

High Country News

March 30, 1987

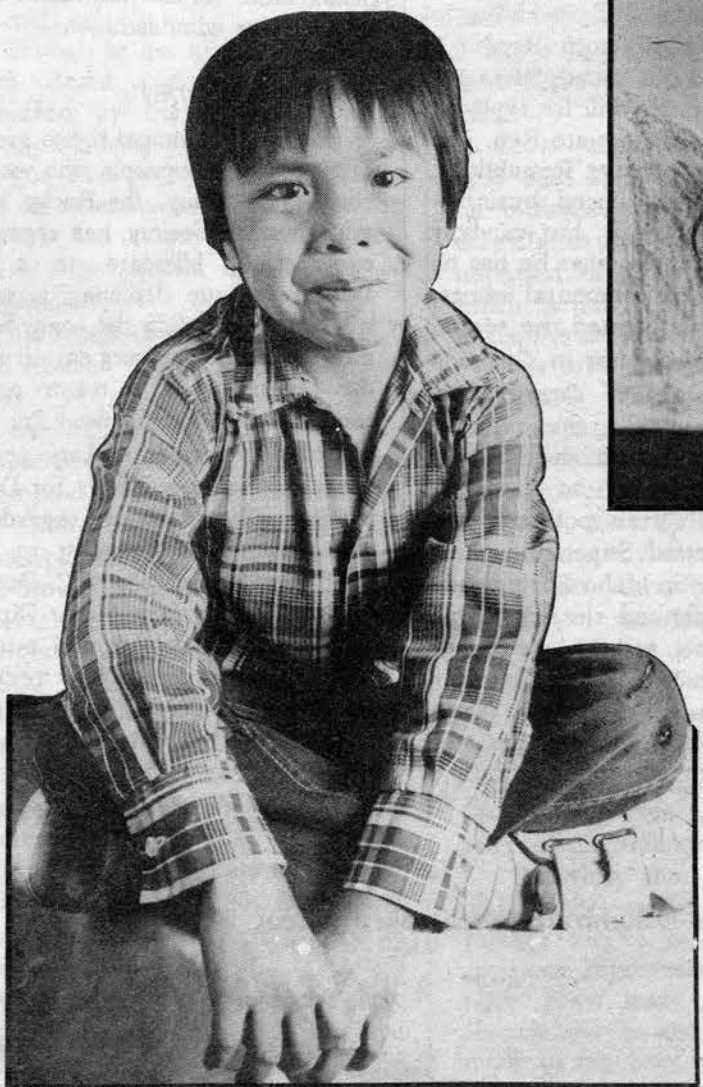
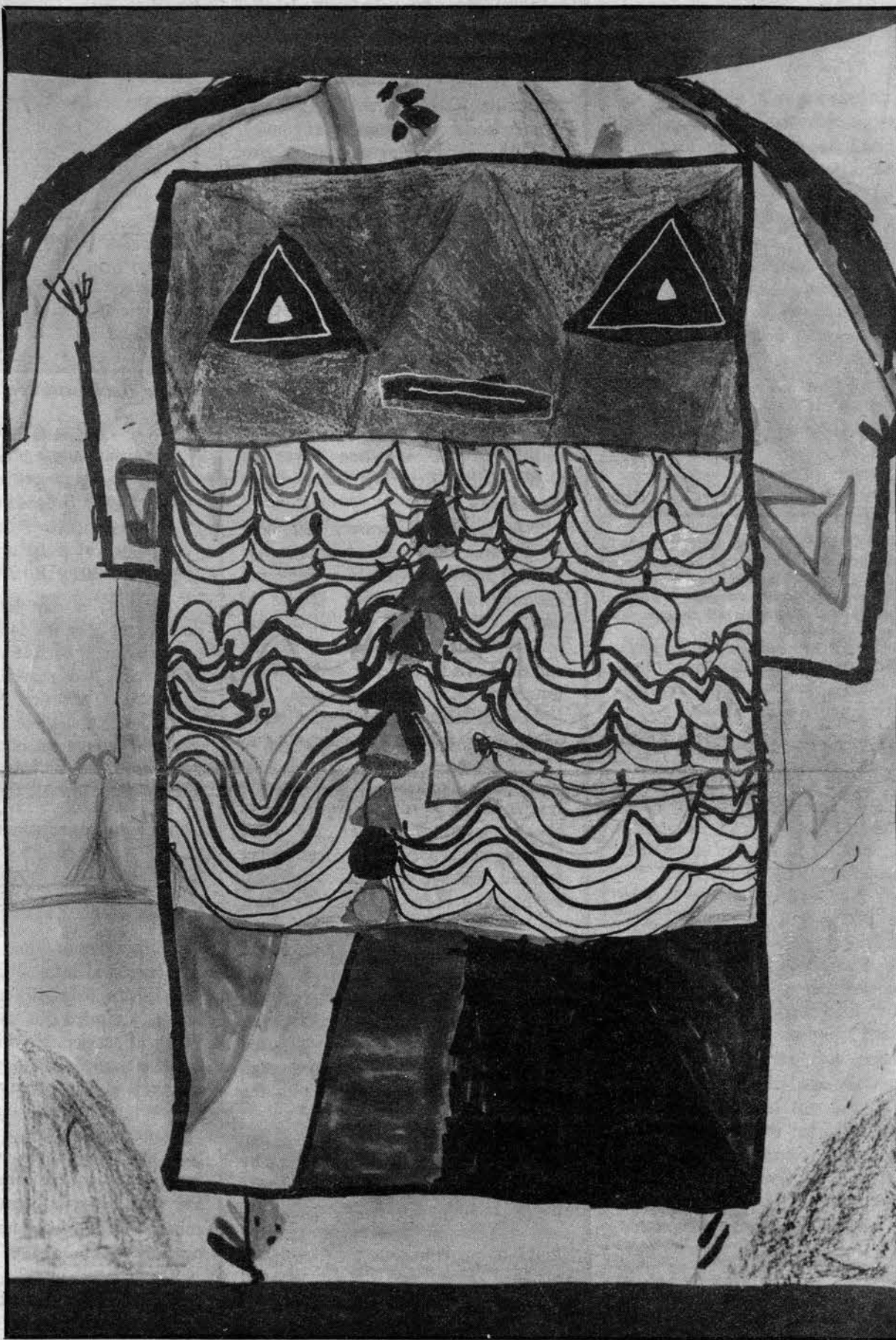
Vol. 19, No. 6

A Paper for People who Care about the West

One Dollar

*'He's walking to his
hogan.
Sometimes he dances
for sick people.
A rainbow is
touching him.'*

