

*Taking the initiative...6**Building codes...16**1981 Index...8*

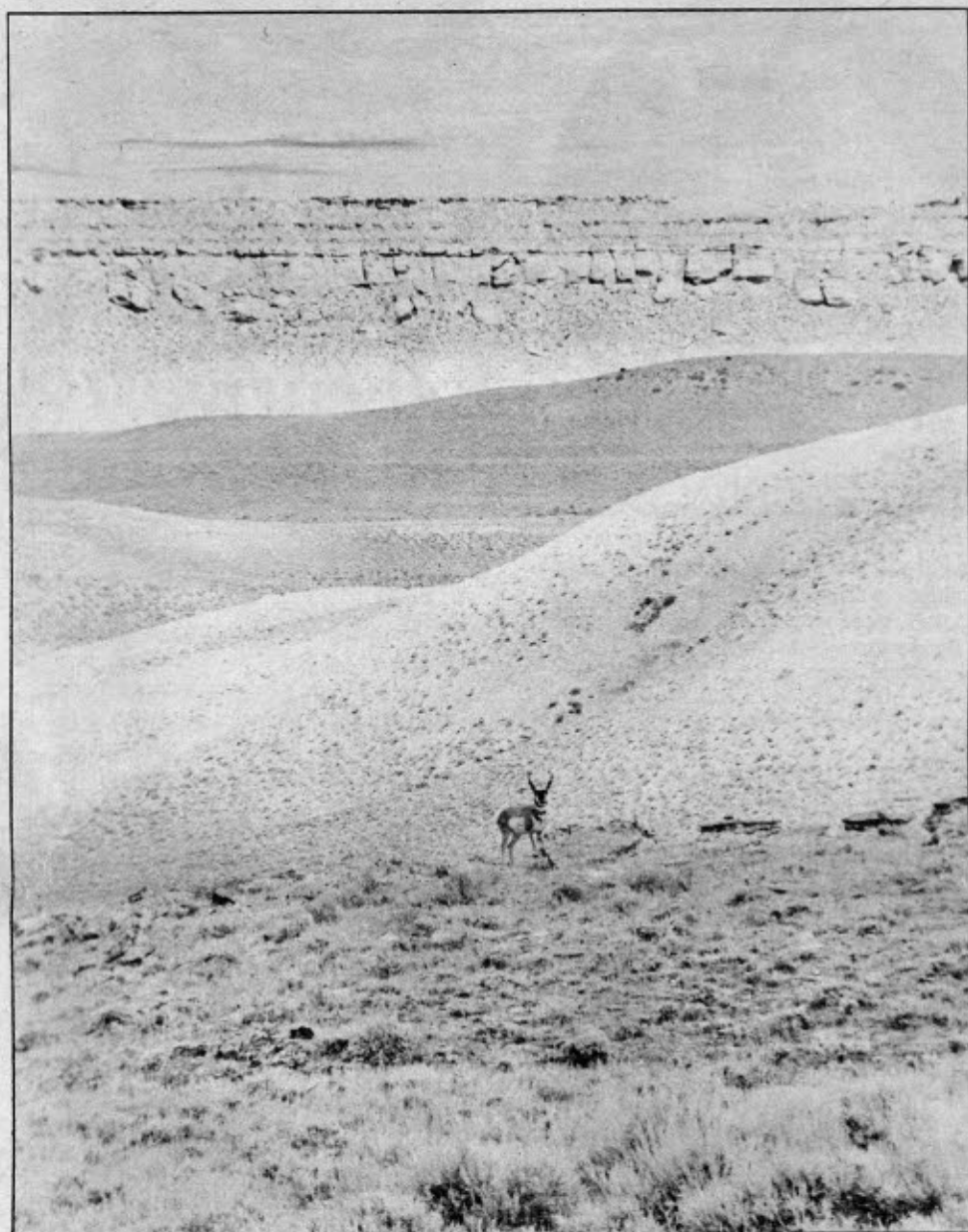
High Country

news

Friday, February 5, 1982

Vol. 14 No. 3

\$1.00



Choices for the reservation:

Wild game on the table today, none on the range tomorrow?

by Carol Jones

Last November 3, shortly before dawn, a Wind River Indian Reservation game warden said he watched Bennie LeBeau, a Shoshone Indian, hunt by spotlight for 15 minutes in the west-central area of the reservation. The warden, Gary LaJeunesse, also a Shoshone, stopped LeBeau.

LeBeau admitted he had been hunting by spotlight, and even showed LaJeunesse the deer he had just killed. The warden took the serial number of LeBeau's rifle and told him that he had violated the spotlighting ordinance, one of the few big game ordinances currently in effect on the reservation. LeBeau claims he then told LaJeunesse he would have to call the police if he was to be arrested and departed, driving a pickup that could only go 45 miles per hour. LaJeunesse said he tried to follow, but backed into a ditch.

The case was brought before the tribal court and LeBeau was acquitted, despite his admission of spotlighting.

LaJeunesse had not confiscated the deer carcass or LeBeau's rifle, so no physical evidence was presented. LeBeau was charged with eluding an officer.

LeBeau is an example of the sensitive issues of wildlife management and hunting rights on all Indian reservations. Historically, and because of the autonomy they enjoy, Indians have been free to hunt without restrictions on their land. This vested right, deeply rooted in their culture and heritage, has taken many reservations to the brink of destroying once-viable wild game herds. The threat extends to private and public lands adjacent to the reservations.

In response, some reservations have established hunting regulations and are building back their herds; but others continue to let hunting run virtually unregulated, pressured by tribal members who feel restrictions would jeopardize their rights.

The 2.2 million acres of the Wind River Indian Reservation sit in central Wyoming, bordered on the southwest by the Wind River Range and on the

northeast by the Owl Creek Range; the Absarokas run along its northern border. There are 180,000 acres of designated wilderness in the Winds, set aside by the Indians in 1938.

There are few hunting regulations for Shoshone and Arapaho tribal members of the Wind River reservation. They are free to hunt and fish whenever and whatever they want; a freedom sacred to most tribal members. The only restrictions forbid hunting by spotlight and selling or wasting game meat.

The historical image of the skilled horse-riding, bow-hunting Indian has been replaced by four-wheel drive vehicles, roads throughout most of the reservation and high-powered rifles. Such conveniences — enjoyed by hunters everywhere today — have allowed Indians to dangerously deplete populations of moose, antelope, bighorn sheep, white-tailed and mule deer and elk. And now, according to Dick Baldes, a registered Shoshone and reservation project leader of the U.S. Fish and Wildlife Service in Lander, Wyoming, the reserva-

tion is on the verge of completely eliminating some of its big game — particularly moose.

"There is a distinct difference in population sizes of deer, antelope and moose from on the reservation and off of it," said Bruce Smith, another FWS wildlife biologist. "The moose are almost completely gone."

The danger from lax wildlife management extends from the reservation. Baldes explained that the migratory routes of elk, deer, moose and antelope cross in and out from the reservation to adjacent lands. Animals which migrate close by, but do not cross through the reservation, are plentiful, he said. However, if the animals migrate from adjacent land onto the reservation, the population is drastically reduced.

Baldes said two years ago he and Smith were taking a census of moose on the reservation. They flew four and one-half hours over a large area and counted only 14 moose. The Wyoming Game and Fish Department, counting at the

(continued on page 10)

WESTERN ROUNDUP



High Country News

Published biweekly by the High Country Foundation, 331 Main, Lander, Wyoming 82520. Telephone (307) 332-6970. Printed by the *Jackson Hole News*, Jackson, Wyoming. Second class postage paid at Jackson (UPS No. 087480). All rights to publication of articles herein are reserved.

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Articles appearing in *High Country News* are indexed in *Environmental Periodicals Bibliography*, Environmental Studies Institute, 2074 Alameda Padre Serra, Santa Barbara, California 93103.

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Subscriptions \$15.00 per year. Single copies \$1.00.

Executive order on 1080 out

President Ronald Reagan, pressured by a group of western senators, last week revoked a presidential ban on using chemical toxicants such as Compound 1080 for predator control on federal lands. The ban had been in effect for a decade.

Officials at the U.S. Fish and Wildlife Service, the agency which has been pushing for a return to use of 1080, downplayed the action. Noting that the Environmental Protection Agency had invoked a similar ban in 1972, which will remain in effect, spokeswoman Inez Connor said the executive order was unnecessary.

Connor said the revocation of the executive order would allow the use on federal lands of carbon monoxide cartridges for "denning," a procedure of gassing coyotes in their dens.

The EPA plans to hold hearings in March on its 1080 ban. EPA director Anne Gorsuch said the hearings would consider "new evidence" from ranchers who say coyote predation, particularly of sheep, has skyrocketed since the ban.

Toby Cooper, director of the Defenders of Wildlife in Washington, D.C., called Reagan's action "prejudging the process and putting tremendous pressure on the EPA (to end its ban). What it says is, 'Damn the data and full speed ahead.'" The ban on 1080 was instituted after opponents complained 1080 in carcasses on the range killed eagles, bears and other wildlife as well as coyotes.

Dave Flitner, president of the Wyoming Farm Bureau, said the action was "no more than correcting a 10-year error," and urged ranchers to work now for the re-registration of 1080 by the EPA.

A group of western senators wrote to presidential advisor Edwin Meese suggesting the executive order be revoked in order to avoid "more criticism" if it were done later, during EPA re-registration proceedings on Compound 1080. Among the signers of the letter were Sens. Paul Laxalt (R-Nev.), Alan Simpson (R-Wyo.), Malcolm Wallop (R-Wyo.), Max Baucus (D-Mont.), John Melcher (D-Mont.) and James Abdnor (R-S.D.).

FWS spokeswoman Connor explained the rationale for revoking the executive order: "They felt that there was a plentitude of restrictions already available with all the other laws on the books — the Federal Land Management and Policy Act, the National Environmental Protection Act and the Endangered Species Act. We felt it was duplicative."

ETSI drops Wyo. county well request

Energy Transportation Systems Inc. will withdraw its applications to pump underground water in one eastern Wyoming county to supply its proposed coal slurry pipeline, but will not relin-

quish permits already obtained for water in another county. ETSI plans a slurry line from Wyoming's Powder River Basin to Arkansas and Louisiana.

ETSI vice president Frank Odasz said the firm decided not to seek permits to draw water from the Madison Formation in Crook County, Wyoming, after arranging with South Dakota to use water from the Oahe Reservoir on the Missouri River.

ETSI recently contracted with South Dakota for 50,000 acre-feet of water from Oahe to supply its pipeline. The South Dakota Water Management Board has approved the contract, but ETSI still needs a permit from the South Dakota Conservancy Board and a service permit from the Bureau of Reclamation, said Dennis Stickley, ETSI staff attorney.

The contract with South Dakota stipulates that ETSI not use the Wyoming well permits as long as Oahe water is available, Odasz said. However, Stickley said the company will keep permits for 40 wells in Niobrara County until the Oahe water is physically available.

The Niobrara County wells were originally to provide 15,000 acre-feet of water per year as the pipeline's major water source and the Crook County wells would have been for supplemental water.

None of the wells in Niobrara County have been drilled. But Stickley said ETSI plans to meet diligence requirements to keep the permits from lapsing before their December 31, 1984 expiration date.

According to Dick Stockdale, groundwater geologist at the State Engineer's Office, ETSI fulfilled their diligence requirements when they applied for a five-year permit extension in 1979 by drilling test wells and preparing an environmental impact statement, among other activities. "Their only responsibility now is to file an annual report (to the State Engineer's Office) on their activities unless they wish to renew the permits again."

Stickley emphasized that ETSI would prefer to use Missouri River surface water for the pipeline because it avoids competition with agriculture and other users and avoids potential drawdowns of aquifers in eastern Wyoming, southwestern South Dakota and western Nebraska. He said it also sidesteps the Yellowstone River Basin Compact, which requires the approval of the states in the basin before water can be exported from it.

Dear friends,

When the assets of this publication were purchased last year by a non-profit foundation, and vacancies opened up on the foundation board, we were suddenly faced with the need to put together a board of directors. It was a little like recruiting players for a college basketball team. We had a core of board members already with the foundation, and we had to fill out the roster.

Already on the board was Charlie Scott, a Casper-area rancher, Harvard-trained Nixon administration budget expert, and Republican state legislator. He agreed to stay on, to help guide us through the shoals of non-profit business, which is not all that different from for-profit business when you haven't been making a profit for the past decade. As a legislator, he has shied away from the editorial side of things, but when we presented our 1982 budget, we got a taste of the sharp-mindedness he must have brought to bear in his days at the Office of Management and Budget.

Then there was Leslie Petersen, who for years had been executive director of our new parent, once the Wyoming Environmental Institute, now the High Country Foundation. As a leader in the state's environmental community and a political activist who has lobbied for

Gov. Ed Herschler, Leslie hasn't exactly got bundles of time to devote to yet another job. But, she had been so helpful in making this transition that we begged her to stay on, and she agreed.

Then we began filling vacancies. Primarily, the board wanted to fill itself out with people who understood the mission of the paper and would see that that didn't get lost in the shuffle. The choices were obvious. Tom Bell was one — the paper has been his since the start, and even when separated by hundreds of miles, he has treated it like a wise and encouraging father. Next we added two aunts — Joan Nice and Marjane Ambler, each of whom had served as managing editor in the past, and both of whom are now free lancers living in the Lander area, supporting the paper in many ways. Marjane is board chairwoman; Joan is vice-chairwoman.

Lynn Dickey of Big Horn, Wyo., seemed another obvious choice for the board. She was once staff director of the Powder River Basin Resource Council and now heads a committee trying to get an in-stream flow initiative approved in Wyoming. She also owns and runs a book store in Sheridan.

Last, we decided to experiment with limited worker control. The staff at HCN is not accustomed to having a board tell us what to do. So we saw to it that some

of the staff were on the board: Managing Editor Dan Whipple and Production Manager Kathy Bogan. This creates the unique situation of a director telling the staff what to do; and then having to answer to staff in board meetings.

Board members serve three-year terms, but we've staggered them so that one-third of the board seats will open up every year. If any readers are interested in such a thankless job (no pay, no travel expenses, and we don't hold our meetings in the Bahamas), let us know by sending us your qualifications and an explanation of your interest.

This issue of HCN includes the index of last year's issues instead of our usual centerspread. The index was compiled by intrepid chronicler Vickie Sutherland, a research meteorologist with North American Weather Consultants in Salt Lake City.

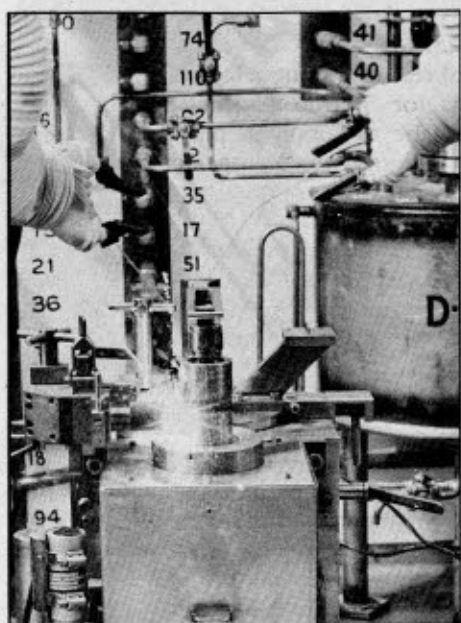
Sutherland told HCN intern Susan Tweit, "I'm a lackey of industry," sitting plants, helping smelters meet Environmental Protection Agency regulations and monitoring field studies.

She enjoys tennis, cross-country skiing and outdoor activities. She didn't say whether she enjoyed HCN's indexing task: "I saw the appeal for help when Myra Connell left, so I decided to do it. It gave me an impetus to read HCN more closely." We thank her for her continued attention.

—the staff

Stickley said ETSI's use of surplus water from the Oahe Reservoir will allow surrounding South Dakota communities now dependent upon well water to connect to their system for free.

— Susan Tweit



Northwest nuke plants shut down

Nuclear plants 4 and 5 of the Washington Public Power Supply System have been shut down, causing dozens of Northwest public utilities to face substantial rate increases.

The WPPSS board of directors voted unanimously January 22 to stop construction of the financial albatrosses after a carefully drafted plan to save the plants collapsed. The 88 Northwest public utilities sponsoring the plants had hoped to raise enough money for a temporary halt in construction rather than termination.

The plants, one in Hanford, Washington, the other in Satsop, Washington, are two of the five owned by WPPSS and are part of the biggest nuclear power scheme in the United States. Together the five carry the largest public debt in the country outside the federal government, a figure some analysts have set close to \$25 billion. Units 4 and 5 would have a combined capacity of 2,500 megawatts.

Work on the plants was halted last summer because of skyrocketing construction costs, labor problems and difficulty in raising financing.

Robert L. Ferguson, managing director of WPPSS, said that termination of plants 4 and 5, which will involve settling construction contracts, will cost a total of \$343 million. A minimum of \$70.5 million must be raised next year from the utilities involved to insure "controlled" terminations. Uncontrolled terminations would mean bankruptcy for many of the participating utilities and would make it more difficult to get additional financing for construction of the three remaining plants. Those three plants face a more certain future because the Bonneville Power Administration has agreed to purchase most of the power from those facilities.

But the cost of power from those three plants could increase by \$400 million — to \$1.3 billion — because they were being built in conjunction with plants 4 and 5 in a cost-sharing arrangement, according to BPA officials. Those cost hikes will be passed on to BPA's customers, and BPA has announced that wholesale rates would increase as much as 80 percent next fall.

Because of the shutdown of plants 4 and 5, electric rates in Idaho Falls, Idaho, are expected to increase about 16 percent to pay for the city's \$2 million share of the costs. The Idaho city of Heyburn will probably face a 38 percent

increase in rates because of the shutdown.

Idaho Public Utility Commission President Perry Swisher predicted rate-payers in some of the small Idaho rural electric cooperatives may vote to sell their utilities rather than pay the increased power costs.

The PUC would then have to decide whether to allow the private utilities to begin serving power to those areas — a decision that could add another burden to private utility ratepayers.

Swisher said the public utilities' handling of the nuclear project "says that public power in this last decade has less accountability than private power. That's how things got out of hand."

— Ellen Marks & John Soisson

New Mexico uranium mill cleans up

More than six years after the initial report of groundwater contamination from New Mexico's Homestake Mining Company's uranium mill, the company is proposing another project to clean up the problem.

In 1975, elevated levels of selenium, molybdenum and uranium were found in almost all the wells in the vicinity of the company's mill in Cibola County and in the subdivisions built downstream from it. At that time, the company voluntarily offered to supply residents in the area with bottled water for drinking.

