

TENNESSEE CITIZENS for WILDERNESS PLANNING

Newsletter No. 185

November 6, 1991



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Star in margin means "Action Needed." Don't be overwhelmed – check the ACTION SUMMARY!

11. ACTION SUMMARY

No.	Issue	Contact	"Message" or Action
1	Energy bill	Sen. Sasser Sen. Gore Sen. Wirth	"Thanks for voting against cloture! Co-sponsor S.39!" "Thanks for opposing S.1220 and co-sponsoring S.39!" "Thanks for defeating S.1220 and co-sponsoring S.741!"
2A	Big South Fork	Sens. Sasser, Gore; Rep. Cooper	"Thanks for securing BSF land-acquisition funds!"
2A	Obed	Sens. Sasser, Gore; Rep. Cooper	"Please urge NPS to speed up Obed land acquisition!"
3A	Stripmining in parks	U. S. Senators	"Please urge OSM to withdraw proposed VER regs!"
3D	Water quality in coal fields	Rep Lloyd, Gordon Other Tenn. Reps	"Thanks for co-sponsoring HR.3052!" "Co-sponsor HR.3052!"
5	Wood-chip mills	Gov. McWhorter Other people	"Impose chip-mill moratorium!" Spread the story. Consider contributing to T.A.G.E.R.
6E	Lobbyist for the environment	EAF	Contribute to fundraiser for lobbyist
7E	Ancient Forest protection	US Senators	"Support S.1536!"
8A	Wetlands protection	US Rep. and Sens. Frs. Bush	"Do not gut wetlands protection!" "Remember your 'no net loss of wetlands' pledge! Do not narrow definition!"
9A	Park concessions reform	US Sens. US Rep.	"Co-sponsor S.1755!" "Co-sponsor HR.943!"
9C	Intimidation of TV sponsors	General Electric	"Thanks for supporting Audubon Specials!"
10A	TCWP Annual Meeting	TCWP	Come join us!
10B	Whites Creek Trail	TCWP	Come join us!

Senator John Doe
United States Senate
Washington, DC 20510

The Hon. John Doe
U.S. House of Representatives
Washington, DC 20515

Governor Ned McWhorter
State Capitol
Nashville, TN 37219

Dear Senator Doe
Sincerely yours,

Dear Congressman/woman Doe
Sincerely yours,

Dear Gov. McWhorter
Respectfully yours,

To call a Representative or Senator, dial Congressional switchboard, (202) 224-3121
To find out about the status of federal bills, call (202) 225-1772

1. THE BAD JOHNSTON-WALLOP ENERGY BILL IS DEAD FOR THIS YEAR!

On November 1, the Senate blocked consideration of S.1220, the Johnston/Wallop "National Energy Security Act," which is widely considered to be environmental enemy No. 1 (NL184 ¶1A). The bill would open the Arctic National Wildlife Refuge (ANWR) to drilling and would threaten environmental victories of the past two decades, while worsening, rather than securing our energy future.

Numerous senators (including Sen. Gore) had threatened to filibuster the bill. In a cloture call, 60 votes were required to shut off debate (i.e., to abort the filibuster). But only 50 senators voted for cloture, and 44 opposed it -- including Sen. Sasser, who deserves our sincere gratitude for helping to kill S.1220. Thanks also to the numerous TCWP members who called Sen. Sasser during the past several weeks; he had been undecided, and your calls helped him see the way.

The campaign against S.1220 was ably led by Sen. Timothy Wirth (D-CO), who has proposed energy legislation that has the support of environmentalists. His S.741 emphasizes energy conservation and efficiency, and the use of alternative fuels; although it also provides incentives for increasing production, it would not open up ANWR. It is hoped that if another energy bill comes before the Senate next year, it'll look a lot more like the Wirth bill.

While the Johnston/Wallop bill had been rammed through the Senate Energy Committee during the days following the Iraq war (when foreign oil was on everyone's mind), the House has taken a more deliberate approach to energy legislation, with numerous hearings, but no committee bill to date. The question of ANWR drilling is under the jurisdiction of two committees that have not yet scheduled any action.

The other good news on ANWR is that the Coastal Plain wilderness bill, S.39, has been voted on favorably by the Senate Energy and Public Works Committee. Sen. Gore is a co-sponsor of this bill. -- The validity of an NRDC lawsuit against the Interior Department was recently upheld in court. NRDC had challenged USDI's EIS and report to Congress on drilling in the Refuge. The court also agreed that USDI must assess the environmental impacts of its new oil and gas projections, and must submit its assessment for public review.

* **WHAT YOU CAN DO:** (1) Express your sincere thanks to Sen. Sasser for voting against cloture and thus helping to kill S.1220 for this year. Urge him to co-sponsor S.39. (2) Thank Sen. Gore for his steady opposition to S.1220, and for his co-sponsorship of S.39. (3) Thank Sen. Timothy Wirth for spearheading the drive against S.1220, and for having generated a much better energy policy, S.741. While Sen. Wirth is not our senator, the whole country owes him gratitude. Addresses on p.2.

2. BIG SOUTH FORK AND OBED PROTECTION ISSUES

A. The BSF Draft Land Protection Plan is published

At the beginning of October, the National Park Service released its Draft Land Protection Plan (LPP) for the Big South Fork NRRA. This 44-page document, with 6 appendices, discusses the purposes of the BSFNRRA and the resources to be protected, describes non-federal lands within the boundaries (e.g., Scott State Forest, cemeteries, county roads, etc.), discusses protection alternatives, and finally lists tracts to be acquired in a priority order (there are 16 priorities, some of them with several sub priorities). This is a very thorough and thoughtful document, and TCWP looks forward to commenting on it. The deadline is Nov. 25. Anyone who wants a copy of the LPP should call Ron Wilson, 615-569-9778.

If only minor changes are suggested for the Draft LPP, the document will be finalized by the SE Regional Office of NPS (without having to go to HQ in Washington), and the final Plan may be approved by January. After that, NPS can initiate the land-acquisition process. Since a Senate-House conference committee, meeting recently, left intact the \$2 million in the appropriations bill, there should be altogether \$3 million in hand, counting the 1991 appropriation (see NL184 ¶2A).