—Harmon Yellowman



Bruce Hucko

Harmon Yellowman, 6, painted Yei-Bi-Chei, above, in an innovative art class on the Navajo Reservation in Utah

More art by Indian children

✓ See pages 8-9

The Northern Utes take on Utah

✓ See pages 10-13

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Dear friends,



High Country News

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Tom Bell
Editor Emeritus

Ed Marston
Publisher

Betsy Marston
Editor

Judy Moffatt
Development

Marjane Ambler
Bruce Farling
Glenn Oakley

Geoffrey O'Gara
C.L. Rawlins
Pat Ford

Contributing Editors

Steve Hinchman
Editorial/Research

Becky Rumsey
Intern

C.B. Elliott
Circulation/Production

Judy Heideman
Typesetting

Tom Bell, Lander WY
Michael Clark, Washington D.C.
John Driscoll, Helena MT
Jeff Fereday, Boise ID
Tom France, Missoula MT
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A number of readers have been very helpful in providing HCN with back issues we were short of. Martos Hoffman, a photographer from Flagstaff, Ariz., sent a bundle, as did Brant Calkin of New Mexico. They are much appreciated.

Margaret Laybourn, an anti-MX activist in Wyoming, tells us she won an award from the Wyoming Press Women's Association for her photo in HCN of a shrouded MX missile being transported to its silo. Congratulations.

Wyoming micro-bureau chief Katharine Collins would like to correct some information attributed to Mike (our first error was to give him a different first name) Welsh of the Utah Division of Wildlife in the March 2 issue. Welsh says landowners are not involved in the issuance of Utah hunting licenses. We regret the error.

Also in the error area, High Country Foundation board member Jeff Fereday called from Boise, Idaho, to say that our March 2 centerspread had a phonetic mistake. The centerspread gives the pronunciation of the Owyhee River as O-WA-HEE. Fereday says it is O-Y-Hee.

We learned in January that there is a larcenous environmentalist abroad. Lee Gribovicz, a professional environmental engineer based in Lander, Wyo., and an HCN subscriber since 1977, wrote to say someone had stolen seven back issues of HCN from his auto. The lost issues included the special series on water, so it took some Xeroxing to replace them.

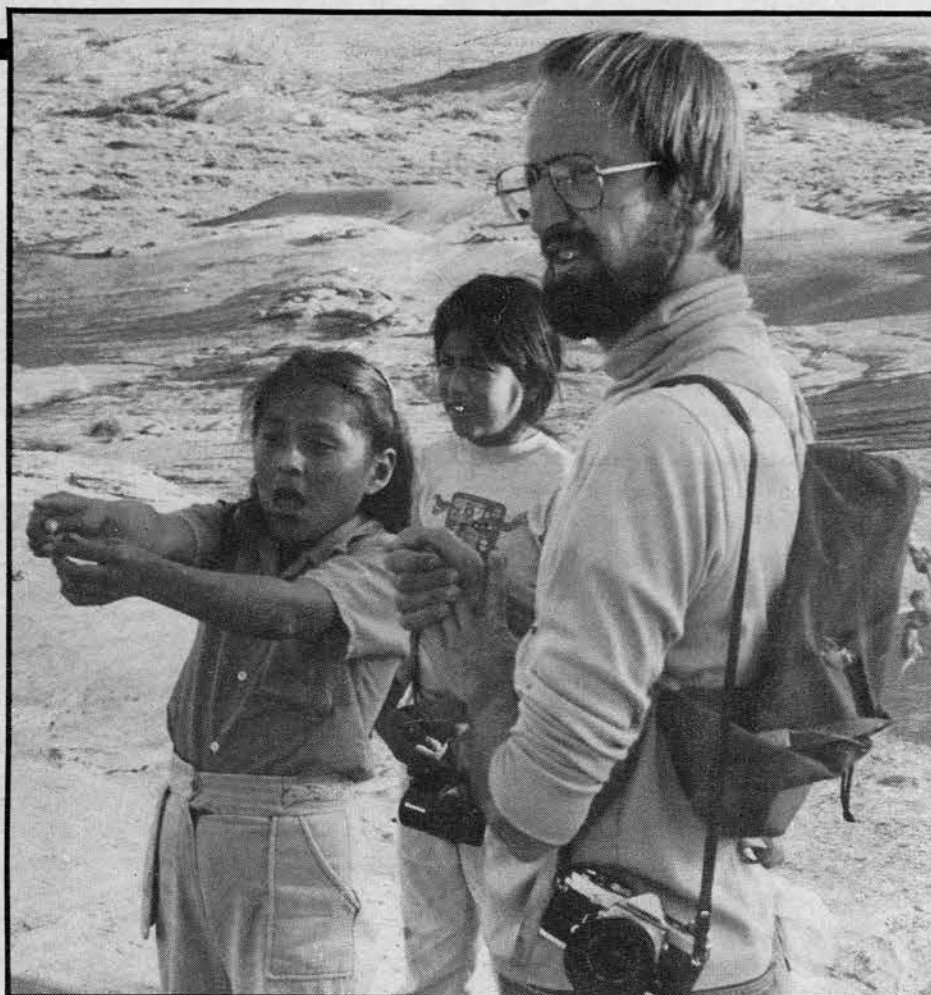
Perhaps because of the paper's reputation as a friend of wildlife, a skunk moved in under the HCN building in early March. After having learned what we could about skunks, we placed a Have-A-Heart trap near his hole. The first morning, we found he had eaten the peanut butter bait and sprung the trap, but escaped. The second morning, the trap was gone. We were upset at the loss of the borrowed trap, but also relieved since we hadn't thought through what we were going to do with the live skunk if the trap worked.

We found out later in the day that reader Bill Brunner had come by to drop some clippings off at our rear door. He spotted the trapped skunk, and, possibly not wishing to test the limits of our commitment to wildlife, took the animal into the country and released it.

That is not the Paonia way. When we returned the trap, the lender was taken aback that we hadn't drowned the critter in a barrel of water.

The final mailing in the 1986 Research Fund Drive went out last week to the 4,500 out of 5,500 subscribers who haven't contributed. If anyone who has contributed receives a request, please excuse us. Next week, the paper will mail out 20,000 letters in search of new subscribers. Circulation manager C. B. Elliott has worked hard to vet the lists of present subscribers, but we are sure at least a few readers will get appeals, for which we apologize.

For a day or so, it appeared that most of High Country News would look like the above, for that is what our beloved Junior typesetter was churning out. At first, proofreader Linda Bacigalupi thought typesetter Judy Heideman was having a particularly bad day.



