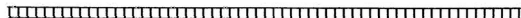


# TENNESSEE CITIZENS for WILDERNESS PLANNING

Newsletter No. 196

November 27, 1993



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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	BSF gorge road(s) URGENT BE SURE TO MAIL POSTCARD	Rep.Cooper(foremost) Sens.Mathews, Sasser Reps.Lloyd, Clement	"O&W must be closed to motorized traffic; used for bicycle path!"
2A	BSFNRRRA appropriations	Sen.Sasser, Rep.Cooper	"Thanks for your successful efforts!"
3	Lands near Pickett	Commissioner Luna	"State must acquire lands: do whatever it takes!"
4A	Whites Creek (Rhea Cy.)	TCWP	Offer your help for fighting proposed dam
4B	Chip mills	Corps of Engineers Sen.Sasser, Rep.Lloyd	"Off-site impacts must be considered!" "Thanks for efforts: continue pressing Corps!"
6A	Endangered Species Act	US Rep.	"Co-sponsor HR.2043! Oppose HR.1490!"
6B	Clean Water Act	US Senators US Rep	"Strengthen S.1114 and S.1304 by incorporating S.1195 and S.815!" "Oppose HR. 1330!"
6C	Clear-cutting	US Rep	"Co-sponsor HR.1164!"
6D	"Takings" amendments	US Rep and Senators	"Oppose <u>all</u> 'takings' bills and amendments!"
6E	Clifornia Desert	US Senator US Rep	"Support S.21 on floor, including Mojave <u>Park</u> !" "Support strong Calif. Desert Protection Act!"
6F	Grazingfees	Sen. Mathews Sen. Sasser	"We are disappointed by your vote!" "Thanks for supporting Administration!"
7B	OSM Director	Bruce Lindsey, White House	"Nominate Bruce Boyens!"

Senator John Doe  
United States Senate  
Washington, DC 20510

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

Governor Ned McWherter  
State Capitol  
Nashville, TN 37219

Dear Senator Doe  
Sincerely yours,

Dear Congressman/woman Doe  
Sincerely yours,

Dear Gov. McWherter  
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. CRISIS FOR BIG S FORK GORGE AREA URGENT ACTION CALL

Your help is badly needed in a crisis situation concerning the abandoned O&W RR right-of-way in the Big South Fork National River and Recreation Area. There is great local pressure to have the gorges open to ATVs and other motorized travel, and a strong threat to get the Act amended in order to bring this about. The right-of-way extends for 17 miles not just into, but *within* some of the prime gorge areas of the Big South Fork National River & Recreation Area (BSFNRRRA), namely, along the Pine Creek, down a dramatic part of the Big S. Fork itself, and up the pristine North White Oak Creek.

### Background

The Act that authorized the BSFNRRRA, while allowing road development in the plateau portions of the BSFNRRRA (the so-called "Adjacent Area"), limits motorized transportation in the "Gorge Area" to 11 specifically designated access routes (i.e., to, or crossing, a river). The Congressional intent in limiting motor traffic into the gorges was to preserve the kind of undisturbed and pristine environment that has all but disappeared from the eastern US, and which makes the BSFNRRRA such a special place. The O&W right-of-way is not among the 11 specifically designated accesses. A special section of the Act called for a "study [of] the desirability and feasibility of reestablishing rail transportation on the abandoned O&W railroad or an alternative mode of transportation ..."

Meeting the mandate of this section, the Corps of Engineers (which was the initial lead agency for the BSFNRRRA) carried out very extensive in-depth studies (including public input) and, from the various alternatives being considered, *specifically rejected* motorized use. Thus, the Corps' 1982 Oneida & Western Railroad Final Feasibility Report states: "a road for automobiles along the O&W roadbed ... would pose a greater threat to the natural environment than any of the other alternatives. Noise, air pollution, traffic congestion, and litter would be intensified because of the greater number of visitors and motorized traffic. Since access would be uncontrolled, instances of the destruction of the National Area's biota could be more prevalent. The construction of vehicular pull-offs along the route would cause the loss of additional wildlife habitat. If unauthorized vehicles left the path, further habitat would be destroyed." In April 1991, the Corps -- after once again seeking public input -- reviewed all historical

and current information, and again recommended that the O&W railroad be "closed to vehicular traffic" and be used for bicycling (a recommendation also made in Phase 1 of their original study).

Recently, after examining all of the data, the National Park Service (NPS) concurred with this Corps recommendation and proposed it as part of the recent draft Roads & Trails Management Plan for the BSFNRRRA. This proposal stirred up a great outcry from politicians in Scott County. During the past few years, some Scott County citizens had got into the habit of driving ATVs and other motorized vehicles on the old O&W railroad. Most of this traffic comes from the east boundary of the BSFNRRRA (near Verdun) toward the old O&W bridge. The Corps of Engineers had built an attractive railed walkway across the bridge, but vehicular users tore this down so they could drive across the bridge and proceed up the west side of the river into the pristine North White Oak Creek area. Their random fordings of the North White Oak Creek (which has no bridges) and its tributaries, and their frequent bypassing of the old railroad have caused a great deal of environmental damage, and threaten to do more.

The Scott Co. objective is to amend the Act that created the BSFNRRRA so as to specifically allow motorized traffic on the 17-mile-long O&W railroad. Local politicians have the backing of former Sen. Howard Baker and his powerful friends, and they have already contacted several of our congressmen and senators. To date, they have 4,000 signatures from Scott County alone, are recruiting allies in Fentress, Morgan, and McCreary Counties, and plan to send a delegation to Washington to lobby for their amendment to the Act. [There's no telling whether they'll even stop with the O&W -- they may try to legislate *additional* road openings into the gorges while they're about it!]. Probably only a handful of the 4,000 signatories have even seen the area and are acting mostly out of general anti-government sentiments.

The BSFNRRRA does not, of course, belong to Scott County; it is a *national* area, acquired with federal dollars, that is experiencing increasing use by people from all over the country (including all parts of Tennessee) who seek to experience an undisturbed and pristine environment. Opening up the O&W to motorized use will destroy this type of environment. By contrast, the availability of a long bicycle path running through the superb scenery traversed by the O&W would constitute a major attraction for a group of visitors that is not now

using the BSNRRA to any major extent, and this would benefit the local economy. (The 1991 Corps report states that "bicycling is one of the activities with the greatest unmet demand in the BSF market area.") The NPS should choose to make the O&W into a path for conventional bicycles, or designate it for use by mountain bikes (the latter might also be compatible with a horse trail).