After the LPP is approved, NPS has some latitude in making minor adjustments in acquisition priorities -- as conditions warrant -- without having to go through formal revisions. Subsequently, the LPP will be routinely updated every 2 years; if major revisions are proposed, there will be opportunities for public comments.

The total planned BSFNRRA acquisition is about 123,000 surface acres; the statutory acreage ceiling is 125,000 acres. Currently, 104,000 acres are in federal ownership; 49 tracts remain to be acquired. Top acquisition priority are the 15 tracts (11,329 acres) needed for protection of the North White Oak Creek and its Laurel Fork. The Tennessee Field Office of The Nature Conservancy recently secured an option on 1,200 critical acres encompassing the headwaters of North Laurel Fork for eventual transfer to the National Park Service.

* **WHAT YOU CAN DO:** As soon as the LPP is approved, land acquisition in the BSFNRRA can begin. Some money is still in the bank for Obed land acquisition, but NPS is dragging its feet. (1) If you have not already done so, thank Sens. Sasser and Gore and Rep. Cooper for all they did to secure land-acquisition funds for the purchase of threatened tracts in the BSFNRRA. (2) Urge all three legislators

toput pressure on NPS to proceed speedily with the Obed acquisition process. Addresses are on p. 2.

B. Status of Otter Creek dam proposal

Otter Creek is a major southern tributary of the Obed National Wild & Scenic River. A proposal for a very large dam (90 ft high and 385 ft wide at the bottom), purported to be the private-lake project of a local individual (NL182 ¶1A), turned out (after some digging) to be actually promoted by the Crab Orchard Utility District, which had applied to the Farmers Home Administration (FmHA, a branch of the U.S. Dept. of Agriculture) for a "loan & grant" of \$7,700,000 for construction of this reservoir (NL183 ¶1B).

When the fact that this was a federal action was disclosed, FmHA was forced to do an Environmental Assessment (EA) under NEPA requirements -- something they had hoped to avoid doing. FmHA did avoid addressing the most important issue, even when they eventually generated the EA: the dam itself. They discussed only the water-treatment plant and associated structures, and tried to conceal the fact that FmHA's payment for water rights was, in effect, payment for construction of the dam. In addition to totally failing to address the environmental impacts of dam construction and water impoundment, the EA was woefully inadequate in almost every other respect as well (NL184 ¶2B).

In commenting on the EA, TCWP brought out all these deceptions and failings. Government agencies also got into the act. EPA and the U.S. Fish & Wildlife Service expressed their dismay at not having been approached by FmHA, either during the preparation of the EA or for its review. The National Park Service protested that several important concerns it had expressed at the hearing prior to initiation of the EA process were not addressed at all, or not addressed adequately. NPS was not convinced by FmHA's FONSI (Finding of No Significant Impact) that there will be no impacts to the Obed water quality/quantity or to protected species."

Although there is no official statement to that effect, the EA for the Otter Creek project now appears to have been nullified (see also NL184 ¶2B). Without an approved EA, FmHA cannot dedicate funding to this project. It is, of course, possible that the dam could be built with private funding. The Tennessee Division of Water Pollution Control, after considerable input from us and others, put a number of stringent requirements (e.g., with regard to acid-producing strata that might be encountered) on an Aquatic Resource Alteration Water Quality Permit for the dam. The WPC Division does not have authority to rule on water quantity.

The longer-range problem is the ongoing quest for more and more water by Crossville and other plateau communities that are reluctant to set limits to

growth. State-wide or regional water-supply planning that includes underground as well as surface waters is clearly a necessity if we are to avoid harmful, patchwork, water-supply projects in the future. Knoxville Mayor Victor Ashe was concerned about the Otter Creek situation; he could be an excellent stimulator of regional water-supply planning.

C. Commercial tire incineration still threatens upper Clear Creek

Fentress County citizens, organized by SOCM, have worked hard to stop an incinerator on Clear Creek that would burn out-of-county waste -- primarily tires -- to generate steam-powered electricity for heating a commercial greenhouse (NL183 ¶1C). Over 200 local people opposed the incinerator at a public meeting on July 23. Shortly thereafter, the County Commission gave lip service to the people by passing a resolution opposing disposal or incineration of hazardous out-of-county waste, while continuing to encourage the RBS company to secure a state permit for the incinerator. (Significantly, consent of the county is no longer a prerequisite for a state solid-waste permit; nor is the proposed RBS project classified as either disposal or incineration.)

Two months later, when citizens returned to the County Commission to ask that loopholes in the July resolution be closed, and that waste companies be required to post bond, they were told that used tires are not really waste since they are recyclable. Another company, Tire Recyclers, Inc., had illegally dumped hundreds of out-of-county tires into an old quarry. This company is proposing to build a tire pyrolysis plant in the county. With the County Commission evidently eager to make Fentress County into one of the nation's waste-tire centers, the RBS proposal for a tire-tired steam plant on Clear Creek may still be very much alive. For current local information, call 863-3864 or 863-5362.

3. STRIPMINING: THE "TAKINGS" ISSUE AFFECTS FROZEN HEAD AND PARK UNITS NATIONWIDE

A. Proposed VER regs. based on "takings" standard threaten Big South Fork and Obed

At the request of SOCM and TCWP, the Office of Surface Mining (OSM) held a meeting on September 12 in Knoxville to hear public comments on a proposed new definition of Valid Existing Rights (VER). The 1977 Surface Mining Control and Reclamation Act (SMCRA) prohibits surface mining on several types of lands (e.g., national parks and other federally designated natural resource lands; and in buffer zones around dwellings, schools, etc.), except in the case of "valid existing rights." The definition of VER was not spelled out in the Act, but left to the regulations. This is just the latest go-round

in OSM's several attempts over the years to define VER in a way that would benefit only the mining industry (see NL184 ¶4A for a historical account).

OSM now proposes that VER determinations be based on a "takings" test. Under this criterion, a coal owner would either be compensated by the government for denial of VER, or would be allowed to proceed with surface mining in areas the federal stripmining laws sought to protect. Either alternative has most undesirable consequences.