In June, 1977, almost two years after a report detailing the contamination had been issued, Homestake Mining instituted a well injection program in an effort to clean up some of the contaminated groundwater by pumping fresh water into the contaminated zone north of one of the residential developments. While some improvements in water quality have been noted, recent testing of residential wells has found molybdenum, selenium, nitrates and sulfates above state drinking water standards and levels of uranium and radium 226 just below state and federal limits. "We have an obligation to give the responsible party time to mitigate the problem," said one state environmental staffer.

Now, Homestake is proposing an injection/collection system which would expand the project currently underway in nearby Broadview Acres subdivision. The system is an attempt to prevent the 100 to 160 gallons per minute of seepage with total dissolved solids values up to 43,000 milligrams per liter from leaving the mill area and to improve groundwater quality near the residential developments.

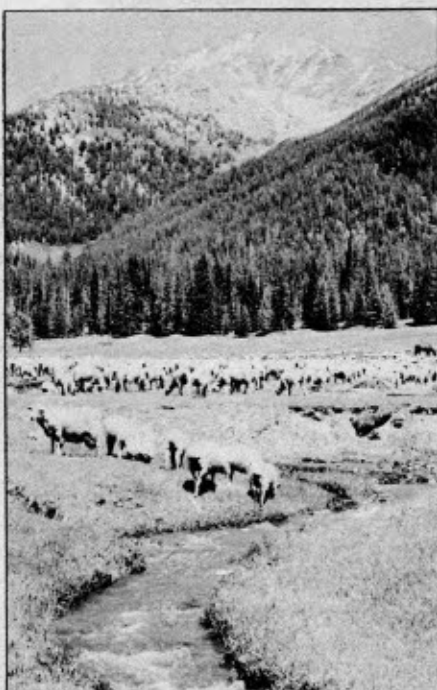
A line of injection wells north of Broadview Acres will be used to disperse, dilute and reverse the flow of groundwater in the area. Collection wells will collect discharge and recycle it back to the tailings pile. A groundwater model of the proposed plan is now under development by the company to be reviewed by the state Health and Environmental Department. Successful implementation of the plan would result in Homestake receiving a state groundwater discharge permit for its mill for the first time. The state's groundwater protection regulations were established in 1977.

However, the long-term reliability of the system is in question. And the Southwest Research and Information Center has criticized the plan for failing to confront stoppage of seepage altogether. "The site is leaking like a sieve," charged Research Associate Chris Shuey.

Residents in the area and the Center have requested a public hearing on the proposal. While it is likely the state will

grant the request, neither a date nor a place has been set yet.

— V.M. Kahn



Grazing fees lowered on public lands

Fees for grazing livestock on federal lands in the West have dropped to their lowest rate in four years, according to U.S. Forest Service and Bureau of Land Management officials. Livestock operators will pay \$1.86 per animal unit month (AUM — the grazing of one cow and calf, one horse, or five sheep for one month) for forage this year on western lands administered by the two agencies.

The lower grazing fees are bad news for three reasons, said San Juan (Colo.) National Forest Supervisor Paul Sweetland.

First, because grazing fees are tied by law to livestock market prices and livestock production prices, "low grazing

fees reflect bad times in the ranching business," Sweetland said.

Second, since half of the fees received go back into range maintenance and improvements, lower fees mean less forage planted and fewer stock ponds built, said Sweetland.

Finally, he said, 25 percent of the fees collected in some counties are returned to the county governments — meaning lower payments to the counties.

The reduction of 45 cents per AUM this year "mainly reflects rising livestock production costs," said James O'Connor, chief of resources for the BLM in Wyoming, since "the cost of production is the major factor in the congressionally-mandated formula used to set grazing fees."

The cost of producing livestock, beef cattle market prices, rates for leasing private lands, and the difference between the total costs of grazing on public and private lands are all used in a formula established in the Rangeland Improvement Act of 1978 to determine the cost per AUM on BLM and FS lands each year.

Average grazing fees for private lands are considerably higher than the new federal rate — private fees range from \$7.88 to \$8.83 per AUM this year, according to Department of Agriculture statistics.

The difference between the two fees, said Frank Busby, chairman of the Department of Range Management at the University of Wyoming, comes from maintenance costs incurred by livestock operators on federal lands that are included in fees for private lands.

Busby said that low federal grazing fees have generated considerable controversy and that changes in the formula will "almost certainly be debated" in Congress when the formula expires in 1986.

Communication is part of the problem, Busby said, because the formula which sets the fees is so hard to explain. "I can't even explain it to my classes," he said. "No matter how reasonable the formula is, if it cannot be effectively explained to the public, low grazing fees cannot be justified."

— Susan Tweit

BARBED WIRE

Next, we'll ask for the Ukraine. Wyoming State Rep. Douglas Chamberlain (R) feels the denizens of Nebraska's panhandle are manhandled by the dominant majority in the rest of the state. He has introduced legislation to annex the panhandle to Wyoming.

Not the Ukraine — Idaho! Wyoming State Rep. Alan Stauffer said the people of the small town of Freedom want the Idaho-Wyoming border moved so that they will be entirely within the state of Wyoming. The border currently runs along the town's main street.

Personally, we'd rather be movie stars. Frank Oclasz, western regional manager for the long-delayed Energy Transportation Systems, Inc. coal slurry pipeline: "If I'm ever reincarnated, I'll come back as a railroad lobbyist or environmentalist. It's a lot easier to oppose something than to accomplish it."

Rover, what big eyes you have. The Wyoming Farm Bureau received an inquiry from an organization in New York about "a program in your state that uses dogs to mix in (interbreed) with the coyote population to provide better control of coyote predators." The bureau, perhaps more honestly than was politic, replied that no such program exists: "Our objective is to reduce coyote numbers without giving them enhanced opportunities for a legacy of descendants, half-breed or otherwise."

Do they have scrubbers on the furnaces? The Environmental Protection Agency announced this week that 68 publications on topics such as air quality, water quality, acid rain and toxic substances will be burned. The ban is supposed to save the EPA \$5 million, though some agency underlings hint that the publications — for the most part written in layman's terms — were a little too informative on subjects the EPA is paying less attention to these days.

So that's why they glow in the dark! A researcher has determined that all Coleman, Aladdin and other gas lamp mantles are radioactive. A spokeswoman for mantle importers told the researcher that it wasn't a good idea to tell people that the mantles were radioactive since "people just don't understand radioactivity and are easily scared," according to *Econews*.

Snowmobile killer paroled. Art Sedlack, who became a folk hero in 1974 when he shot a snowmobile operating illegally in Glacier National Park, has been released from the National Park Service. Sedlack admitted his occupation in recent years had lost some of its thrills — his task has been to mark "hazardous" trees in the park — but he protested his firing. However, he clearly has had difficulties with the job. "What's a hazardous tree in the woods?" asked Sedlack, after four years on the hazardous tree beat.

WESTERN ROUNDUP



Oil drilling stopped to save sheep

An administrative judge for the U.S. Department of the Interior Board of Land Appeals has upheld the discretion of the secretary of the interior to reject noncompetitive oil and gas lease offers when it might adversely affect the Mexican desert bighorn sheep or its habitat in the Big Hatchet-Alamo Hueco Mountain area of southwestern New Mexico.

The ruling was the result of an appeal by the Placid Oil Company and individuals of decisions made by the New Mexico state office of the Bureau of Land Management. The decision not to lease was based on a final environmental assessment and a recommendation of no leasing by the BLM district manager in Las Cruces, N.M. The EA was prepared in response to the IBLA decision on an earlier Placid Oil Company appeal.

The Big Hatchet-Alamo Hueco Mountain area, of 111,500 acres, is considered to have good oil and gas potential. The area also supports one of the few free roaming herds of Mexican desert bighorn sheep in New Mexico. There are fewer than 3,200 of the sheep in North America and no more than 2,100 remaining in the United States.

Though there are only 29 of the sheep currently in the contested area, the area's habitat led it to be identified in 1926 as a game refuge by New Mexico and as a herd reintroduction area in 1979.

The importance of the habitat in this isolated area was realized when studies indicated the sheep have difficulty adjusting to the encroachment of many human-related activities. Since the appellants in the case were unable to prove that a loss of habitat would not displace more sheep or how oil and gas exploration and development might proceed under protective stipulations, Bruce Harris, the IBLA administrative judge, denied the hearing request.

The protection of the species is still dependent on Interior Secretary James Watt. In the judge's opinion neither the Endangered Species Act of 1973, or the United States Code allowing for the cooperative fish and wildlife programs require "complete prohibition of oil and gas leasing under the mineral leasing laws."

— Steve Verchinski

BLM urges Red Rim coal leasing

The National Wildlife Federation may ask the secretary of the interior for a declaration of unsuitability for coal mining under the federal strip mine law for the Red Rim area of southwestern Wyoming. The state office of the U.S. Bureau of Land Management has recommended — with stipulations — that 20,500 acres of Red Rim be leased for coal development. However, Wyoming Game and Fish officials claim the decision will damage 15,200 acres of critical antelope winter range and result in the loss of 1,600 antelope over the winter.

Game and Fish said that the NWF's interest in the controversy may be too late. Dave Moody of the state wildlife agency said the public involvement was needed two years ago when the area was first being considered. "The Sierra Club was the only group to even attend the public hearings," Moody said. Game and Fish has been fighting the mine because it could result in the loss of thousands of antelope. In addition, it would set "an awful precedent," Moody said. "This is the first time that critical winter range has been proposed for leasing in Wyoming."

The controversy centers upon whether or not sagebrush can be reclaimed in the area, which gets only 8 to 10 inches of precipitation annually and is covered by rocky, shallow soils. Antelope need sage to survive. "We would probably put up with short term loss of antelope if we thought it could be reclaimed," Moody said.

Rocky Mountain Energy, a subsidiary of Union Pacific, owns almost half the coal in the area. The company tested reclamation possibilities by transplanting sagebrush on an acre plot. All 640 plants lived, according to Elroy Taylor of RME. However, it cost the company \$15 a plant — or more than \$10,000 for one acre.

Moody questioned whether it would be economically feasible for a company to reclaim thousands of Red Rim acres. If it is, he said it would probably take 50 years or more — not the 30 years that RME predicted. RME's test plot enjoyed two extremely mild winters and two extremely wet springs, according to Moody.

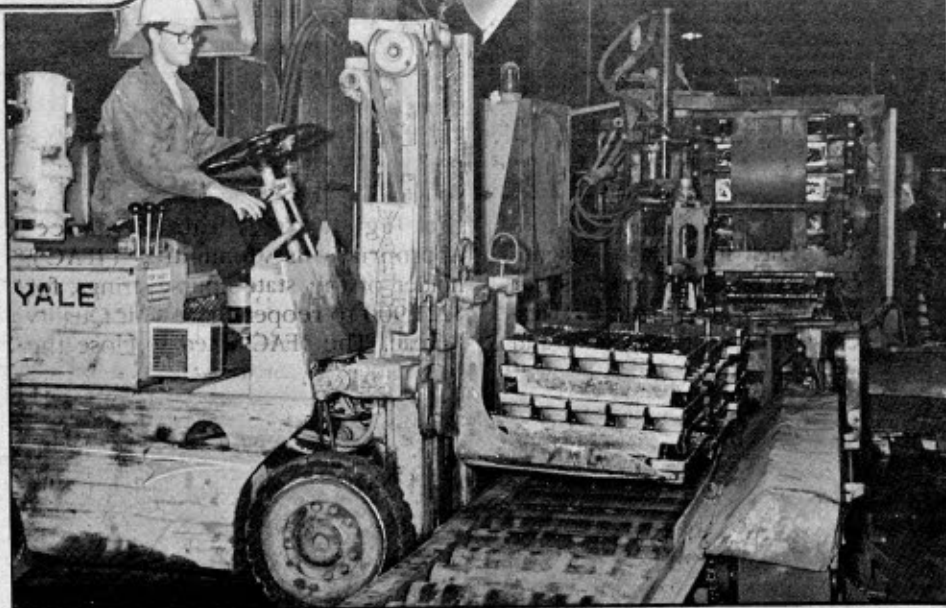
RME's Taylor said the test proved sagebrush could be transplanted in the area, and he has several ideas for lowering the cost. "If it turns out that the costs of reclamation are more than we can afford, we won't mine it," he said. This decision will depend upon the mine plan and the price of coal at the time.

Moody predicted that 1,600 antelope could be lost during a tough winter. Counting their potential offspring, as many as 80,000 antelope could be lost over 50 or 60 years when the area is being mined and reclaimed, he said.

The local BLM declared the area unsuitable in 1979. But because of pressure from industry and from Washington, D.C., it was declared suitable pending the results of wildlife and reclamation studies. Then, in December 1981, the BLM said it had enough information to declare mining an appropriate use of the area, despite the fact that some university studies will not be complete until summer 1982.

The National Wildlife Federation, which became involved at the request of the Wyoming Wildlife Federation, is sending its letter to the secretary of the interior. He is expected to decide within two or three months whether and when Red Rim would be leased and which, if any, stipulations would be attached to lease.

— Marjane Ambler



Bunker Hill Smelter

Bunker Hill shuts down

Bunker Hill's 94-year-old silver, lead and zinc history is over. Despite the efforts of workers, owners, potential investors and a community task force, the northern Idaho mine and smelter shut down at the end of January. Only a skeleton crew of 350 workers remained to protect and maintain equipment for salvage.

The closing was a disappointment for everyone involved. Bunker Hill's owner, Gulf Resources and Chemical Corp., extended a shut-down deadline of December 31, 1981, to give a group of potential investors time to negotiate a purchase. Local and national officials had acquired an extension of federal pollution control requirements to make the deal more attractive. Union workers had voted to accept a rollback of wages and benefits.

But nothing worked. National union leadership refused to certify the local workers' vote. Silver prices dropped and the potential investors withdrew.

HOTLINE

COLORADO SLICED UP

Three federal judges have finished dividing Colorado's six congressional districts. Colorado picked up a sixth district after 1980 census counted an additional 700,000 people in the state since 1970. After an unsuccessful six month tug-of-war between Democratic Governor Dick Lamm and the Colorado legislators to produce a redistricting plan acceptable by both, the federal judges took the reins (HCN, 12/11/81). The judge's lines will probably secure the five incumbents their seats, but the split should go three Democrats, three Republicans. Most of Denver was retained as a district in itself and Pueblo was also retained wholly within a district. The new district is U-shaped, running south and west of Denver, taking in Aurora, Bow Mar, Cherry Hills Village, Columbine Valley, Edgewater, Englewood, Lakewood, Lakeside, Littleton, Sheridan and Wheat Ridge.

IMPACT ASSISTANCE

Sens. William Armstrong (R-Colo.) and Malcolm Wallop (R-Wyo.) are working on legislation that would allow corporations to pre-pay local and state taxes and fees on energy projects — allowing local communities to use the funds to lessen the impact of development. The incentive: The companies could immediately deduct those local and state taxes from their federal taxes. Said Wallop: "The basic problem that impacted Wyoming communities have had is up-front money to deal with pending problems." The senators plan hearings on the bill later this year.

UNDERGROUND COAL GAS

Underground coal gasification may produce synthetic fuels at costs competitive with conventional fossil fuels "in favorable resource and market conditions," said Burl Davis, deputy program manager for Gulf Research and Development. The preliminary favorable economic analysis is based on successful field testing by Gulf near Rawlins, Wyoming. Steeply dipping

seams not economically mineable with present methods were gasified, using oxygen and steam to sustain combustion and enrich the gas. The 90-day test, completed in December, gasified 200 tons of coal daily, producing up to 11 million cubic feet of medium Btu (200-400 Btu per cubic foot) gas a day. According to Gulf, development of a cost-efficient method to utilize steeply dipping coal seams could add some 100 billion tons of coal to domestic energy supplies.

OSM VERSUS COLORADO

A complaint filed against Western Slopes Carbon Co. in Hawks Nest, Colo. has caused the Office of Surface Mining to review its enforcement policy at mines straddling federal and non-federal lands. According to both OSM and environmentalists, the company has been illegally dumping coal on the non-federal portion of its operation. Because OSM currently has no policy on how to handle enforcement at checkerboard mines, they issued a 10-day notice of violation to the state, not the company. The Public Lands Institute, the Denver environmental group that filed the complaint, felt that OSM should have automatically issued a violation to the company. The institute is requesting a review of OSM's decision.

GLACIER COAL MINE

Dormant plans to dig open-pit mines just north of the U.S.-Canadian border near Glacier National Park have been revived. Sage Creek Coal, Ltd., last month submitted an application to the British Columbia government for two open-pit coal mines — a project that has been on the backburner for almost a decade. The site is northwest of the park, and park-lovers fear it will pollute Cabin Creek, a tributary of the north fork of the Flathead River, which runs along the western border of the park. Coal mine officials told the *Missoulian* they planned to market the coal abroad. Officials also said they would set up a \$200,000-a-year fund for wildlife and fish in the north fork, and provide funding for grizzly research.

Business people and politicians blamed national union leaders for refusing to certify the crucial worker agreement. The union leaders insisted the new agreement would be illegal until the existing contract could be renegotiated. The unions said they were still willing to negotiate. But the investors declined that offer along with the option to buy.

Three men, J.R. Simplot, who made his fortune with dried Idaho potatoes and frozen french fries, Harry Magnuson, the owner of several small silver mining companies, and Duane E. Hagadone, the head of a publishing chain and a construction company, led the effort to find investors.

When the three first began working on a purchase of Bunker Hill, they were hailed as the saviors of 2,100 jobs and the economy of the entire Silver Valley region. By the end of their negotiations, they were criticized for not showing good faith by completing the \$65 million deal.

According to Gulf public relations director Jan Gurley, the silver-lead-zinc operation was simply unprofitable. Labor costs were high, metal prices were down and because other zinc concentrate suppliers had cut back production, the smelter could not operate at full capacity. The company did not have sufficient earnings to replace antiquated equipment and meet federal pollution control standards.

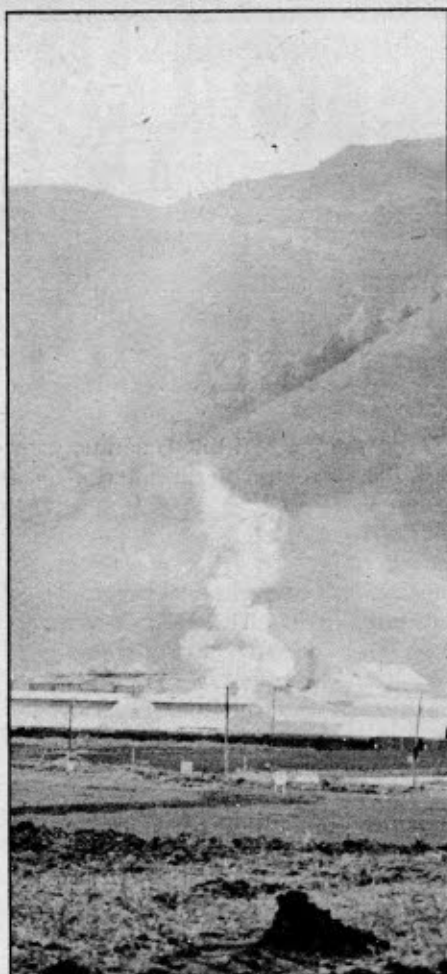
— Jeanette Germain

Idaho may revive state air bureau

Idaho Governor John Evans has asked the legislature's Joint Finance Appropriations Committee (JFAC), holder of the state's purse strings, for \$221,900 to reopen Idaho's Air Quality Bureau. The JFAC voted to close the bureau last year due to tight state revenues and amid charges the Environmental Protection Agency was duplicating the state program. Idaho air quality monitoring, enforcement and planning responsibilities were given to EPA last July.