**\* WHAT YOU CAN DO:** Our congressmen and senators are experiencing great pressures from Scott County (and other local counties) to amend the Act. We MUST convince them that there is a lot of support for the *other* side of this argument. They don't have to do anything for us — they merely have to do *nothing*, leaving the Act as it is. When you write, your letter does not have to be long or elaborate — simply make the point (giving a couple of reasons) that the O&W railbed should be quickly closed to motorized traffic. These are the people to write to:

1. Most important is Congressman Jim Cooper (attention Tara Campbell). Almost the entire BSNRRA is in his district, and the Scott/Fentress County pressure on him will be strong. But since he is running for the Senate next year, he should be listening to Tennesseans *wherever* they live. His address is U.S. House of Representatives, House Office Bldg., Washington, DC 20515. Send a copy of your letter also to his local representative, Mickey Eldridge, P.O. Box 845, Crossville, TN 38557.
2. Send similar letters to Sen. Harlan Mathews (attention Sean McDonough) and to Sen. Jim Sasser (attention Monique Van Landingham) (U.S. Senate, Senate Office Bldg., Washington, DC 20510).
3. If possible, also send a letter to Congresswoman Marilyn Lloyd, who has the southern tip of the BSNRRA (Morgan Cy.) in her district. Rep. Bob Clement (Nashville area) may also be worth writing to. (Addresses for both are U.S. House of Representatives, House Office Bldg., Washington, DC 20515).
4. Send a copy to Bill Dickinson, Superintendent, BSNRRA, Rt. 3, Box 401, Oneida, TN 37841).
5. If you can, let us know whether you have written. Thanks so much for your help!!!

IN CASE YOU DON'T HAVE TIME TO WRITE A LETTER, PLEASE SEND THE POSTCARD WE HAVE ENCLOSED WITH THIS NEWSLETTER. (Just fill in your name and address, and add a 19-cent stamp).

## 2. OTHER BIG SOUTH FORK AND OBED NEWS

### A. BSF funds appropriated by Congress!!!

Good news at last: the Congress has appropriated funds for the Big South Fork National River & Recreation Area (BSFNRRRA) for FY 1994: \$1.5 Million for land acquisition and \$350,000 for base operations. The conference committee on Interior Appropriations that met in early October had the job of reconciling a Senate and House bill that contained, respectively, \$3 M and zero \$5 for BSFNRRRA land acquisition. With numerous other projects around the country also competing for scarce acquisition funds, there was a danger that the House version for the BSFNRRRA would be the one to get accepted. However, thanks to Sen. Sasser's steadfastness and Rep. Jim Cooper's lobbying of House conferees, a compromise was struck at \$1.5 M. There was some confusion about the additional \$350,000, which was initially listed as construction funds by the conference committee; however, Sen. Sasser was able to change the language so as to reflect his original intent that the funding was to be used for operations (staffing, etc).

The newly appropriated \$1.5 M now brings the total available for BSFNRRRA acquisition to \$4.5 M. It will soon be possible for NPS to make offers on some of the tracts that are undergoing appraisals. Because the FY 1994 sum was only half of what Sen. Sasser had asked for, and the available total is thus \$1.5 M shy of the minimum amount estimated to be needed for acquiring even just the North White Oak/Laurel Fork area, further appropriations will be needed in the future.

**\* WHAT YOU CAN DO:** Express your thanks to Sen. Sasser and to Congressman Cooper for their fine efforts in securing acquisition and operating funds for the BSFNRRRA. Addresses are on p.2.

### B. Clear Fork dam proponents appeal the permit denial

In mid-July, the Fentress County Utility District applied to the Corps of Engineers for a Section-404 permit (under the Federal Clean Water Act) to construct a water-supply reservoir on the North Prong of the Clear Fork, a major stem of the Big South Fork River (NL195 ¶18). TCWP wrote in strong opposition to this proposal, citing potential direct impacts on the BSFNRRRA. Of the two major stems of the Big South Fork — the Clear Fork and

the New River -- the former is clean and serves to dilute the heavily polluted contribution of the latter. Any negative water-quality impacts of the proposed dam project (e.g., from disturbance of a coal seam, or from siltation) would thus be particularly intolerable. We also expressed concern about reductions in downstream flow, as well as about changes in the natural flow pattern, which could have negative impacts on the integral fauna and flora. Finally, the need for the project had not been demonstrated, inasmuch as the capacity of the present Jamestown reservoir is more than sufficient to supply the entire county.

In mid-August the Tennessee Department of Environment & Conservation (DoEC) denied a Sect. 401 state certification (the prerequisite for a Corps of Engineers Sect. 404 permit) for the proposed dam on the North Prong of Clear Fork. DoEC made the point that the project would diminish the contribution by the Clear Fork of high-quality water essential for the Big South Fork system. An additional basis for the permit denial was the non-degradation clause of the Tennessee Water Quality Law (TCA 69-3-108), which prohibits the Commissioner from issuing a permit for any activity that would result in a condition of pollution.

The Fentress County Utility Distr., which was the permit applicant, has now appealed DoEC's decision to the Water Quality Control Board. TCWP and NPCA (the National Parks & Conservation Assoc) have requested the right to intervene as "third parties" in the appeal. Because a major portion of the Clear Fork is within the BSNRRA, and because this relatively clean river contributes about half of the Big S. Fork's flow after its junction with the silt-laden New River, it is anticipated that the National Park Service, too, will request to be heard as a third party. At least one critical species occurs near the dam site, namely, the Cumberland Elkhorn Mussel, which is proposed for listing under the federal Endangered Species Act, and is listed as threatened by the state.

### C. *Obed General Management Plan nearing completion*

Along with others who had participated in the Management Objectives Workshops for the Obed General Management Plan, TCWP was recently given the opportunity to comment on the National Park Service's (NPS) "in-house" draft of the GMP, a document that also serves as Development Concept Plan and Environmental Impact Statement, and which will guide Obed WSR management for the next 10-15 years. The document

was concurrently being reviewed by the Southeast Regional Office of NPS and by the Tennessee Wildlife Resources Agency. After the various comments have been integrated, the document will be sent to NPS in Washington for approval and subsequent official release of a Public Review Draft. It is only at that time that the document will be made public.

