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Dear Client:

**SOS's lawsuit against the federal government to enforce the Endangered Species Act is a back-door attack on legislation passed last year by the Texas Legislature, which allowed Austin area developers with "grandfathered" permits to continue previously approved projects.**

A couple of weeks ago we told you about a federal lawsuit challenging the Endangered Species Act on commerce clause grounds. Now the Save Our Springs Alliance is suing the US Fish and Wildlife Service and Environmental Protection Agency in Austin federal court, alleging the federal agencies aren't doing enough to protect the endangered Barton Springs salamander.

Joined by UTAustin biologist Dr. **Mark Kirkpatrick**, the SOS lawsuit contends that runoff from construction projects is creating high toxicity levels in the springs, threatening the salamander's survival.

Specifically, the suit demands that EPA and Fish and Wildlife specifically review the impact of construction projects on the salamander, rather than relying on the on the EPA's Construction General Permit, which generally requires developers to submit storm water pollution protection plans to comply with the general permit.

If successful, SOS's lawsuit would require developers to **seek individual permits from EPA** before initiating any project within the Barton Springs zone, a 354-acre area in Travis, Hays, and Blanco counties that includes both the recharge and contributing zones for the springs.

While developers are going through the EPA permitting process, EPA and Fish and Wildlife would consult on the best way to protect the salamander. SOS is also seeking **more comprehensive endangered species protection guidelines** from the federal agencies on construction within the zone.

If SOS can convince a federal judge the Barton Springs salamander is in imminent danger, developers might have to **stop what they're doing and seek federal permits** -- an iffy and time-consuming proposition at best. Of course, if another federal judge (or panel of judges) throws out the Endangered Species Act as it applies to "local" species such as the salamander, it may all be moot. See you in court.

**Not surprisingly, Internet-related service companies are reassessing their growth potential in light of recent interest rate hikes and financial market instability.**

That's according to PricewaterhouseCoopers' recent "Trendsetter Barometer," which surveyed CEOs from 452 product and service companies rated as the "fastest growing" US businesses over the past five years. The companies surveyed range from \$1 million to \$50 million in sales.

The survey found three-quarters of CEOs remain optimistic about the direction of the US economy for the next year, down from 85% from 1Q 2000. Fewer CEOs are bullish on the global economy – 65% versus 79% a few months ago. The CEOs blame market corrections and the Fed's rate increases for the decline.

To adjust to these "reasonable levels," CEOs are **downsizing their revenue growth projections** for the next year from 30.6% to 27.3%, an 11% reduction. This roughly matches the 1999 growth rate of 31.2%, rather than the 40% some service businesses were projecting during the first quarter of this year. Moreover, so-called "high flying" service companies, which were looking at breath-taking growth potential earlier in the year, have revised their industry growth targets downward by 30% to a more modest 13.1% growth.

Despite the moderating growth projections, employment demand generally remains strong in the services sector. "Trendsetter" companies still plan to **add an average of 12% to their workforces over the next year** (off four%), with 54% in the market for highly trained professionals and technicians. However, the demand for new sales and marketing employees fell nine points from 39% to 30% this quarter in both the services and products sectors. And, somewhat fewer companies are planning major corporate investments for the rest of the year (48%), while 21% more CEOs reported that higher costs are eating into their gross margins.

In sum, CEOs expect healthy growth to continue, but not to the point of overheating the economy. For more detail on the "barometric" data, go to [www.barometersurvey.com](http://www.barometersurvey.com).

**A survey of CEOs identified the top two chronic issues that could, in the long term, hamper the growth potential of the New Economy.** In addition to feeling the pinch (even if it's a relatively slight one at this point) of financial market correction and higher interest rates, "Trendsetter" CEOs are concerned about future impediments to growth.

The PricewaterhouseCoopers survey points out 77% of service sector CEOs and 67% of product sector chiefs rate the **shortage of trained labor as the number one problem** for their businesses and 34% of CEOs expressed concern about growing **upward pressure on wages** (down 8% from 1Q 2000, but even with last year). Remember, this is a national survey. We've been reporting for a couple of years the workforce dilemma is Austin's #1 economic problem. It's apparent Trendsetter CEOs have the same concerns as we do here in the Silicon Hills.

**Mark this down: it doesn't matter whether Governor George W. Bush wins or loses the race for president, Lt. Gov. Rick Perry says he is going to run for governor in 2002.** Bush has said he will not seek a third term as governor, if he is not elected president. A Perry run-for-governor scenario in 2002, no matter what, has huge implications for the Republicans.