Proponents of a state program say the state did a better job of solving local problems and monitoring local air quality trends than the EPA does.

The now defunct state bureau was developing plans to lower air pollution and lift moratoriums on industrial expansion in Pocatello, Soda Springs, Lewiston and Kellogg. EPA has "generally expressed disinterest in planning," said Lee Stokes, director of the Division of Environment, which ran the state program. EPA has not issued permits for new sources of air pollution since the state program ended, Stokes said.



Phosphate processing plant, Conda, Idaho

EPA's enforcement authority under the federal Clean Air Act includes 30-day violation notices and \$25,000 per day fines, designed for large, recalcitrant polluters states can't handle.

"Small and short-term problems fall through the cracks," said Idaho Conservation League lobbyist Renee Quick.

Bluegrass seed growers on Northern Idaho's Rathdrum Prairie have an annual short-term problem, fall straw burning. In the absence of Idaho's burning permit program, complaints about straw burning rose from 25 in 1980 to 250 last fall. Seed growers want the state program restored to ease tension between farmers and the Coeur D'Alene tourist industry.

Stokes said, "EPA now agrees there was some second-guessing on permit reviews." But, he added, "Eliminating the state program was an injustice to taxpayers, who are getting spotty enforcement and localized changes in pollution, and to industries, which are getting inconsistencies enforcement."

"EPA officials have indicated a strong desire for the state to take over its air quality program," Les Purce, director of the state Department of Health and Welfare, told JFAC members on January 21. Idaho is the only state without an air quality program.

John Spencer promised legislators "maximum flexibility" in administration if the state reopens its air quality program. Spencer said the EPA would provide some matching funds and limit federal supervision of the air quality program to one EPA employee in Idaho.

— Renee Guillierie

TIMBER SALES CHANGES

In order to encourage "more prompt and orderly harvesting under various marketing conditions," the U.S. Forest Service plans to change the way national forest timber is sold, according to Assistant Agriculture Secretary John Crowell. Changes include discounts for early harvesting, scheduling of sales payments, provision for stumpage rates adjustments in some areas in 1983. U.S. Forest Service Chief R. Max Peterson said future timber sale purchasers will find stiffer financial requirements, shorter time limits on sale harvest, and less timber offered in each sale. The changes are designed to encourage a more even flow of timber products into the marketplace, and a corresponding flow of timber sale receipts to the U.S. Treasury and subsequently to local governments, Peterson said.

EXTENDED

Interior Secretary James Watt, who only a short time ago said he would lease no wilderness for oil and gas exploration before next June, last week extended that moratorium through the end of 1982. Watt wrote to Sen. Malcolm Wallop (R-Wyo.), who sought the delay, that he intended to allow Congress adequate time to consider the issue. More than 300 applications to develop oil and gas in wilderness areas are currently on hold (see editorial page 15).

FEDERAL LAND SALE

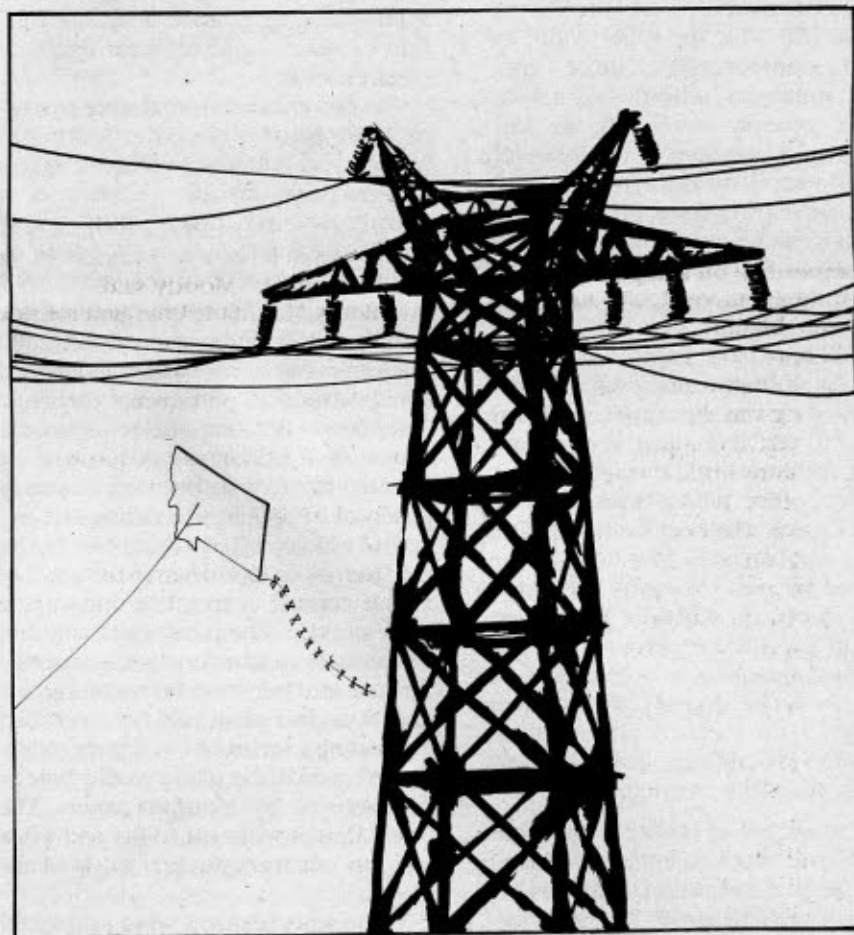
While some have sounded the death knell of the Sagebrush Rebellion, aides to Sen. Paul Laxalt (R-Nev.) sound like the divestiture of public lands in the West is still going to happen. A Laxalt aide told the *Public Lands News* that the White House was thinking about selling 100 million acres of Bureau of Land Management property. Income from the sales — which would not extend to parks or wildlife refuges — would go to pay off the national debt. The idea apparently has caught on with the President's Council on Economic Advisors and Presidential Assistant Edwin Meese.

SHALE RECLAMATION

Reclamation and revegetation problems posed by lands mined for oil shale development are not serious enough to halt development, Colorado State University scientists reported after five years of research. A 20-member interdisciplinary team supported by Department of Energy funds said at least two feet of topsoil will be necessary to seal the shale tailings after processing. Shale tailings are high in salts and contain significant amounts of boron and molybdenum. Both boron and salt can stunt or kill plant growth; molybdenum accumulates in plants and is toxic to many grazing animals. The research team's findings are expected to influence reclamation standards set for federal and state land leased for oil shale development. However, a reclamation permit granted Union Oil for operations near Parachute, Colo., before the findings were published, requires only six inches of topsoil over shale tailings. A nearby project being developed by Exxon and Tosco is considering applying only 12 to 18 inches of topsoil. CSU scientists believe revegetation will not succeed without an additional barrier between topsoil and tailings.

RECOVERING ROYALTIES

A major overhaul of the U.S. Department of the Interior's system for collection of mineral royalties is under way in order to assure recovery of an estimated \$200 to \$500 million a year in oil and gas royalties believed unreported on Federal and Indian leases. Interior Secretary James Watt announced that the changes, based on recommendations of a commission appointed by Watt to look into waste and fraud in the royalty program, include the creation of a separate royalty management office outside the U.S. Geological Survey. The new Minerals Management Service will be responsible for administration of the royalty program, which now provides approximately \$5 billion a year for the Federal Treasury, mineral producing states and Indian tribes. According to Senator Alan Simpson (R-Wyo.), the federal government alone lost \$650 million in royalties during 1981 through leaseholders underreporting their earnings to the USGS.



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POWERLINE PALL

Twin 500-kilovolt power lines proposed by the Bonneville Power Administration to carry electricity from Colstrip, Mont., to the Northwest got a boost from a federal judge last week when he rejected a request for a power line-blocking injunction from Missoula County. U.S. District Court Judge James Battin of Billings ruled that the county and private landowners did not have "standing," and that since a final route for the power line had not yet been selected it was too soon for the courts to get involved. An attorney for the Northern Plains Resource Council plans to appeal the decision.

PAVING THE NORTH FORK

The Montana Department of Transportation wants to pave a 10-mile stretch of the North Fork Road, which runs along the west side of Glacier

National Park, according to a draft environmental impact statement. The department recommendation would go against the wishes of the U.S. Fish and Wildlife Service, which fears increased traffic on the North Fork Road would harm grizzly and grey wolf populations and encourage unwanted development. Park managers consider the northwest section of the park wilderness and also oppose paving.

MONTANA MORATORIUM LIFTED

Leasing of state land for mining of gems and metalliferous minerals, including uranium, is again allowed in Montana after the State Land Board lifted a 1979 moratorium on such activities. The moratorium was imposed to re-examine state policies after a surge of interest in leasing for uranium exploration and development. The new rules set a royalty rate of eight percent. Reclamation requirements are unchanged.

Litter, uranium and tax indexing

Montana's "direct democracy" makes ballots busy

by Mike Males

Montana's 1972 Constitution led to a flowering of the initiative process, the system by which voters petition to have a proposed new law placed on the ballot, and then decide in the most directly democratic way whether it should be put on the books.

Montana's initiative activity in recent years can only be described as phenomenal. Since 1975, 12 initiatives have qualified for the ballot, compared to only 17 in the 60-year period from 1915 to 1975. In this six year period, nine measures have passed; thirty percent of the initiatives filed have become law.

No other state in the Rocky Mountain region comes close to matching Montana's record.

This high rate of qualification is all the more astounding when two more factors are considered: Nine of the 12 measures qualified for the ballot could be termed controversial (three anti-nuclear measures, a bottle bill, a wine sales in grocery stores bill, an anti-pornography measure, a tax indexing plan and a recall measure), with the first five highly controversial. Second, opponents of these 12 measures have spent an aggregate of \$1.1 million against them; proponents have spent only \$125,000 promoting them.

Montanans have enacted the most sweeping lobbyist disclosure, recall, and tax indexing procedures of any state, and the two most severe anti-nuclear measures in the country.

Suddenly, the state has become the cutting edge for America's anti-initiative forces. Lobbyists for industries wounded by past initiatives attempted to rally an equally wounded legislature, swept in by the conservative Reagan tide, into enacting a dozen bills to repeal or water down past initiatives and restrict the initiative process itself. A coalition of initiative defenders beat back all the major restrictive bills.

A large share of credit for the resurgence of the Montana initiative belongs to the 1972 Constitution. Before 1972, for an initiative to qualify for the ballot, petitioners had to gather signatures equal to eight percent of the vote for governor in the previous election year.

Constitutional amendments by petition were not allowed. The 1972 Constitution reduced initiative and referendum signature requirements to five percent and allowed constitutional initiatives with ten percent. Petitioners obsessed with rendering a legislative act inoperative must gather 15 percent of the voters in each of 51 of the 100 legislative districts. No referendum petition of either kind has qualified for the ballot.

Initiatives have been climbing the scale of emotion year by year and reached an apex in 1980. Had all the initiatives filed in 1980 made it on the ballot, it is likely the state would have come apart at the seams from the controversy. In addition to the four which appeared on the ballot, three which failed to get the necessary signatures would have required, respectively, a public buy-out of all private utilities and voter approval of major energy facilities, a unicameral legislature, and compensation by major employers for layoffs or plant closings.

The first environmental issue to qualify for the ballot in decades was the 1976 anti-nuclear initiative which, despite a non-campaign by its proponents, a harshly worded ballot title, and a \$130,000 campaign by its opponents, garnered 41 percent of the vote.

In 1978, the strongly anti-nuclear Initiative 80 overcame a \$260,000 nuclear industry campaign and passed by a landslide 65-35 percent margin.

Initiative 80, for all its dramatic results, had a curious conception. It resulted from a split between a ragtag group of anti-nuclear activists, one faction of which wanted a complete ban on nuclear power in Montana, the other of which wanted a modification of the 1976 measure. The moderates won and — almost as an afterthought — inserted a clause into Initiative 80 requiring that once a nuclear plant had been certified as meeting a series of extremely stringent safeguards, the plant would have to be approved by Montana voters. The "ban" faction went on to file and win a ban on nuclear power in Missoula County.

Proponents realized what a powerful appeal the "popular vote" concept had, so the ballot title emphasized the populist provision and the group named itself



"Nuclear Vote." Startled politicians embroiled in primary campaigns took one look at the measure and endorsed it on the spot. Over 80 percent of the voters approached signed the petition.

The measure had only 9,000 of the 16,000 signatures it needed by May, but the group mushroomed into a statewide organization and picked up 6,000 signatures on primary election day and another 5,000 by the July filing deadline.

Opponents of the initiative hastily organized during the summer and went to court to get the title changed, as in 1976, to a "ban on nuclear power." The Supreme Court unanimously ruled that the issue did not legally ban nuclear power and upheld the Attorney General's title, which read: "(An act) giving Montana voters power to approve or reject any proposed major nuclear power facility and establishing state safety and liability standards."

Endorsements poured in. Republican U.S. Senate candidate Larry Williams led the pack, and he was followed by former Senator Mike Mansfield, Donna Metcalf, Senator John Melcher, Democratic Senate candidate Max Baucus, the Montana Farmers Union, the National Taxpayers Union, historian K. Ross Toole and a dozen other groups.

The opposition campaign brought in a number of industry experts from around the country and featured their message in large radio, television, and newspaper ads. The proponents and opponents debated in nine cities around the state, with the proponents using only local spokespersons while the opponents used engineers from the Westinghouse plant in Pittsburgh, Pennsylvania. To Montanans, it appeared to be the Home Team versus the Visitors.

By late October proponents of the initiative realized the shallowness of the opposition organization and challenged them to simultaneous courthouse-step debates in 27 rural counties. The opposition first accepted, then backed out; proponents spoke anyway. Pro-nuclear forces fired a salvo of ads which saturated major radio stations and newspapers; their "labor rally for nuclear power" drew only 60 people. The opposition failed to establish a local base, and —

despite spending \$260,000, the largest amount spent on a campaign on a ballot issue in Montana history, versus \$9,800 by Nuclear Vote — they were able to knock only five points off of the early polls which showed Initiative 80 with a 70 percent approval rating. The measure carried 55 of 56 counties, losing only labor-dominated Anaconda by 100 votes.

All three initiatives on the ballot passed in 1978. A conservative anti-pornography measure received little attention and only sporadic opposition from civil liberties groups, yet won by a surprisingly small margin. A measure to allow wine sales in grocery stores, backed by a \$60,000 advertising campaign by wholesalers and grocers, ran up against stiff opposition from an unholy alliance of tavern owners and prohibitionists. Montana, like many rural states, has a high percentage of people who will vote for prohibition as long as they can stagger to the polls. Initiative 81 failed in many rural areas but won big in cities, passing with 59 percent of the vote.

Montana initiative backers went wild in 1980, filing measures which variously insulted the state's utilities, major industries, beverage and food industry, lobbyists, the mining industry, and the state legislature. Conservatives pushed several tax-cutting issues, of which only the tax indexing measure was taken seriously by voters. Tax indexing is designed to keep progressive tax rates from rising simply due to inflation.

The campaigns on the four ballot issues which qualified were of two types — "Nothing" and "Much Ado." In the "Nothing" category were initiatives for lobbyist disclosure (I-85) and tax indexing (I-86), neither of which had any organized opposition. Previous polls showed the lobbyist disclosure concept favored by over 90 percent of the voters — yet disfavored, in three legislative sessions, by over 70 percent of the legislators. Proponents had a hard time even finding anyone to debate. Sporadic opposition from a handful of state legislators and lobbyists was crushed by a 78 percent landslide for the measure.

The Republican-sponsored tax-indexing initiative was quietly opposed by many in the state Democratic Party, who argued that its full indexing plan would cripple state government. But since the vast majority of Democrats had supported the same measure in the legislature (it was vetoed by the governor after adjournment), organized opposition from the party was low-key. Proponents, including the state Republican Party and former U.S. Senate candidate Larry Williams, spent about \$8,000 to advertise the measure. Despite early polls which showed the measure was not well-understood by voters, it passed with 70 percent of the vote. Attempts to alter the measure in the legislature were generally rebuffed by the controlling Republicans. Many observers credit I-86 with helping Republicans capture both state houses for the first time in over 25 years.

In the "Much Ado" category were the Recycling Initiative (I-87) and the Radioactive Waste Ban (I-84). The recycling measure, which required a five

Initiatives: A Western phenomenon

Initiative petitioning has always been a middle-class Western phenomenon. Only four Eastern and Midwestern states and four Southern and Border states allow the process; of 16 Western states, 14 have initiative laws on the books.

In the early 1900s, the "direct democracy" revolution hit the Western states with a bang. Popular resentments bottled up for generations exploded in a fury of initiative, referendum and recall petitions hawked by petitioners who lived in a smaller, more homogenous, more community-oriented society than today's.

Popular ballot issue topics of the early 1900s included women's suffrage, direct election of U.S. senators, abolition of restrictions on voting, nomination of candidates by primary election, liquor

regulation, and expansion of the powers of initiative and referendum themselves.

Government either improved or became more discreet about its corruption — probably both. Use of initiatives and referendums tapered off from 1920 to 1950 and all but disappeared in many states from 1950 to 1970. As public opinion polling developed in the 1950s and 1960s it generally showed the American public reasonably confident its voice was being heard in government.

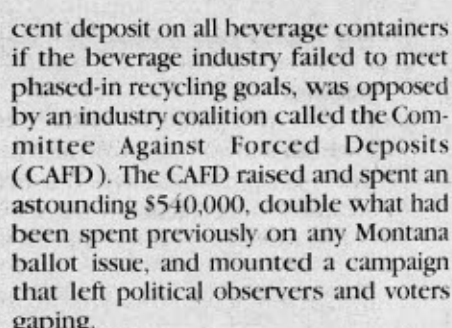
The structure of society was changing, too. The citizenry was becoming more dispersed, more diverse, less community-oriented, and, most of all, more numerous. An issue could be popped on the Oregon ballot with 7,000 signatures in 1910. Today it takes 55,000 signatures and a mobilized army of petitioners attempting to find a

crowd in today's non-cities and non-communities.