Thus, all we can report at this time is that the "in-house" draft on which we were given a chance to comment was a thorough and well-presented document that, overall, reflected the consensus of the several workshops. The GMP's purpose, developed in the workshops and stated in the document, is "to preserve and protect the Obed Wild and Scenic River System and the surrounding area in an essentially primitive condition, with unpolluted waters, for the benefit and enjoyment of present and future generations."

### 3. SCENIC LANDS NEAR PICKETT NEED RESCUE

We learned last February that approximately 8,000 acres abutting the western boundary of Pickett State Forest were going to be sold with all possible dispatch by the Stearns Coal & Lumber Co., which had gone into receivership (NL192 §3A; NL193 §4A; NL194 §3A). We were told that the land was highly scenic, characterized by fingerlike ridges and dramatic bluffs fronting the Wolf River Valley. We didn't, however, realize just how fantastically beautiful this area is until we went on a field trip during the Nov 5-7 TCWP Annual Meeting at Pickett. Tragically, during the same meeting, we also learned that a developer, notorious for his shady dealings all across the country, had just paid a \$10,000 option to Stearns for the land. [The State will, however, acquire the mineral rights below the existing Pickett State Park and Forest, which were also for sale; these rights were pre-acquired for the State for \$300,000 by the Trust for Public Lands.]

There had been a tremendous deal of support from Pickett and Fentress Counties and from various Tennessee legislators for a State purchase of the abutting lands. The price tag was surprisingly low, and the State machinery actually got together a bid package and started to move. So, what went wrong? There are conflicting stories about this, some saying that the State moved so clumsily that Stearns lost patience, another holding that Stearns double-crossed the State and welshed on the pending deal.

Be that as it may, the question now is: can the baby still be pulled out of the fire?

The developer in question (Patton Corp.) is so notorious and has been run out of so many States that the CBS show "60 Minutes" recently did a long segment on him. We have forwarded the video of this to the Tennessee Division of Consumer Affairs. Is the State willing to condemn? And, if so, what funding would be used for this purpose?

**WHAT YOU CAN DO:** Write to Commissioner J. Luna (Tennessee Dept. of Environment and Conservation, 701 Broadway, Nashville, TN 37243) and urge him to do *whatever* it takes to get the State of Tennessee to acquire the fantastically scenic area that is located to the west of Pickett State Forest. Send a similar letter to Mike Countess, Asst. Commissioner for Forestry and Agricultural Resources (Tenn. Dept. of Agriculture, Ellington Agricultural Center, P.O. Box 40627, Melrose Station, Nashville, TN 37204).

#### 4. OTHER STATE MATTERS

##### A. Status of Whites Creek (Rhea County) dam proposal

SSM Industries, Inc., owned by a Spring City resident, is taking steps to impound a Whites Creek tributary, Little Laurel Branch. The proposed dam would create a 50-acre lake to provide a water source for a textile-dyeing mill, and possibly to lure a residential development. Whites Creek is noted for its beautiful scenery and for water that is clear even after flood conditions. The stream rises in the Cumberland near Grassy Cove and comes down the Walden Ridge escarpment to empty into the Whites Creek embayment of Watts Bar Reservoir, about 4 miles SW of Rockwood.

Even though a Tennessee Aquatic Resources Alterations Permit has only recently been applied for, the applicant apparently has already bulldozed the site and removed the tree canopy. Because the creek is a tributary to the Tennessee River system, it is likely that TVA will require submission of a "26a" permit. At least a couple of sensitive fish species (included in federal and state lists) make their home in White's Creek.

TCWP president, Jenny Freeman, recently organized a meeting of representatives of other groups, local landowners, and TVA. This small working nucleus plans to stay thoroughly informed

about various aspects of the threat to White's Creek. They would welcome help from TCWP members who have an interest in this issue (see address and phone No. at bottom of p.1).

##### B. Corps not considering off-site impacts of chip mills

Following TVA's denial of permits to three chipmill operations that sought to develop barge terminal on the Tennessee River System, operators began major efforts to get in by the backway, primarily by working through the Corps of Engineers (NL195 ¶3). Applications have now been filed for new or modified barge terminals at altogether 6 Tennessee and 3 Alabama sites. The Corps shares jurisdiction over the Tennessee River system with TVA, and has sole jurisdiction over the Cumberland River system. We have strongly urged the Corps to develop Environmental Impact Statements that consider off-site as well as local impacts, as had been done by TVA. (TVA's study found "significant harvest-related impacts," e.g., the cutting of 2 million tons of hardwood *annually* from a 42-county area to serve but three chipmills).

The response from the Washington office of the Corps (CoE), though two pages long, was quite discouraging. After stating that their involvement could potentially range from very minor to a full EIS, they conclude: "our experience with these types of projects indicates that the Corps' most likely involvement with chip mills, or their associated facilities, will be in the form of a minor regulatory action." CoE expressed itself unwilling to do an analysis in the timber-source area unless the latter were located on federal lands, and perhaps not even then.

Both Sen. Sasser and Rep. Marilyn Lloyd, whom we also contacted, were very much concerned about the adverse effects of chip mills, contrasting the "potential environmental devastation" caused by the mills with the "limited economic gains." Both legislators report having written to the Corps, Lloyd requesting that off-site environmental impact be taken into account, and Sasser asking for public hearings. These letters probably preceded the CoE letter to us; if so, the Corps' position is even more arrogant than it seemed at first reading.

**WHAT YOU CAN DO:** The issue is not the building of chipmills (which we cannot stop), but the access to river shipping -- the factor that makes mills profitable; without such access (which requires a permit) most mills would not be built. Hopeless

though it may seem, we must keep hammering the Corps.

- (1) Contact the Corps of Engineers (John F. Studt, Chief Regulatory Branch, CECW-OR, US Army Corps of Engineers, 20 Massachusetts Ave., NW, Washington, DC 20314-1000) and remind them that they participated in the study that led to TVA's Environmental Impact Statement, a study which found that devastating off-site impacts would result from granting river access for wood-chip shipping. We should insist that the Corps consider off-site impacts in deciding whether to grant or modify river-access permits. Not to do so would undoubtedly be a violation of NEPA; a law suit along these lines is, in fact, a high probability.
- (2) Write to Sen. Sasser, and to Reps. Lloyd and Cooper, thanking them for having contacted the Corps, and urging them to continue too insist on an EIS for off-site impacts.