Bruce Hucko with some of his Navajo students in Utah

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Later -- a day later -- it was discovered that the lamp that tracks the location of each letter on Junior's font strip had moved slightly. An adjustment returned Junior to the world of intelligible printing, but minutes later a set of aged switches gave out, and he lost the ability to justify. That too was fixed.

The repairs were done in-house, which was a financial blessing -- servicemen charge upwards of \$500 to fly out from Denver to work on the beasts.

We thought you'd like to see a photo of Bruce Hucko, whose students provided the front page and centerspread. Hucko is an artist in the elementary schools on the Navajo Reservation in Utah who has turned school work into an art exhibit. The photo above was taken by student Philip Begay.

--the staff

HOTLINE

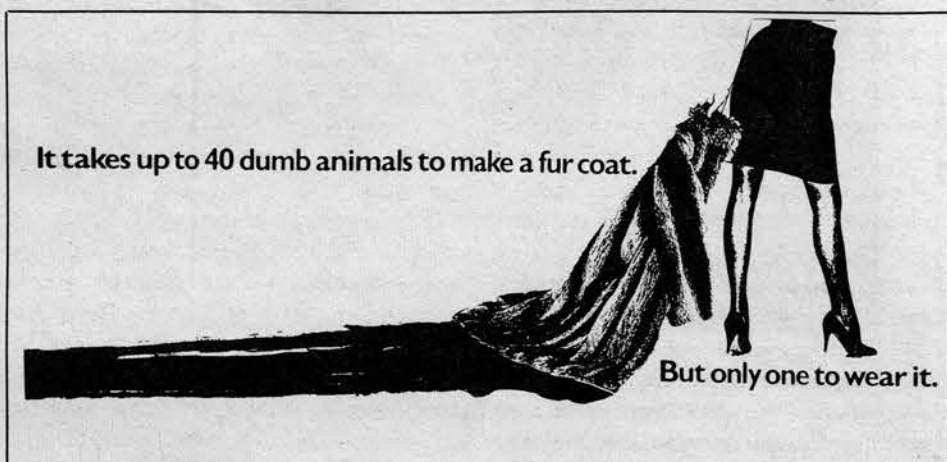
Calm and credible

John Welles, the administrator who restored calm and credibility to the EPA's politically torn Region 8 office, resigned this month after 3½ years of service. He will be replaced by two-term Colorado state Rep. Jim Scherer. A conservative Republican, Scherer is an experienced businessman and administrator, but candidly told the Denver press that he has no experience in environmental issues. He was, however, named the second most effective legislator in Colorado out of 100 in a 1986 Denver Post poll. Scherer inherits the regional office at a time when the EPA is being pressed to act on Denver's "brown cloud" of air pollution and many controversial Superfund sites. Scherer's home in Idaho Springs sits above one Superfund site, the Argo gold mine tunnel, and is close to four others. Region 8 includes Colorado, Wyoming, Montana, Utah, and North and South Dakota. John Welles was

widely praised upon his departure by environmentalists and industry officials alike for his fair-minded and constructive administration.

Run fur cover

A Colorado animal rights group is setting traps for people who wear fur coats. The group, the Rocky Mountain Humane Society, has erected an eye-opening billboard on a busy Denver avenue depicting a woman wearing a bleeding fur coat. Society director Robin Duxburg says it is just the beginning of a major anti-fur campaign, to be followed by more billboards, bumper stickers and unspecified future surprises for Denver furriers. "Fur coats are regarded as status symbols. We want to make them symbols of shame," Duxburg told the Denver Post. So far Duxburg says the society, which numbers 2,000 contributors, has received numerous calls on the advertisement, including both threats and praise.



The controversial billboard

WESTERN ROUNDUP

Water project is avoided like the plague

Forty-three dryland farmers in southwest Colorado have gone to court rather than accept federal irrigation water. The farmers fear that the cost of water from the recently completed McPhee Reservoir on the Dolores River will bankrupt them. The lawsuit by this group of one-time supporters of the Dolores Project could affect the nearby Animas-La Plata Project, which is in the critical early stages.

In their lawsuit, the farmers charge the Bureau of Reclamation with misrepresentation and fraud, and the Dolores Water Conservancy District with conspiring with BuRec to deny them the right to vote on an amended contract. The lawsuit comes late in the day. The farmers agreed years ago to take water from the project for their land, which they now farm using dryland techniques. McPhee Reservoir is complete and is filling, and the Bureau is working on the network of canals that will deliver the water to the individual farms.

The suit was precipitated by a 1986 Colorado State University report on the economics of utilizing project water. The report concluded that no crop could be grown at a profit because of the short growing season -- most of the farms are above 7,000 feet -- adverse market conditions, and the high capital cost of investing in sprinkler irrigation systems.

The release of the CSU study convinced R.R. "Junior" Hollen, a 62-year-old Pleasant View bean farmer, to take action. He circulated a petition seeking relief from the contracts in the spring of 1986, hand-carrying the petition to Washington. "I don't have the solution," he told Dan Beard, the chief of staff of the Congressional authorizing committee. "I'm just here begging for mercy."

Though he got a sympathetic ear from Beard and OMB, he was rebuffed by the Colorado Congressional delegation. The best offer he got from local Bureau officials was an extension of time before the farmers had to pay for the water, which they rejected as "a stay of execution."

"We had no choice but to sue," said Hollen. "It was that or lose our lands."

The lawsuit is based on the allegation that in 1982 the Bureau attempted to finesse cost overruns on the Dolores Project by removing the municipal delivery systems to Cortez and Dove Creek, in violation of the federal contract. The agency is also charged with quietly increasing the overall indebtedness of the project without submitting an amended contract to the voters, in violation of state law. In addition, the farmers charge that the Bureau lied to the farmers over the cost of annual maintenance and operation. The suit was filed Dec. 14, 1986; the federal government has until mid-April to respond.

The farmers are not the only former supporters of the project who have been startled by the cost of Dolores water. Recently, the Cortez City Council learned that the cost of their water might be \$110 an acre-foot instead of the \$83 they had expected to pay. "We were surpris-

ed, very unpleasantly surprised, I might add," said councilman Keenan Ertel.

In 1977, Cortez signed up for 6200 acre-feet of water, enough to sustain a population of 27,000 people. But population growth has not come near the Bureau's projections; there are only around 7,500 people living in Cortez now. But the city is still committed to taking that much water.

The quantity of water doesn't bother Ertel, but the new cost does. He said a water-rate study done by the Black and Veatch engineering firm last year concluded Cortez could not pay more than \$83 an acre-foot without a significant rate increase.