Among areas that would become vulnerable under the proposed definition of VER are two that are of special interest to TCWP members -- the Big South Fork NRR and the Obed WSR, both of which have coal within their boundaries. If a coal owner were to attempt to exercise VER, the Dept. of the Interior would either let the BSNRR and/or OWSR be desecrated, or would buy the coal rights. The latter alternative may seem harmless until it is noted that the money used for such acquisition would come from the Land & Water Conservation Fund (LWCF). The LWCF is the only money available for land acquisition, and TCWP members are well aware how insufficient these funds are, and how hard we have had to fight to get even small sums appropriated to buy threatened lands within the BSNRR or Obed boundaries. Should we allow the fruits of our efforts to be diverted into the coffers of coal companies? As regards State-owned parklands, it is virtually a certainty that the State would be unable to come up with the compensation for any claim of VER; this means that ecologically valuable lands would be stripmined.

At the September 12 hearing, TCWP presented these and other arguments for the record (send a self-addressed, stamped envelope. If you want a copy). Over 70 people attended the hearing, and every one of the 30 or so who presented testimonies opposed the proposed regulation.



WHAT YOU CAN DO: It is generally assumed that OSM will make its decision on the regulation on the basis of politics rather than merit. It is therefore very important that you urge to your Senators (address on p.2) to contact OSM Director Harry Snyder, asking him to withdraw the proposed regulation. Your letter can be very brief, since the Senators are already informed about the regulation and its effects.

B. A "takings" claim for Frozen Head goes to court

A year-and-a-half ago, in response to a citizen petition (in which TCWP was a prominent participant), the 5,250-acre Flat Fork Watershed at the Western approach to the Frozen Head State Natural Area was designated as unsuitable for surface coal-mining under Sec.522 of the federal stripmining law. Unfortunately, that was not the end of the story, because the Emory River Land Co. (ERLC), a coal owner in the watershed, appealed OSM's decision,

and TCWP intervened on the opposite side. What ERLC really wanted, however, was to have OSM pay them for what they claimed was a "taking," and they tried to settle forthwith out of court. When this strategy did not work, ERLC dropped their appeal in the U.S. District Court, announcing that they would sue OSM in the Claims Court, instead (NL179 ¶2; NL181 ¶5A; NL184 ¶3).

The District Court has now, in fact, dismissed the ERLC appeal, which means that the "lands-unsuitable" designation stands, and the Flat Fork Watershed is safe from surface mining for good! ERLC's upcoming suit in the Claims Court will probably be handled by Dept. of Justice (instead of OSM) lawyers, who may go for an out-of-court settlement. Because this would not involve a court decision, it would not constitute a legal precedent to the effect that "522" designation constitutes a "taking." TCWP would not have "standing" in the Claims Court case, and will thus not intervene.

C. Lawsuit to force issuance of subsidence regs

The 1977 federal surface-mining law (SMCRA) legislates not only surface coal mining but also the surface effects of underground mining. Chief of these is subsidence, which has become a major problem in Appalachia as a result of the increasing reliance on longwall mining. This process leads to a caving in of the overlying strata as the coal seams are removed, causing trees to fall, houses to collapse, and streams to change course.

OSM has been dragging its feet for years on promulgating regulations that cover subsidence, reputedly because the coal industry fears a rule that would logically require the financial compensation of surface owners (NL184 ¶4B). Finally, tired of waiting, a large number of groups are suing OSM to force the issue. TCWP has signed on as one of the numerous plaintiffs.

D. A bill that would protect water quality in coalfields

A major impact of stripmining is the destruction of water quality (and often quantity) in the affected watershed. Rep. Murphy (D-PA) has introduced HR 3052, the Coalfield Water Protection and Enforcement Act, which would require mine operators to replace, fully and immediately, any water supply that is destroyed by mining. Operators would have to post a bond to cover the cost of whatever water supplies they might destroy. Any government official who failed to enforce the law would be subject to criminal penalties.

HR 3052, which would be an amendment to the 1977 Surface Mining Control and Reclamation Act (SMCRA), is supported by the Citizens Coal Council, which represents coalfield citizens in 15 states, and by Native American Nations. Rep. Marilyn Lloyd is

one of two Tennesseans who have co-sponsored the bill to date (the other is Rep. Bart Gordon). Ms. Lloyd's support is especially crucial since she represents coalfield citizens.

*** WHAT YOU CAN DO:** If you live in Rep. Lloyd's or Rep. Gordon's districts, write to thank her/him for co-sponsoring this important bill. If you live elsewhere, urge your Rep to become a co-sponsor of HR 3052.

4. **SMOKIES: JESSE HELMS TRIES FOR NORTH-SHORE ROAD AGAIN**

The famous 1943 Agreement between TVA, USDI, and Swain Co., NC, specified that USDI would construct a road on the north shore of Fontana Reservoir (within the Gt. Smoky Mtns Natl Park) to replace a road that was flooded by the filling of the reservoir. Many circumstances have changed since 1943 (e.g., there is now a road south of the reservoir), and almost everybody has been in agreement for over a decade that a monetary compensation to Swain County would substitute for the construction of a north-shore road. Such a compensation was incorporated into a couple of Smokies Wilderness bills that had the support of the Swain County Commission, but that never made it through the Congress because of opposition by Sen. Jesse Helms (R-NC), who is hell-bent on building the north-shore road. Last summer, Sen. Terry Sanford (D-NC) introduced S.1339, which would compensate Swain County for the "1943 Agreement" by payment of \$16 million, without at the same time designating Wilderness in the GSMNP (NL183 §3A, NL184 §5A).

Originally, Smokies Wilderness advocates were not wildly enthusiastic about S.1339 because of their concern that passage now of a "money-only" bill would make any future wilderness bill much harder to pass. After further contacts with Sen. Sanford, however, an implied understanding was reached that the \$16 million payment to Swain County should be regarded as a substitute for the road specified in the 1943 Agreement. Sen. Sanford attempted to attach S.1339 as an amendment to the interior Appropriations bill, but was thwarted by a threatened filibuster by Jesse Helms, with all Republican senators voting against cloture. The amendment was withdrawn, but S.1339 remains alive as a free-standing bill.

Jesse Helms has now drafted his own bill, which would pay Swain County \$16 million, and make the Park Service build the north shore road. Fortunately, at least some prominent Swain County Commissioners are opposed to the Helms bill because they are convinced it could not pass. Everyone hopes that, once the 1943 Agreement is settled (through financial compensation to Swain County), arguments for the north-shore road will lose their basis, and passage of a Wilderness bill will become much easier.