#### C. *Tennessee Rivers Assessment*

Three years ago, Jonny Freeman (TCWP) and Bill Allen (TSRA) initiated the effort to start a rivers assessment program for Tennessee, and successfully applied for a grant from the Lyndhurst Foundation for support of this effort (NL179 ¶3B; NL180 ¶2; NL181 ¶5A; NL182 ¶3A; NL185 ¶4B). Lyndhurst recently agreed to award an additional sum of \$40,000 to extend the grant through 1994. The funding will be used to continue support for a Project Resource Manager. Joel Zimmerman, who served in that position, has recently been succeeded by David Duhl, who has a background in biology and environmental education.

#### D. *Timber cutting in Land Between the Lakes (LBL)*

The recently released Draft EIS for the LBL Management Plan proposes to stop clear-cutting and to reduce the overall timber harvest in the 170,000-acre area by 15%. The intent of this proposal is, however, being challenged by a citizens group, Heartwood, which points out that while the plan would stop clear-cutting of 300 acres of hardwoods, it would open 520 acres of hardwoods to "group cuttings," which are essentially small clear-cuts.

#### E. *Fall Creek Falls and strip mining*

The watersheds draining into Fall Creek Falls (FCF) State Park and Natural Area are underlain by the toxic Sewanee coal seam, making FCF especially vulnerable to strip mining in the area. In response to a recent letter, the Office of Surface Mining (OSM) has stated that there is currently "no active mining in any watershed draining to Fall Creek Falls State Park."

In July 1992, SOCM filed a petition under the federal Surface Mining Act to have the FCF watersheds declared unsuitable for surface mining (NL190 ¶4C). According to SOCM, the Office of Surface Mining disagreed with SOCM's allegations and rejected the petition without first making the required ruling of whether the petition was complete (NL192 ¶7B). According to OSM (in a letter of 10/19/93), the petition "was returned as incomplete." Whatever the grounds were, there is currently no petition before OSM; however, SOCM is re-writing the petition for re-submission.

### 5. WATERSHED MANAGEMENT IN TENNESSEE

During the past couple of years, much of our effort has had to be devoted to fighting a succession of dam proposals -- Otter Creek, Clear Creek, Fiery Gizzard Creek, Clear Fork, and now Whites Creek. These activities have made us realize that watershed protection in Tennessee must become one of our main themes, and one that probably requires a broad-scale approach. The theme was therefore chosen for the program of TCWP's recent Annual Meeting.

A good part of the program was devoted to the role various agencies play in watershed management. The following is a very brief recap of what was said by the various speakers, not in the order in which they spoke, but going from the local (utility districts), through the state, and regional (TVA), to the federal (National Park Service) level.

#### Utility districts.

Three of the dam proposals TCWP has done battle with in recent times (Otter Creek, Clear Creek, Clear Fork) were made by local utility districts (UDs). What are UD's? Bob Freeman (East Tennessee Development District) enlightened us on this subject. UD's originated when municipalities would not extend water lines and other services to rural areas. A UD is created by a County Executive in a judicial process involving testimony. After that, a UD becomes self-perpetuating. It is a public entity that has the authority to issue revenue bonds, generally through the Farmers Home Administration.

There can be numerous UD's in a county (and way too many for the state as a whole), and they almost never merge, because each one becomes a

little empire. Thus, District A may push to build a new water-supply facility even though there might be a surplus of water in adjacent District B. Every UD has its engineering firm; thus there is a vested interest in creating major facilities and structural works (such as dams). Banking and other financial interests also become involved because of the UD's bond-issuing capacity. The lobby for UDs is very strong and resists regulation, coordination, or creation of a watchdog agency. The Tennessee Municipal League is, however, not fond of UDs because they disrupt orderly municipal expansion.

A questions for us: Can anything be done legislatively? The Tennessee Utility District Act is almost 60 years old and needs looking into. Are any of you members willing to work on this problem?

#### The State

The various divisions of state government that could deal with problems of watershed protection were summarized by Dan Fagar, head of the Natural Resources Division of the Tennessee Dept of Environment and Conservation. The Division of Water Supply determines what supply levels must be available to communities (in the case of Tracy City, their requirements triggered the Fierly Gizzard dam proposal). This Division could do more to set conditions on landuses associated with water-supply developments. The Division of Construction Grants & Loans handles revolving grants to communities for meeting water supply requirements (as well as sewer lines, etc.).

The Division of Water Pollution Control is involved in three types of activities dealing with water quality. (a) Non-point-source pollution control (e.g., from agriculture, silviculture, construction, mining, storm-water run-off, etc.) is not handled through a permit process but by public education concerning proper land treatment. This is done for selected "target" watersheds -- generally the ones with the worst problems, rather than the pristine ones. (b) The ARAP (Aquatic Resources Alterations Permits) program is prescribed by the Tennessee Water Quality law and requires permits for any alteration (including culverts, dry ditches, bank stabilizations, etc., but excluding farm ponds) that might cause pollution downstream. The process can trigger a public hearing (if there is enough expressed interest), but does not require examination of alternatives. (c) State "401" certification is triggered by application to the Corps of Engineers for a "404" (dredge and fill) permit under the federal Clean Water Act.

Because a 404 application gets little individual attention (the Corps having developed generic "Nationwide" permits for certain activities), the State's prerequisite 401 process assumes additional importance; however, 401 can consider only water quality -- it is left to the federal 404 process to require consideration of alternatives, trigger public review, etc.

#### Tennessee Valley Authority

TVA has no regulatory authority over water quality; they have, however instituted a Clean Water Initiative. Chris Ungate, Manager of this Initiative, told us about a watershed-related activity, River Action Teams. These consist of landowners, local governmental units, and other interested citizens that, under TVA's guidance, form water-quality committees and focus on problem areas. Mechanisms include education on proper land practices, planning studies, cost-sharing, etc. Demonstration Projects currently underway are Bear Creek in Alabama (development of a recreation floatway), Holston River, and Copper Basin (where 4 feet of topsoil have been lost, and plantings for reforestation will take at least 5 years). TVA has sometimes attempted to consolidate small water-supply systems into larger ones. Ungate was hopeful that certain features of the federal Clean Water Act, now being considered for reauthorization, would permit planning for whole watersheds.

