

TENNESSEE CITIZENS for WILDERNESS PLANNING

Newsletter No. 197

January 28, 1994



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11. ACTION SUMMARY

#No	Issue	Contact	"Message!" or Action
1A	BSF gorge road(s)	Rep Cooper and Sen. Sasser (foremost). For others, see p.3	"O&W must not be used by motorized traffic! Bicycle and/or horse trails would be OK"
2	Pickett lands	McWherter, Luna. Ivy; State legislators: media	"State must acquire lands: do whatever it takes!" URGENT
3B	Chip mills	US Senators, and others listed on p. 5	"Urge Corps to look at off-site impacts and at industry ruses!"
3C	Two permit requests	Corps and TVA	"Public hearings must be held!"
4A	State water-qual. law	State legislators	"State must be involved in permitting!" URGENT
4B	State Recreation Plan		Attend workshop in your area
6B	Land & Water Fund	Pres. Clinton	"Seek appropriation at authorized \$900M level!"
7A	Endangered Species Act	US Representative US Senators	"Co-sponsor HR.2043! Oppose HR.1490!" "Support S.921! Oppose S.152!"
7B	Clean Water Act	US Senators US Rep	"Strengthen S.1114 and S.1304 regarding wetlands, nonpoint-sources, groundwater!" "Oppose HR. 1330! Support a strong bill!"
7C	"Takings" bills	US Rep and Senators	"Oppose all 'takings' bills and amendments!"
7D	California Desert	US Sens (esp. Sasser)	"Oppose downgrading Mojave Park to 'preserve; restore Lanfair Valley deletion!"
7E	Clear-cutting	US Rep	"Co-sponsor HR.1164!"
8A	Federal recycling	Pres. Clinton	"Thanks for executive order!"
8B	Wetlands Policy	Pres. Clinton, w. copies	"Please correct serious defects in your policy!"

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.

Continued from p.14

- Red Wolf educational package available. In 1991, WBIR-TV produced a 30-minute special on the red wolf project, entitled "Front Runner." An updated videotape copy of the program, a poster, and a teacher guide are available free to schools, libraries, and nature centers. Call Bob Miller, Gt. Smoky Mtns National Park, 615-436-1207
- Trees are Treasure is a new video produced by Scenic America. To obtain a copy, call J.A. Harter, 615-688-2967.

*** FOR CRISES REQUIRING IMMEDIATE
* ACTION, SEE 12 and 4A**

1. BIG S. FORK PROTECTION ISSUES

A. Motorized traffic threatens 17 miles of gorge

Far from being over, the crisis over the fate of the O&W right-of-way continues. If some of the local interests get their way, 17 miles right within prime gorge lands of the Big South Fork NRRRA would be opened to motorized traffic with all its attendant evil impacts.

As you may recall (NL196 11), the authorizing legislation limits motorized transportation in the "Gorge Area" portions of the BSNRRRA to 11 specifically designated access routes (i.e., to, or crossing, a river). The Congressional intent was to preserve the kind of undisturbed and pristine environment that has all but disappeared from the eastern US, and which makes the BSNRRRA such a special place. The O&W right-of-way (along the remote North Whiteoak Creek, a dramatic portion of the Big South Fork, and the Pine Creek) 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 ..."

In its recent draft of the Roads & Trails Management Plan, the National Park Service cited the conclusions of several thorough studies by the Corps of Engineers, which specifically rejected motorized use of the O&W (because it poses "a greater threat to the natural environment than any of the other alternatives") and which proposed developing the O&W as a bicycle path. NPS' concurrence with this Corps conclusion is what precipitated the Scott County push to open the O&W to motorized traffic.

Local politicians have made this their all-consuming issue. They 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 collected 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!]. The group also sent a delegation

to the National Park Service's Southeast Regional Office in Atlanta. Probably only a handful of the 4,000 petition signators have even seen the area and are acting mostly out of general anti-government sentiments.



WHAT YOU CAN DO: Our congressmen and senators are experiencing great pressures from Scott County (and other local counties) to amend the Act, and the National Park Service is being pressured to change their recommendation. We MUST convince them all that there is a lot of support for the other side of this argument. Our legislators do not have to do anything for us -- they merely have to *sit tight*, leaving the Act as it is. When you write your letter, does not have to belong or elaborate -- simply make the point (giving a couple of reasons) that motorized traffic must not be allowed on the O&W railroad. Point out, also, that the BSNRRRA does not 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. These are the people to write to:

1. Most important are Congressman Jim Cooper (attention Tara Campbell) and Sen. Jim Sasser (attention Monique Van Landingham). Almost the entire BSNRRRA is in Rep. Cooper's district, and the Scott/Fentress County pressure on him will be strong. But since he is running for the Senate this 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. Sen. Sasser's address is U.S. Senate, Senate Office Bldg., Washington, DC 20510.
2. Send similar letters to Sen. Harlan Mathews (attention Sean McDonough), to Congresswoman Marilyn Lloyd, and to Rep. Bob Clement. (Addresses on p. 2).
3. Send copies to Bill Dickinson, Superintendent, BSNRRRA (Rt. 3, Box 401, Oneida, TN 37841) and to Jim Coleman, Director, SE Regional Office, National Park Service (75 Spring Street, SW., Atlanta, GA 30303).
4. 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 ENCLOSED WITH NEWSLETTER 196 (call us if you need extra copies).

B. Appeal of Clear Fork dam permit denial to be heard in April

The Fentress County Utility District is seeking 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). In July, they applied for a permit, which was denied by the Tennessee Department of Environment & Conservation (DoEC) in August on the basis of the non-degradation clause of the Tennessee Water Quality law (TCA 69-3-108). DoEC, further, 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; the BSF's other major stem, the New River is polluted by stripmine run-off. [It should also be remembered that the need for the project has not been demonstrated, inasmuch as the capacity of the present Jamestown reservoir is more than sufficient to supply the entire county.]