"But the cost is so much higher than what we had planned on, we're going to have to talk about some serious renegotiations about it," he said. Cortez is waiting to see what will come out of an April 4 meeting with conservancy district and Bureau officials.

Meanwhile, 50 miles to the east, the news of the dryland farmers' suit is having an impact on the Animas-La Plata Project, currently in contract-negotiation stage. According to several persons who attended a March 12 meeting to sign up the La Plata farmers, some farmers were reserved and some openly skeptical. One, Cecil Hadden, who raises cows and sheep on 73 acres, says he doesn't think he'll sign up for water.

"The petition is like a blank

check," he says. The farmers are supposed to fill in their acreage, but won't be told the cost of their water until after the project is built. He said he is also skeptical of the \$32 figure the Bureau gave them for the cost of annual operation and maintenance. Given that the Animas-La Plata water has to be pumped up nearly 1,000 feet, far higher than the pumping in the Dolores, how could that figure be correct if the Dolores' O & M is \$44? he asked.

"The way I figure it, if we took all our resources, all our farm equipment, and put it all in one pool, we still couldn't pay \$2.3 million (per year) for maintenance. That's not counting the cost of the water."

Besides, he added, if he took water to grow hay, all he'd do is put his neighbors out of business who currently grow hay to sell to him. "It looks to me like they're trying to bankrupt the whole valley," Hadden said.

For years, the Animas-La Plata Project has been described as necessary to stabilize agriculture around the tourist town of Durango, which serves Purgatory Ski Area and Mesa Verde National Park and is home base for the Durango to Silverton narrow-gauge railroad. Hadden, however, sees the project differently: "I know we're just building a recreation site for Durango anyway."

--Jeanne Englert

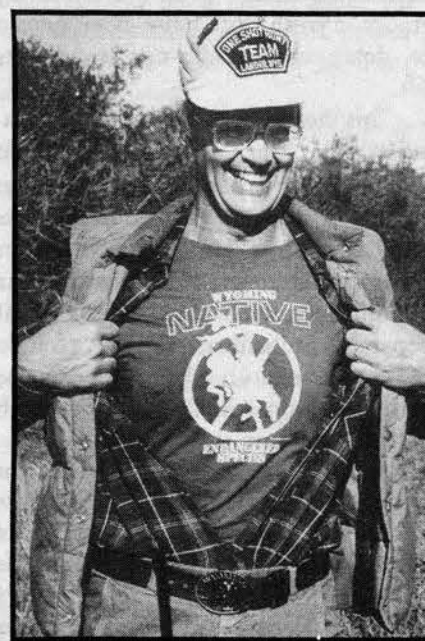
Crows fire James Watt

Former U.S. Secretary of the Interior James Watt, now a private attorney specializing in Indian law, has been fired by Montana's Crow Indian Tribe. He was representing the Crows in a boundary dispute case with the neighboring Northern Cheyenne Tribe and the federal government.

Crow tribal chairman Richard Real Bird said Watt was dismissed for misconstruing the tribe's boundary claims and not keeping the tribe informed of progress in the case, which is now before the U.S. Court of Claims in Washington, D.C.

In a brief submitted to the Court of Claims, Watt stated that the Crows claim their northern reservation boundary extends to the southern bank of the Yellowstone River. However, the tribe, in a long-standing dispute with the federal government, has always maintained the boundary is the river's mid-channel. Real Bird says the distinction is critical to the Crows, because it could affect their ability to claim water rights in this semi-arid country. The present northern boundary of the Crow reservation is several miles south of the Yellowstone.

"Moving the boundary from mid-channel to the south bank was enough for us to say it was not adequate representation," Real Bird said. Watt made other damaging concessions to the federal government in his brief, notes Real Bird, and kept the tribe in the dark on the case. "I'd never been consulted. He'd say, 'The fight continues' and that was the extent of his reporting," the tribal chairman said. Tribal



James Watt at the Wyoming one-shot antelope hunt, 1982

officials are now worried about preparation for the case, because the deadline to file motions is May 1.

Mrs. Watt, reached at her home in Jackson, Wyo., says it is her husband's policy not to comment on relations with his clients.

--Jim Robbins

BARBS

Here's hoping.

After six months of trapping, the U.S. Fish and Wildlife Service has finally caught the last known wild Black Footed ferret near Meeteetse, Wyo. At four years of age, it is the oldest male ferret and the only one researchers think has had "breeding experience."

HOTLINE



Synar brands BLM

Oklahoma Congressman Mike Synar, who has become a persistent critic of the Bureau of Land Management, recently attacked the agency again, this time for failing to correct violations in the federal grazing program. Synar says the agency has not kept its promise to collect fines from ranchers whose cows trespass on federal lands, nor has it recouped illegal windfall profits earned by ranchers who sublease their grazing privileges to a third party. The violations were revealed in congressional hearings in 1985, but Synar says recent BLM data show no improvement. In a recent letter to Interior Secretary Donald Hodel, Synar said large increase in grazing fees may be a solution: "It is hypocritical for this administration to work so hard to impose entrance fees on Americans visiting the Statue of Liberty, Valley Forge and Fort McHenry in order to recover operating costs, while failing to recover such costs for grazing on public lands."

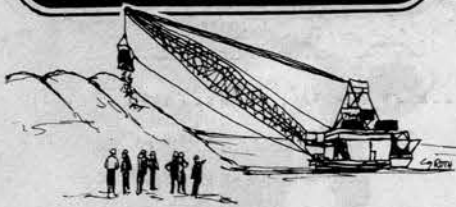
Mining layoffs

Spring brought more hard luck to Leadville, Colo. Amax, Inc. shut down its molybdenum mine, laying off 150 out of 200 workers. Leadville's unemployment rate was already high -- just below 20 percent -- before the end-of-March layoffs. The mountain mining community has been struggling to develop a more diverse economic base and to replace jobs lost in successive Climax cutbacks over the past five years. Half the population of Lake County lives in Leadville, and the layoffs represent 38 percent of the county's mining jobs. Amax also told the *Denver Post* it will lay off 70 of 690 workers at its Henderson molybdenum mine near Empire, Colo.

Acidic comments from Canada

Canada's Minister of the Environment recently attacked "neanderthal" U.S. officials for avoiding the cross-border acid rain problem. "We have a monumental task in getting official circles in the United States to see what acid rain is doing to themselves and to us," Minister Tom McMillan told AP. He was responding to Democratic Senate majority leader Robert Byrd, who told Congress that acid rain is a crisis that does not exist. Representing coal-rich West Virginia, Byrd made a pitch against three bills currently in Congress that would provide billions of dollars to control emissions from coal-burning power plants and factories. Canada wants the U.S. to cut its trans-boundary emissions in half, and the topic is expected to dominate the April 5-6 summit between President Reagan and Prime Minister Brian Mulroney.