#### National Park Service

On the night preceding the panel, Don Barger (SE-Region Dir. of the National Parks & Conservation Assoc.) outlined the many problems National Park System units throughout the country are facing in preserving their water resources. An excellent report recently published by NPCA, *Park Waters in Peril*, analyzes these problems and suggests ways of attacking them. If you are interested in a copy, call Don at 494-9786 (Norris).

The NPS is gradually coming to grips with watershed-related issues, according to Ron Cornelius, in charge of Resource Management for the Big South Fork NRR and Obed WSR. In these two areas, all waters flow in -- in contrast to the Smokies, where all waters flow out. Although NPS has no specific regulatory authority over water quality, it is now, at last, attempting to identify threats early enough. While expected to plan for the long term, NPS currently, lacks the comprehensive data needed to prove resource damage. It must increase its technical expertise and establish baseline data.



Several processes are currently under way. A Water Resource Management Plan now being developed for the Big South Fork NRRRA will identify gaps in knowledge for that watershed. The Obed General Management Plan is nearing completion (§2C, this NL). The NPS' Water Rights Division is providing input on what data need to be collected for the Obed WSR.

#### Tennessee Biodiversity Program

This program, summarized for us by its co-director, Bob Ford, is a multi-agency, private-organization initiative in which the Tenn. Conservation League has taken the lead. While not specifically oriented toward watershed, the program has strong implications for watershed approaches. The ultimate objective is to protect the size and quality of critical habitats for Tennessee's plants and animals. Recognizing the need for biological information to guide public policy-making, the program has instituted a computer tool called GIS (Geographic Information System) that combines information from numerous sources into a series of vegetation maps used to prioritize habitat conservation and research needs in Tennessee's very diverse topography. The Program has also chosen migratory songbirds as representatives of biological diversity.

A watershed approach to the management of Tennessee's natural resources has emerged as a top issue. Because watersheds know no state boundaries, collaborations have been started with Kentucky, Alabama, and Mississippi. The Elk River watershed has been chosen as a pilot area for which to develop a proactive approach.

## 6. IMPORTANT BILLS BEFORE THE CONGRESS

### A. *Endangered Species Act reauthorization will be No. 1 battle in Congress*

The Endangered Species Act (ESA), which is up for reauthorization, is clearly in need of strengthening. While the majority of listed species have been at least stabilized, a multitude of other species that might have been candidates for listing failed -- for lack of funding -- to be studied, leave alone listed. Even for those species that were listed as "threatened" or "endangered," critical habitat was only rarely designated.

Many of the improvements suggested by the Endangered Species Coalition (which consists of

about 70 environmental, scientific, and religious organizations) are incorporated in the Endangered Species Reauthorization Act, HR.2043 (Studds, D-MA; Dingell, D-MI; Saxton, R-NJ)/S.921 (Baucus, D-MT; Chafee, R-RI). Major strengthening features of HR.2043/S.921 are: protection of entire ecosystems and habitats; deadlines for developing species recovery plans; incentives for private landowners to protect species; and increased funding for implementation of the Act. The bills have been referred to the House Merchant Marine & Fisheries Committee and the Senate Environment & Public Works Committee.

On the other side, a tremendous and well-financed effort is being mobilized by "Wise-Use" forces to emasculate the ESA. Often, enemies of a legislative initiative use the strategy of pushing a rival bill that sounds OK superficially. This has happened with regard to ESA: Billy Tauzin (D-LA) and Jack Fields (R-TX) have introduced ESA "reform" legislation, HR.1490, which, far from strengthening the present Act, actually weakens it significantly by making it more difficult to list species, and by emphasizing captive-breeding programs rather than habitat protection.

Tauzin's bill is supported by all the components of the "Wise Use" movement, who claim that the ESA takes away land-owner rights and inhibits economic growth. The two bills are competing for co-sponsors. The good bill (HR.2043) currently has 94 co-sponsors, the bad bill (HR.1490) has 83.



**WHAT YOU CAN DO:** Urge your representative (address on p.2) to co-sponsor HR.2043, and to oppose HR.1490.

### B. *Clean Water Act reauthorization*

Congressional action is accelerating on reauthorizing the 1972 Clean Water Act, a battle that promises to be almost as hot as that for the ESA. The greatest bone of contention is Section 404, which is designed to protect wetlands. The 404 ("dredge and fill") program requires a permit for any activity that would discharge material into a wetland or waterway. Development and farming interests have waged a long-standing and well-financed battle to dismantle the 404 program.

Another controversial feature is control of non-point-source pollution. While the Act has been relatively successful in controlling pollution from industries, sewer plants, and other point sources, it has not addressed the proliferation of run-off from farms, roads, mining activities, logging, etc.

Agricultural run-off alone damages 100,000 miles of rivers annually. As a result of wetland degradation and non-point-source pollution, 30% of the nation's streams even now remain too polluted for fishing and drinking. Groups such as the Farm Bureau, the timber industry, and agribusiness oppose mandatory regulation of non-point-source pollution.

Among the numerous bills that have been introduced, these are the most important.

- S.1195/HR.350, introduced by Sen. Barbara Boxer (D-CA) and Rep. Don Edwards (D-CA) and supported by environmental groups, greatly strengthens wetland protection and makes it more scientifically-based.
- S.1114 (Baucus, D-MT) and S.1304 (Chafee, R-RI) are "compromise" bills that are expected to be the Senate "vehicles" for the Act's reauthorization; both are in the Environment & Public Works Committee. The two bills cover non-wetland and wetland aspects, respectively. Though S.1304 contains several of the reforms found in the Boxer-Edwards bill, it authorizes the use of "mitigation banking," i.e., permission to destroy a wetland, provided another one is protected or restored elsewhere. This is very difficult to enforce.
- S.815/HR.1720 by Sen. Lieberman (D-CT) and Rep. Lowey (D-NY) would clean up estuaries around urban areas, restore wetlands, and create 1.4 million jobs over 7 years.
- HR.1330 (Hayes, D-LA) is an "anti-wetlands" bill that would gut Section 404. Its non-scientific definitions exclude half the nation's wetlands from protection. Unfortunately, HR.1330 has 120 cosponsors and has been referred to two committees (Public Works, and Merchant Marine).