5. **WOOD-CHIP MILLS WOULD DOOM TENNESSEE HARDWOOD FORESTS**

About a year ago, four companies (including a Korean one) applied to TVA for permits for barge-loading facilities and land for chip mills to be located along a 12-mile stretch of the Tennessee River near Nickajack Port (NL181 §2A; NL182 §6B; NL183 §4B). Forests within a 75-mile radius are expected to be consumed within 20 years by a wood-chipper industry centered in this area. This radius includes 24 counties in Tennessee (many of them highly scenic) and an area of about equal size in Alabama and Georgia combined. The total acreage to be consumed, mostly by clearcutting, would be twice the size of the Gt Smoky Mtns Natl Park. Most of the wood to be processed by the chipmills would be shipped abroad via the Tennessee Tombigbee Canal, and the finished products would be sold back to the USA.

TVA, which had originally planned to handle the issue by a simple site-specific Environmental Assessment for one of the companies, was eventually forced by citizen and EPA pressure to generate a full-fledged EIS on off-site as well as site-specific impacts. The Draft EIS was originally scheduled for completion in July 1991, but when TVA staff rebelled at having to do such a quick and dirty job, the date was moved to September. We are hoping that the fact the DEIS is not finished yet may indicate that a somewhat more thorough job is being done.

Tennessee has no laws requiring BMP's ("best management practices") for private forests -- a situation we'll have to try to remedy. TVA is therefore unable to prove that the logging that would be done for the chip mills -- probably mostly clear-cutting -- would not be damaging. And the potential damages are plentiful: soil erosion, stream siltation, loss of soil fertility, flooding, destruction of ecosystems and of biodiversity, increased air pollution, and decreased opportunities for outdoor recreation. Next time you hear anyone argue that a landowner should be allowed to do whatever he wished with his own woods, remind him of these potential effects that can extend way beyond the boundaries of his lands.

Among groups who abhor the coming of chip mills is the hardwood industry -- sawmills, furniture makers, and pallet companies. After the chippers get through, there won't be any hardwoods left in this area, and no tree big enough to cut a board out of.

*** WHAT YOU CAN DO:** (1) Spread information about the chip-mill threat -- few people have heard of it. Hardwood industry-related folks, in particular, need to know about it. (2) Urge Gov. McWhorter (address on p.2) to impose a chip-mill moratorium until Tennessee's biodiversity map is completed. (3) Make a contribution to Tennesseans/Alabamians/Georgians for Environmental Responsibility (T.A.G.E.R., PO Box 764, South Pittsburg.

TN 37380), a local group that is staying right on top of the issue.

6. AROUND THE STATE

A. Rivers Assessment is on its way

The Tennessee rivers assessment that TCWP (Jenny Freeman) and TSRA (Bill Allen) have worked so hard for (NL179 §3B; NL180 §2; NL181 §5A; NL182 §3A) is up and running, though still not fully funded. Current support is as follows: (a) \$30,000 from the Lyndhurst Foundation as a result of a grant application by TCWP/TSRA; (b) \$30,000 from TVA; and (c) a staff position (Betsy Burling) provided by the State. Jenny represented TCWP at a rivers assessment meeting in Nashville on October 30, and she reports that there is a great deal of interest in, and support for, the program by various state agencies.

With the next Newsletter, we will distribute a questionnaire that will ask you to identify rivers or river segments in Tennessee, as well as river values (e.g., water quality, scenery, wildlife, recreation), that you think should be considered in the assessment. You may want to start thinking about this now, so that you will be ready to return the questionnaire soon after receiving it.

B. Farm Bureau opposes river protection bills

The Tennessee River Bureau Federation does not like the State Scenic Rivers Act nor the National Wild & Scenic Rivers Act. Among the Bureau's 1991 resolutions is one that states: "We are opposed to proposals which would prevent the economic development of lands adjacent to a stretch of river." It will be a challenge of the upcoming rivers assessment process to create a dialog with the Farm Bureau without caving in to their demands. The Farm Bureau supports a corps of lobbyists both at the state and federal levels.

C. Farm Bureau opposes Rails-to-Trails program

The large number of railroads that have gone out of business during recent decades have left hundreds of miles of abandoned right-of-ways. The organization Rails to Trails is working toward utilization of these right-of-ways for hiking trails, greenways, etc. But the Farm Bureau opposes the program on the grounds that it will "drive a wedge of public interest into the widening crack of private land rights." [Based on a story in The Tennessean, Oct. 9]

D. TDoT may be playing foul in its push to build harmful Ocoee road through the Cherokee

Several organizations have marshaled unchallengeable facts to show that the Tennessee Dept. of Transportation's (TDoT's) proposed rerouting of the road along the Ocoee River is not only incredibly harmful to the Cherokee National Forest,

but also unnecessary (NL179 §4A; NL182 §5B). In writing the EA (Environmental Assessment), however, TDoT failed to address any of these citizens' comments; it also appears to have ignored a number of regulations. The EA has been sent to the Federal Highway Administration and the Forest Service, and is likely to be returned with a FONSI (Finding Of No Significant Environmental Impact). However, there have been recent rumors to the effect that the project has been deferred for lack of funds.

E. EAF raising funds to pay lobbyists

The Environmental Action Fund (of which TCWP is a member organization), 15 years old this year, is the lobbying arm of the Tennessee environmental movement. During the past session of the Tennessee General Assembly, EAF lobbyist John Williams played a vital role in the passage of important bills, among them one that funds the acquisition of lands for parks and natural areas, and another that greatly beefs up state regulatory programs (NL182 §2A, C; NL183 §3C, E).

EAF will be holding a fund-raising event on Friday, Nov. 22, 6-8 pm, American Center, 3100 West End Ave, Nashville. Food and drinks will be provided, and nature photographs will be on display and for sale. The admissions charge is \$30/person. This fundraiser, which must raise over half of EAF's annual budget, is critical to the organization's financial ability to employ a lobbyist. If you cannot attend but wish to support EAF, send a contribution to EAF, P.O. Box 22421, Nashville, TN 37202.