The powerful Lt. Gov.'s job will be vacant and that sets up a wide-open race for the GOP nomination — probably between State Comptroller **Carole Keeton Rylander** and Land Commissioner **David Dewhurst**. That, of course, would trigger a domino effect as others scramble to move up the political food chain. Then, the race for the GOP nomination for governor could be a doozy, if USSenator **Kay Bailey Hutchison** follows through on her wishes to run for governor. She could seek the GOP nomination for governor in 2002, against Perry, without resigning her Senate seat. Don't forget the Democrats. They are salivating over the prospect of a bunch of open statewide offices currently held by Republicans.

**An Austin-based health care coalition is challenging the basis upon which health insurers reimburse providers for services to women.** The Equal Health Care Alliance of Austin launched its campaign last April to end what it calls gender discrimination in health care reimbursement rates. Since the kick-off event, which featured **Luci Baines Johnson** and **Susan Dell**, more than 4,500 individuals have joined the cause. The Alliance is working on a study showing insurance carriers reimburse female-specific surgeries at rates 37% to 50% lower than men.

The Alliance grew out of the **financial difficulties of the Renaissance Women's Center** in West Lake Hills — difficulties the Center blames on unequal reimbursement rates for obstetrical and gynecological services (which were the only services provided by the Center). According to Center physician **Dr. Byron Darby**, women direct more than 70% of their family's health care decisions, so hospitals have historically had an interest in attracting women for childbirth. One of the ways hospitals did this was to accept lower reimbursement rates for obstetrical services. Once a positive relationship with prospective mothers was established, women would keep coming back. Simply put, lower rates helped increase hospital market share.

But, somewhere along the line, according to the Alliance, insurers institutionalized lower reimbursement rates for obstetrical services, making it difficult, if not impossible, for special facilities like the Renaissance Center to operate. To address this perceived inequity, the Alliance is examining the possibility of state and federal legislation **mandating equal reimbursement rates for gender-specific procedures**. They are also encouraging providers and employers to negotiate fairer reimbursement rates with insurers.

The Alliance could be a **formidable grassroots force** by the time the Legislature comes to town in January. During the last session of the Legislature, an association of obstetricians and gynecologists successfully sought designation as primary care providers, which entitles them to better reimbursement rates. So, the stage could be set for further action.

**The *London Daily Express* recently wrote about a famous (some say notorious) Austinite who is frequently mentioned in the same breath with Wyatt Earp and Wild Bill Hickock.**

His name was **Ben Thompson**, and he was city marshal of the frontier town of Austin, Texas in the post-Civil War era. Thompson emigrated from England to Texas in the late 1850's, when his father (a British sailor) inherited a fortune and took charge of four Texas children orphaned by the murder of their father. According to the *Daily Express* story, Thompson's first taste of frontier life came at the age of 18, when he joined a posse in the pursuit of Indians who had kidnapped five children from Austin. Thompson reportedly shot the leader of the Indian band and rescued the children.

Thompson then fought for Texas in the Civil War and in Mexico in 1868. Apparently, he got into a lot of scrapes, is said to have killed between 16 and 32 men, and was acquitted of murder on numerous occasions. In fact, the story quotes **Bat Masterson**, the legendary marshal of Dodge City, Kansas, as saying: "He killed many men in his career but always in an open and manly way." Thompson himself is reported to have said, "**I always make it a rule to let the other fellow fire first. He is pretty certain, in his hurry, to miss and I never do.**"

Unfortunately for Thompson, the gunmen who ambushed him in San Antonio in 1884 didn't miss. They killed Thompson in a gun battle, but he wasn't forgotten. According to English historian **Ron Gosney**, who with Texan **Allan McCormack**, is working on a history of Thompson's exploits, thousands attended his funeral, including hundreds of orphaned children who followed his coffin to the gravesite. It seems Thompson financially supported numerous orphanages, perhaps reflecting his own experience with Austin's orphaned frontier children.

It's hard to imagine Austin as a lawless, wild frontier. But in some ways, Austin has always been on that frontier, with its diversity, uncertainty, and excitement. Somehow, it continues to characterize us today.

**Dr. Louis Overholster** says he doesn't want to live forever: "I just want to live long enough to hear my kids admit they don't know everything – maybe I do want to live forever!"

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