The utility district then appealed DoEC's decision to the Water Quality Control Board (WQCB). A recent legal ploy engaged in by the utility district's lawyers resulted in the appeal going to the chancery court, but the judge sent it back to the WQCB, which has now set the hearing date for April 19 (unless they can be convinced to postpone the proceedings). TCWP and NPCA (the National Parks & Conservation Assoc.) have requested the right to intervene as "third parties" in the appeal, and we should appreciate any offers of help from our members. This is yet another battle in the ongoing assault on the watersheds of our valuable rivers.

2. LANDS ADJOINING PICKETT MUST BE PROTECTED!

[Based on submission by Jenny Freeman]

Tremendous statewide support is growing for State acquisition of the incomparably scenic 8,000 acres adjacent to Pickett State Park and Forest. Because the initial attempts by the State to purchase this land from the Stearns Co. unfortunately went awry (NL196 ¶3), a different level of effort by the State is now required and must be strongly encouraged by us. The State must acquire this land by any means necessary, either through negotiations or condemnation -- but time is running out!

Anyone who has been to Pickett State Park and Forest will understand the groundswell of support

for adding the adjacent lands. The 8000 acres will add more than 62 miles of sandstone bluffs and overlooks, numerous waterfalls, hiking and biking trails, sandstone pinnacles and rockhouses, and deeply carved finger gorges covered by hardwood forest. The local people have had access to this area for over 100 years and have come to know and love the landmarks. People of Tennessee are telling everyone involved that we must not allow this land to be owned by just a few -- it must be in public ownership.

TCWP has taken a very active role in building support for State acquisition and has enlisted the help of several other conservation groups. Diverse types of other organizations, local governmental units and Chambers of Commerce, and representatives of the academic community are all working for the same goal. Widespread media coverage has also been received in the Nashville and Knoxville papers, and in Fentress, and Pickett Counties.

Last week, TCWP President Jenny Freeman, along with other group representatives and legislators, attended a meeting in Nashville with George Donovan, former developer of Fairfield Glades and now CEO of the Patten Corp. Patten holds an option from Stearns to purchase 5000 of the 8000 acres by January 31 (the remainder of the acreage is in two tracts, with owners who might possibly be willing sellers). Donovan gave a speech about how Patten was no longer the shady company that had been the subject of a "60 Minutes" segment, and how much the company cared for the people of Tennessee. However he refused to entertain two specific requests: (a) to let the State purchase his option to buy the land, and (b) to suspend all cost-inducing practices (e.g., advertising and surveying) until the State could make an offer on the land. Donovan did, however, agree to further discussions with Rex Boner of the Conservation Fund, which is independently trying to buy the land to hold it for the state until funding is available. This meeting is scheduled for 1/28/94.



WHAT YOU CAN DO

- (1) On February 3, a public meeting will be held at the York Institute at Jamestown at 6:30 p.m. CST (that is 7:30 EST). We hope several of you will be able to attend; if so, call Jenny (482-5980) who will help to arrange transportation.
- (2) Lots more phone calls and letters are needed to the following: Gov. McWherter, Environment & Conservation Commissioner J.W. Luna, and Agriculture Commissioner L.H. Ivy (for addresses,

see Political Guide enclosed with this Newsletter). Your State senator and representative also need to be contacted.

(3) Send a letter to the editor of your newspaper.

Thank you for your work thus far - TCWP can take pride in being involved in this issue. When the State of Tennessee acquires this land at last, you'll all be invited to a celebration at Pickett the likes of which you've not seen before!

3. THE CHIP-MILL THREAT WORSENS

A. *Why worry about chip mills?*

Perhaps the idea of a mill that chips wood into little pieces seems rather innocuous. But this is what chip mills bring about: huge areas of hardwood forests clear-cut in a relatively brief time; resulting massive soil erosions; either no regrowth of the forests or the planting of sterile monocultures (with associated herbicide and pesticide sprayings); destruction of the forest resources needed by the existing hardwood (saw-timber) industry (cabinet making, pallets, etc) and justifying job losses; export of the chips to Pacific-rim countries which then re-sell the products to us.

To increase their profits, the industry seeks to move the product at lowest cost to them - and at tax-payer expense. Therefore, there is emphasis on river transport, down the Tennessee, onto the Tennessee-Tombigbee, and out into the Gulf of Mexico for ocean shipping. Because requests for permits to give chip mills access to the rivers ran into considerable opposition, and eventually to denial by TVA (see below), the industry has now cloaked chip-mill activities in various disguises. One of these is "residual chips," supposedly the by-products of saw-mill operations. Another is to request permits for whole-log loading docks; logs, in fact, are transported, but merely to an existing chip mill farther downstream.

B. *The Corps of Engineers refuses to consider the true chip-mill impacts*

The US Corps of Engineers (CoE) goes on refusing to consider the off-site (timber-harvest-related) impacts associated with permits granted for the shipping of wood chips. Contrast this with the actions of TVA, which properly implemented the National Environmental Policy Act (NEPA) by generating (admittedly after a little prodding) an Environmental Impact Statement (EIS) that considered the cumulative direct and indirect impacts of issuing permits for chipmill-related

shipments. Based on this EIS, the TVA Board denied these permits.

Following the TVA denial, the wood-chip industry started a major effort to get in by the "backdoor," i.e., via the CoE (NL195 ¶3; NL196 ¶4B). The CoE shares jurisdiction over the Tennessee River system with TVA, and has sole jurisdiction over the Cumberland River system. As of last August, there were at least 18 sites on the Tennessee and Cumberland Rivers requested for the transport of chips and/or whole logs.

The off-site impacts of wood-chip shipping are horrendous and well-documented. Even just the three chipmills considered in TVA's EIS would cause the clear-cutting of 2 million tons of hardwood annually from a 42-county area. And others have strongly urged the Corps to develop EISs that consider off-site as well as local impacts. In its response, the Corps states that its "most likely involvement with chip mills, or their associated facilities, will be in the form of a minor regulatory action" (NL196 ¶4B). Could it be that the CoE sees the wood-chip barges as a way of justifying the huge tax-payer expense of building and maintaining the Tenn-Tom Waterway, a CoE project?