HOTLINE

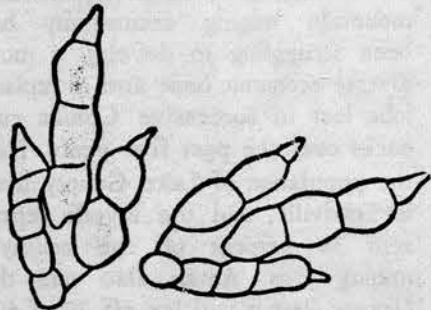


Coal groups merge

Two of the nation's largest coal associations, the National Coal Association and the Mining and Reclamation Council of America, will combine forces next month to form a new national lobbying organization. The merger will bring together more than 300 coal producers, aligning for the first time the major producers with smaller independents and the large Western coal companies. Spokesman Garry Drummond says the move is a signal that "our industry intends to be an aggressive political force in Washington." As a unified industry advocate, the group will represent approximately 70 percent of the United States' annual coal production.

Through sleet, rain and chains

After Jackson, Wyo., postal worker Chris Englund chained himself to the front door of Bridger-Teton National Forest headquarters last July, he found himself suspended without pay, even though his action was not on company time. Englund, who was participating in an Earth First! protest of federal oil and gas leasing policies, said the suspension unfairly punished him for exercising his constitutional rights. But his appeal to a Cheyenne postal official lost. Officials who suspended Englund cited federal regulations that an employee must not adversely affect the public's confidence in the Postal Service. A recent regional grievance hearing took a different tack, however. The Postal Service cleared Englund's record and awarded him two weeks' back pay.



Dinosaur fossils are endangered species

Colorado's dinosaur fossils may be disappearing as fast as the dinosaurs. University of Colorado geologist Martin Lockley has documented both theft and natural destruction of some of Colorado's most spectacular dinosaur fossils. In one case, he says, bone-fossils were hammered out from a new interpretive trail built by the Bureau of Land Management and Museum of Western Colorado. In Denver, Lockley says fossils along the Alameda Parkway have been repeatedly vandalized and no one has ever been caught or fined. Fossils are also threatened by erosion due to natural causes. In Purgatory Valley in southeastern Colorado over 10,000 square yards of footprint-bearing beds were wiped out in a major flood before researchers could document the site. Lockley says the remaining 5,000 square yards contain over 1,300 footprints and the largest trackways on record, yet the area is still unprotected.

Sullivan backs drilling, logging on the B-T

Wyoming's Gov. Mike Sullivan got high marks from conservation groups during his campaign last year. He said then it was time to "listen to the professionals" and move camping facilities at Fishing Bridge in Yellowstone Park to an area where grizzlies don't congregate.

Now Sullivan is drawing fire from the same groups for his comments about grizzlies for the Bridger-Teton National Forest draft-management plan. The newly elected Democratic governor said he believes that oil and gas leasing in Situation I grizzly habitat "can be done without significant impact... It would seem appropriate to authorize additional leasing in those areas." Situation I areas are critical habitat for grizzlies and the plan's preferred alternative disallows oil and gas leasing there.

In his letter, Sullivan also urged B-T Supervisor Brian Stout to "stretch" the timber resource base. Referring to job losses in communities dependent upon existing timber harvest levels, he said he supported "the increase of timber harvest above the (16 million board feet) preferred alternative."

Sullivan's comments contrasted with the state's Game and Fish Department, which supported a ban on oil and gas leasing and develop-

ment in critical grizzly bear habitat.

"We hope he won't lock himself into this point of view," said Wyoming Wildlife Federation official Matt Reid. "When it comes to important resource trade-offs that will affect the B-T's bright future in tourism, recreation and wildlife, we hope he'll listen to some of the experts in Game and Fish." Reid added that "Bill Budd's finger is in this."

Budd is executive director of the state's Economic Development and Stabilization Board, which urged increased commodity orientation. Budd called the plan "lopsided."

State Sen. Frank Prevedel, D-Sweetwater, was disturbed by the economic board's position. "They're just parroting the oil and gas and timber industry lines, rather than what they're supposed to be doing -- finding better economic development opportunities for Wyoming."

Budd defended his commentary, saying he based it on "57 years of living and working in Wyoming." Much of that work was for the Wyoming Mining Association, where he served as executive director before his unsuccessful bid for the Republican gubernatorial nomination in 1986.

Wyoming Outdoor Council board member Stuart Thompson said of the

governor, "He's trying to please too many people in the short-term and he'll please no one in the long-term."

A Teton County Commissioner was more sympathetic to Sullivan's position. Leslie Petersen, D, said Sullivan had chosen a "thoughtful stance on timber," not wanting to see timber-dependent communities like Dubois fall apart. Petersen said, "I know personally Mike has agonized about the plan. Fremont County made an incredible effort to put pressure on state agencies and the governor."

Sullivan said that correspondence he received from Fremont County had indeed been "weightier" than that received from other counties adjacent to the B-T. "But that's because a lot of the correspondence was on wood planks," the governor joked. "I can't help but be aware of the economic hardships some towns could suffer, but I'm appreciative of all views expressed."

Sullivan said he had not discussed his response to the forest plan with Bill Budd prior to sending it in. He said his letter was an effort to "urge that careful consideration be given to the effects of the (B-T) management plan."

--Katharine Collins

In search of Erwinia on a stormy peak

STEAMBOAT SPRINGS, Colo. -- At first glance the cold, windswept summit of Mount Werner doesn't appear to be the ideal place to hole up during a blizzard. Even expert skiers who trudge over the top to lay tracks in fresh fluff have been known to delay until white-out conditions lift.

This hostile environment is treasured by Gary Franc, a plant pathologist and bacteriologist. When he learns that a massive storm has left the West Coast bound for Steamboat Springs, he grabs his gear and quickly travels the 160 miles that separate Steamboat from Colorado State University. His aim: to be settled in atop the 10,565-foot high peak by the time the storm hits.

As part of his doctoral work for Colorado State University, Franc is testing whether clouds are capable of carrying plant bacteria for thousands of miles. For the past several winters Franc has sampled many snowstorms on Mount Werner, sitting for days at a time inside of clouds that originated over the Pacific Ocean. Working from the rooftop of a tiny, half-buried trailer located several hundred steep yards above Steamboat ski area's uppermost runs, Franc points a series of mesh screens at a right angle to the wind. Rime, or "100 percent pure cloud," that accumulates on each panel is scraped into buckets and later analyzed at a CSU laboratory.