7. FOREST ISSUE

A. Cherokee National Forest: another lawsuit

At the time we appealed the Cherokee Management Plan (NL175 §4D), three issues related to proposed Cherokee timber harvests were not handled at the local level but were sent to USFS headquarters in Washington. The Chief of the US Forest Service subsequently denied our appeal on all three issues -- below-cost timber sales, biodiversity, and visual impact (NL181 §2B). Now, this USFS ruling is going to be challenged in court by five groups, including TCWP. The suit will be handled by the Southern Environmental Law Center, and costs will have to be borne by the groups. A major TCWP contribution was approved by the TCWP Board on Oct. 28. We'll soon be appealing to our members to help us financially on this issue. The suit is bound to break new ground, especially in the area of biodiversity, which has not been brought to court before.

B. No Cherokee National Forest acquisition funds this year

Despite Sen. Sasser's request to the Senate Appropriations Committee, no funding was included this year for land acquisition in the Cherokee National Forest. TCWP had urged that the Sampson Mountain tract be acquired.

C. Forest road budget down, trail budget up

A House appropriations bill decreased the funding for building damaging logging roads in national forests by \$36.5 million, and upped the funding for trails by \$9.2 million. On the Senate side, the road funding was cut by \$41.1 million and the trails budget increased by \$7 million. The final figures will presumably be somewhere in between.

D. Will spotted owl (=ancient forests) fall victim to the "God Committee?"

The spotted owl, which was finally listed as "threatened" in 1990, is an indicator species for an entire endangered ecosystem, the ancient forests of the Pacific Northwest. The listing of the owl has temporarily halted destruction of these forests (NL182 ¶58; NL183 ¶5A, B, C; NL184 ¶7A), and the timber industry is dying to get this obstacle out of the way. Playing on their side, the Administration is now calling in the "God Committee."

This high-level committee was created by an amendment that was attached to the Endangered Species Act in the 1970s, at the time the Snail Darter was holding up the Tellico Dam. The committee has the power to exempt endangered or threatened species from the Act's protection by invoking adverse economic impacts of the protected status. Sec. Lujan has now asked the committee to convene, and to consider exempting the spotted owl on about 4,500 acres of its habitat on BLM lands that certain timber interests wish to log. The God Committee will meet mid-November and will state its decision within 30 days.

[Based on information supplied by Dick Ambrose. Dick really got the run-around at USDI, and had to make 8 phone calls before he got the story.]

E. Other Ancient Forest matters

• We refer you to NL183 ¶5, where we extensively covered national forest issues, and to NL184 ¶7A, where we updated you on various forest-management bills that pertain to ancient forests. Yet another bill has been added to the list, S.1536 by Brock Adams (D-WA). This would give immediate interim protection to a system of "ecosystem natural areas" and watershed study areas. A scientific panel would then determine which areas should be permanently protected, and Congress would enact the panel's recommendations. The bill also includes provisions for banning log exports and diversifying local economies so as to bring economic relief to timber-dependent communities. The National

* Audubon Society suggests we contact our senators and urge them to support this bill.

• Taxol, derived from the bark of the Pacific Yew (an understory tree in the ancient forests of the Northwest), has been found to be effective in treatment of ovarian and breast cancers. Advocates of ancient-forest logging have charged that spotted-owl protection has prevented the recovery of this beneficial chemical. This charge has no basis in fact. There is currently about two years' worth of sold, but uncut, timber on Forest Service lands that is not subject to the court order that temporarily bars new timber sales in spotted-owl habitat areas. If, eventually, the ancient forests are permanently protected against clear cutting, the Pacific Yew could still be removed selectively, leaving other trees (and spotted-owl habitat) intact.

F. Pressures for reform from within the Forest Service

The Association of Forest Service Employees for Environmental Ethics was formed two years ago by employees who had witnessed with growing dismay the devious means (including suppression of scientific evidence) by which the USFS often favors commercial interests over environmental ones. Ever since the group was formed, evidence along these lines has mounted, and has now caught the attention of Congress. The House subcommittee on civil service recently held a series of hearings on the subject, and the Forest Service may be paying attention.

8. NATIONAL RIVERS AND WETLANDS ISSUES

A. The White House and the Congress are out to gut wetlands protection

"No net loss of wetlands" promised George Bush during his campaign, when he wanted to be known as the environmental president. It's a very different story now. The President's Council on Competitiveness, headed by Vice President Quayle, has pressured EPA Administrator Bill Reilly into proposing changes in the definition of wetlands that would please developers of all sorts. If implemented, these changes would doom about one-third of the nation's remaining 93 million acres of wetlands (which themselves represent only 42% of the wetlands that existed at the time of the American Revolution).

The most dangerous part of the Administration's proposal is to increase the number of days land has to be inundated or saturated with water in order to be defined as a wetland (Quayle wants an area to be covered with water 80% of the time in order to qualify). Wetlands ecologists point out that the critical factor is for the land to be wet long enough to support soil conditions needed by wetlands plants

and ecosystems; the actual length of time varies with the region, soil type, etc., and can be short in some circumstances.

Some of the impetus to change wetlands definitions are also coming from certain members of Congress. Sen. Johnston (D-LA) maintains that definitions under the currently used 1989 Wetlands Manual have wrongly added millions of acres to Corps of Engineers jurisdiction over wetlands (under Sect. 404 of the Clean Water Act). Under pressure from Sen. Johnston, the Corps has proposed a revised Manual with narrower definitions of wetlands (NL184 §8C).

The Clean Water Act is up for reauthorization in 1992, and big business interests are out to eliminate Sect. 404, which regulates the use of wetlands. The oil & gas industry, developers, realtors, and agribusiness have joined together in the National Wetland Coalition (they couldn't have chosen a better name!) and are spending huge sums to lobby Congress. Bills that would gut wetlands protection have already been introduced (possibly with the idea of using them as amendments in the Clean Water reauthorization process next year). HR. 1330 (Hayes, D-LA) and S. 1463 (Breaux, D-LA) would allow "low-value" and "medium-value" wetlands to be filled or drained (the latter requiring some mitigation or replacement), and would make only "high-value" wetlands subject to the 404-permit process. However, if a permit for developing a given "high-value" wetland were to be denied, the federal government would have to buy the land. Unfortunately, HR. 1330 already has well over 100 co-sponsors.