✱ **WHAT YOU CAN DO:** This may sound like a lot of work, but it's really just one letter sent to several people. (1) Ask both of your senators to strongly request the Corps of Engineers, (a) to review off-site as well as on-site impacts of facilities that handle and transport wood chips or whole logs (note that NEPA, in 50 CFR 402.02, specifically requires consideration of involved areas besides the immediate one); (b) to include such review not only for new permit applications but for modifications of existing permits; (c) to define "residual chips" and to document what studies have been done on this commodity; (d) to arrange for public hearings on permit applications. (2) Ask the senators also to urge the US Fish & Wildlife Service and the EPA to generate MOAs (Memorandums of Understanding) with the CoE that stress review of off-site (harvesting) impacts. - [Thank Sen. Sasser for his previous efforts to prevent the environmental devastation of chip mills. Unfortunately, he recently stated that he's hearing only from people who favor chip mills; we must turn that around!]

Send similar letters to (a) Katie McGinty, head of the President's Office of Environmental Policy, 360 Old Executive Office Bldg, Wash. DC

20501; (b) Vice President Al Gore, Old Executive Office Bldg, Wash. DC 20501; (c) Sec. Bruce Babbitt, US Dept of the Interior, Wash. DC 20240. Send copies to (a) Patrick Tobin, Dir., EPA Region IV, 345 Courtland, NE, Atlanta, GA 30365; (b) James Pulliam, Regional Director, USFWS, 75 Spring St, SW, Atlanta, GA 30303; (c) John F. Studdt, Chief Regulatory Branch, CECW-OR, US Army Corps of Engineers, 20 Massachusetts Ave., NW, Washington, DC 20314-1000; (d) Craven Crowell, TVA Chairman, 400 W. Summit Hill, Knoxville 37902-1499.

C. *Input needed on two recent permit requests*

(1) Among the three on-site chip-mill applications for which TVA denied permits was one at Nickajack by Parker Towing. Guess what: there is now a new request (Public Notice #93-137 and CoE application 47,352B) by Parker Towing for the same site, to use a conveyor to handle 150,000 tons of "residual chips" annually. Local saw-millers, furniture manufacturers, etc., who could potentially sell waste chips to Parker Towing are seriously questioning where these 150,000 tons would come from. Neither TVA nor the CoE would monitor or enforce the permit once it was in place.

(2) Mannington Wood Floors has an unpermitted dock at Tennessee River Mile 390 (near Guntersville, AL) for which they are now requesting permission to dredge so they can increase their capacity for shipping hardwood logs (Public Notice #93-121 and CoE Application 63,194). These logs are barged to another Mannington site on the Tenn-Tom where they are made into chips for export to Japan.

*** WHAT YOU CAN DO:** Without delay, write to the Corps and to TVA (William James, Regulatory Branch, US Army Corps of Engineers, POBox 1070, Nashville, TN 37202-1070; Craven Crowell, Chairman, TVA, 400 W. Summit Hill, Knoxville 37902-1499) and REQUEST PUBLIC HEARINGS on both of these permits. The Mannington site never has had a permit in the first place (was this not illegal?). The Parker Towing request raises serious doubts about the integrity of the supposed "residual chips." For both permits, review of cumulative harvesting impacts is imperative.

D. *Threat of major clearcuts for Campbell, Anderson, Scott Counties*

Champion Paper Co. has achieved considerable "fame" through its pollution of the Pigeon River (from a paper mill in Canton, NC) and, more recently, through a *New York Times* article (10/19/93) that reported how the company had cut

trees in Montana at three times the rate at which they could grow back, thus ruining the forests and putting 1,500 Champion employees out of a job. Now, this same corporation is trying to acquire huge acreages in our area, with the intent of clear-cutting them. The *SOCM Sentinel* reports a Champion attempt to buy 40,000 acres in Campbell County from a specific landholding company, and reports that another 50,000 acres are under consideration in Anderson and Scott Counties. (The total acreage is almost equivalent to that of the Big S. Fork NRRAL). All of these areas have steep slopes, which almost guarantee major erosion problems from the clear-cutting. Champion apparently wants the timber for chipmills, but it is not yet clear what type of transportation is being contemplated.

*** WHAT YOU CAN DO:** Tell your friends and neighbors (also via letters to the newspaper) what it would mean to have our lovely, diverse deciduous forests clear-cut and replaced with dull monocultures that are susceptible to disease, require massive herbicide and pesticide spraying, and will forever ruin the beauty of our landscape. Get in touch with your county officials to alert them that a deal with Champion would indeed be bad news for the future of the county. We are not opposed to sustainable use of forests; chipmill-related clearcuts are not such a use.

4. OTHER STATE MATTERS

A. *Water-quality law in grave danger*

A bill by Sen. Springer and Rep. Collier would eliminate the requirement for a State permit for stream alterations that affect aquatic resources. The Corps of Engineers would be the only agency left to regulate this process, but the Corps issues only so-called Nationwide Permits, without scrutinizing individual permit applications. If this bill were to pass, a major level of defense against damaging projects (e.g., Otter Creek, Clear Creek, and Clear Fork dams) would be eliminated.

*** WHAT YOU CAN DO:** We still lack detailed information about this bill(s), including bill number(s). There is not time to wait, however, because things can move fast in the General Assembly. Please contact (call or write) your State Representative and Senator (consult Political Guide enclosed with this NL for addresses) and urge them to strongly oppose removing any authority from Tennessee's good Water Quality law or from the agencies that enforce it.

B. *State Recreation Plan needs our input*

Workshops have been scheduled at 9 locations across the state to elicit public input into the most recent update of the State Recreation Plan (SRP). The updates, which must be done every five years, are coordinated by the Tenn. Dept. of Environment and Conservation. The following is a quote from DoEC's recent announcement.