Franc also collects snowpack samples state-wide and has dragged down from Colorado's mountains as much as two tons of snow in a single winter. What he tries to track is the path of a bacterium called *Erwinia carotovora*, which causes a potato virus dreaded by farmers in southern Colorado's San Luis Valley. He has found *Erwinia* in snow samples taken from several Colorado mountain



Researcher Gary Franc scrapes what he calls "100 percent pure cloud" into a bucket

passes and streams, and he has found *Erwinia* in the Pacific. And, once, he found *Erwinia* in "pure

cloud water" captured atop Mount Werner.

Franc has concluded that *Erwinia* bacteria in the Pacific are "aerosolized" when bubbles on the ocean's waves burst. "Then the bacteria are transported through storm systems to Colorado. They come out of the ocean and are taken on a cloud ride," he says.

For commercial potato growers, confirmation of the bacteria's mode of transportation could lead to new irrigation techniques to stop the spread of the virus. Commonly called "black leg" or "soft rot," the disease annually ruins 10-15 percent of Colorado's \$60 million potato crop. Franc also hopes he can pinpoint other bacteria moved great distances in clouds.

--Keith Kramer

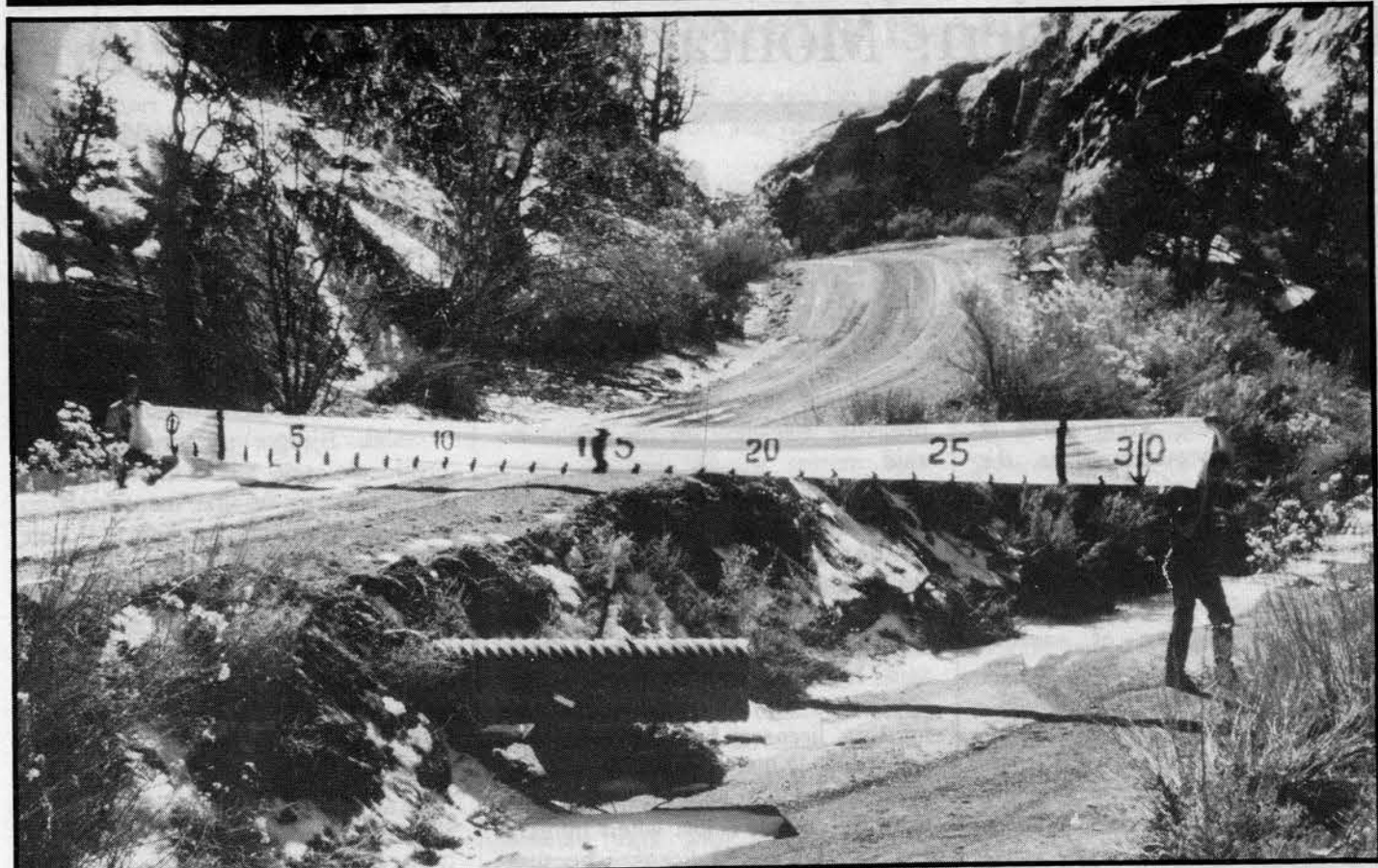
BARBS

You can't cage the wild-camper beast.

Glacier National Park officials say they will remove a 12-foot-high chain-link "camper cage" from a campground and allow people to sleep unprotected this spring. The unpopular and seldom-used cage at Many Glacier Campground was installed after a woman was dragged from her tent and killed by a grizzly bear at the campsite in 1976.

The governor may believe that his chances in the next election depend on a properly educated electorate.

Newly elected Arizona Gov. Evan Mecham has appointed an education advisor who believes that if a student says the world is flat, "the teacher doesn't have the right to try to prove otherwise. The schools don't have any business telling people what to think."



Rodney Greeno

Southern Utah Wilderness Association Director Clive Kincaid

and volunteer, Cynthia Dott, stretch a 30-foot-wide banner across the

Long Canyon section of Burr Trail to show extensive rebuilding plans

Paving effort hits roadblock on Burr Trail

Pictures of the rugged beauty of Utah may have been worth more than the proverbial 1,000 words in a recent environmental court decision.

The issue was whether a county could fundamentally change a dirt road called the Burr Trail without informing and consulting the public about a number of environmental issues.

After a three-week hearing this March during which slides of the trail were shown, Federal Judge Adson Anderson halted upgrading work on the road and granted a conservation coalition its request for a preliminary injunction.