And where does the Tennessee delegation stand on this issue? Unfortunately, to date only Rep. Ford champions wetlands protection; the others have been heavily lobbied by the Farm Bureau and are either anti-wetlands or on the fence. This is significant in view of the fact that, of the freshwater wetlands lost nationwide during a recent 9-year study period, 95% were southeastern bottomland hardwoods (wooded swamps) such as are found in West Tennessee.



WHAT YOU CAN DO: (1) Your Representative and both Senators (addresses on p.2) need to hear from you about the need to safeguard wetlands -- how many have already been lost (almost 60%), and how important they are for the protection of ecosystems and habitats, healthy river corridors, flood control, filtration, and even absorption of pollutants. (2) Call the White House (202-456-1111), or write (ZIP code 20500), to remind President Bush of his "No net loss of wetlands" pledge, and to deplore Administration tactics that would narrow the definition of wetlands.

B. Should Alaskan rivers be destroyed to quench California's unending thirst?

The damming of rivers in several states to provide electricity for California is an old story (see also §8C, this NL). Now there is a proposal for grand-scale destruction of Alaska's rivers and coastline to provide water for California. The project would tap Alaska's Copper or Stikine River at its mouth, and pump the water 2000 miles down the Pacific coast, supplying the equivalent of 10% of California's current water use. Cost is estimated at \$110 Billion (whose money?), and completion time at 15 years. Alaska's Governor Wally Hickel (the same one who supports oil drilling in ANWR), likes this proposal because it would bring roads and industry to hundreds of miles of currently pristine Alaskan coastlines near the river mouths. Not everyone is crazy about this idea, though, nor about the other impacts of the project, such as the destruction of estuaries and associated wetlands, and the changes in salinity beyond the river's mouth, all of which would have major adverse effects on highly productive ecosystems.

California has been called a "thirsty vampire," and many of those who have carefully studied the problem feel that the pipeline would simply encourage the continued wasteful use of water in the state. A preliminary study by the Office of Technology Assessment (OTA) finds that the pipeline is neither needed nor economically feasible. California could have plenty of water if it made more efficient use of it. Water conservation, reclaiming of waste water, and desalination of sea water are among the measures that could solve the state's water problems. [And, finally, there are limits to growth, but that's not a very popular concept.]

C. Temporary protection for Grand Canyon

Earlier this year, the Grand Canyon's Colorado River was named the nation's most endangered river because water releases from Glen Canyon Dam (which were geared only to California's electrical power needs) were destroying the fragile ecosystems along the river banks. In mid-summer, Interior Secretary Manuel Lujan announced that these water releases would be modified, with riparian protection in mind. This is only a temporary reprieve, however; passage of the Grand Canyon Protection Act is needed to assure more long-lasting relief. (Of course truly permanent protection could be achieved by dismantling Glen Canyon Dam!)

D. River Network provides expert assistance

A Directory of River Information Specialists (DORIS) has been assembled by River Network to assist river guardians nationwide in a number of ways. DORIS is a compilation of over 350 specialists from within environmental organizations, government agencies, academia, and private practice, who will assist grassroots organizations by discussing issues

over the phone, attending group meetings, testifying at hearings, providing referrals to other specialists, etc. DORIS specialists have expertise in numerous areas relating to river values (e.g., riparian ecosystems), stream alterations (e.g., dams), pollution, land development, water flows, water law, etc. To use DORIS, call River Network at 503-241-3506, or write River Network, DORIS, P.O. Box 8787, Portland, OR 97207.

9. OTHER NATIONAL AND INTERNATIONAL ISSUES

A. *Parks concessions policy needs reform*

Concessions policy established by a 1965 Act has turned out to be harmful to the purposes of the National Park System. Concessions Policy Reform Acts have now been introduced in both Houses -- S.1755 by Sen. Dale Bumpers (D-Ark), and HR.943 by Rep. Mike Synar (D-Ok). Reform will need much support from us to pass.

Under the current concessions policy, private business is badly over-commercializing many of our parks. The reform bills would strengthen efforts to limit park facilities to those necessary to carry out approved management objectives. This would also encourage surrounding communities to develop visitor facilities, helping their economies.

Concessioners currently operate as a monopoly within park units. For this right, they pay only 2.5% of annual gross receipts -- clearly a taxpayer rip-off. And even this small amount does not benefit the parks (which have a \$2 billion backlog of needed work) -- it goes into the general U.S. Treasury. S.1755 would increase fees to levels set by the Secretary of the Interior, while HR.943 would raise the franchise fee to a flat 22.5% of gross receipts. Both bills would specify that collected fees go into an account available for park operations and maintenance.

Under the 1965 Act, incumbent concessioners have a preferential right to renew their contracts. The reform bills would provide equal opportunity for all potential concessioners to bid on contracts competitively.

The most controversial part of concessions reform is that pertaining to possessory interests in structures built by concessioners. The House bill would require existing concessioners to sell their interests before renewal, and would ban such interests altogether in new contracts. The Senate bill would eliminate the possessory interests more gradually, and would designate 50% of the collected franchise fees for acquisition of possessory interests by the government.

*** WHAT YOU CAN DO:** Concessions policy reform, which is so badly needed to save and restore some of our over-developed and over-commercialized parks, will need much support from us in order to overcome the effects of heavy PAC contributions by the Conference of National Park Concessioners. Please urge your Senators and your Representative to co-sponsor S.1755 and HR.943, respectively. Ask them for a written response stating his/her position on this issue. Addresses are on p.2.

B. *Land & Water Conservation Fund*

Conferees met in mid-October to resolve differences between the House and Senate versions of the Interior Appropriations bill, HR 2686. As regards the FY1992 Land & Water Conservation Fund appropriation, the House had voted to appropriate \$320.5 million, the Senate only \$241.3 million. We don't yet know what intermediate amount was arrived at. Even the House figure, however, is below FY1991 spending (\$341.7 M), and also below the Administration request (\$350.3 M). The state-grants portion of the bill is bound to be considerably below current spending. The federal portion of the LWCF provides land acquisition money for the Park Service (including Big S. Fork funds, see 12A this NL), Forest Service, Fish & Wildlife Service, and BLM.