"The Plan recognizes current efforts, trends and needs in recreation development and delivery statewide. The SRP provides a vehicle to understand the tremendous values of Tennessee's unique heritage and meet the Department's established mission to 'enhance the quality of life of the citizens of Tennessee and to be stewards of our natural environment by protecting, preserving, and improving the quality of Tennessee's air, land and water; conserving and promoting its natural and cultural resources; and providing a variety of [high-quality] outdoor and recreational experiences.' The Plan update is also necessary for the State to continue receiving money from the Federal Land and Water Conservation Fund."

The workshops have been scheduled as follows:

- 2/1/94 Tri-Cities (Kingsport Civic Ctr)
- 2/3/94 Knoxville (Pellissippi State)
- 2/15/94 Chattanooga (TVA Solar Inst)
- 2/17/94 Cookeville (Commun. Ctr)
- 2/24/94 Columbia (Recr. Ctr)
- 3/1/94 Jackson (Civic Ctr)
- 3/2/94 Martin (UT, Bowling Univ Ctr)
- 3/10/94 Memphis (MSU, Fogelman Ctr)
- 3/15/94 Nashville (State Tech Inst)

At each location, two meetings will be held: 2-4:30 and 7-9:30 pm. If you need info on exact location, etc., call 615-532-0755 (or -0748, or -0034). The public input from these workshops will help prioritize recreation needs and guide distribution of funds, land acquisitions, and facility/site developments. Notify Joan Burns (482-5735) if you plan to attend and/or if you'd like to go with any other TCWP members.

C. *State reviewing Water Quality Standards*

As required by law, the state of Tennessee must perform a triennial review of its Water Quality Standards. This year, proposed revisions (currently in the form of a "Staff Proposal") include adoption of a three-tiered protection strategy for high-quality waters under the Antidegradation Statement. The highest level of protection would be afforded to Tier III,

"Outstanding National Resource Waters" (waters in National Wild & Scenic Rivers, National Parks, and other federal designations). Tier-II protection would be given to "Outstanding State Resource Waters," and Tier-I to "High quality waters not in Tier III or II."

The proposed classification provides a higher level of protection to Tier III than was formerly possible in the absence of a tier system. This is most commendable. Protection of whole watersheds still presents a problem, however. Thus, while no new discharges or physical alterations would be allowed within the stream segments classified as Tier III (i.e., presumably within the respective federal boundaries), "upstream discharges will be allowed as long as they are treated or controlled in accordance with Tier-III criteria."

We have been invited to comment on the current "Staff Proposal." Public hearings will soon be scheduled and be followed by initiation of the formal Rulemaking process. If you would like to have input into this whole process, contact Gregory M. Denton, Manager, Planning and Standards Section, Division of Water Pollution Control, Phone 615-532-0699, FAX 532-0046.

D. *Legal battle won on West Tenn. wetlands*

For years, the Obion Forked Deer Basin Authority (OFDBA), aided by the Farm Bureau, has exhibited exceptional zeal in draining valuable wetlands in West Tennessee. A lawsuit filed by conservationists has finally brought them up short.

The case concerned a 400ft-long ditch that the Corps of Engineers and the Tenn. Div. of Water Pollution Control had permitted a private land owner to dig to the depth of 4 feet, which would have resulted in partial drainage to restore crop and forest lands, while assuring the continuing survival of a shallow, marsh-type wetland. Enters OFDBA, which proceeds to blast a 14- (instead of 4-) ft-deep ditch, causing not only excessive drainage of the wetland, but a major degree of soil erosion. When friendly negotiations failed, EPA issued an order requiring installation of a weir in the super-ditch; but the OFDBA and the land owner refused to abide by the order. Chester McConnell and TEC (Tenn Env'tl Council) then took the case to court.

After 3 years of legal activities, the Court has now required that the OFDBA fill the ditch to the

originally permitted 4-ft depth. This alone will cost the taxpayer \$40,000. In addition, there are the legal fees (which OFDBA has been ordered to pay for the plaintiffs), the cost of the original ditch construction, planning, etc. It is estimated that, altogether, the illegal 400-ft ditch will cost the taxpayer a minimum of \$150,000.

This legal victory has broad implications, since it is very likely to prevent future outrages resembling that of the 400-ft ditch. Thank you, Chester and the Trial Lawyers for Public Justice, who provided legal services for TEC!

E. *Candidate for Rep. Lloyd's seat*

Among Democrats who will be competing for Marilyn Lloyd's seat is Ram Uppuluri, know to some of you as TCWP's former representative on EAF (the Environmental Action Fund, which is the state-legislature-lobbying arm of Tennessee's environmental movement). Ram graduated from Oak Ridge High School, went on to earn a BA from Princeton and a law degree from Vanderbilt. He worked for some time on the staffs of Rep. Jim Cooper (where, among other things, he worked on acid-rain legislation) and Sen. Gore. Currently serving as assistant director of the Joint Institute for Energy & Environment (Knoxville), he was appointed by Gov. McWherter to the 9-member Tennessee Science and Technology Council. You can get in touch with Ram by calling 483-9957.

F. *Pollution Prevention bill*

SB.1457/HB.1524 would require major toxics emitters in Tennessee to develop plans for reducing their toxic use by 50% within the next five years. It would broaden the Tennessee Hazardous Waste Reduction Act of 1990 to include 330 substances covered by the Toxic Release Inventory reports wherever these substances are emitted -- air, water, sewers, or land. Funding would come from the generators of hazardous waste.

Primary sponsors of these bills are Crutchfield, Greer, and Harper in the Senate, and Odom, Dixon, Fowlkes, Kernell, and Brown in the House. This bill is an initiative of the Tennessee Environmental Council (TEC), which will push hard for its passage during this session of the legislature. TEC, incidentally, has a new executive director, Al Jones, whose previous work experience has been with EPA and with the Texas Natural Resource Conservation Commission.

