daily emails and over a dozen phone calls that have accumulated throughout the morning. A

newspaper reporter calls to get his opinions on new zoning laws in Buncombe County.

2:30pm

Conference call with Stop I-3 Coalition, in which Gerken serves as a board member. The Stop I-3 Coalition hopes to prevent the construction of a proposed new interstate from Savannah, Ga., to Oak Ridge, Tenn., which would cut through the heart of the Great Smoky Mountains. Interstate 3 was proposed by a representative from Georgia who was recently replaced by Representative Paul Braun, who opposes I-3. Gerken and the Stop I-3 board discuss strategies for encouraging Representative Braun to rescind the congressional funding proposal for I-3.

3:30pm

Meeting with Southern Appalachian Biodiversity Project about the proposed Globe Timber Sale near Boone, N.C., which would clear-cut a cherished old-growth forest near the Blue Ridge Parkway.

4:30pm

Conference call with legislators about establishing protected viewshed buffers along the Appalachian Trail and Blue Ridge Parkway.

6pm

Attend monthly meeting of Southern Appalachian Forest Coalition to discuss potential upcoming timber sales in Pisgah and Nantahala National Forest.

7pm

Dinner with Juli and Ruby Grace. Play "school" and read with Ruby Grace until bedtime.

8pm

After tucking Ruby Grace into bed, spend another 2-3 hours organizing the photos and evidence from the Tellico site visit in preparation for next week's meeting with the U.S. Forest Service. Gerken hopes that the Forest Service will agree to limit off-road vehicle use and better manage the trails to prevent further damage. If they do not, Gerken will be ready for legal action later this month. •



Atop Mount Pisgah, D.J. Gerken enjoys a rare afternoon away from the office with his four-year-old daughter Ruby Grace.

THREE QUESTIONS FOR D.J. GERKEN

What keeps you going?

To gather evidence for cases, I travel to some beautiful places across the Southeast. I want to make sure they're around for my daughter Ruby to see them. I recently heard Ruby bragging to one of her friends, "My daddy saves birds and trees." That meant a lot.

Why save birds and trees?

The cerulean warbler affects human health. By saving endangered species, we're saving habitat, which improves our public health and the long-term health of this planet. We need to save all the pieces—even the birds and trees that may seem insignificant pieces to some—because we are part of the puzzle.

How do you choose from so many cases?

We ask three questions about each case:

- 1) How big/urgent is it?
- 2) Can we make a difference?
- 3) Can we set a precedent?

We're a nonprofit and we provide our services for free. We don't have the resources to fight every problem, so we focus on the cases that will maximize our impact.



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