C. *'The New Range Wars'*

The private ranchers who presently graze their animals on public lands for a ridiculously low fee (\$1.97 per "animal unit month" [AUM]) got hopping mad when a recent Audubon Television Special, "The New Range Wars," graphically showed that much of this grazing has major adverse effects on natural vegetation, wild animal species, water quality, and soil stability. The National Inholders Association (NIA), a radical representative of the cattle, mining, and timber industries, made the Ford Motor Co. withdraw sponsorship of the program by threatening a boycott of Ford products. When General Electric persisted in sponsoring the Audubon Specials, NIA called on the public to boycott GE products.

NIA also managed to keep grazing-fee reform out of the Senate version of the Interior Appropriations bill. The House version had provided for a gradual increase in grazing fees to \$8.75/AUM by FY1995 (NL184 ¶7D).

*** WHAT YOU CAN DO:** Thank GE for standing up to attempted intimidation, and for continuing to support Audubon Television Specials. Write to John Welch, Jr., Chairman, GE, 3135 Easton Turnpike, Fairfield, Conn. 06431.

D. *USA signs Antarctica protection accord - but at a price*

We reported earlier (NL184 ¶9H) that the USA finally signed the international Antarctica compact in the form agreed upon by the 38 other nations. We

were wrong: the USA unfortunately managed to insert a major damaging amendment prior to joining the accord. This amendment allows any country to "walk away" from the Antarctica mining ban after 55 years, thus opening the way for unregulated exploitation at that time. Until then, there is a moratorium on mining. The Environmental Protocol also places Antarctica off-limits to other development, strictly regulates waste disposal and marine pollution, protects Antarctic plants, puts restrictions on tourism and research, bans the use of any part of the continent for military testing, and provides for assessment of the environmental impact of all activities in Antarctica.

10. TCWP NEWS

A. Annual meeting, November 15-17

By now, you should all have had both the preliminary and the final mailing about our Annual Meeting. The latter contained all the details about the great program, outings and various arrangements. If, for some reason, you failed to get the second mailing, call us immediately (482-2153, 483-8312, or 482-5980, evenings). See you at Wesley Woods!

B. Whites Creek Trail, postponed to December 8

By being postponed from Oct. 20 to Dec. 8, our Whites Creek hike will end up as the final event in TCWP's year-long 25th Anniversary celebration. The Whites Creek Small Wild Area, which was set aside by TVA almost 10 years ago at the urging of TCWP, consists of a group of wooded hills and deep coves along the shores of Watts Bar Lake. TCWP assists in maintaining the attractive, varied trail that winds through the area.

Here are directions, for those of you who lost the original ones. Anyone wishing to carpool should meet at Big Turtle Park at 9 a.m. EST, Sunday, December 8. Big Turtle Park is on the Oak Ridge Turnpike, about 0.1-0.2 miles west of traffic light #15. Anyone wishing to go to the trailhead on his/her own should proceed as follows. Going south through Rockwood, stay on U.S. 27, but note the point at which U.S. 70 turns off (just south of Rockwood). About 4 miles beyond that point, note the Whites Creek Baptist Church on your left. Just past the church is a blue bridge over Whites Creek, currently undergoing construction. Almost exactly 2 miles from the bridge, turn left at Roddy, and proceed 1 mile to a parking lot at the shores of the lake. We will all assemble there at 11 a.m. EST.

Bring a lunch, canteen, raingear. If you wish to assist in casual trail maintenance, bring a plastic garbage bag and/or vegetation clippers. This is a circular trail, about 4 miles long, with some ups and downs. It is a fine place to bring family and friends.

For more information call Judith Bartlow, Norris 494-9421, or Knoxville 632-1592.

C. Report on Obed Overlook outing, Sept. 22

Fifteen people (including TCWP's youngest member, Lily Adler) and one dog set out on a brilliant, clear fall morning to enjoy views of the beautiful Obed River. TCWP has worked so hard to preserve. After first walking to the promontory above the junction of Clear Creek and Obed, where there is a picturesque little rock arch, we continued upstream on the Obed at the top of the bluff. Lee Russell managed to lead the group through an exceptionally tenacious laurel-and-bramble thicket just before emerging to an overlook; and when scouting an easier way back (while the group ate lunch), she picked up about 300 seed ticks. Fortunately, no one else was equally afflicted, and their memories of the hike are concentrated on the spectacular views. On the return trip, four of us walked along the banks of the Clear Creek, and Bill Russell got a lovely cold swim in at Still Clear Creek pool.

D. Among recent decisions by the TCWP Board:

- To intervene in three lawsuits: (a) against the Cherokee National Forest, regarding issues not resolved in our appeal of the Management Plan (§7A, this NL); (b) against OSM in the matter of regs for subsidence (§3C, this NL); (c) on behalf of OSM in the matter of a "takings" claim arising from the Frozen Head "522" petition (on the basis of information received subsequently, this intervention will not occur [§3B, this NL]).
- To join the Knox County Greenways Coalition, which will work for trails and other types of greenways in Knoxville and the surrounding county.
- To have input into EAF's agenda for the 1992 session of the General Assembly, especially with regard to state parks, forest practices, and open-space law.

E. Nominating Committee for 1992

A list of nominees for TCWP's 1992 Board of Directors was sent out in September with our preliminary Annual Meeting announcement. We did not, however, include the names of nominees for next year's Nominating Committee. Here they are: Bill Allen, Dick Ambrose, and Bob Luxmoore (chairman).

F. We thank our volunteers

We are grateful to the following who assembled NL 184 on September 12: Dick Ambrose, Jean Bingham, Harry and Sylvia Hubbell, Ruth Kernohan, Charlie Klabunde, and Richard Raridon.