5. SMOKIES AND CHEROKEE: RE-ESTABLISHING NATIVE SPECIES

A. *Red Wolf update*

During 1993, the number of red wolves roaming the Smokies grew from nine to 16, then plummeted back to nine during the latter part of the year. Both of the families had litters in April, seven pups in all. The four pups of the Cades Cove family died in early August, probably as the result of parvo-virus, an infectious canine disease (domestic dogs are usually vaccinated against this virus). The Tremont-area family had a litter of three, also in April. The mother died in June probably as a result of a fight with the Cades Cove family. One of the 3.5-months old pups was killed by coyotes. And, finally, in October, the adult male died from drinking automotive antifreeze (this could have been an intentional poisoning). Only three wolves are left in the Tremont family: two of the April pups, and a juvenile male born in 1992. There are six wolves remaining in the Cades Cove family, including both original adults.

Two new breeding pairs of red wolves are already in holding pens in the park and will probably be released in the spring. Future-born pups in the Cades Cove area will be vaccinated against parvo virus. This disease organism did not appear in the Southeast until the early 1980s, so red wolves have a low immunity to it.

A new color brochure about the Smokies reintroduction project will soon be distributable. In the meantime, check #10, this NL for information on an educational package that is already available.

B. *Red-Cockaded Woodpecker augmentation*

Tennessee's last known red-cockaded woodpecker was recently seen and heard in the Cherokee National Forest. The bird badly needs a mate, and one has been identified to be brought in from another state. This "augmentation," and the subsequent monitoring of the colony, will be accomplished under a cost-share agreement between the Forest Service (which is contributing \$4,600) and two conservation groups (Tenn. Chapter of Sierra Club and Cumberland-Harpeth Audubon, which are jointly contributing \$1,000).

This is not an isolated instance in which public funds are used to aid in species recovery in the Cherokee National Forest. It appears that this Forest has only \$200,000 to manage 31 threatened or endangered (T or E) species, and about 1/30 of this

sum issued merely to prevent the Forest Service's own detrimental activities (e.g., timbering) from adversely affecting To R E species.

6. PUBLIC LAND PROTECTION IN A SHRINKING ECONOMY

A. *Committee examines problems of parks and open space resources*

On December 17, the House Committee on Natural Resources (chaired by George Miller) and its Subcommittee on National Parks, Forests and Public Lands (chaired by Bruce Vento) held a workshop designed to help develop initiatives for solving a current crisis, namely, the shrinking budget at a time of ever-growing pressure on park resources (e.g., national park visitation is expected to double between 1990 and 2010). The committees were looking for "solutions in new ideas, new partnerships, new sources of revenue, and new policies." About 80 people were invited to attend the workshop, and almost 70 did. Thanks to a suggestion by the Natl Parks & Conservation Assoc, Lee Russell was one of them.

Early in the workshop, Lee contested a statement sometimes made to the effect that we should not acquire any more public lands until we take care of the ones we already own. Giving examples from our experience with public lands in Tennessee, she stated two considerations why – if a choice had to be made – acquisition should have priority over infrastructure development or improvement. One consideration is resource protection (failure to acquire can very quickly lead to complete degradation), the other is cost (exponential increases often occur when acquisition is delayed).

In follow-up written comments, she made a number of other points, most of them dealing with the Land & Water Conservation Fund (LWCF). For some of these, see B., below.

B. *Land & Water Conservation Fund needs political constituency*

September 4, 1994 will mark the 30th anniversary of the Land & Water Conservation Fund, which is derived primarily from royalties collected from companies that extract oil and gas from below the Outer Continental Shelf (OCS). The purpose of the LWCF is to acquire lands for our national parks, forests, refuges, and BLM areas, and to provide grants to the states for their open-space programs.

Authorized spending gradually grew during the early years of the LWCF: for the years 1980 through 2015, it is set at \$900 million annually. It is important to remember that this is the authorized amount that goes into the LWCF each year; the money must still be appropriated via the Interior Appropriations bill. During each of the Reagan years (except one), the Administration asked for zero funds to be appropriated. In subsequent years, successive Administration requests have been \$206, 250, 350, and 366 million. Each time, the Congress has come through with a slightly, but not dramatically, larger sum (the latter would have risked a veto). What happens to the rest of the money?

By law, any money that goes into the LWCF from OCS royalties and is not appropriated automatically carries over and is available for expenditures in the following fiscal year, on top of the new \$900 million going into the Fund. Also by law, this money can only be used for acquisition purposes. On paper, the Administrations have continued to show a cumulative surplus (this sum was \$8.4 billion near the end of the Bush Administration); however, in reality, the money has been spent for other purposes!

This is a tragedy when you look at the prime areas within already authorized park, forest, etc boundaries nationwide that are being degraded or destroyed due to acquisition delays, as well as at all the additional areas that are highly deserving of future designations that could protect them. Alternative funding sources that have been suggested, such as user fees and excise taxes can raise only a small percentage of what is potentially available under the LWCF; at best, they should be looked upon as possible ways of augmenting – rather than replacing – the Fund. In addition, some of these sources of money (e.g., taxes on outdoor recreation equipment or gear) would probably be used to acquire areas primarily envisioned as receiving recreational use. These alternative funding sources do not represent a constituency for lands and waters that must be protected as sanctuaries rather than as amusement centers.

Some means must be found (perhaps new legislation?) to assure that the legal requirements of the LWCF be met, i.e., that at least \$900 million be appropriated each year, and that the money not be drawn off for purposes unrelated to land protection. Perhaps (as someone at the recent

workshop -- see ¶6A-- suggested), the LWCF should be subtitled "oil-drilling mitigation fund."

The committee chairmen at the workshop made the point that the political constituency supporting the LWCF needs to be more effective. How about it, folks?

✱ **WHAT YOU CAN DO:** Write to President Clinton (the White House, 1600 Pennsylvania Ave, NW, Wash. DC 20500) and strongly urge him to seek LWCF appropriations at the authorized level, i.e., \$900 million each year. Give a few reasons, citing either Tennessee examples (Big S. Fork, Obed, French Broad, Cherokee NF inholdings) or nationwide ones of valuable fragile lands being lost forever for want of protection. Send copies to your senators and Congressmen. Save a copy of your letter to send to the chairmen of the Interior Appropriations Committees, when these start their deliberations a little later in the year.