Despite these obstacles, the initiative process has come to life again in some states in the mid-1970s. Why? Today's legislators usually don't resemble the bought-and-paid-for lawmakers of the past. But the complexity and esoteric processes of modern government have led to a condition in which many citizens feel powerless — so the opinion polls say.

The ballot issues of the 1970s have emphasized environmental, anti-nuclear, tax reform, lobbyist and campaign regulation, and vice regulation. As in 1910, the issues are both conservative and liberal, striking out at the perceived twin evils of big business and big government.

— M.M.



The amount spent by the CAFD, large as it was, still understated its campaign. Many employees of groceries and distributors were pressed into service, and the campaign benefitted immeasurably from free mass distribution points in Montana's 700 grocery stores and 1,200 taverns. Six-packs of beer and pop sprouted anti-87 stickers. Grocery customers found literature in their grocery bags. Tavern customers bellied up to anti-87 posters. Newspaper, radio and TV ads abounded, as did mailings and newspaper inserts. Teams of speakers, many from the national packaging and beverage interests who put up 80 percent of the money to fight I-87, roamed the state, addressing every civic club and pep rally they could find. Underneath their three main themes, the opposition subtly implied that I-87 embodied the distinctly un-Western philosophy of "telling people what to do."

The press did not cooperate with the first plan, running only sporadic articles on the opposition's funding, and the October campaign stressed the wrong theme — recycling — despite the proponent's own survey which showed litter reduction to be the best argument in favor of the measure. The opposition campaign so-dominated the state that the proponents' door-to-door effort in late October found voter after voter wondering, "You mean someone's in favor of this?"

The other "Much Ado" campaign (though small in comparison to the anti-87 barrage) was waged by Montanans for Jobs and Mining (MJM) against the Radioactive Waste Ban measure, I-84. MJM spent \$130,000, 90 percent of it donated from outside Montana, to advance its contention that I-84 would effectively "ban" uranium mining by requiring that radioactive uranium mill wastes be transported outside of the state.

late and run almost exclusively through the media. Television ads showed uranium-powered battleships being removed croupier-like from a checkerboard, with the announcer intoning that I-84 would lead to America's begging the Ayatollah for permission to defend itself. Newspaper ads extolled the safety of uranium mining under the countenance of a rancher, presumably one with uranium exploration leases, and captioned: "Now they're trying to tell me what to do with my own land."

Voters were confused, and so were the results. The pre-final press tally showed the measure losing by a close margin. Opponents cheered, and uranium exploration companies resumed work. Then the statewide official canvas showed the measure winning by 600 votes out of 350,000 cast. The recount cut the "yes" margin to 400 votes. Latent anti-nuclear sentiment, combined with Montana's ever-present fear of becoming a national nuclear waste dump, apparently carried the measure to victory.

The uranium industry wasted no time in drafting a bill to repeal I-84 and substitute a state regulatory system for uranium mining. The bill passed the House by a 2-1 margin and stalled in the Senate, as outraged citizens complained about the arrogance of the legislature's efforts to repeal an initiative. The bill finally emerged with a referendum clause attached. Thus, 1982 will represent the fourth consecutive election in which the voters of Montana (a state with no nuclear facilities) will vote on a nuclear issue.

Ronald Reagan's landslide victory in Montana may have hurt progressive initiatives, but it also accomplished something even more significant: election of a largely-conservative Republican legislature. It was a legislature not only philosophically opposed to the kind of anti-nuclear, anti-lobbyist measures approved by the voters, but it was also deeply resentful of the initiative process itself. Business and trade associations introduced a dozen measures aimed at overturning initiative measures and restricting the process itself in the newly Republican-dominated legislature in 1980. Measures which would double the number of signatures required, prohibit petitioning at polling places, restrict petition circulators, and place title-writing under legislative council control passed one house easily, then went down in the other house after adverse voter reaction developed. The initiative process is expected to be a campaign issue in 1982.

During the legislative debate, one anti-initiative legislator argued that "only one type of group uses this process" (read: "radicals"). However, a 1980 statistical analysis of ballot issue results in Montana shows a curious result which contradicts that assumption.

analysis to be a Type A schizophrenic. How else can one explain the bizarre fact that a county which voted for the Republican-sponsored tax indexing initiative was more likely to have voted for the progressive anti-nuclear and recycling initiatives than for the Republican Party's U.S. Senate candidate? More curious still, the three anti-nuclear initiatives correlate only erratically. The correlation between the votes on the anti-nuclear initiatives of 1978 and 1980 is less than the correlation between votes on the conservative tax-indexing and the latter anti-nuclear measure. In 1980, the typical voter tended to vote *for* all three or *against* all three, making no distinction between the "conservative" character of one and the "progressive" character of the other two.

Wyoming: A near miss for in-stream flow initiative

No other state in the Rocky Mountain region has matched Montana's record. Some, like Colorado, have a fairly open, accessible process, but simply make a habit of defeating initiatives. Others, like Wyoming, have a process that makes initiatives nearly impossible.

Wyoming came closer than ever to placing an initiative on the ballot this year when the Wyoming In-Stream Flow Committee gathered 30,822 signatures to put their measure before the state legislature and, if the legislature failed to act, on the fall ballot.

The in-stream flow initiative would allow the state Game and Fish Department to purchase or accept donations of water rights to protect fish habitat. The department could also file for water rights on unappropriated water, but could not condemn existing rights. The initiative would recognize a minimum in-stream flow as a "beneficial use" of water in Wyoming — something most western states have already done.

Wyoming's initiative law sets much stiffer requirements than Montana (or Colorado or Idaho), requiring signatures equal to 15 percent of the turn-out in the last general election. Two-thirds of the state's counties must supply at least one signature. Not surprisingly, in a state with a spread-out population and no tradition of using the initiative process, there has never been one on the ballot. In the past, initiatives have been proposed to allow gambling, force lobbyist disclosure, create a lieutenant governor's office and increase the coal severance tax, among other things.

No past effort came as close to success as the in-stream flow petition — and its backers have not given up yet. Secretary of State Thyra Thomson announced last week that of the 30,822 signatures gathered, only 25,888 could be verified. That meant the initiative had fallen 1,266 signatures short of the 27,154 required to get on the ballot.

Reagan tide), while the radioactive waste ban was seen as more government but protectionist for Montana, and the recycling measures simply as more government. Whatever the analysis, the 1982 initiative season promises to be the hottest yet, as controversy over the process itself joins with controversy over the issues in the state that has become America's leading initiative battleground.

Mike Males was a researcher and lobbyist for the Montana Environmental Information Center in Helena during the 1981 Montana legislative session. This article is adapted from one published in the *NRAG Papers*, Fall, 1981, published by the Northern Rockies Action Group.

tized the secretary of state for not making a more thorough check of discredited signatures. In a letter to Thomson, she said numerous registered voters might not have appeared on statewide registration lists from the last two elections. Specifically, she mentioned people who had registered to vote recently, people whose addresses had changed since the last election, people whose names had changed due to marriage or other reasons, and people whose handwriting is illegible.

Dickey asked Thomson to make an effort to check the invalidated signatures for these sorts of mistakes.

But Linda Mosley of the secretary of state's office said efforts had been made to "give the signer the benefit of the doubt."

Mosley said statewide computerized voter registration lists, against which the petitions were checked, are updated on a monthly basis, so they are relatively current with recently registered voters. She said they also checked against the master list for the 1980 election.

In addition, if a voter's address appeared to have changed within a county, it was okay. And if a signature was similar to that of a registered voter — possibly a nickname, or initials — it was certified.

Experts on initiatives say the rate of disapproval of signature suffered in the Wyoming initiative drive — about 16 percent — is not unusual. The range is usually 15-30 percent, though Montana initiative backers report a 12 percent rate.

Dickey conceded that the chances of verifying the 1,266 signatures from those disallowed diminished if the state was using monthly updated voter lists. But she said, "They really ought to give some guidelines to the verification." Her group, she said, intends to go to court to challenge the secretary of state's ruling.

— Geoffrey O'Gara

High Country News Index

Agriculture

Ag loans face dollar drought. Michael Moss, Sept. 4, 1981, p. 6. Colorado Agricultural Development Authority will have a hard time meeting goals.

Cattle, cussing and cowboys. Dan Whipple, photos by Mike McClure, Aug. 7, 1981, p. 1. A look at the life of a Wyoming cowboy.

Few farmers deride the gravy train. Oct. 16, 1981, p. 11. Companion piece to *Briney Colorado* article. Farmers benefit indirectly from federal salinity project.

No room in this field for the young. Michael Moss, May 15, 1981, p. 1. Young ranchers and farmers find getting started is often too expensive.

Selling the ranch for a bopper of dollars. Michael Moss, photos by Kathy Bogan, April 17, 1981, p. 8. A day at a Wyoming ranch auction.

Shifting credit fans agricultural fears. Michael Moss, May 1, 1981, p. 6. Agricultural credit is hard to find.

Tax forecloses inheritance dream. Michael Moss, April 17, 1981, p. 1. Inheritance tax reform proposed in Senate.

What to eat...what, indeed. Don Snow, Nov. 13, 1981, p. 6. Personal impressions of the farming life and some messages learned from it.

Air quality

Clean air fans pour on the PR. Lonnie Rosenwald, Feb. 6, 1981, p. 6. Reauthorization of Clean Air Act is focus for lobbyists.

Clean air progress muddled. Nov. 27, 1981, p. 3. Proposed changes on Clean Air Act are still in subcommittee.

Missoula air scrub tags woodstoves. May, 1, 1981, p. 3. Task force evaluates air pollution problems.

Sickness and health...or profit and loss. Dan Whipple, Oct. 16, 1981, p. 6. A look at the Clean Air Act and proposals for revisions.

Alternative energy

Feds abandon the solar short-run. June 26, 1981, p. 4. SERI's commercialization programs cut.

Idaho's new energy source stumbles in regulatory darkness. Michael Moss, Mar. 20, 1981, p. 6. Cogenerating electricity.

Jemez geothermal drilling strikes angry chord. Jack Kutz, Apr. 3, 1981, p. 5. Residents fear water loss.

Power rules inhibit people power. Michael Moss, July 10, 1981, p. 6. Public Utility Regulatory Policies Act is slow in taking effect.

"Wind easements" sought for Livingston project. Dan Hollow, Jan. 9, 1981, p. 6. Montana site chosen for wind farm.

Book reviews

Bankers and Cattlemen. Gene M. Gressley, review by Michael Moss, April 17, 1981, p. 12. History of Eastern capital in Western ranching.

A Brush with the West. Dale Burk, review by Peter Wild, Mar. 20, 1981, p. 16. Development of northern Rockies art.

George Catlin: Episodes from Life Among the Indians and Last Rambles. Marvin C. Ross, ed., review by Peter Wild, Mar. 20, 1981, p. 16. Collection of essays and reproductions.

Colorado Place Names. Geo R. Eichler and *Wyoming Place Names.* Mae Urbanek, review by Michael Moss, Aug. 7, 1981, p. 16.

Earth Sheltered Housing Design. Underground Space Center, review by Geoffrey O'Gara, May 1, 1981, p. 16.

The Farm and the City: Rivals or Allies? Archibald Woodruff, ed., review by Michael Moss, Feb. 20, 1981, p. 16. Essays on land use from a variety of viewpoints.

Farmland, Food and the Future. Max Schnepf, ed., review by Michael Moss, Feb. 20, 1981, p. 16. Collection of essays on conversion of farm lands to non-farm uses.

The Future of Agriculture in the Rocky Mountains. E. Richard Hart, ed., review by Michael Moss, Feb. 20, 1981, p. 16. A regional discussion of the state of agriculture.

The Games Climbers Play. Ken Wilson, review by Peter Wild, Jan. 23, 1981, p. 16. An anthology of pieces about the fun and serious facets of rock climbing.

Going to Extremes. Joe McGinniss, review by Rosemary Harrold, Feb. 6, 1981, p. 16. Account of the contrasts in Alaska today.

Hiking the Great Basin. John Hart, review by Peter Wild, July 24, 1981, p. 16. Latest in the Sierra Club trail guides.

Incident at Eagle Ranch. Donald G. Schueler, review by Joan Nice, May 29, 1981, p. 16. Subtitled *Man and Predator in the American West*.

Irrigation Water Use and Management, An Interagency Task Force Report. Departments of the Interior, Agriculture and Environmental Protection Agency, review by Michael Moss, July 10, 1981, p. 16.

Knights of the Broadax. Joan Trego Pinkerton, review by Myra Connell, June 26, 1981, p. 16. Life in a Wyoming timber camp of the 30s and 40s.

A Land Alone: Colorado's Western Slope. Duane Vandenbusche and Duane Smith, review by Michael Moss, Aug. 7, 1981, p. 16. Profiles of Western Slope residents.

The Making of a Solar Village. William S. Becker, review by Geoffrey O'Gara, June 12, 1981, p. 16. Case study of the efforts of a Wisconsin town to use solar heating.

The Montana Renewable Energy Handbook. Jan Konigsberg, review by Geoffrey O'Gara, June 12, 1981, p. 16. Information on alternate energy sources that can be used in Montana.

Mountains Without Handrails: Reflections on the National Parks. Joseph L. Sax, review by Geoffrey O'Gara, July 10, 1981, p. 16. A philosophical discussion of the reasons for limiting development in national parks.

New Roots for Agriculture. Wes Jackson, review by Gary Nabhan, May 15, 1981, p. 16. Proposed alternative monoculture farming.

No Time But Place: A Prairie Pastoral. Jeff and Jessica Pearson, review by Michael Moss, Nov. 27, 1981, p. 11. A portrayal of rural life in Colorado.

People Heaters. Alexis Parks, review by Peter Wild, April 17, 1981, p. 12. Alternative ways to keep warm at home.

A Policy Approach to Political Representation. Helen Ingram, et al, review by Michael Moss, Jan. 9, 1981, p. 16. Statistical information on the Four Corners States' legislatures.

Public Resources & Irrigation Development in the Pacific Northwest: Who Benefits & Who Pays. Diane Jones, review by Michael Moss, July 10, 1981, p. 16. Book from Idaho Citizen's Coalition.

The Ranchers. Stan Steiner, review by Peter Wild, Jan. 9, 1981, p. 16. Interviews with descendants of pioneer ranchers.

A River No More: The Colorado River and the West. Philip L. Fradkin, review by Bob Anderson, June 26, 1981, p. 16. A perspective on the development of the West through a study of one of its important rivers.

Rural and Small Town Planning. Judith Getzels and Charles Thurow, review by Michael Moss, Apr. 3, 1981, p. 16. Advice on local planning.

Soil Conservation Policies: An Assessment. Soil Conservation Society of America, review by Michael Moss, Mar. 6, 1981, p. 16. Political view of soil erosion problems.

Super Insulated Houses and Double Envelope Houses. William Shurcliff, May 1, 1981, p. 16.

The Underground House Book. Stu Campbell, review by Geoffrey O'Gara, May 1, 1981, p. 16.

World Mineral Trends and U.S. Supply Problems. compiled by Leonard Fischman, May 1, 1981, p. 16.

Colorado

Colorado legislators target taxes. Michael Moss, Nov. 27, 1981, p. 12. Discussion of 1982 political issues in Colorado.

Small town editors shoot it out. Michael Moss, Nov. 27, 1981, p. 10. A look at journalism in one of Colorado's small towns.

Ecotage

Blowing it: 'ecotage' in Jackson Hole. Dan Whipple, May 1, 1981, p. 1. Jackson group sabotages drilling sites.

Electricity

Looking for juice in backyard dams. Michael Moss, June 12, 1981, p. 1. Long-neglected small dams provide hydropower.

Peaking in on the Grand Canyon. Gary Schmitz, July 24, 1981, p. 1. Discussion of proposal to increase generation at Glen Canyon Dam.

Gasohol

Gasohol moves slowly; corporate stills capturing market. May 29, 1981, p. 6. Developing industry still facing many problems.

Highways

Route 66. Dale Schicketanz, Oct. 2, 1981, p. 8. Photos taken along Route 66.

Indians

Cocky CERT courts controversy, loses 4 tribes. Marjane Ambler, March 6, 1981, p. 5. Indians and non-Indians criticize Council of Energy Resource Tribes.

Indians fight for Black Hills camp. Oct. 2, 1981, p. 4. Sioux want settlement in land, not money.

Tribes, frustrated with lack of federal regs, consider code. Jan. 9, 1981, p. 7. Legal group draws up environmental code for tribes.

Tribes to monitor leases? Marjane Ambler, Mar. 6, 1981, p. 12. Tribal leaders claim USGS is failing to monitor oil operations on Indian land.

Water watchdogs neglect the Navajo. Michael Moss, Jan. 23, 1981, p. 1. GAO finds serious problems with reservation drinking water.

"We don't have separation of powers here" — the testing of tribal courts. June 26, 1981, p. 6. Tribes must blend old and new justice systems while making important energy development decisions.

Montana

Anaconda's bars were booming. Oct. 30, 1981, p. 11. Effects of smelter closure on Montana town.

Economic clouds, political storms. Don Snow, Oct. 30, 1981, p. 10. A look at Montana's economic problems and causes.

Getting no breaks at C.M. Russell. Geoffrey O'Gara, Oct. 30, 1981, p. 10. Grazing rights controversy affects refuge.

An oft-told tale of cattle and coal. Geoffrey O'Gara, Oct. 30, 1981, p. 16. Tongue River ranchers fear changes brought by coal development.

The richest hill on earth. Photography by David Spear, Oct. 30, 1981, p. 8. Brief history and photos of Butte, Montana.

Movies

Heartland: Unusual movie brings 1910 homestead to life. Geoffrey O'Gara, Mar. 20, 1981, p. 7. The making of a true pioneer story.

Nuclear (see uranium)

Oil

High rollers take a tumble on dicey oil and gas lottery. Dale Roberts, Aug. 7, 1981, p. 11. Oil and gas leases on BLM and state lands are determined by lottery system that brings in millions of dollars.

"I'm a juggie". Conrad Gilbert, Jan. 9, 1981, p. 1. Close-up look at seismographic work.

The Overbrust moneybelt: Difficult dispersal of impact dollars. Geoffrey O'Gara, June 26, 1981, p. 1. Energy producers promise impact aid but omit several issues.

Where prairies and mountains clash. Jim Robbins, Oct. 30, 1981, p. 6. Rocky Mountain Front of Montana receives energy developers' attention.

Oil shale (see synthetic fuels)

People

Cecil Andrus on windmills and balance. Nov. 13, 1981, p. 16. Interview with former Secretary of the Interior.

Dickenson: Old parks band survives D.C. turmoil. Ron Wolf, Dec. 11, 1981, p. 6. Profile of the head of the National Park Service.

Dickenson: On the job and other subjects. Dec. 11, 1981, p. 6. Comments by Russell Dickenson.