11. JOB OPENINGS; ACTIVITIES; READING MATTER

- **JOB OPENING:** American Rivers is conducting a national search for Vice President and Conservation Director. Must have appropriate conservation background, fund-raising skills, management ability, and a deep caring about the plight of river resources in America. (Contact Kevin Coyle, American Rivers, 202-547-6900 (or FAX 202-543-6142).
- November 15-17, TCWP's Annual Meeting. See ¶10A, this NL.
- December 8, TCWP's Whites Creek Trail outing. See ¶10B, this NL.
- May 28-30, Clinch-Powell conference at Lincoln Memorial University, Harrogate, TN. More info later; or call Ray Norris, Nashville, 615-665-2324.
- The Southern Appalachian Highlands Conservancy is again selling photographic Christmas cards, notecards, etc., of scenes in the Roan Highlands. For listing, write SAHC, POBox 2501, Johnson City, TN 37605.
- *A Report on America's National Scenic, National Historic, and National Recreation Trails, 1989-1990*, is a National Park Service publication on trails progress. Write National Trails Systems Branch, Recreation Resources Assistance Division, National Park Service, POBox 37127, Wash., DC 20013.
- *The 1991-92 National Directory of Conservation Land Trusts* is available for \$12.50 postpaid from the Land Trust Alliance (900 - 17th Street, NW, #410, Wash., DC 20006).
- *The Other Side of the Bailout: A Guide to Protecting Environmentally Significant RTC and FDIC Lands*, by the Texas Center for Policy Studies (POBox 2618, Austin, TX 78768), is a 124-page guide to dealing with the bureaucracies that are handling the Savings & Loans disaster. Cost for non-profits is only \$10.
- *Negawatts*, a video produced by the Rocky Mountain Inst., describes how state-of-the-art equipment and practices can reduce the nation's electricity use by 75%. Available for \$20 by calling RMI, 303-927-3851.
- *Cool Energy: The Renewable Solution to Global Warming*, recently released by the Union of Concerned Scientists, is available for \$4.95 plus s.h. by writing to the group at 26 Church Street, Cambridge, MA 02238.
- *Earth to Kids: A Guide to Products for a Healthy Planet* is a video produced by Consumer Reports Television and EDF. Anyone wishing to donate a copy to local elementary or junior high schools (the program is geared to ages 6-13) can get the VHS cassette by sending \$20 to EDF, 1616 P Street, NW, Wash., DC 20077-6048.
- *Healthy Building for a Better Earth*, edited by Charles A. Howell, III (former Tenn. Commissioner of Conservation) and James Summerville, presents the proceedings of the first national conference on environmental sensitivity in construction. (135 pp., \$9.95 postpaid, from Trust for the Future, Inc., 2704 Twelfth Ave, South, Nashville, TN 37204).
- *1991-1992 Green Index: a State-by-State Guide to the Nation's Environmental Health*, by Bob Hall and Mary Lee Kerr, contains a wealth of material on 256 environmental indicators: 162 pages of tabular data, graphics, and text provide a profile of environmental quality and of the politics that underlie it. (\$20, from Inst. for Southern Studies, POBox 531, Durham, NC 27702).
- *Hold the Applause* is a 112-page analysis of DuPont's environmental track record. Prompted by DuPont's green marketing claims, the study, by Friends of the Earth shows that DuPont is, in fact, by far the largest corporate polluter in the nation. Available for \$7 from FOE, 218 D Street, SE, Wash., DC 20003.

NOMINEES FOR THE 1992 TCWP BOARD

Submitted by the 1991 Nominating Committee: Karin Finkel/Adler, Sylvia Hubbell, Webb Van Winkle (chair)

PRESIDENT: Maureen Cunningham, Oak Ridge. Botanist/Ecologist with Science Applications International Corp, Oak Ridge. TCWP Vice Pres., 1990, '91; board member, 1989; leader in battle for Cedar Barrens. Interested in expanding the base of active members in TCWP to strengthen our involvement in conservation issues on a local, regional, and national scale.

VICE PRESIDENT: David Adler, Oak Ridge. Environmental specialist with DOE's Environmental Restoration Program, formerly with Bechtel Natl. Corp. and EPA. TCWP Board 1989-91. Primary interests: water quality and land conservation.

SECRETARY: Jenny Freeman, Oak Ridge. TCWP member since 1978; has served as TCWP Executive Director off and on for the past 10 years. Especially interested in the preservation of rivers and wilderness areas.

TREASURER: Charles Klabunde, Oak Ridge. Physicist, ORNL. TCWP Treasurer for 17 years, in charge of membership records. Past pres., SMHC; member, TTA. Active folk dancer.

DIRECTORS:

Judith Bartlow, Norris. Natural Areas Land Use Specialist, TVA. TCWP Board, 1990, '91. Past member Norris Watershed Board; member, Natural Areas Assoc. Particular interests: trails, natural areas.

Charles Coutant, Oak Ridge. Senior Research Staff Member, ORNL. TCWP Board, 1982-91. Past pres., Citizens Council for Clinch River Planning; past chairman, EQAB.. Interested in preserving undamaged ecosystems.

Eric Hirst, Oak Ridge. Corporate Research Fellow, Energy Division, ORNL. "I have been a member of TCWP and an admirer of its many accomplishments for two decades. Now it's time for me to contribute to TCWP's efforts. I am especially interested in pushing TVA to start anew its energy-efficiency programs."

Fred Holtzclaw, Oliver Springs. Teaches Advanced Placement Biology at Oak Ridge High School, and is involved in a number of environmental projects with students. Is especially interested in the educational activities of TCWP and in playing a leadership role in this area.

Neil McBride, Oak Ridge. Dir., Rural Legal Services of TN, 1978-present; staff attorney, E. TN Research Corp (for coal-field groups); pres., Legal Envtl. Assistance Foundation, 1985-87; formerly worked for Ralph Nader. TCWP Board 1989-91. Interested in clean water and natural areas.

Liane (Lee) Russell, Oak Ridge. Geneticist, Biology Div, ORNL. A TCWP founder; Vice Pres, 1966; Pres., 1967-70, 1986-87; Newsletter editor, 1966-pres.. Instrumental in authorization and implementation of Big South Fork NRR and Obad WSR; also active in stripmine, wilderness, and public-lands issues.

Larry Pound, Clinton. Graduate student in U.T.'s Graduate Program in Ecology, and consultant on rare plants for organizations and state agencies. He feels TCWP has been an impressively effective environmental organization, and looks forward to contributing to the organization's further successes.

NOMINATING COMMITTEE (to nominate the 1992 Board)

Bill Allen, Dick Ambrose, Bob Luxmoore (chair)