C. **1994 appropriations under the Land & Water Conservation Fund**

For FY 1994, the Congress appropriated one of the lowest sums ever under the LWCF, namely \$254 million. This amount was split among the different agencies as follows: US Fish & Wildlife Service, \$83M; National Park Service, \$70M, plus \$25M for matching grants to states; US Forest Service, \$64M; Bureau of Land Management, \$12M. The very welcome \$15M we got for the Big South Fork NRR (one of about 120 projects) represents about 0.6% of the total sum appropriated.

7. **IMPORTANT BILLS CARRY OVER TO 1994 CONGRESS**

Action on the most important conservation bills before the Congress in 1993 has carried over to 1994. Here, we update information on some of these pieces of legislation.

A. **No.1 battle: Endangered Species Act reauthorization**

The Endangered Species Act (ESA), which celebrated its 20th anniversary on 12/28/93, is up for reauthorization (see also NL196 ¶6A). Beyond having to be defended against well-financed attacks, the ESA must also be strengthened by providing an ecosystem approach and better protection of critical habitats.

Many strengthening features 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). Among these features 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. These companion bills were referred to the House Merchant Marine & Fisheries Committee and the Senate Environment & Public Works Committee, respectively. Both committees held hearings in 1993, but did not vote on the bills. The House bill is expected to face a tougher fight in committee than the Senate bill.

The well-financed "Wise-Use" forces are out to emasculate the ESA. Often, enemies of a legislative initiative use the strategy of pushing a rival bill that sounds OK superficially. Such ESA "reform" legislation has been introduced in the House (HR.1490) by Billy Tauzin (D-LA) and Jack Fields (R-TX), and in the Senate (S.1521) by Richard Shelby (D-AL). These bills would tremendously weaken the ESA by making it very much more difficult to list species, and by emphasizing captive-breeding programs rather than habitat protection. Had the Tauzin/Shelby bill been in effect in the past, for example, it would have been almost impossible to get the Bald Eagle on the list because the species is in trouble only in the lower 48 states, but not in Alaska or Canada. Even if the eagle could have been listed, a hearing on the recovery plan would have had to be held in each affected county to consider both draft and final plans. Furthermore, landowners could have cut down every tree but the one with the eagle's nest in it.

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. It is competing with Studds' bill for co-sponsors. In the House, the good bill (Studds' HR.2043) currently has 101 co-sponsors, the bad bill (Tauzin's HR.1490) has 88.

✱ **WHAT YOU CAN DO:** It is important that you urge your representative (address on p.2) to co-sponsor HR.2043, and to oppose HR.1490. Ask him/her to let you know whether s/he will do so. Urge your senators to support S.921 and to oppose S.1521.

B. **No.2 battle: Wetlands provisions of Clean Water Act**

Reauthorization of the 1972 Clean Water Act is also on the agenda. This is a very complex piece

of legislation, with several bills in the hopper (see NL196 ¶6B). The major vehicle for mark-up in the Senate Environment & Public Works Committee is a complementary set of "compromise" bills, S.1114 (Baucus, D-MT) and S.1304 (Chafee, R-RI). Whereas the originally weak draft of S.1114 has apparently been improved with regard to a number of features (toxics, enforcement), wetlands protection (addressed by S.1304) remains in big danger of being gutted.

The wetlands provisions of the original Clean Water Act are contained in Section 404, which requires a ("dredge and fill") 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. These attacks, now joined by the "Wise Use" movement, are embodied in a House bill, HR.1330.

The main ploy of HR.1330 (Hayes, D-LA) is to adopt a thoroughly unscientific definition of "wetlands," one that would exclude half the nation's wetlands from protection. Unfortunately, HR.1330 already has 120 cosponsors and has been referred to two committees (Public Works, and Merchant Marine).

On the other side, are bills that would strengthen wetlands protection. One is S.1195/HR.350, introduced by Sen. Barbara Boxer (D-CA) and Rep. Don Edwards (D-CA), which rests on a sound scientific basis, and the provisions of which environmentalists are working to get incorporated into the Chafee bill, S.1304 (see above). Even as currently written, S.1304 is actually weaker than the existing Sect.404 provisions, and anti-wetlands forces are trying to weaken it even further. — In the House, a good wetlands-protection bill is HR.3465 (Studds, D-MA).

There are two other areas in which the Clean Water Act needs to be improved.

(1) Currently, the law has no provisions for groundwater protection. Simple revisions of existing portions of the Act could give groundwater some of the same protections that are currently provided to surface water.

(2) Nonpoint-source pollution. The present law does not address the proliferation of run-off from farms, roads, mining activities, logging, etc. Strict mandatory programs are needed to prevent this type of pollution, but groups such as the Farm

Bureau, the timber industry, and agribusiness oppose mandatory regulation.

✱ **WHAT YOU CAN DO:** Congress is being barraged by interests that want the Clean Water Act weakened, particularly with respect to wetlands protection; they badly need to hear from citizens who want it strengthened. The Senate bill is even now in committee. Your first priority, then, should be to contact both of your senators without delay (address on p.2), urging them to strengthen the bills that are before them (S.1114 and S.1304, the Senate "vehicles"), particularly with regard to wetlands protection (Sec.404 needs to be strengthened), nonpoint-source pollution, and groundwater protection.

Drafting of the House bill is also getting under way. Write to your Representative (address on p.2), urging him/her to support a strong Clean Water Act (mention the three specific areas of concern listed in the preceding paragraph) and to oppose HR.1330. Send a copy of your letter to Rep. Norman Mineta, chairman of the Public Works Committee.

C. "Takings" amendments

The "Wise-Use" movement is attempting to destroy key environmental legislation by attaching "takings" amendments to bills supported by environmentalists (NL196 ¶6D). These "property-rights advocates" argue that if the public really wants environmental-protection programs, the public should pay financial compensation to those whose profits or property values are adversely affected by such a "taking."