**WHAT YOU CAN DO:** Congress is being barraged by interests that want the Act weakened; they badly need to hear from citizens who want it strengthened. The first battle is likely to be in the Senate. Contact your senators (address on p.2), urging them to improve S.1114 and S.1304, the Senate "vehicles." As written, S.1114 permits pollution dilution, exempts stormwater discharge from water-quality standards, and does not protect groundwater; S.1304 is actually weaker than the present Sect.404 provisions. Strict mandatory programs are needed to prevent non-point-source pollution. Section 404 must be strengthened to avoid destruction of wetlands. Enforcement provisions of the law need teeth in them. A way to achieve these goals is to incorporate the good bills,

S.1195 and S.815, into the legislation that emerges from committee.

Send a copy of your letter to your representative (address on p.2), and specifically urge him/her to oppose HR.1330.

#### C. *A bill to prohibit clear-cutting*

The devastations wrought by clear-cutting -- soil erosion, stream siltation, destruction of ecosystems and biodiversity -- are being increasingly recognized. In March, Rep. John Bryant (D-TX) introduced HR.1164, the Forest Biodiversity and Clearcutting Prohibition Act. This would: (a) make the maintaining of NATIVE forest diversity a main priority of forest management agencies; (b) prevent the construction of logging roads in approximately 60 million acres of presently roadless Forest Service and BLM areas, as defined in RARE II; (c) ban clear-cutting and "even-age" logging on all federal lands, but allow selection logging on federally designated timber lands (except those that have a higher level of protection, e.g., national parks, wilderness areas); and (d) reactivate the Committee of Scientists that provides scientific advice to the Sec. of Agriculture on biodiversity and on logging systems.

**WHAT YOU CAN DO:** HR.1164 currently has 73 co-sponsors of both parties, and awaits action in four House committees. Sadly, none of the co-sponsors is from Tennessee. Write to your representative (address on p.2), expressing your support for an end to clear-cutting and road building on public forestland, and urge him/her to become a co-sponsor of HR.1164. For a free copy of the bill, call 202-225-3456 (House Document Office).

#### D. *The threat of "takings" amendments*

"Taxpayers should not have to pay despoilers of the environment not to do what they shouldn't be doing anyway" (*Denver Post*, 3/8/93) But that's exactly what the "Wise-Use" movement is attempting to accomplish via "takings" amendments that they hope to attach to bills supported by environmentalists.

The first target is the National Biological Survey (NBS) bill, HR.1845, which authorizes the Interior Dept. to provide a proactive and scientific approach to preserving ecosystems that will prevent future resource-management conflicts (NL194 §8D). Rep. Billy Tauzin (D, LA) is attempting to attach a "takings" amendment to HR.1845, which would compensate property owners if the value of

their land declines more than 50% as a result of a regulatory decision based on NBS information. (Tauzin failed in committee to attach this amendment, but will try again on the House floor).

Tauzin and others may try to attach his amendment, or similar ones, to other worthy bills. Furthermore, an independent "takings" bill (S.177/HR.561) has been introduced by Sen. Dole and Rep Condit. All these measures are based on a flawed interpretation of the 5th Amendment. The Constitution *already* adequately protects private property owners: everyone with a 5th-Amendment takings claim has the right to pursue it in court. Under the guise of protecting landowners, "takings" legislation seeks to dismantle environmental protections by making them too costly to enforce.

✱ **WHAT YOU CAN DO:** This is a pervasive evil that must be fought strenuously. (1) Write your representative and senators (addresses on p.2) and strongly urge them to oppose all "takings" bills or "takings" amendments to other bills. Point out that such measures would:

- frustrate the effectiveness of important laws that protect us from harmful actions by industry or developers;
- waste scarce fiscal resources;
- weaken protections for valuable natural land and/or cultural resources;
- add a layer of bureaucracy for the conduct of meaningless legal analyses.

(2) Send a copy to the editor of your newspaper.

E. *California Desert Bill clears key committee*

The unique California Desert ecosystem, which is home to 2,000 species of plants and 600 species of animals, is being seriously damaged by grazing, mining, and all-terrain vehicles. Legislation to protect this desert had in recent years been held up by California's Sen. John Seymour; his defeat by Diane Feinstein considerably improved the chances for the bill. S.21 would add acreage to Death Valley and Joshua Tree National Monuments and upgrade them to National Park status, would create a 1.46-million-acre Eastern Mojave National Park, and would designate about 4 million acres of wilderness on BLM lands. Altogether 7.6 million acres would be protected.

The National Rifle Association tried hard to allow hunting in the area proposed to be the new Mojave National Park. NRA's latest ploy was to support an amendment that would have designated the area as a park preserve, rather than a national

park. Fortunately, this move was defeated in the Senate Energy & Natural Resources Committee (of which Sen. Harlan Mathews is a member).

The bill now goes to the Senate floor. A companion measure, HR.518, should soon be the subject of deliberations of the House Natural Resources Committee.

✱ **WHAT YOU CAN DO:** Urge your senators to support S.21 in the floor vote, including the establishment of Mojave National Park (which would keep hunting out of this fragile area). Urge your representative to support the California Desert Protection Act in the House.

F. *Grazing fees to be raised -- a little*

It costs us taxpayers \$52 million per year, *exclusive* of the costs incurred through environmental damage, to subsidize the ranchers who graze their stock on 280,000,000 acres of public rangelands at a laughable "animal-unit" fee of only \$1.86/month for a cow plus calf, or for 5 sheep.

Having failed to raise grazing fees as part of the budget process (NL193 ¶9A), the Administration tried to go the executive route, proposing (after a series of public meetings) to raise the animal-unit fee to \$4.28/month (only a fraction of what it costs to lease private rangelands) over the course of 3 years.

Grazing interests then tried a different tack, namely a filibuster against the conference-committee version of the Interior Appropriations bill (which funds all Dept of Interior agencies and, incidentally, contained the appropriation for the BSNRRA, §2A, above). Significantly those senators (led by Pete Domenici, R-NM) who supported the filibuster had received an average of \$15,273 from ranching-related PACs (political action committees), while those supporting the fee hike had received only \$6,533. It may surprise you to learn that the most prominent ranching-related PACs are the Chevron Employees PAC and the Metropolitan Life Insurance Co. Employees PAC (Metropolitan Life holds federal land permits for almost 800,000 acres!).