Encounters with Henry on Utah's Green River. Edward Abbey, Oct. 2, 1981, p. 1. Excerpt from introduction to new edition of *Walden*.

Greeley said, "Go West," but fought the 19th century "Great Barbeque" of public land. Peter Wild, Apr. 3, 1981, p. 6. Environmental cause had roots in pre-Civil War years.

Jobs and progress, Yes — "But we want it done right". Nov. 13, 1981, p. 11. Interview with former Secretary of Interior Hickel.

Laney. Nov. 13, 1981, p. 8. Profile of a Wyoming artist.

Linford's pen still pursues West's polluters. Philip White, Feb. 6, 1981, p. 13. Profile of the career of this conservation-minded journalist.

People "as rugged as the land itself," story and photos by Nancy Wood, Nov. 27, 1981, p. 8. Photo-essay on people living near Craig, Colorado.

Project Lighhawk gets conservationists off the ground. Geoffrey O'Gara, May 29, 1981, p. 6. Pilot ferries conservationists, journalists over Rocky Mountain area.

Promoter turns planner to shape Western Slope growth. Michael Moss, July 24, 1981, p. 6. J. Vanderhoof and Club 20 plan to prepare the way for the energy industry.

Simon Ortiz. Dede Feldman, Sept. 4, 1981, p. 8. Profile and poetry of Indian writer and activist.

State solon taps a conservative gavel. Michael Moss, Jan. 23, 1981, p. 4. Profile of Colorado Senate President Fred Anderson.

Watt's interior "contrary to the tide of history". Ken Olsen, Nov. 13, 1981, p. 10. Comments by former Secretary Udall.

Winged messenger carries mail, nails, and an occasional medicine man, story and photos by Glenn Oakley, Dec. 11, 1981, p. 8. Mail and supplies come to Idaho backcountry by air.

Plants

Fresh start to native seeds. May 15, 1981, p. 2. Arizona group formed to conserve native American seedstocks.

The pit and the penstemon: Wyoming's endangered plants. Betsy Bernfeld, Aug. 7, 1981, p. 6.

Politics

Budget cuts, mineral taxes for '82. Dec. 11, 1981, p. 4. Legislative agendas in the Western states.

Redistricting: Drawing the line. Carol Jones, Dec. 11, 1981, p. 16. Analysis of redistricting issues in five Western states.

Western officials mount up for the 1981 sessions. Jan. 9, 1981, p. 4. Preview of environmental issues facing state legislatures.



Volume 13 1981

Population impact

Aliens program worries region, Aug. 7, 1981, p. 4. Rocky Mountain growers question whether program will supply needed labor.

ARCO makes Wright from scratch, Nov. 27, 1981, p. 7. Prototype of Battlement Mesa development.

Colo. county scores record deal to handle energy growth, July 24, 1981, p. 2. Mining corporation settles on \$15 million to alleviate development impact.

Colorado's rural suburb, Gary Schmitz, Nov. 27, 1981, p. 6. Oil shale developers create city at Battlement Mesa.

Viewing the front range crystal ball, Nov. 27, 1981, p. 5. Front range population expected to increase 52% in next 20 years.

Public lands

Cabin Creek Mine scares Glacier Park, V.M. Kahn, Dec. 11, 1981, p. 2. Proposed coal mine poses threat to national park.

Defending the 'Colonial' West raises cries of revolt, Bruce Reed, July 24, 1981, p. 4. Conference focuses on status of Western states and their resources.

First forest plan perplexes public, Louisa Wilcox, Feb. 20, 1981, p. 4. First plan under Forest Management Act proves complex.

John Baden: Put public lands in private hands, Ken Western, March 6, 1981, p. 1. Profile of director of Center for Political Economy and Natural Resources.

Making the most of public lands, Michael Moss, Nov. 13, 1981, p. 1. BLM Director Bob Burford plans more development on federal lands.

New federal timber push could sway local plans, Sept. 4, 1981, p. 4. Forest Service says harvest level could be tripled.

Park stirs up soil on trampled Teton lake-shore, Betsy Bernfeld, Feb. 6, 1981, p. 5. Overuse damages delicate environment of high lakes.

Recipes for survival, Jeanette Germain, July 24, 1981, p. 4. Comments from the conference on "The American West: Colonies in Revolt."

Rock art revamp, photos by NPS, March 20, 1981, p. 5. Vandalism of pictographs.

Slipping through Dinosaur, the Yampa carves with a free-flowing style, photos by David Sumner, June 12, 1981, p. 8. Photos of the Yampa River as it flows through Dinosaur National Park.

Triumphant church buys Forbes land; wants more, Oct. 30, 1981, p. 7. Forest Service offered land exchange deal near Yellowstone National Park.

Railroads

Three decades of travel in polished Pullmans, Mel McFarland, April 3, 1981, p. 8. Essay on historic train travel based on author's book.

Super-trains breed super-terminals, Terry L. Shorb, Sept. 4, 1981, p. 1. Small agricultural towns fear effects of consolidation.

Recycling

Put that beer can in Bucket No. 14, please, story and photos by Betsy Bernfeld, Oct. 2, 1981, p. 16. A "non-environmentalist" gives a few lessons on recycling.

Revenue bonds

Revenue bonds put some firms in black, but feds see only red, Michael Moss, Oct. 2, 1981, p. 6. Congress may impose limits or ban IDB's entirely.

Rodeo

A Genuine Mexican Plug, from *Roughing It* by Mark Twain, July 10, 1981.

Severance taxes

A mountain of money above a not-so-fruitful plain, Dan Whipple, July 10, 1981, p. 1. Discussion of the controversies over state mineral severance taxes.

Wyo. loses millions on ore tax, Dan Whipple, Feb. 6, 1981, p. 1. \$10 million lost since 1977 due to faulty uranium tax assessment methods.

Skiing

Old-time skiing in the Rockies, Ron Watters, Jan. 9, 1981, p. 8. Historical pictures of skiing and snowshoeing.

Synthetic fuels

Congress squeezes oil shale rules, June 26, 1981, p. 3. Bills introduced to open up more oil shale development.

Noble synfuels' Bermuda Triangle, Lonnie Rosenwald and Lavinia Edmunds, May 15, 1981, p. 6. Synfuels industry expects Reagan appointee will hold back federal funds.

Oil shale risks shared by nation's water users, taxpayers, Bob Anderson, April 17, 1981, p. 6. Discussion of water and reclamation issues.

Oil shale future: Jewel or synfuel? Bob Anderson, April 3, 1981, p. 1. Overview of development of new energy technology.

R&D cuts would push synfuel firms west, Lonnie Rosenwald, March 6, 1981, p. 11. Reagan's budget cuts hit Eastern demonstration projects.

Toxics

Dump dip is last stop for migratory fowl, Peggy Strain, Feb. 20, 1981, p. 3. Wildlife die in Rocky Mountain Arsenal chemical dump.

Endrin prompts hunt delay and caution, Oct. 2, 1981, p. 2. Waterfowl tested for pesticide contamination.

Mont. pest spray raises toxic fear, Jim Robbins, June 26, 1981, p. 2. Wildlife Federation claims Agriculture Dept. negligent in providing information.

Pest spray linked to game poisoning, Sept. 18, 1981, p. 2. Montana spraying may have contaminated waterfowl.

Poisons for predators get federal nod, Nov. 27, 1981, p. 3. Fish and Wildlife Service proposes changes in predator control program.

1080 revival renews old wrangle, Aug. 7, 1981, p. 2. Shepherders ask EPA to lift predator pesticide ban.

Uranium/nuclear

Hot pond defies containment, Jack Kutz, Jan. 23, 1981, p. 1. Radioactive liquid seeping into groundwater at Church Rock, N.M.

Nuke stalls could cost NW users, Nov. 13, 1981, p. 4. Construction delays run up cost of building nuclear power plants.

Rolling down the road — the invisible network of nuclear transport, Ron Wolf, May 29, 1981, p. 1. Transportation of raw nuclear materials is under complicated security and secrecy.

Uranium tomorrow, Don Snow, Dec. 11, 1981, p. 1. Industry's future looks bleak.

Water

Big Horn River gets wild look, V.M. Kahn, Oct. 2, 1981, p. 2. River is candidate for Wild and Scenic River System.

Briney Colorado still defies salty solutions, Michael Moss, Oct. 16, 1981, p. 1. Federal efforts to reduce salinity have cost millions of dollars with few results.

Colo. stream law re-examined, Michael Moss, Jan. 23, 1981, p. 11.

Denver muddies water policy, David Smyth, Nov. 27, 1981, p. 16. Denver Water Board faces criticism of its policy administration.

Emotional water issues clog ETSI's pipeline, Robert Anderson, Feb. 20, 1981, p. 6. Water users concerned over coal slurry pipeline in Wyoming.

Floating the Colorado's autumn flush, John Roberts, July 24, 1981, p. 10. Impressions of a rafting trip.

Utah water planners turn on the pressure, Michael Moss, Feb. 6, 1981, p. 3. Kennecott mine poses threat to drinking water of expanding Salt Lake population.

Watering lawns with low-quality liquid saves Bountiful dollars, Michael Moss, Mar. 6, 1981, p. 7. Dual water system saves water and money.

Water quality data remains the key to Utah public land transfer deal, Sept. 18, 1981, p. 4. Court orders BLM to study potential damage claims.

Water warning: a ploy, or poison? Peggy Strain, Feb. 20, 1981, p. 1. Residents claim annexation plans behind contamination warning.

Wyo. coal slurry slowed by suits, V.M. Kahn, Sept. 4, 1981, p. 3. BLM impact statement reports possible water reductions if pipeline goes in.

Yampa's floodwaters carry boaters and dreams of a dam, Michael Moss, May 15, 1981, p. 6. Pros and cons of proposal to dam the Yampa.

Watt, James

Watt comes West to woo; no wedding vows divined, Dan Whipple, Oct. 2, 1981, p. 10. HCN reporter's view of Watt's visit to the Western Governor's Conference.

Watt gets good cheer from Western Slope developers, Oct. 2, 1981, p. 11.

Wilderness

"If there were no laws involved...", Geoffrey O'Gara, Oct. 16, 1981, p. 8. Forest Service will probably recommend leasing in Washakie Wilderness (photos).

The kangaroo rat: A 'goof of God' survives in the barren southwest desert, Tom Jenkins, May 29, 1981, p. 8.

Little to Ob-Be-Joyful about, David Sumner, July 24, 1981, p. 8. Forest Service recommends against wilderness status for Colorado valley (photos).

Logs, mines, wires...or wilds, Ellen Ditzler, Oct. 30, 1981, p. 7. Southwest Montana roadless areas generate heated debate.

Oil and gas get the nod in Washakie, Nov. 27, 1981, p. 2. Three percent of the wilderness area may be open to leasing.

Oil and gas hunters locked out of Bob, May 29, 1981, p. 2. Energy exploration in wilderness area blocked.

Prime wild lands open to oil and gas, Dan Whipple, Jan. 23, 1981, p. 6. Areas considered for wilderness status are recommended for leasing.

"There for the taking," and take it they do, Bill Hunger, Mar. 20, 1981, p. 8. Petrified wood in the wilderness.

Wyoming

Photos by Mike McClure, May 1, 1981, p. 8. Selections from Wyoming exhibit.

Welcome to Little America!, Geoffrey O'Gara, photos by Sara Hunter-Wiles, June 26, 1981, p. 8. Wyoming's desert refuge.

Wildlife

Baffling Bufo plight tied to Basin Baytex fight, Philip White, June 12, 1981, p. 6. Toad population drop may be result of mosquito abatement program.

Crying wolf — restoring the "rapacious predator" to the Rockies, Jim Robbins, Sept. 18, 1981, p. 1. Project to re-establish wolves faces problems with public relations.

"Extinct" grizzlies sighted in Colo., John Roberts, Mar. 20, 1981, p. 1. Colorado officials discount reports.

The goshawk: A terrible beauty, Thomas M. Jenkins, Jan. 23, 1981, p. 8. Descriptive essay on the raptor.

The great 'wolf' roundup, Myra Connell, Aug. 7, 1981, p. 7. Historical account of 1917 war against coyotes.

Live ferret merits study in Meeteetse, Nov. 13, 1981, p. 2. First black-footed ferret seen in 10 years is tracked in Wyoming.

Loon-acy: crazy as a Hesperornis, Susan L. Marsh, Sept. 18, 1981, p. 8. Essay on one of North America's most ancient birds.

Maremma, Komondor, Kurasz... and sheep, Araby Colton, Oct. 16, 1981, p. 16. Guarding dogs may become popular for protecting sheep.

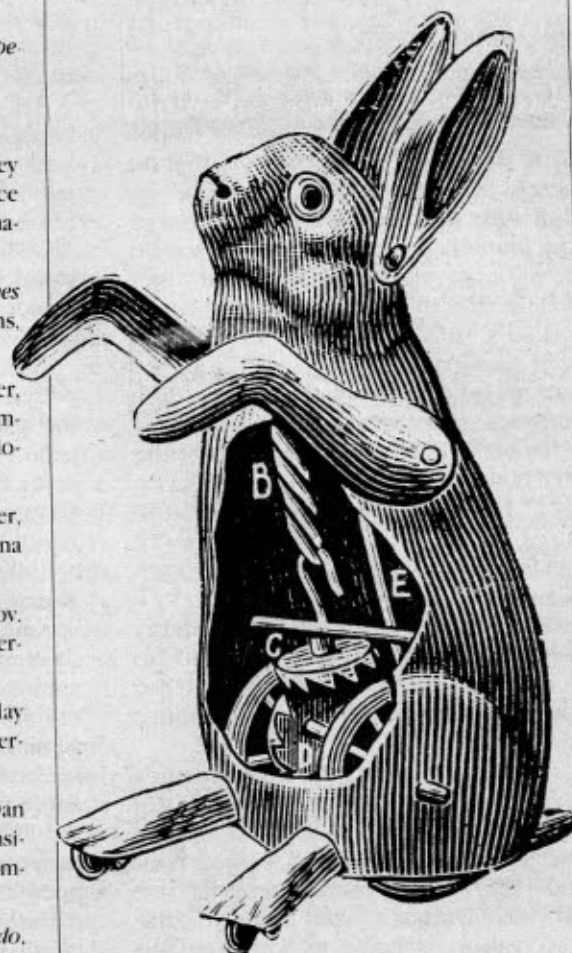
Memoirs of a gopher choker: story and photos by Dick Randall, Sept. 18, 1981, p. 6. Experiences of a government trapper.

Neglected wildlife: Taxpayers to the rescue, Dave Hall, Feb. 6, 1981, p. 8. Nongame wild life benefits from tax checkoffs.

Q: What's seven feet tall, lays \$200 eggs, reproduces slower than an elephant, and has been around since the days of the pterodactyl? Hank Fisher, May 15, 1981, p. 8. A: The paddlefish.

Wisconsin otters try Colorado wilds, pine martens leave Centennial State for Wisconsin, Jim Scott, March 6, 1981, p. 8. Description and photos of wildlife swap.

The Wiseman grizzly: Hunting or heroism? John Roberts, March 20, 1981. Questions remain about Colorado bear attack.



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Randy Gove

Wildlife...

(continued from page 1)

same time for two and one-half hours over a much smaller area adjacent to the reservation, counted 80 moose. Baldes said that large herd did not migrate across the reservation.

Baldes said there is one exception to the low wildlife counts. The reservation has a large elk herd in the Wind River Range that migrates through the reservation's wilderness area. Baldes said these animals tend to be safe from the uncontrolled hunting, due to the difficult access into the wilderness.

In early 1978, Smith was hired by the FWS specifically to work on the reservation. He collected data on population sizes, sex ratios and history of the herds. He found the habitat was in good condition, that there wasn't much competition from livestock, no large energy development on winter range and no forestry conflicts. His data indicated the reservation should be supporting more wildlife.

By June 1978, it was clear to Smith that hunting was the problem. "All the recommendations on habitat improvement wouldn't help at all without controls on hunting," Smith said.

Vince Underwood, an Arapaho (the reservation is home to both Arapaho and Shoshone) and director of the tribal fish and game department, agreed with Smith and Baldes. Bennie LeBeau's story typifies the frustrations Underwood and his six-man staff of game wardens experience on the reservation.

Spotlighting, poaching by non-enrolled Indians and non-Indians, violating the no-motorized-vehicles rule in the wilderness area and the illegal selling of meat, antlers and hides of animals are incidents that occur frequently on the reservation, Underwood said. Underwood and his wardens are informed of such activities by what they consider reliable sources. They also have a lifetime of experience with reservation practices.

Underwood came on as director in March last year. Before he started, wardens worked regular business hours, eight to five. Underwood increased the staff and staggered the

shifts to coincide with the most probable time of spotlighting. He sends his men regularly into areas not previously patrolled. He is also trying to educate his wardens in law enforcement, hoping to send them to police training courses.

Reflecting his efforts, Underwood has brought 18 cases to tribal court since he became director, a big increase over past years. Twelve of those cases involved spotlighting, but only two offenders have been convicted. Underwood feels tribal judges don't understand the difficulty of obtaining evidence.

Checking non-Indian fishermen for permits around Bull Lake, the largest on the reservation, Raymond Harris, an Arapaho game warden and ex-policeman, said he often encounters tribal members hunting or fishing with non-enrolled Indians. Only tribal members are allowed to use live bait, but Harris said, if he catches an enrollee and non-enrollee together fishing with live bait, the enrollee can claim the line and bait are his. The same is true of hunting. An enrollee can always claim he killed the game rather than the non-enrollee.

Harris told the story of a Sioux from South Dakota, who last year hunted on the Wind River reservation with the help of registered members. He had two horse trailers full of elk.

Harris wants to see heavier fines placed on offenders. "Fifty dollars is the maximum fine for non-enrollees caught hunting," he said. "They can hunt there, get their deer, pay the fine and get off cheaper than hunting anywhere else in the state."

But without catching the offenders in the act or confiscating evidence, the wardens, their ordinances and their non-threatening fines are not a deterrent. Bennie LeBeau is a case in point.

He admits he was hunting by spotlight and knows it is a violation of the ordinance. He said, "I live on this reservation and can do whatever I want. The game wardens don't know what they are doing anyway." Asked if he would do it again, or violate other ordinances if they are established, he said, "Yes, if my family is hungry."

Establishing game ordinances and hunting restrictions on the reservation

has been Baldes' and Smith's goal since Smith was hired. In June 1978, they drafted a hunting regulation code similar to the state of Wyoming's to be considered by the Joint Business Council (composed of both Shoshone and Arapaho) and to each tribe's Fish and Game Committee. It was a comprehensive plan, covering big and small game, waterfowl and endangered species. The Joint Council rejected the plan, Smith said, unwilling to limit freedom of reservation residents.