Garfield County had begun the road rebuilding on a 28-mile section beginning at the town of Boulder. The 66-mile gravel and dirt road ends at Bullfrog in Kane County.

Judge Anderson said he understood that his injunction might jeopardize an \$800,000 contract the county awarded to low bidder Harper Excavating Co. of Salt Lake City. But he pointed out that continuation of the work would cause "irretrievable damage" if a final hearing, over which he will preside, determines there should be no road work at all.

The pictures Judge Anderson saw in the austere Salt Lake City courtroom revealed how extensive the road improvements would be, said Rodney Greeno, a researcher for the Southern Utah Wilderness Alliance. His group sought the injunction along with the National Parks and Conservation Association, The Wilderness Society, and the Utah Wilderness Society, and Utah Chapter Terri Martin said the photos of the Burr Trail's rugged beauty vividly revealed the environmental values at stake.

"The road is one with the land; it's consistent with the experience of wilderness," Martin said. The Burr Trail travels between two wilderness study areas and through eight miles of Capitol Reef National Park.

Greeno, who testified for six hours, said he talked about the Burr Trail as a "1950s Utah adventure... There's no white-line fever. This is one of the very few roads that forces you to drive slowly. You're not insulated from what you see."

The legal issues argued before Judge Anderson centered on what governmental body had jurisdiction over the dirt road. Lori Potter, a coalition attorney who is with the Sierra Club Legal Defense Fund, said Garfield County argued that since it built and maintained its section of road, it could also widen and realign it, cut 500,000 cubic yards of sandstone from adjacent canyon walls and use the material as fill.

Potter said the county based its claims on an 1866 law, R.S. 2447, that Congress passed to aid access to mining claims and homesteads under 19th century settlement laws. Potter said the county's purpose in upgrading the road -- to encourage tourism by tour buses and recreation vehicles -- was not authorized by the old law.

The judge agreed to that point, she continued, as well as with the contention that county jurisdiction on any county road right-of-way was limited to the original alignment and width of the trail.

But Judge Anderson did not rule on whether the legal requirements of the National Environmental Policy

Act must be met before any road work could proceed. The Bureau of Land Management sided with the county and refused to do any environmental review, attorney Potter said. All but six miles of the trail, however, pass through BLM or Park Service lands.

If Garfield County presses for a final hearing rather than an appeal to the Tenth Circuit Court, Potter said the conservationist coalition would add more elements to its case. One involves jeopardy to 18 designated archaeological sites on or under the trail; another is evidence of endangered species that nest in Long Canyon, she said.

Garfield County's attorney, Ronald Thompson, said after the hearing: "All I can say is this battle is a long way from being over."

Conservationists have been battling county efforts to obtain state and federal funding for eventual paving of the Burr Trail for years. Last year Congress declined to authorize \$6.7 million to pave part of the road.

--Betsy Marston

Sagebrush rebel wins post

The New Mexico Senate March 13 easily confirmed former New Mexico Cattle Growers president Bob Jones to the state Game and Fish Commission (HCN, 3/16/87).

New Mexico environmentalists and sportsmen had protested Gov. Garrey E. Carruthers' nomination of Jones, who is a one-time Sagebrush Rebellion leader and outspoken critic of national environmental groups. But New Mexico environmentalists were unable to mount organized pressure to defeat the appointment in a conservative-dominated Senate.

With ranchers packing the Senate gallery, the Senate Rules Committee voted 7-1 after a four-hour March 12 hearing to recommend that Jones be confirmed. The full Senate concurred the next day, voting 30-3 without debate.

More than 200 ranchers sat in on the afternoon hearing, while only a handful of conservationists attended. "We have always been the groups that have needed grass-roots organi-

zation to be successful, and they beat us at it," said David J. Henderson, director of the National Audubon Society's Randall Davey Center in Santa Fe.

While Jones refused to apologize for past statements, he promised to start a "clean slate" in dealing with sportsmen and environmental groups.

In addition to stockmen, state legislators and New Mexico State Land Commissioner Bill Humphries spoke in support of Jones. New Mexico Sierra Club, Audubon Society and Earth First! representatives testified in opposition.

Will Oulette, a New Mexico Wildlife Federation board member, was the only representative from the state's largest conservation organization to speak at the hearing, even though Jones has attacked the National Wildlife Federation's "selfish and socialistic tendencies."

--Tom Arrandale

HOTLINE

EPA is off course

When senior staffers at the Environmental Protection Agency listed their priorities recently, they discovered the agency was not on course. The EPA found it has been spending most of its time on low-risk issues rather than on issues posing the greatest risk to public health and the environment. EPA administrator Lee Thomas, who requested the review and resulting internal report, says the agency should concentrate less on the regulation of underground storage tanks and management of hazardous waste, and more on the destruction of the ozone layer, exposure of workers to toxic chemicals, contamination of drinking water, and air pollution from lead and sulfur. Called *Unfinished Business: A Comparative Assessment of Environmental Problems*, the report ranks 31 environmental concerns by their health, ecological and welfare risks. For more information, contact Luke Hester, A107, Office of Public Affairs, U.S. Environmental Protection Agency, 41 M St. S.W. Washington, D.C. 20460 (202/382-4383).

Tunnel bomb

A nuclear bomb was exploded this March in a tunnel beneath the Nevada desert, the Department of Energy said. It was the third nuclear test at the Nevada test site this year. The detonation was the first tunnel explosion since a similar test went awry last April and destroyed millions of dollars of scientific instruments, DOE spokesman Dave Miller told AP. Miller said the test, called Middle Note, was conducted 1,300 feet beneath Rainer Mesa, 93 miles northwest of Las Vegas.



Elk bounce back

At 8,348 animals, the elk population on the National Elk Refuge in Wyoming is the highest since 1980. The elk congregate in feedlines where they are fed alfalfa pellets, making it easier to do a census. The most recent count found 7,820 at the feeding area and another 528 on surrounding slopes. After the herd dropped to a low of 5,010 on feed lines in 1984, stricter hunting regulations were imposed to allow the herd to recover.

BARBS

It may be that the publisher ignored bills, in the belief that they were bad news.

A two-year-old Montana newspaper named *Good News Great Falls* has gone bankrupt, owing creditors roughly \$40,000. The paper, which circulated free, published only good news in its news columns.