After several weeks, the Senate filibuster was finally terminated on November 9. This frees the Administration to enact changes by executive authority. Unfortunately, the originally proposed \$4.28/month (after 3 years) has now shrunk to \$3.45/month. This is less than twice the current

fee and does not anywhere near recoup the cost to the taxpayer. However, it's a beginning.

The Tennessee senators split on this matter. Sen. Mathews supported the **foes of grazing-fee increases** and needs to be told of our displeasure about his position. Sen. Sasser supported the Administration and deserves our thanks. We hope you'll drop each senator a note.

#### G. *A bill to protect watersheds*

The River and Watershed Protection and Restoration Act has been drafted as an amendment to the Clean Water Act, which is currently in process of reauthorization (§6B, above). EPA would establish and maintain a registry of rivers and associated watersheds that are nominated by a state or local government, watershed council, or local citizens. The bill specifies the process for making nominations and for subsequent EPA decisions. It also directs EPA to contract with the National Academy of Sciences to develop watershed-protection and -restoration standards.

The Registry bill is largely a planning, local-cooperation, and financial-incentive-driven approach to river protection. To get more information on the bill, or a copy of the full draft, contact Pete Lavigne, River Network, P.O. Box 8787, Portland, OR 97207, Ph: 1-800-423-6747.

### 7. NOMINATIONS FOR AGENCY HEADS

#### A. *Worthy choice for new Chief of Forest Service*

On November 17, the Sec. of Agriculture announced that Dr. Jack Ward Thomas had been named as new Chief of the US Forest Service, citing his strong scientific credentials, his professional integrity, and his understanding of forest and rangeland ecosystems management principles. A USFS biologist for the past 27 years, Thomas, in 1990, led an interagency scientific task force that recommended a network of habitat conservation areas in the ancient forests of the Pacific Northwest designed to ensure survival of the spotted owl (NL183 §5B). Earlier this year, Pres. Clinton appointed him to head the Forest Ecosystem Management Assessment Team.

Thomas' nomination is applauded by conservation groups. The Wilderness Society writes: "We hope this marks the end of timber-dominated management of the national forests and a new era restoring and increasing protection to

these biologically significant lands," and goes on to name a few of the enormous challenges Thomas faces in an agency that has for decades engaged in "excessive logging, political interference and mismanagement."

Thomas will report to James R. Lyons, Asst. Secretary of Agriculture. His second in command will be David G. Unger, Associate Chief of the USFS.

#### B. *Office of Surface Mining still lacks director*

OSM is still operating under an acting director, Hord Tipton. There are two contenders for the position of Director. BRUCE BOYENS, a lawyer in Lexington, KY, who at one time worked as an underground-coal miner, formerly was OSM's head of enforcement for Tennessee. He has an unblemished record of enforcing the law to protect the environment, and an impressive history of fighting for citizen groups. ROBERT URAM practices corporate law, with several coal companies among his clients. He has served as Associate Solicitor for OSM. The coal industry is supporting the nomination of Uram and vigorously opposing that of Boyens. The hiring decision will be made by the White House, rather than by Sec. Babbitt.

**WHAT YOU CAN DO:** To support the nomination of Bruce Boyens write to Bruce Lindsey, Assistant to the President and Director of the Office of Presidential Personnel, The White House, Washington, DC 20500, Ph: 202-456-6676; FAX 456-2883.

### 8. OAK RIDGE NEWS

#### *Worthington Cemetery Cedar Barren clean-up*

A year ago, TCWP offered to clean up a 29-acre tract of TVA land on the Mellon Hill Lake waterfront that includes the Worthington Cemetery, and to make it into an urban wildlife sanctuary and environmental-education site (NL190 §8A). Much has happened since then (NL192 §10C; NL194 §9A). The City of Oak Ridge rezoned the land from IND-1 (industrial) to G (greenbelt); the road accessing the cemetery has been graded; a tamper-resistant gate has been installed (located on City property); signs have been erected; and a determination was made that local ordinances are fully applicable, even on TVA land, and that city police can patrol the area and/or respond to calls from interested citizens.

TVA and the City have designated the tract as an Ecological Study Area.

The tract is basically a fine example of a cedar barren, but has long been abused by trash dumpers and all-terrain vehicles. Clean-up was imperative as a first step in its rehabilitation. On Saturday, November 20, 50-60 energetic people collected 60 discarded tires and about 200 bags of trash from the area, with TVA providing bags and gloves. Many of the volunteers were students from the High School Advanced Biology Class taught by TCWP Director Fred Holtzclaw and from two JHS biology classes taught by Ms. Pat DeRoos. Among TCWP volunteers were President Jenny Freeman and past Board member Judith Bartlow, who organized the TVA end of the event. Councilman Jerry Kuhaida, residents of The Rivers subdivision, and several members of the Worthington family (much touched by the clean-up effort, especially by the participation of so many young people) also participated.

## 9. TCWP NEWS

### A. *Report of TCWP Annual Meeting*

The Nov. 5-7 meeting at Pickett was in the finest Annual-Meeting tradition: an outstanding program, enjoyable outings (and the weather was glorious -- crystal clear and cool), fine meals, and many fruitful discussions of the issues of the moment.

The organizing committee (Jenny Freeman, Joan Burns, Neil McBride, Dave Adler, and Jimmy Groton) may take pride in having assembled a fine cast of speakers on the theme subject of watershed protection. Their talks are summarized in §5, this NL. In addition, Pam Wolfe, the Environmental Action Fund's lobbyist, discussed a few items related to the upcoming session of the State legislature (a bill will be offered to overturn our good Water-Quality Act; legislative study committees will be discussing clear-cutting issues, and funding for non-game wildlife; the 1934 Utility District Act needs looking into). Greg Wathen of TWRA gave an after-supper slide talk on the planned experimental program to reintroduce black bears into the Big S. Fork NRR and the adjacent Daniel Boone National Forest.

A good lunch, dinner, and brown-bag lunch were catered by the Mark Twain Restaurant of Jamestown. Joan Burns organized both breakfasts.