The comprehensive plan included endangered species, Smith said, because most tribes don't believe they must adhere to the federal Endangered Species Act. Smith said the act does not specifically exclude reservations, nor does it specifically include them. He said most reservations adopt the attitude they can make their own decisions about endangered species, the way they make their own decisions about all wildlife.

The watering down of the plan began and by October 1980, Smith and Baldes convinced the Fish and Game Committees to approve hunting regulations that dealt with big game only. The proposed regulations would set a three and one-half month hunting season allowing tribal members one of each big game species per year of either sex.

However, both tribal councils and tribal members must agree before the idea becomes law. The Shoshone General Council met in November 1980 and passed the game code.

It wasn't until June 1981 that the Arapaho General Council put the plan to a vote. It was considered the same night a controversial issue of the enrollment status of certain children was being considered by the tribes. The tension was so intense over the enrollment issue that, Harris said, "the Arapaho wouldn't have passed anything that night." The game code was defeated.

The Arapaho said they would consider the code again before the end of 1981, but the issue never came up. Now, no one on the council can say when it will be considered. It is an election year for council members and the game code is controversial; but it is controversial any year, said Wayne Felter, chairman of the Arapaho Fish and Game

Committee. Council members refuse to set a date for a vote on the game code, "but it's always on the horizon," Felter said.

Emil O'Neal, another Arapaho council member, who worked hard to have the code passed, said he thinks the Arapaho voted against the code because they read it wrong, believing it would be a great infringement on their rights.

Arapaho member Pius Moss added, "We need conservation so that we can save wildlife for the young. You have to go to the edges of the reservation now to find wildlife."

Another Arapaho, Jim Coulston, said he asked the Arapaho council to reject the plan because he doesn't want Baldes, Smith or anyone from the state interfering in reservation game problems. He is in favor of the Indians writing their own code.

Both he and his friend LeBeau do not believe there is a danger of eliminating wildlife on the reservation. LeBeau said people are not looking in the right places to find game. Coulston, who said he hunts about 30 times a year, said he, LeBeau and others who hunt are the ones that really know where and how much game is on the reservation.

LeBeau and Coulston are accusing the game wardens of harassing them and improperly tying up one of their horses, causing its death. Warden Ed Blackburn said he found the horse tangled in its rope and straightened it out.

And while conflicts continue between tribal members and the reservation's game and fish department, Smith and Baldes are still hoping to establish a game code. However, the Reagan administration has cut short their time and money. Their project will be canceled June 1, 1982 and Smith will no longer be employed.

Smith said their objective now is to write a comprehensive management plan for the reservation by March 1. A plan, he said, that would give the Indians useful guidelines for management if they ever accept it. But with Smith gone and the money cut, the expertise goes also.

Baldes said he hopes the Indians will hire their own wildlife biologist, as several other reservations have done.

"You have to go to the edges of the reservation now to find wildlife."

— Pius Moss, Arapaho Indian

Underwood, Harris and Wes Martel, chairman of the Shoshone Game and Fish Committee, agree. But that will take convincing the general councils that it is worth the cost.

Wildlife problems are not exclusive to the Wind River reservation. Reservations in Montana seem to share most closely the troubles experienced by the Wind River reservation. The Blackfeet, Crow and Northern Cheyenne reservations have about the same game codes as on the Wind River reservation and experience the same problems of poaching, spotlighting and diminishing wildlife.

Charlie Connelly, the Blackfeet tribal secretary, said the tribe's park and recreation committee is considering a plan that would include game seasons, and restrictions on hunting areas and times. He is hopeful they will draft an ordinance by spring.

The Blackfeet, however, have established a bear research program. Operated through the University of Montana, habitat, food preferences and impacts of oil and gas development on bears are being studied, paying particular attention to grizzlies moving onto the reservation from Glacier National Park on the western side of the reservation.

Sandie Spang, assistant director for the Northern Cheyenne planning office, said wildlife has diminished on the Cheyenne reservation and she hopes the tribe will fund a wildlife plan sometime this year. However, she said, energy development is the tribe's top priority.

Spang said the reservation's wild turkey population completely vanished two years ago when the Bureau of Indian Affairs did an aerial spraying to destroy grasshoppers. She also said there is a tribal project currently under way with about 30 head of elk. The elk are kept in an enclosed area and not hunted, but when males drop their antlers in the fall, the antlers are collected and sold for the demanding and profitable foreign aphrodisiac market.

Alan Kelly, fish and wildlife consultant to the Northern Cheyenne and Crow, is a casualty of the FWS cuts. He said he feels the tribes are genuinely concerned about the status of their wildlife populations.

However, he said the Crow have repeatedly brought up wildlife resolutions, but haven't been able to convince the majority of the council that game codes are needed. Kelly said now that the FWS has removed the tribe's technical assistance, they have no way of monitoring their game populations.

Similar problems exist on other reservations and similar obstacles have occurred, but some tribes have approved hunting regulations, some have hired their own biologists and some are enjoying sizable revenues from non-enrollee hunting licenses.

One example is the Yakima reservation in Washington, which, Baldes said, had a situation similar to that on the Wind River reservation. The Yakimas, reacting to their diminishing wildlife, established a fisheries program in 1976 and wildlife program in 1978 — both funded entirely by the reservation.

Bill Bradley, the Yakima wildlife biologist, said there was a "drastic decline in deer and elk populations before 1972." But the Yakimas established hunting seasons and Bradley noted a definite improvement in the mule deer and elk herds. He said the Indians have also established a refuge in the middle of the reservation, where no hunting is ever allowed.

Bradley said that, historically, tribes have turned to the BIA for guidance with wildlife programs. The BIA, lacking expertise, turned to the FWS to be its biological arm. But now, Bradley said, the Reagan administration is "virtually wiping out the FWS services from the reservations." So, once again, the Indians turn to the BIA.

From there, Bradley said, there are two choices. The BIA can hire its own wildlife people, which it has done only on the Flathead reservation in Montana, or the Indians can hire their own biologists.

"Once they get rolling, the Indians can do a good job," he said. "Because they own the land and they make the laws. If there is a law that needs to be made, it can happen the next day."

Poaching and illegally selling meat, hides and antlers occurs, as on the Wind River reservation, in part because it pays well. Bradley said the overseas demand for antlers as aphrodisiacs is high

enough to bring \$1,000 for a pair of antlers still in velvet. ("Velvet" describes the soft, velvet-like covering on growing antlers.)

Reservations in the Southwest tend to have more stringent hunting regulations on tribal members and some allow licensed big game hunting by non-members.

The White Mountain Apache reservation in Arizona allows non-Indians to hunt elk during a limited season in restricted areas at a cost of \$5,000. They can hunt bear and mountain lion at \$200 a permit, and must be accompanied by a registered reservation guide. Javelinas may be hunted at the cost of \$40 per permit.

Tribal members are restricted by specific seasons, bag limits and sex ratios.

Bob Thompson, conservation director on the Mescalero Apache reservation in New Mexico, said the Mescalero reservation also makes profitable revenues from packaged hunts they conduct for non-members. There are similar restrictions on tribal members as on the White Mountain Apache reservation.

Thompson said the reservation had a tremendous deer population in the early 1960s, but they determined the population would diminish and regulations were established. Elk became extinct from the reservation in 1900 and, Thompson said, elk from Yellowstone were transported in. They have built the herd to its present 4,000, and Thompson said they began hunting them again in 1974.

The Uintah-Ouray reservation in Utah is another reservation with fairly stringent game codes. Ken Harper, with the FWS assisting that reservation, said there is year-round hunting of deer, a one month season on elk, a drawing for 20 tribal antelope permits and absolutely no hunting of a bighorn sheep herd they established in the 1970s.

Nevertheless, hunting codes are debatable and controversial, said Montana tribe's consultant Kelly. He, like Baldes, Underwood, Harris and LeBeau, understands the deep-rooted cultural freedom of hunting. It is a very sacred right, Kelly said. And it is probably the biggest obstacle to overcome in the efforts to establish sound wildlife management practices on reservations.

On Feb. 19, HCN examines Utah



HCN takes a close look at Utah, its desert beauty, its rapid growth, its relationship with the federal government. We witness the struggle over a nuclear waste disposal site proposed next door to a spectacular national park, the problem and plight of the state's illegal aliens, and the horse trading between state and federal officials who want to swap large chunks of land. And, we interview Gov. Scott Matheson about his state's present and future.

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WIND RIVER TRAILS by Finis Mitchell. Backpacking guide to the Wind River Mountains of Wyoming. Wilderness area of peaks, glaciers, forests and lakes. \$3.50 postpaid. Wasatch Publications, 4647 Idlewild Road, Salt Lake City, Utah 84117.

ADMINISTRATIVE POSITION AVAILABLE. Director - Regional Office, Rocky Mountain Greenpeace. Rocky Mountain Greenpeace is the regional Greenpeace office for the seven state Rocky Mountain region, with four salaried staff members. Our current local issue involvements include hazardous waste disposal and Native American/energy issues, as well as national and international Greenpeace activities. **Duties:** Office management, personnel, financial management, oversees fund-raising and issues departments, liaison between staff and the Board of Directors, public spokesperson. **Requirements:** Writing, facilitating, speaking and business skills. Community organizing experience and/or experience in environmental organizations is preferred. **Salary:** \$10,000 per year to start. **To apply:** Send a resume and references by February 15th to Rocky Mountain Greenpeace, 2029 E. 13th Avenue, Denver, Colorado 80206; (303) 355-7397 or (303) 399-1491.



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BULLETIN BOARD

WYOMING STUDY FELLOWSHIP OFFERED

A limited number of \$2,000 fellowship grants for independent study in Wyoming history, culture and heritage are available from the Wyoming Council for Humanities. Information and application materials are available from the Wyoming Council for the Humanities, Box 3274, University Station, Laramie, Wyo. 82071, (307) 766-6496. Applications are due March 1.

CLUB 20 ANNUAL MEETING

Government officials and others involved in agriculture in Western Colorado will address the 29th Annual Club 20 meeting, Feb. 20, at the Ramada Inn, Grand Junction, Colo. A severance tax program, board of directors meeting and other activities are scheduled for the same weekend. Contact the Club 20 Office in Grand Junction (303) 242-3264 for further information.

NATURE SEMINARS

Registration is now open for Rocky Mountain National Park's weekend seminar program, according to Superintendent Chester L. Brooks. The outdoor seminars, held throughout the summer and fall, examine the natural world of the park. Contact the Seminar Coordinator, Rocky Mountain National Park, Estes Park, Colo. 80517, for registration forms.

MT. EMMONS DEIS RELEASED

A Draft Environmental Impact Statement on the Mt. Emmons Project, a molybdenum mining and milling operation proposed by AMAX Inc. in Gunnison County, Colo., has been released by the Grand Mesa, Uncompahgre, and Gunnison National Forests. Copies of the DEIS and a summary of the alternatives considered are available from: Mt. Emmons Project Leader, P.O. Box 1089, Gunnison, Colo. 81230, (303) 641-0471. The Forest Service will hold two meetings to obtain public reaction to the DEIS: Mar. 2 in the Gunnison High School Auditorium, Gunnison, Colo. at 7:30 p.m. and Mar. 3 in the John C. Mitchell Hall, Denver Botanical Gardens, Denver at 7:30 p.m. Send written comments on the DEIS to Jimmy R. Wilkins, Forest Supervisor, U.S. Forest Service, 1063 Main St., Delta, Colo. 81416.

ENERGY AND THE ELDERLY

Information to help older Americans cope with rising energy costs and conserve energy is contained in a new free publication prepared jointly by the American Association of Retired Persons and the Department of Energy's Office of Consumer Affairs. *Energy and the Elderly* includes information on energy crisis assistance programs, innovative financing for older people and a guide to energy information centers for the elderly. Call or write for *Energy and the Elderly*, B334 Rayburn House Office Building, Energy and Commerce Documents Room, Washington, D.C. 20515, (202) 225-0222, for free copies.

UTAH BLM SEEKS COMMENT

The Bureau of Land Management seeks public comment in the development of a land use plan and rangeland management environmental impact statement for the Price River Resource Area, some 1 million acres of public land administered by BLM in Utah. Further information may be obtained from, and written comments sent to: Price River Resource Area Office, P.O. Drawer AB, Price, Utah 84501, (801) 637-4584.

OVERTHRUST BELT OIL PIPELINE

The Bureau of Land Management seeks public input on proposed construction of an underground crude oil pipeline linking Wyoming Overthrust Belt oil fields and refineries in the Midwest. The 300 mile route would run from southwestern Uinta County, Wyo. to Casper, Wyo. Public information meetings to identify issues for consideration in the project Environmental Impact Statement are scheduled for: Feb. 8 in Evanston, Conference Room, Best Western Dunmar Inn, Hwy. 30 W.; Feb. 9, in Rock Springs, Conference Room, Holiday Inn, 1675 Sunset; Feb. 10 in Rawlins, Conference Room, Jeffrey Memorial Community Center, Third and Spruce Streets; and Feb. 11 in Casper, Crawford Room of the Natrona County Library, 307 E. Second St. All meetings are at 7 p.m. Information about the project is available at the BLM State Office in Cheyenne, and District Offices in Rock Springs, Rawlins and Casper. Send written comments to the District Manager, BLM, Rawlins District, P.O. Box 670, Rawlins, Wyo. 82301, before Feb. 16.

GTNP AVALANCHE HAZARD

Cross-country skiers in Grand Teton National Park, Wyo. should be alert for avalanche danger, according to park service officials. Abundant snow and high winds this winter are responsible for unusually dangerous conditions. Permits must be obtained for all ski tours planned above 8000' and/or overnight. Free permits are available at the Moose Visitor Center, open daily from 8 to 4:30 in Grand Teton National Park.

PARK PICTURES

Yellowstone National Park offers free guided winter camera safaris on Feb. 27 and Mar. 27. The 3 to 4 hour interpretive auto tours will cover the northern portion of the park beginning at 9 a.m. in Gardiner, Mont., the north entrance to the park. Call (307) 344-7381, extension 2357, for reservations and information.

TARGHEE NF MANAGEMENT PLAN

Comments are requested on the Targhee National Forest proposed management plan and draft EIS. The plan, required by the National Forest Management Act of 1976, sets specific alternatives for future management of the Targhee N.F. Copies of the plan and draft EIS are available from, and written comments should be sent to, John E. Burns, Supervisor, Targhee National Forest, 420 N. Bridge St., St. Anthony, Idaho 83445. Comments are due March 15.

INDIAN YOUTH CAREER CONFERENCE

"New Warriors for a New World" is the theme of the Fifth Annual National Native American Youth Career Conference to take place in Denver, Mar. 11-13 at the Quality Inn Hotel Central. Native American professionals will present both career information and current issues affecting Native American tribes. Call (303) 394-5598 for further information.

BLM WILDERNESS POLICY RELEASED

Copies of the Bureau of Land Management's new wilderness management policy are now available at BLM offices throughout the West. The policy, approved by BLM director Robert Burford, explains the type of activities allowed in BLM wilderness areas. Use of motor vehicles and motorized equipment are generally prohibited, but livestock grazing will be allowed.

MONTANA CONFERENCE ON INITIATIVES

A conference designed to help Montana initiative supporters gain campaigning skills, inform the public about proposals, and allow officials to explain laws relating to initiatives will be held March 27 and 28 at the Helena Movement Center, Helena, Mont. Registration for the "Montana All-Initiative Conference" is March 27 at the Helena Movement Center. Contact the Citizen's Legislative Coalition, Butte, Mont. for further information.

VOLUNTEER IN THE WILDERNESS

The Wasatch National Forest seeks volunteers to serve as wilderness guards, wilderness information specialists and trail crew members in the High Uintas Primitive Area and the Lakes Roadless Area this summer. The Forest Service will provide housing, subsistence pay and a uniform allowance. Contact Dan Symmes or Frank Erickson, Kamas Ranger District, Box 68, Kamas, Utah 84036 for more information and applications.

STUDENT CONSERVATION

Students in park, forest and resource management can gain experience in those fields through volunteer work for federal and private conservation agencies. The Student Conservation Association places persons over 18 years of age in summer jobs with duties such as giving interpretive programs for visitors and conducting field research. Request a "Listing of Positions" and an application from the Student Conservation Association, Inc., Box 550C, Charlestown, New Hampshire 03603, (603) 826-5206. The deadline for this summer's programs is March 1.

NEW BLM GRAZING REGS

The Bureau of Land Management is amending its regulations for grazing management of public lands. Proposed amendments include an incentive for grazing permittees to contribute to range improvement work, streamlined procedures for handling unauthorized grazing use and increased consultation with users affected by management decisions. Copies of the proposed changes are available at BLM offices throughout the West. Written comments should go to the Director (220), Bureau of Land Management, Washington, D.C. 20240, before Feb. 11.

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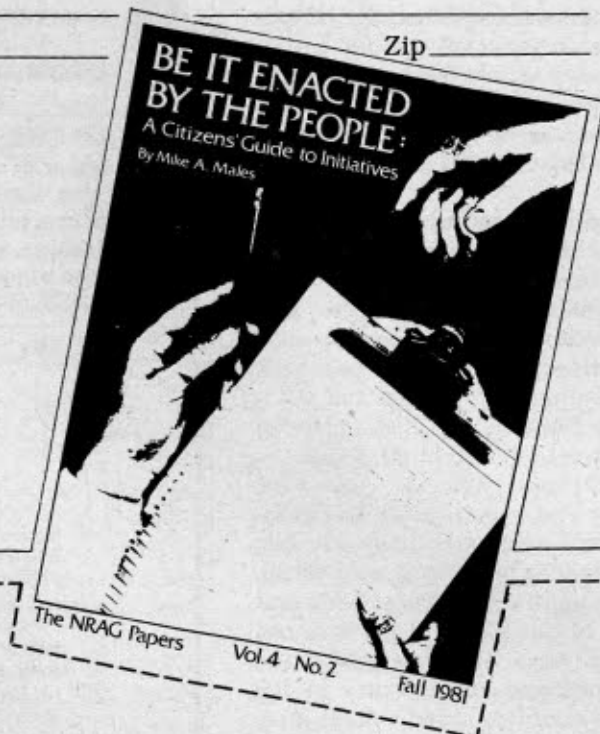
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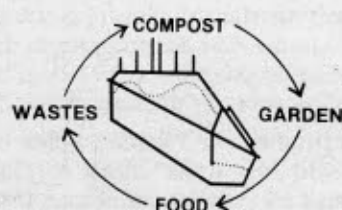
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the
APPLICANT

PERMIT APPLICATION TO CONSTRUCT
THE ROCHELLE MINE, CAMPBELL
COUNTY, WYOMING

DOCKET NO. WISA-81-3

NOTICE OF CANCELLATION OF PUBLIC HEARING

By notice dated December 29, 1981, a public hearing was scheduled for February 4, 1982 in Gillette on the Rochelle Coal Company application for a permit to construct the Rochelle Coal Mine. By a Motion for Continuance received on January 19, 1982 the Applicant requested that the public hearing scheduled for February 4, 1982 be cancelled and rescheduled at a later date. NOTICE IS HEREBY GIVEN THAT THE PUBLIC HEARING SCHEDULED FOR FEBRUARY 4, 1982 IS CANCELLED AND WILL BE SCHEDULED IN THE NEAR FUTURE. ADEQUATE NOTICE WILL BE GIVEN TO ALL PARTIES WHEN A NEW HEARING DATE HAS BEEN SCHEDULED.