The first target was 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). A "takings" amendment attached to HR.1845 by Rep. Billy Tauzin (D, LA), both in committee and on the House floor, would have compensated property owners if the value of their land declined more than 50% as a result of a regulatory decision based on NBS information. Fortunately, Tauzin's amendment was ruled non-germane, and HR.1845 passed the House by a vote of 255-165, unencumbered by any "takings" language.

There may, however, be future attempts to attach a Tauzin-type amendment to other worthy bills. Furthermore, an independent "takings" bill (S.177/HR.561) has been introduced by Sen. Dole and Rep. Condit. All of these measures (which are

based on a flawed interpretation of the 5th Amendment) seek to dismantle environmental protections by making them too costly to enforce.

* **WHAT YOU CAN DO:** (1) Tell your senators and representatives (addresses on p. 2) that you oppose "takings" legislation, or "takings" amendments, wherever they might appear. 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 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.

D. California Desert Protection at a critical juncture

S.21 (Feinstein, D-CA) would protect 7.6 million acres of stunning land containing highly valuable ecosystems. This would be accomplished by enlarging and/or re-designating several federal areas in southern California so as to protect them as either parks or wilderness.

The bill has passed out of committee, but a major battle is ahead for the Senate floor. The National Rifle Association is attempting to downgrade the proposed Mojave National Park (the centerpiece of S.21) to a "preserve" so that hunting can occur there. The NRA chooses to ignore the fact that even without Mojave, an area of federal land twice the size of New Jersey will still be available to hunters in the California Desert after passage of S.21. The crippling NRA amendment was only narrowly defeated in committee, and will again come up on the floor. Another amendment that unfortunately did get approved by the committee deleted 290,000 acres of park-quality land from the proposed boundaries. Attempts to restore this acreage will be made on the floor.

* **WHAT YOU CAN DO:** Urge your senators (particularly Senator Sasser) (a) to oppose any amendment to S.21 that would downgrade Mojave National Park to a preserve, and (b) to support the restoration of the Lanfair Valley deletion.

E. Forest Biodiversity and Clearcutting Prohibition Act

HR.1164 (Bryant, D-TX) would make the maintaining of native forest diversity a main priority of forest management agencies. This bill

was described in greater detail in NL196 ¶6C (call us if you have lost your copy and feel you need it).
* Urge your representative (address on p.2) to become a co-sponsor of HR.1164.

8. OTHER NATIONAL NEWS

A. President sets good recycling standards

President Clinton has promulgated an Executive Order by which all federal agencies must begin purchasing paper with at least 20% recycled content by the end of 1994, and at least 30% recycled content by the end of 1998. The paper manufacturers had fought to have the level set at only 10%, but the President stuck to his guns.

Because the federal government is the nation's largest user of paper, this executive order will spare more than 1,000,000 trees annually. Even more important, it is creating a market for recycled paper, and will convince the paper companies to manufacture more paper from recycled fiber, in turn encouraging local communities to maintain (and increase) their recycling programs.

* **WHAT YOU CAN DO:** (1) Express your thanks to President Clinton (the White House, 1600 Pennsylvania Ave, NW, Wash. DC 20500). (2) Convince your own organization, and your local, and state governments to follow suit.

B. White House Wetlands Policy is disappointing

Last August, the Administration enunciated a public policy on wetlands, developed by an inter-agency task force (White House, EPA, USFWS, OMB, DOE, and others). Among the policy's several flaws are the following. (1) It permits "mitigation banking," i.e., destruction of a wetland, provided another one is created, protected, or restored elsewhere. The substitute wetland is generally not a natural one. If this practice is to be allowed at all, the guidelines must be made more rigorous, and impacts prior to mitigation must be avoided. (2) It institutes a process by which developers and others who are denied a permit may appeal, but makes no provisions whereby citizens can appeal the issuance of a permit. (3) Federal permitting authority is delegated to local and regional governments. This is likely to subject resource decisions to undue local political pressure.

* **WHAT YOU CAN DO:** Point out to President Clinton (the White House, 1600 Pennsylvania Ave, NW, Wash. DC 20500) that all Americans benefit

from the protection of our few remaining wetlands, and that many Americans rely on these aquatic ecosystems for their jobs (in fishing, tourism, food processing, and other industries). Urge him to correct several serious defects in his wetlands policy. Also, encourage him to take a bigger leadership role in strengthening the Clean Water Act as a whole. Send copies to: (a) Katie McGinty, Office of Environmental Policy, 360 Old Executive Office Bldg, Wash. DC 20501; (b) Vice President Al Gore, Old Executive Office Bldg, Wash. DC 20500; (c) Sec. Bruce Babbitt, US Dept of the Interior, Wash. DC 20240; (d) Carol Browner, Chief, US EPA, 401 M Street, SW, Wash DC 20460; (e) Molly Beatty, Chief, US Fish & Wildlife Service, Interior Bldg, Wash. DC 20240.

C. *The changing face of natural resource agencies*

With new leadership, some fine things are happening at several natural resource agencies. But fine leaders like Jim Baca (BLM) and Dan Beard (BuRec) are sticking out their necks and are ensnared of the fiercest opposition from certain western interests and from the Wise Use movement. Therefore, far from relaxing because we now have friends in high office, we must work harder than ever in putting forth our case with the Congress and the executive branch.

BuRec

For 90 years, the Bureau of Reclamation (BuRec) in the US Department of the Interior has been building giant dams (Glen Canyon, Hoover) and other water projects throughout the West. Now, it may be the first USDI agency to respond to Vice President Gore's call to "re-invent government." Recently, Commissioner Dan Beard announced that "the dam-building era is over ... federally funded irrigation water supply projects will not be initiated in the future," and that BuRec will, instead, "support integrated water resources management on a watershed basis." The agency will improve use of the water we already have (e.g., by purification of waste water) and will focus on protection of water, wetlands, and wildlife. The positions of all seven deputy and assistant commissioners have been eliminated.