Before dinner on Saturday, the Highland Winery, Jamestown, put on a great wine-tasting event (stop there sometimes, if you are in the area -- their wines are excellent). Judy Roitman very kindly took care of kids' activities throughout the meeting.

The bad news had only just broken that the state might have lost out to a notorious developer in the attempt to acquire the superblands adjacent to Pickett (§3, this NL). The topic was very much discussed all during the weekend, and two 4-wheel-drive fieldtrips were arranged into the area. Those who went came back totally enchanted with the scenery, and determined more than ever to repair the damage if this could be done. The remainder of the group got a good idea of the fantastic area from an extensive video, we also saw a re-play of the 60-Minutes program devoted to giving the lowdown on the developer, Patton.

Our only question: why did so many of you miss such a fine meeting (we had about 30 attendees)? We'd love to hear from some of you who stayed away to let us know your reasons -- perhaps we can accommodate your suggestions in the future.

### B. *Results of TCWP elections*

During the Annual Meeting, the slate of nominees was elected by acclamation. These are the people who will represent you in 1994.

President: Jenny Freeman  
Vice Pres.: Chuck Coutant  
Secretary: Maureen Cunningham  
Treasurer: Charlie Klabunde

#### Directors:

Dave Adler  
Patrice Cole  
Jim Groton  
Eric Hurst  
Fred Holtzclaw  
Neil McBride  
Lee Russell

Nominating Committee:  
Dick Ambrose  
Lynn Wright

### C. *Good news about people dear to TCWP* Our Executive Director's family grows.

Joan and Tom Burns are the proud parents of Michael Martin, born November 22, their third offspring. Those of us who saw Joan busting around the TCWP Annual Meeting, discharging her Executive Director functions, as well as taking care of breakfasts, were surprised the baby waited as long as another 2 weeks to be born! It gives us tremendous joy to welcome him.

### Mike Frome earns Ph.D.

Ever since the late 1960s, well-known conservation author Mike Frome (*Strangers in High Places*, about the Smokies; *Battle for the Wilderness*, and many others) and TCWP have fought numerous battles together, and some of us are proud to call him a friend. In recent years he has been on the faculties of several academic institutions. Four months ago, Mike earned his Ph.D. from the Union Institute; Lee Russell served on his dissertation committee. CONGRATULATIONS, Mike!

### D. Board Retreat to be held

The TCWP Board has contracted with Peggy Matthews to conduct a one-day retreat, which will be devoted to Board development and goal setting. The workshop will take place in Oak Ridge on January 15. In addition to Board members, our Exec Director (Joan Burns) and our representatives to EAF (Milo Pyne, Nashville) and TEC (Russ Ward, Nashville) will attend.

### E. We thank our volunteers

We are grateful to the following people who helped assemble Newsletter 195 on October 1: Dick Ambrose (host), Don DeAngelis, Charlie Klabunde, Catherine Pensworth, Marion Roessel, Ed Sonder, Fred and Philis Sweeton.

Many thanks to Board member Fred Holczclaw for mobilizing his Biology class, and to the numerous other volunteers who participated in the Worthington Cedar Barren clean-up on November 20 (see ¶7, this NL).

Our thanks to Larry Pounds for representing TCWP at Tennessee's Scientific Advisory Committee meeting in Nashville, Nov. 12. This committee is responsible for periodically revising the State's Rare Plant List.

### F. Erratum

The Table of Contents of NL195 (p.1) listed ¶1.B. as "Clear Creek dam squashed." We meant, of course, to refer to Clear Fork (the title of the pertinent article, p.3, did name the river correctly). Sorry if we misled you in getting your hopes up!

## 10. JOB OPENINGS; ACTIVITIES; READING MATTER

- **JOB OPENINGS:** The League of Conservation Voters Education Fund is seeking candidates for a grants-writer position. In addition, LCV has paid 6-month internships. (FAX resumes and cover

letter to 202-835-0491; or send to LCV, 1707 L Street, NW, #550, Washington, DC 20036.)

- Dec. 3-5, Asheville, NC, Southern Appalachian Highlands Ecoregion (SAHE) Activist Training Conference will provide skills training for three issue areas: air quality, forestry/biodiversity management, and transportation alternatives. Call Arthur Smith, 615-247-7895.
- March 22-24, 1994, Wildlands Conference, Houston, TX. Sponsored by EPA, USFS, Bureau of Mines, Western Governors' Assoc, and Soc for Ecological Restoration. Call Bronwyn Weaver, 717-528-7062.
- March 25-26, 1994, Nashville, TN, Tennessee Statewide Rails-to-Trails Conference. Contact Kathleen Williams, Tenn. Recreation & Parks Assoc., (2704 12th Ave, S, Nashville, TN 37204, Ph.: 615-292-4690).
- April 22-24 (?), 1994. Another March for Parks event to raise funds for a park may be organized by TCWP if there is enough interest.
- *Planning for Floods*, by the Environmental Defense Fund, is a 30-minute video on the huge 1973 Mississippi-basin floods. The issues were identical to those of today. (\$20 postpaid from EDF Publications, 257 Park Avenue South, New York, NY 10010.)
- The National Audubon Society has produced a number of slide shows suitable for public meetings. The following shows are available: Wetlands, Endangered Species, and Arctic Refuge. Each show costs \$40 and includes a cassette tape, script, and instructions for use. (Make check to Natl Audubon Soc, and mail to Activist Materials-- Conservation Information, Audubon, 700 Broadway, New York, NY 10003.)
- The National Audubon Society has also produced a number of "Toolkits" that contain background information on a subject, as well as how-to instructions for letter writing, starting phone trees, recruiting volunteers, organizing coalitions, and meeting with congressional members. The following "Toolkits" are available: Ancient Forests, Endangered Species, Wetlands, and Arctic Refuge. Each costs \$6. (Make check to Natl Audubon Soc, and mail to Activist Materials -- Conservation Information, Audubon, 700 Broadway, New York, NY 10003.)
- *The Ecologist* is an international "green" journal that focuses on the impact of humanity on the biosphere, and the social, economic, and political barriers to regulating this impact. (Individual subscriptions, \$34; student/retired, \$25-- from MIT Press Journals, 55 Hayward Street, Cambridge, MA 02142-1399.)