Dated this 22nd day of January, 1982.
Office of Industrial Siting Administration
500 Boyd Building
Cheyenne, WY 82002
(307) 777-7368

BOOKS

The Mountain House

Katharine Kennish, 1981; \$12.95, Northwood Institute Press, Midland, Michigan.

Review by Jeanette Germain

We live in them and don't think too much about them until the roof dumps snow on our guests or ice creates a bumper car rink on the driveway. But mountain houses are different than flatland houses. Or they should be.

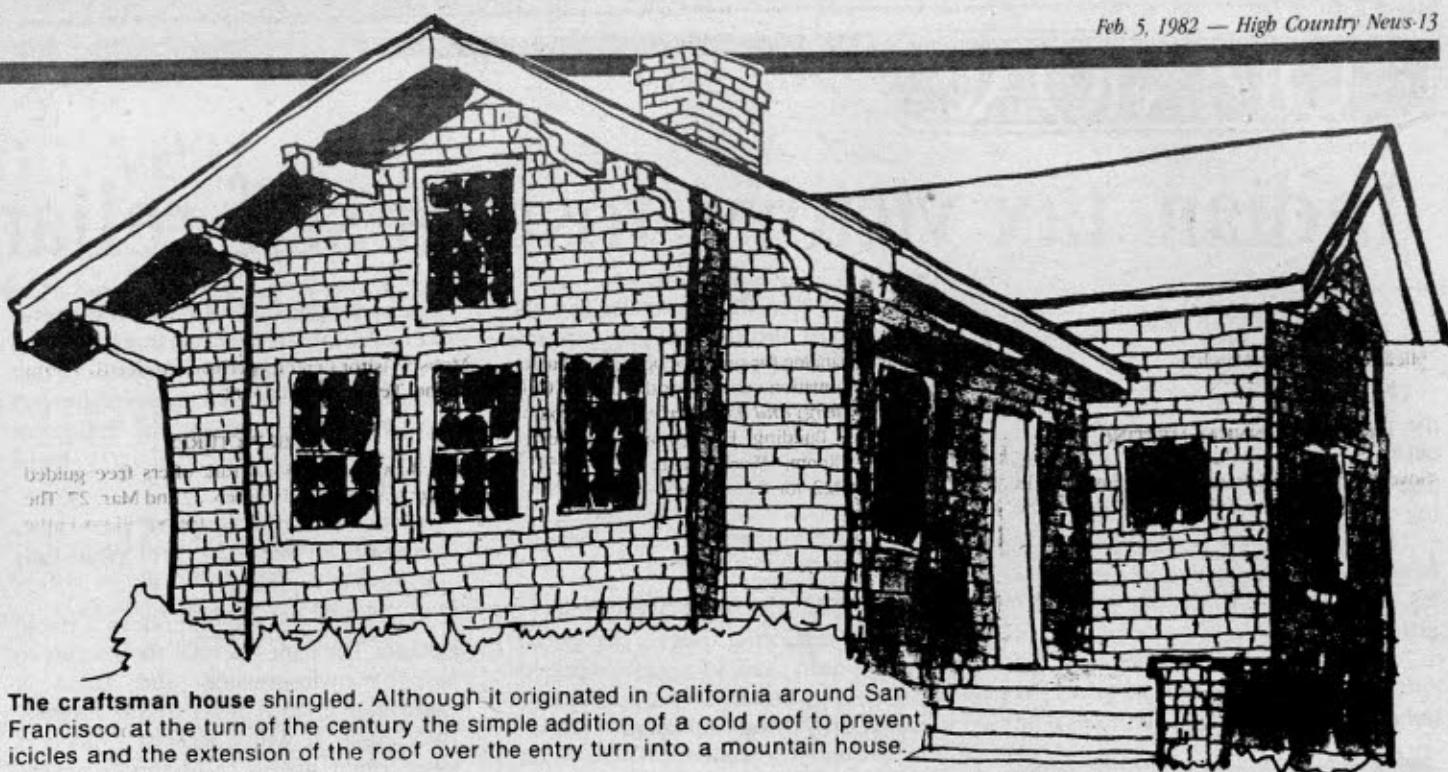
The cold and snow and ice make the difference, Katharine Kennish points out in *The Mountain House*. Kennish goes on to closely examine our domiciles. She identifies recurring types of mountain houses, traces their origins, and explains how form must follow function in the highlands.

The log cabin is the first obvious example. "In areas where there were trees, it was the easiest and fastest form of shelter to build," Kennish writes in an early chapter. It was also sturdy and strong under heavy winter snows. If built correctly, it kept the cold out.

But the log cabin isn't necessarily the best of the breed, says Kennish. She quickly moves on from the log cabin to other, more unexpected, types of mountain houses.

The chalet, she says, is more than just a pretty face. It was imported from Europe because it serves well in the mountains. The large roof-overhangs protect doors and entries from dumping snow. Covered balconies shelter drying crops, farm animals or sunbathing skiers.

The "craftsman" house is another form of mountain architecture, says Kennish. Although the style has its origins in California at the turn of the century, it continues to thrive in the mountains because it fits in so well. It is



The craftsman house shingled. Although it originated in California around San Francisco at the turn of the century the simple addition of a cold roof to prevent icicles and the extension of the roof over the entry turn into a mountain house.

simply designed, functional and blends in well with the surroundings.

Kennish includes movable houses — tepees, sheepwagons, and trailers — in her list. They provide shelter for nomads, no matter what the era, she notes. And because they are often the only available affordable housing, even mobile homes have been adapted to the mountains.

The book is aware of energy efficiency and conservation. A chapter on "frugal" houses examines a number of solar and hybrid alternatives. In another chapter, fireplaces and stoves are evaluated for their efficiency.

Roofs and entries are clearly Kennish's pet peeves. She describes successful designs in detail. With sketches, diagrams and photos, she explains how some succeed in keeping residents safe and dry and how others fail miserably.

If the book has a fault, it is its timidity. Kennish tries to point out what works in the mountains and what doesn't. But she

is much too nice about it. She says nary a bitter word about idiot architects who design uncovered doorways and north-facing picture windows. She obviously hoped that with all her well-illustrated examples, the message would get through.

Perhaps it is Kennish's British upbringing which keeps her so pointedly polite throughout the book. She is a native of England and studied architecture at the Polytechnic of Central London. Or perhaps her marriage to Idaho architect Neil Wright prompted some restraint. Too many photographs of his homes are included in the book. Heavy-handed criticisms might have made it appear that only his designs pleased the author.

The book may also have concentrated too much on examples of houses in Idaho. Kennish was caring for her two pre-school-age children during the two years she researched the material, so she found it difficult to travel through-

out the mountainous west. The examples are therefore often from the Ketchum and Sun Valley area where she lives.

Kennish apparently anticipated this criticism; she wrote her own defense in the book's introduction. The Sun Valley area offers an adequate microcosm of mountain houses, she says. Although the area is lower in altitude than Aspen, it is further north in latitude which produces a longer cold season. "The problems created by winter in Sun Valley are shared by Wyoming, Utah and many parts of California."

Although the book's photographs are not always of the highest technical quality, they clearly show what the author is talking about. Kennish supplemented the photos with her own simple, but attractive and helpful drawings and diagrams. There is a picture on every page.

The book offers good reading and browsing. It will make you more savvy about the mountain houses you buy, build or live in.

Codes...

(continued from page 16)

at the state level to get a permit to build a rammed earth house in the Sante Fe, N.M. area. Local officials felt unqualified to rule on his proposal. So he drafted a formal paper describing the proposed construction methods and conducted scientific tests on the strength of several rammed earth blocks. Once he had convinced the state that the house would stand up as well as the region's traditional adobes, local officials gave him the nod.

Proposals that don't fall neatly into the code's view of the world mean extra work for building inspectors, and sometimes difficult judgments. Some inspectors would rather not bother.

When asked about the possibility of installing a composting toilet in a home in the city of Lander, Deputy Inspector Dan Shatto said, "It wouldn't be allowed." His superior, George Patik, qualified the fiat. "It would have to be approved by the state health authorities," he said.

Underground houses are technically illegal in Wyoming. But getting a variance for such a house is becoming fairly routine, according to energy consultant Sylvia Labrucherie of Laramie. It costs \$35 and takes about two weeks to obtain, she said.

Since most codes are enforced at the city and county levels, building inspectors are often responsive to local needs. However, local autonomy also means that code interpretations across the country can be bewilderingly inconsistent.

One of the more controversial provisions in the UBC requires that dwellings have "heating facilities capable of maintaining a room temperature of 70 degrees F. at a point three feet above the floor in all habitable rooms." Whether a wood stove can meet this requirement

depends as much on your building inspector as it does upon your stove's capacity.

Because of this rule, or lending requirements based on the UBC, a number of people who had intended to use wood as a backup heat source in their passive solar homes have had to install some sort of fossil fuel backup system. Solar home builder Fred McGee doesn't mind that requirement, calling it "peace of mind for people who aren't sure about going totally solar."

But Matthews finds it objectionable. "It makes sense for building codes meant to protect health and safety not to get in the way of other ways of meeting health and safety requirements," Matthews said. "I know damn well that in the high country of the Rockies you can have a 100 percent passive solar home with a wood backup and be safer than if you had a bunch of propane stoves in the house."

Matthews thinks that in a rural state, codes generally should stick to "making sure that people aren't going to freeze and that the house isn't going to fall in on them." But he advocates restricting freedom beyond that in one area: energy efficiency. "It's absolutely crucial as a matter of national policy that houses be required to have a certain energy efficiency," Matthews said.

Matthews thinks California made a serious mistake in its first attempt to do that, however. By limiting window areas to 16 percent of a dwelling's floor area, the state's 1978 energy code discouraged the large expanses of south-facing glazing that are necessary for effective passive solar structures.

Revisions of the California energy code in force this summer will save more energy without stifling innovation, Matthews said. The new rules will give builders a choice between three packages of prescriptive standards or a performance standard. The prescriptive standards give builders the basic guidelines for building an active solar, a pas-

sive solar or a "thermos bottle" home. To do something different, the builder must present calculations to show that his building has a certain energy efficiency. This figure — the code's performance standard — will be slightly different in each of the 16 climate zones designated by the state.

Wyoming's energy code, while much less stringent than California's, is also a performance code. Because this mode allows maximum design flexibility, performance codes seem to be the wave of the future in code-writing circles. But even the most cleverly written rule cannot get around the human factor in code enforcement. The builder must still convince an inspector that his plans are

solid. The inspector must be able to assess construction methods that aren't specifically dealt with in the code and make a reasonable judgement.

Even Graham Hatfield, the builder who hassled for six months over fire safety, thinks codes are a good idea.

"It doesn't make any sense to ignore building codes," he said. "You just have to interpret them intelligently."

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Joan Nice, former managing editor of *High Country News*, is currently a freelance writer in Lander, Wyoming. This article was paid for by the HCN Research Fund.

BOOK NOTES

The Future is Abundant, A Guide to Sustainable Agriculture

Larry Korn, ed., 1982. \$11.95, paperback, 208 pages with bibliography, maps and illustrations. Tiltb, 13217 Mattson Rd., Arlington, Wash. 98223. Ideas and techniques behind the environmentally based agriculture emerging in the Pacific Northwest. Includes nursery and seed sources, and a plant species index for designing "sustainable, beautiful and edible landscapes."

Fundamentals of Solar Heating

Richard C. Schubert and L.D. Ryan, 1981. \$25.95, 516 pages, 115 illustrations. Prentice-Hall, Inc., Englewood Cliffs, N.J. 07632. A how-to handbook which details solar systems design for residential, commercial and industrial uses, with practical information on proven applications, solar position insolation values, solar radiation maps and a catalog of commercial components.

Death, Too, for The-Heavy-Runner

Ben Bennett, 1982. \$7.95, paperback \$14.95 clothbound, 170 pages. Mountain Press, 1600 North Ave. West, P.O. Box 2399, Missoula, Mont. 59806. A recreation of the U.S. Army's massacre of Blackfeet Indians in 1870, which effectively removed the Blackfeet Indian Nation from the Northern Plains Indian wars of the following decades, with superb sepia charcoal illustrations by Tom Saubert.

Case Study: Mastin Double-Envelope House

R.F. Jones, et al, 1981. Price unavailable, paperback, 69 pages. Brookhaven National Laboratory, Associated Universities, Inc., Upton, New York, 11973. Nobody really understands quite how it works, but after two winters of testing, these scientists believe the double envelope house design is among the most energy-efficient (not to mention sunny and pleasant) ways to build a residence.

OPINION

Indian tax victory fosters self-reliance, solvency

by Marjane Ambler

The Jicarilla Apache Tribe's victory in the U.S. Supreme Court last week was a triumph for all tribes with energy holdings and a major step toward guaranteeing their future viability.

The court ruled January 25 that the tribe has the right to impose a severance tax on minerals extracted from its reservation in New Mexico.

President Reagan's budget cuts, difficult for many of the nation's poor, have been particularly hard on Indians. While

GUEST EDITORIAL

the rest of the nation reels from the impact of an unemployment rate of 10 percent, unemployment on some Indian reservations has increased from 40 percent to as high as 75 percent as a result of the budget cuts and the recession.

Without the power to tax, tribal governments cannot escape from their dependence upon the whims of Washington. Present mineral development on reservations often offers more money to state governments than to the

tribes who own the minerals. The old, existing coal and oil and gas contracts provided ridiculously low royalty rates to tribes. For example, in March, 1980, the Crow Tribe had received only \$9.5 million in royalties for extraction of its coal from Westmoreland's mine while the state of Montana had received \$34 million in gross proceeds and severance taxes.

Tribes are now negotiating mineral contracts that bring them a percentage of the profits and job guarantees for their people. Some tribes, such as the Jicarilla, are buying out energy companies on their reservations. These examples are noteworthy, however, because they are exceptions.

Royalty income generally is not only low, but it must also be divided among the tribal government and its members, who get per capita payments. Many tribal officials feel per capita payments have a deleterious effect; some, such as the Navajo, have never enacted per capita distribution formulas for mineral royalty income.

Per capita payments do not help the tribal government's efforts to prepare for the tribes' future after the minerals are depleted. They contribute to intra-

tribal jealousies that surface in disputes over who can be enrolled in a tribe. And they reinforce outsiders' prejudices that Indians live on the dole, despite the fact that the per capita checks represent income from commonly-held resources.

However, once adopted, per capita distribution formulas are politically impossible to change.

Severance tax revenue offers a viable option. The tribes can use the money to assure environmental and financial compliance with lease requirements, two areas in which federal enforcers have been negligent on reservations. They can also use it to invest in programs for long-term financial stability, such as cooperative farms, tribal businesses or alternative energy projects.

If they can derive more revenue from mineral extraction, it may also discourage some tribes from embarking on more intensive development schemes, such as synthetic fuels plants.

However, it is too soon for the tribes to celebrate. The Jicarilla victory will be empty if the court does not block state governments from imposing their severance taxes on tribal minerals on top of

the tribal tax. For example, the Crow Tribe has voted to impose a 25 percent severance tax on coal it owns. The tax has not been collected, pending the Supreme Court's ruling on whether states can also tax tribal minerals. Montana's 30 percent severance tax, imposed with the tribal tax, would make mining of Crow coal uneconomic. Supreme Court justices were silent on the state tax question in the Jicarilla case but will have to address it when other challenges to state taxes reach them; that is expected to happen within the next year or two.

Another potential threat is Congress, which could take away the tribes' power to collect severance taxes.

Both the Supreme Court and the Congress should continue to recognize that the tribes' power to tax is essential to self-government and critical to their continued existence as a people.

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Marjane Ambler is a freelance writer based in Atlantic City, Wyo. She studied Indian energy development under a fellowship from the Alicia Patterson Foundation and is a former managing editor of *High Country News*.

LETTERS

1080 NOT FUNNY

Dear HCN,

In the "Barbed Wire" column (HCN, 11/27/81) there is an item which reads: "Given the alternatives, compound 1080 may be a good idea. A Texas sheep producer scares off ravenous coyotes by playing the tape-recorded speeches of Adolph Hitler."

It is my feeling that Compound 1080 is nothing to make even a tongue-in-cheek joke about:

You may hear that 1080 is a humane poison. I have watched 1080 victims die. After ingestion of 1080, poison symptoms may appear in less than an hour or may be delayed for several hours. But when the bell tolls, the animal begins a period of extreme excitement which may last as long as two or three hours. The victim runs frantically, violently crashing into bushes, trees, rocks. It cowers and whines and trembles. And it yelps, loud and long. Finally, it falls into violent convulsions and dies.

If this kind of death is humane, then tender loving care is beating an animal to death with a club.

— former predator control agent

Adjudicatory hearings are reportedly upcoming at the Environmental Protection Agency — the part that Congress plays will be only to monitor the controls. "Denning" — killing the young of coyotes in their dens — is also being considered for approval. Both these methods of predator control were banned in 1972, but there is no question about the views of the livestock industry, whose main concern is — how efficient is it? — not how humane is it?

I submit that no lamb or calf ever died such an agonizing death as a result of predation, as results when a targeted (or non-targeted!) predator ingests Compound 1080.

You don't have to be a bleeding heart to fight for humane treatment of animals — even predators. "A civilization is known by the way it treats its animals." If the Environmental Protection Agency approves the restoration of Compound 1080, we should all feel betrayed as civilized human beings.

Marion T. Byrne
Liverpool, New York

EFFICIENT DAVE JOHNSTON

Dear HCN,

It was with more than a little personal interest that I read Bob Tarantola's letter (HCN, 1/8/82). The Dave Johnston plant photo caught my eye immediately.

It was my happy lot to work as a quality control inspector during the construction of the Dave Johnston Unit #4. My personal slides show flyash spewing forth from stacks #1, 2, and 3 while all you could see from the unit #4 scrubber stack was a 40- to 50-foot pillar of steam.

The new precipitator was surely a welcome addition. We used to be able to see (not that we wanted to) the flyash cloud down past Douglas.

The unit 4 (scrubber) was so efficient it filled its settling pond, within about 30 days after being put into operation, to the point one could have walked well out onto the new peninsula.

Since I didn't see your original photo (HCN, 10/30/81) it would be hard to agree or disagree with HCN's comments. However, from my own experience, Mr. Tarantola's letter seems to be accurate.