BLM

The Bureau of Land Management, which oversees 1/8 of the nation's land, has traditionally succumbed to political pressures that sought to undermine the Bureau's efforts to enforce environmental laws. Director Jim Baca has promised that this era is over. Furthermore, BLM managers will no longer be evaluated on the basis

of how many favors they do for western ranching interests, but on the basis of the ecological improvements their actions bring about.

USFS

The US Forest Service's rank and file, it turns out, feel much the same way as do the Service's critics. In a recent survey, over 70% of polled USFS employees said that non-commodity outputs, particularly watershed protection and recreation, should be top priorities for national forests. Over 50% of respondents complained of excessive clear-cutting and below-cost timber sales. [Source: "Are We Headed in the Right Direction? A Survey of USDA Forest Service Employees." Call 202-205-1760, or your regional office, for a copy.]

D. *State initiatives fund park and habitat projects*

During the past several months, voters in four states and one county approved various funding mechanisms for acquisition and management of parks and important habitats. In four of these cases (Ohio, Pennsylvania, North Carolina, and Lake Cy., Illinois), moneys will be raised through bond issues. Hawaii, like Tennessee, voted for a small increase in the real-estate transfer tax. This is to be dedicated to the implementation of programs established two years ago, which provide state matching funds to land owners who protect key natural areas or important natural resources.

E. *Public Lands Corps created*

A new youth services program signed into law four months ago includes a year-round Public Lands Corps (PLC). PLC augments the existing Youth Conservation Corps by stretching the age upward to 25 (previously, the limits were 15-18 years), and by making the program year-round (previously, it was for the summer only). For the entire youth services program, funding will be \$300,500, and 700 million in fiscal years 1994, 1995, and 1996, respectively; it is not yet clear what parts of these totals will go to the Public Lands Corps. The Depts of Interior and Agriculture will be allowed to contribute some of their own funding to projects carried out by PLC personnel.

F. *A frightening list*

The January/February issue of *Nature Conservancy*, which is devoted to the subject of biodiversity, includes an article by Dr. Peter H. Raven (Dir. of the Missouri Botanical Garden and chair of the National Research Council's Committee on the National Biological Survey) that contains some frightening statistics.

According to Raven, between the year 1950 and today,

- the human population has grown from 2.5 to 5.5 billion (and population growth is not expected to level off for 100 years);
- one-third of the world's forests have been cleared and not replaced;
- one-fifth of the world's topsoil has been lost (24 billion tons is lost annually);
- atmospheric CO₂ has increased by one-third (which must lead to eventual global warming);
- stratospheric ozone has been decreased by 5-10% at middle latitudes (much more at the South Pole). Currently,
- biological diversity is disappearing at 1,000 to 10,000 times the rate averaged over the past 65 million years;
- humans are consuming, wasting, or diverting 40% of the total net photosynthetic productivity on land;
- humans are using a third of all the fresh water that exists.

9. TCWP NEWS

A. *Board Retreat a major success*

The TCWP Board held a day-long retreat on Saturday, January 15 in Oak Ridge, with Peggy Matthews of Community Shares as our facilitator. Ten of the 11 Board members, and Joan Burns, our executive director, were in attendance; and Milo Pyne, TCWP's representative on the Environmental Action Fund, came from Nashville to join us.

Peggy skilfully guided us through developing our concepts of TCWP's role and objectives, the niche our 27-year-old organization was filling, and how we felt the Board was performing. We quickly arrived at a strong, unanimous affirmation that TCWP must continue, and that we must do several things to increase the organization's vitality. Chief among these are stronger involvement by individual Board members and clear assignments of responsibilities; and considerably more involvement of the membership at large.

To these ends, the Board scheduled a long working session that was held only 9 days after the retreat. Our primary task was to set up a number of committees (both issues and service committees) and to develop formal task descriptions for these. Subsequently, our general membership will be asked to participate in these committees (we hope very much some of you will accept our invitations). Additionally, more

meetings and outings will be scheduled to increase membership contacts. More about all this in the next Newsletter.

B. *We thank our volunteers*

We are grateful to the following people who helped assemble Newsletter 196 on November 30: Dick Ambrose (host), Jean Bangham, Lola Estes, Dottie Gryder, Eric and Susan Hirst, Ruth Kemohan, Charlie Klabunde, and Elizabeth Will. (This was an especially challenging session because the printed postcards that needed to be inserted were too wide and had to be trimmed with a paper cutter in groups of five!)

The special Action Call mailing of January 10 about Pickett lands acquisition was the brainchild of Jenny Freeman and was assembled by Jenny (host), Bobby Fulcher, Maureen Cunningham, Darnette Samuels, and Bill Allen.

10. ACTIVITIES and READING MATTER

- Feb.3, Tennessee State Recreation Plan Workshop at Knoxville, Pellissippi State Community College, 2:4:30 or 7-9:30 pm. For additional info, see ¶4B, this NL, or call 615-532-0748.
- Feb. 15, 17, 24, and March 1, 2, 10, 15, Tennessee State Recreation Plan Workshops at Chattanooga, Cookeville, and various other locations around the state (see ¶4B, this NL). For additional info, or call 615-532-0748.
- March 11-12, Tennessee Invasive Exotic Plant Symposium, Tenn. Botanical Gardens, Cheekwood, Nashville. To register, call Brian Bowen, DoEC (615-532-0436) or Dr. Darlene Panvini, Vanderbilt (615-322-7290).
- March 25-26, 1994, Tennessee Statewide Rails-to-Trails Conference, Nashville, TN. For info call 1-800-524-6878 (Nat'l Park Service, SE Region).
- 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.
- May 18-21, 1994, San Francisco, Conference on "Citizens Protecting America's Parks: Joining Forces for the Future." Sponsored, in honor of its 75th birthday, by the National Parks & Conservation Association, with cooperation by the National Park Service. The goal of the conference is to bring together grassroots citizen activists, NPS staff, and others to learn ways to resolve threats and problems that confront our parks. (Call Athan Manuel at NPCA, 202-223-6722).
- June 3-5, Erie, PA, Eastern Cougar Conference. Contact Jay W. Tischendorf, 303-224-5307.

Continued on p.2