Abe Cochran
Luling, Louisiana

NO EMPTY OFFICE

Dear HCN,

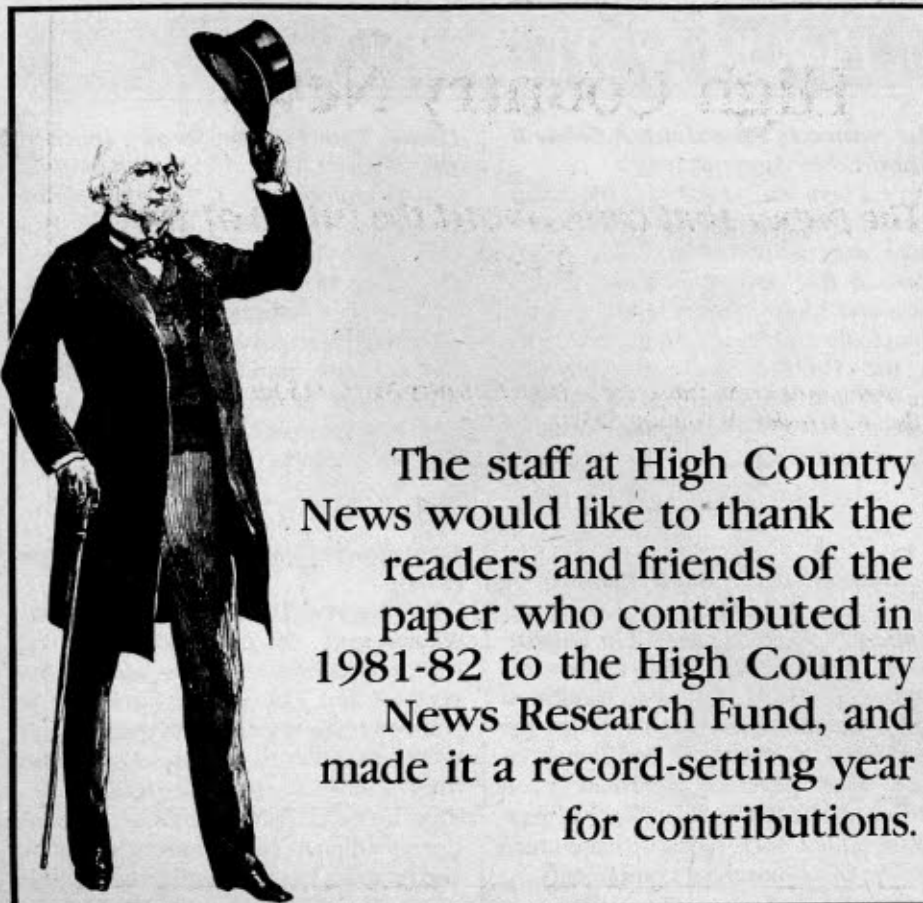
In your article, "Juggling wildlife and 'other needs'," (HCN, 1/22/82), some readers may have been misled by the following sentence:

Area offices of FWS may get the same treatment — while no policy has been finalized in Washington, D.C., offices like the one in Salt Lake City have been allowed to sit empty for months, leading to speculation that they will be eliminated.

The Salt Lake City Area Office has not been empty. The office has continued to function with its regular staff, headed by an acting area manager since the former area manager, Bob Shields, was promoted to deputy regional director.

Sam Marler
U.S. Fish and Wildlife Service
Lakewood, Colorado

(Ed. note: HCN intended to indicate that no permanent area manager had been appointed. We apologize for any confusion.)



Soothing election year jitters: Wilderness closed to drilling (for now)

A Wyoming energy publication recently shared with us its wisdom that Interior Secretary James Watt would never back down — he would pursue his resource development policies with unflagging single-mindedness, and leave public relations to the politicians. Then last week, Watt backed down — for reasons that seem, on second glance, decidedly political.

Watt has postponed decisions for leasing for oil and gas in wilderness areas until the end of the year. A sigh of relief was heard all around — politicians, oil and gas lobbyists and environmentalist lobbyists all hoisted a glass to the Interior czar.

In Wyoming, particularly, Watt has defused a ticking bomb. The first wilderness likely to test the viability of the oil and gas loophole in the Wilderness Act of 1964 — the Washakie — is located in northwestern Wyoming. It was initially docketed to go on the oil and gas auction block in March, and it was creating a political furor.

After quite a bit of equivocation, the three-man Wyoming delegation to Washington, D.C., led by Rep. Richard Cheney (R), unanimously opposed oil and gas rigs in the Washakie, responding to public sentiment that, at least in comments to the U.S. Forest Service, ran over 90 percent against leasing. But none of them, and few of their colleagues in Congress, have been able to translate words into action. In fact, two of them, Cheney and Sen. Malcolm Wallop (R), have played important roles in delaying a resolution of the issue.

Cheney, working with Rep. Don Young (R-Alaska), averted a House Interior Committee resolution that would have withdrawn all the nation's wildernesses from oil and gas leasing last December. Cheney negotiated with Watt and committee chairman Morris Udall (D-Ariz.) and got, in exchange for killing the resolution, a promise from Watt to delay leasing until June, and a promise of congressional hearings, to begin next month, on the wilderness issue. Cheney said he feared such a committee resolution was of questionable constitutionality.

Then Wallop and others requested a further delay of Interior action on leasing, and got it. The moratorium will run until at least December. Wallop says he did not want the wilderness issue thrown into the congressional Cuisinart with the budgetary matters Congress must give priority. But the delay could mean Judgment Day on wilderness will not take place until after the fall elections, in which Wallop and several other key figures must face the voters.

The Wyoming delegation will introduce a state wilderness bill in the next few months — but while that may please conservationists, it will not include any provision to protect the state's wilderness from oil and gas development, for reasons of "legislative strategy," apparently.

This means it is possible that we'll arrive in November with plenty of words and no action. Wallop can say he opposes oil and gas exploration in the Washakie and all wildernesses; and he can say he favors a thorough inventory of resources in the wilderness system, so that we'll know what's there if we face a future emergency. The inventory might include seismic testing and more exotic forms of exploration — but that is a little unclear for the moment...only words.

If Wallop opposes all wilderness leasing, why has he not acted? Because, he says, the chairman of the Senate Energy and Natural Resources Committee, Sen. James McClure (R-Idaho) is against such a ban. Yet Wallop chairs the key subcommittee on public lands, and he admits that if withdrawal of wilderness from oil and gas development were proposed the Senate as a whole "would probably go along with it." For the moment, wilderness advocates look with more hope to Cheney, who is still maneuvering on the House side, and may come out with a strong pro-wilderness solution when House hearings begin next week.

There are a variety of legislative approaches that could be taken. Some brave legislator could take up the cause of changing the wilderness act to annul the unholy marriage of wilderness preservation and oil and gas development. Or, if we want to be provincial about it, a bill could be introduced to protect Wyoming wildernesses specifically from leasing. If exploration is the big hang-up, include legislation and funding for a serious inventory, not the superficial type done by the U.S. Geological Survey. Let the voters know, too, where legislators stand on the question of extending the oil and gas leasing deadline beyond 1983 — an extension as dear to the hearts of the oil hunters as the elk in the Washakie are to another kind of hunter.

Combatants on all sides have welcomed a breather before the big battle; but we're sorry that Watt let everyone off the hook until after the election. Among the others from the region running for re-election this year who sit on the key committees handling the issue are Sen. John Melcher (D-Mont.) and Reps. James Santini (R-Nev.), Ray Kogovsek (D-Colo.) and Pat Williams (D-Mont.). We want to see concrete proposals from elected officials before we cast our votes.

If voters send a legislator back to Washington for another six years without knowing what he plans to do on this crucial issue, especially a congressman on a key committee, then we'll be sending a clear message that accountability is not one of the requirements for representing us in Congress.

—GOG

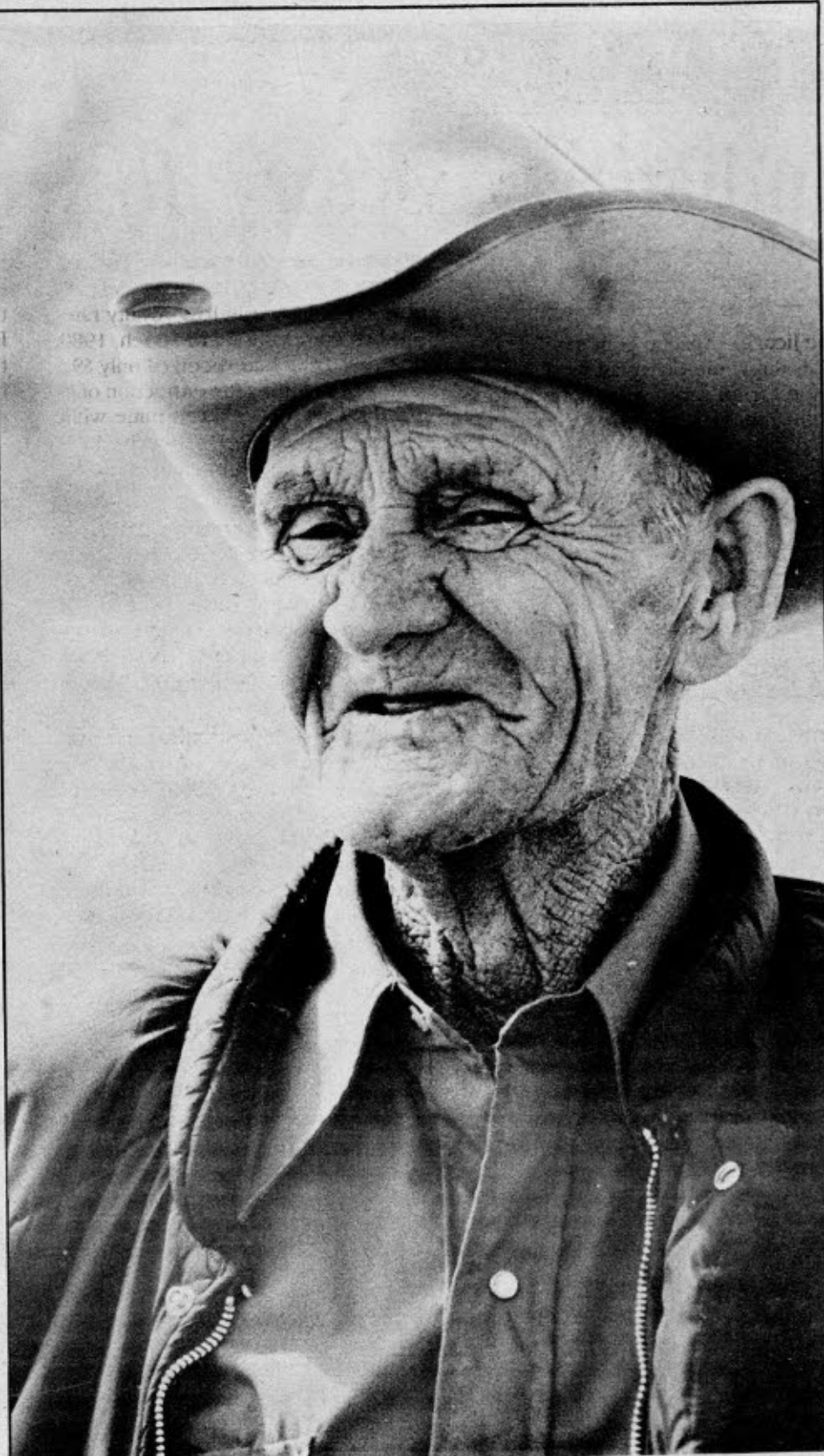


Photo by Kathy Bogan

The West we know has many faces. Cattle moving to summer pasture through the streets of small towns. Clear spring water from the kitchen tap. Elk bugling in the high mountain meadows.

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16-High Country News — Feb. 5, 1982

Building codes

Safety grows and innovation slows

by Joan Nice

Graham Hatfield fought fires for seven years. So when he switched to the building business, he was quick to include a \$50 sprinkler system in his solar house plans — just to be on the safe side.

According to Hatfield, the approach was approved by five different fire departments, a county building appeals advisory board, his lender and a commercial sprinkler company.

But when he showed the blueprints to the San Diego County building department, officials were perplexed. Hatfield wanted to build something unfamiliar to them — a double-walled passive solar design called an envelope home. Were Hatfield's sprinklers adequate fire protection? They weren't sure.

The building department passed the problem to the state's code-writers, the International Conference of Building Officials. They came up with an elaborate scheme that everyone agreed would provide excellent fire protection. But it would have cost as much as \$6,000 per house, Hatfield said.

The young builder balked at the added expense. After months of fruitless negotiations at other levels of government, he persuaded local building officials to reconsider his plans. This time, they came up with an alternative that Hatfield could accept — a sprinkler system only slightly more elaborate than he had originally proposed.

Hatfield was pleased, but also exasperated, by the turnaround. "The total cost of the system was only \$500. But it took six months to come up with it. It was so simple, yet there was never any help on their part to quickly resolve the situation," Hatfield said.

"We only enforce the code," said Chuck Mendenhall, San Diego County's senior structural engineer. "We feel more comfortable if those people who wrote the standards make the exceptions."

The rules that caused the delays for Hatfield lie within the Uniform Building Code, the standard construction bible in the West. The UBC and supplementary codes dealing with fire, wiring, plumbing and other topics are enforced in most cities and in many counties in the West as a way of protecting the public from unlivable, unsafe structures.

But with the rise of innovative heating systems and home designs, often owner-built, codes are becoming more controversial. Do-it-yourselfers find codes impregnable or un-American. Solar innovators find them time-consuming and occasionally meddlesome. Building inspectors are faced with a host of difficult judgement calls — requests to put a round peg into a square code.

"Codes are useful," said Richard Yates of the Architects Atelier in Santa Fe, N.M. "Without them there would be a lot more loss of life and fires. But they do get out of hand."

In Lander, Wyo., some 3,000 to 4,000 pages of codes govern the building industry. In California, where population densities are generally higher than in the Rocky Mountain West, codes tend to be even thicker. Only two states in the Rockies, Idaho and New Mexico, enforce comprehensive statewide building codes. In California every county and city has adopted the Uniform Building Code, plus a number of other codes, including one requiring construction of energy-efficient houses.

Ken Kern, a Californian, is one of the building codes' most vocal critics. In a book called *The Owner-Builder and the Code* Kern said, "The code's ever-widening realm of control keeps housing beyond the financial reach of the majority of the people and makes out-



Mendocino County Energy Council

"Is it logically the province of the state to determine the size of a person's living room?"

— Author and builder Ken Kern

laws of those who attempt to build their own less expensive alternatives."

It is Kern's contention that an owner-builder ought to be allowed to build in what way he pleases, so long as he doesn't constitute a hazard to his neighbors. To do otherwise is an unreasonable infringement on personal freedom, Kern maintains.

He questions why, in the name of public health and safety, the UBC should require a convenience such as hot and cold running water. He also challenges the idea of minimum standards for ceiling heights, floor areas and window areas.

"Is it logically the province of the state to determine the size of a person's living room?" Kern asks. (The UBC requires that at least one room in every dwelling have at least 150 square feet of floor area.)

Without a doubt, the UBC is sweeping in scope. It regulates not only new construction, but also enlargements, alterations, repairs and improvements. While in some communities certain small projects are exempt from building code requirements, in others, such as Lander, most any structure requires a permit, be it a toolshed, a bird feeder or a new wood stove. Violators can be fined or jailed, and in rare cases their building can be demolished.

But among building professionals the code is relatively uncontroversial. To them, the code is for the most part a compendium of common sense building tips, "a substitute for thought," as one architect put it. It helps keep unscrupulous developers from cutting costs at the expense of an unwitting buyer's health or safety. It helps protect a neighborhood from fires and eyesores. In buildings used by the public, where codes are more stringent, it helps protect people from accidents and injuries.

Unlike owner-builders, most professionals seem to have good luck convincing local code enforcers that a slight deviation from the norm is acceptable.

"I've spent a fair amount of time try-

ing to educate building inspectors," said Fred McGee, a solar home builder in Cody, Wyo. "I think it has paid off."

"You are dealing with human beings," said Jackson, Wyo., architect Philip Hocker. "There are generally ways to get around problems."

One way to avoid conflict in many rural areas in the Rockies is to build outside city limits. In most Wyoming counties, for instance, "You just build it. If it falls down that's your problem," according to Fremont County Planner Ron Martin.

The state of Wyoming does require compliance with UBC fire protection standards, but the code is only enforced in buildings with public access. Only two inspectors police the entire state.

New Mexico requires compliance with the entire UBC statewide. But there, too, enforcement is a problem.

"When I used to build weird structures years ago the inspectors just left us alone," said solar inventor Steve Baer. "They just didn't have the manpower to police us."

Another factor working in innovators' favor in New Mexico is the number of other experiments. "So many people in New Mexico build their own houses that officials know they can't step on anyone," Baer said.

But elsewhere, ignoring owner-builders is a controversial idea.

"The thing you're dealing with throughout all of this is the fact that most homes are sold within five years," architect Hocker said. "Your owner-builder always thinks this will be the ancestral hall. In fact they get it two-thirds finished, dwell in it in moderate squalor for a few years and then sell it."

"If you sign some sort of bond saying that you're going to live for the rest of your life in the house and then restore the ground to its original condition, okay, but otherwise it's too easy to build an enduring public nuisance," Hocker said.

The owner-builder controversy peaked a few years ago in California,

when counter-culture groups and individuals tried to build their own dwellings on land in rural parts of the state. In Mendocino County, some of them were met by outraged building officials who tagged their homes "unfit for human occupancy." Where were the young settlers' flush toilets, their blueprints? inspectors asked. Where was official proof that these homes were structurally sound? If the newcomers couldn't comply with the letter of the code, they were told to leave and demolish their homes.

Finally in 1980, with the backing of Gov. Jerry Brown, the back-to-the-landers won an amendment to the code. The new rule allows counties to relax code standards for owner-builders in certain rural areas. The most basic health and safety rules remain, but a major portion of the code's requirements are waived.

For some do-it-yourselfers, the code issue has become an intense battle for personal freedom. For the majority of homeowners, whose dwellings are built by professionals, the issue is somewhat less stirring. The professionals they hire are generally equipped to deal with the demands codes make of them. They pass the extra costs on to the consumer, who is often grateful for the protection codes afford. But even among the professionals, skirmishes do occur, especially among those as Graham Hatfield who are pioneering changes in the construction industry.

Malcolm Lillywhite of the Domestic Technology Institute in Evergreen, Colo., has designed a new kind of solar collector. Building code hurdles "took about two months and a lot of work with the building department," he said. But after agreeing to a slight modification of his plans to increase fire safety, he was allowed to go ahead and build a house utilizing his invention.

"There have been 50 or 60 little things like that," Lillywhite said.

Architect Richard Yates had to lobby

(continued on page 13)