6-High Country News -- March 30, 1987

HOTLINE

**The Chief
defends roading**

New Forest Service Chief Dale Robertson spoke in favor of continued below-cost timber sales and road building in national forests before Congress last month. Robertson stressed the importance of national forests as a source of timber and said the below-cost sales issue obscures the public benefits of logging and road construction. Most recreational uses also require roads, he said, and opposition to further road building is really an effort to change multiple-use management of the national forests. "I am insisting that we should be careful not to trade off the broad public interest in order to satisfy the demands of one particular group," Robertson told the *Casper Star-Tribune*. "To do so would not serve the long-term interest of the public, and it would undermine our credibility as professional land managers."

**Gone with the wind**

The amount of land damaged by wind in the 10-state Great Plains region so far this winter is double the average for 1970-1984. According to the U.S. Department of Agriculture, 1.5 million acres have been damaged and another 13.4 million are unprotected and vulnerable. Some 98 percent of the eroded land was cropland and 1.7 percent was rangeland. Northern plains states were hit hardest, especially Montana, which suffered wind damage on 761,000 acres. In North Dakota, destruction occurred on 199,100 acres, but in the southern plains the number of acres damaged by wind decreased, with the exceptions of Colorado and Kansas. Wilson Scaling of USDA's Soil Conservation Service, said the summer drought of 1986 left a low crop residue, and heavy rainfalls prevented farmers from planting cover crops. When unusually high winds hit, he said, the lack of erosion-control practices and large open fields without windbreaks combined to increase the damage. A wind-erosion rate of 15 tons per acre per year is considered damaging; that rate is three times the rate of soil loss the USDA considers "tolerable."

BARBS

Yeah, next time he'll get six years' probation.

U.S. District Judge Paul Hatfield in Montana sentenced former gun dealer William W. Szudera to three years' probation for unlicensed dealing in firearms. The judge warned, "If he attempts to continue to be a gun dealer, then he's in big trouble."

The Big Open: Montana's Serengeti Plain

Take a chunk of the Great Plains the size of Belgium. Add the Missouri River, some craggy river breaks, a few junipers mixed with stringers of yellow pine and a big, bright Montana sky.

Imagine thousands of bison; picture elk on the ridges, bighorn in the coulees and raptors floating overhead. Recall Lewis and Clark's vivid descriptions of the great herds of wildlife they encountered on the Great Plains.

Picture all that wildlife in a 12-million-acre area that today has 3,000 scattered human inhabitants, and you'll know Bob Scott's vision for a remote piece of eastern Montana known as the Big Open.

Scott is a Hamilton, Mont., engineer who calls himself a freelance researcher. He says the enormous prairie outback surrounding the Charles M. Russell Wildlife Refuge southwest of Glasgow could rival East Africa's Serengeti Plain in wildlife abundance -- and in money generated from wildlife-related recreation.

During a recent forum on wildlife and economics in Missoula, Scott revealed his ideas for the Big Open Wildlife Range.

"I'm talking about the return of the buffalo," and an unrivaled... international attraction," Scott said. Both Scott and the Institute of the Rockies, a Missoula-based organization that sponsors educational forums on environmental, economic and cultural topics, are touting the Big Open proposal and Scott and the institute also have a pitch for the chamber of commerce.

"We can talk about esthetics... but to live in this state, we're going to have to talk about dollars," Scott said, adding that the proposal to turn the Big Open into a wildlife range would both correct environmental problems and help stabilize Montana's economy.

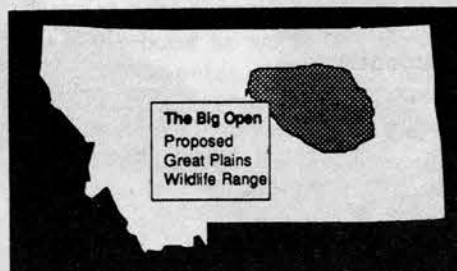
Scott said by replacing the Big Open's 363,000 domestic livestock with an equivalent number of big game animals, the area would become a center for an industry based on guided hunting, wildlife safaris and meat and hide processing. By charging hunters and outfitters a fee to use private lands, the area's landowners would pocket \$40 million in annual income, Scott said.

According to his analysis, the new industry would also create a demand for lodging, food and taxidermy. Scott said the total annual income for the four-county area would eventually reach \$60 million -- a six-fold increase from the present. He added that 1,000 new jobs would be generated in the Big Open and the income for an average rancher, who charges for land access and outfitting, would double.

Scott said the range could produce an annual harvest of 80,000 big-game animals and \$10 million in annual license fees for the state.

Scott also said the proposal has ecological benefits such as the elimination of livestock-caused soil erosion, preservation of native prairie plants that have long suffered from grazing and the possible return of rare wildlife such as the wolf and black-footed ferret. These changes would attract non-hunting tourists, Scott added.

Moreover, because there will be more big game in the Big Open,



Montanans can expect less hunting pressure elsewhere in the state, he said.

Are there enough people out there ready to shell out big bucks for hunting in the Big Open? Absolutely, Scott said. "If my market notions are right... and I think they are... we are failing to fill a market now." Scott said Montana now receives 32,000 applicants a year for non-resident hunting licenses, but the state can sell only 17,000 licenses based on present game populations. He said potential income is lost when hunters are turned down for licenses because there is not enough game.

Scott said the range "can't be made a reality without cooperation," and private land owners changing their way of doing business. However, the proposal "is in the best interest of the landowners" since their land would be more valuable, he added.

Scott's study on the Big Open cites a Harvard School of Public Health report, which says the Big Open's four counties are among the 150 poorest in the United States.

Can hunting save ranchers?

Managing wildlife as a cash crop would boost Montana's strapped economy and decrease the state's traditional reliance on less stable enterprises such as farming, ranching and logging, an audience was told at a mid-February conference in Missoula.

At a forum sponsored by the Institute of the Rockies, wildlife managers, ranchers and researchers told 40 conference participants that fee hunting and wildlife-related tourism may hold the key to the state's economic well-being.

Institute Vice President Charles Jonkel said managing ranch and farm land for big game is "environmentally and culturally sensitive development." He is worried that much of Montana's private agricultural and ranch lands will be taken over by out-of-state interests unless economically depressed landowners convert to businesses such as fee hunting.

"Will we sit by and let the robber barons rob our land again?" he asked.

Fee hunting -- charging hunters to hunt on private land -- and the conversion of private land to wildlife range were the main topics at the forum.

Economist Alan Bjergo, the non-profit institute's president, said two-thirds of the state's 2,400 farms and ranches are either in serious economic trouble or just barely hanging on. Montana's agricultural community lost \$351 million in 1985 and the state may have only 6,000 ranches and farms by the year 2000, he said.

Many of the speakers said the outfitting industry will play an important role in Montana's future if open spaces are managed for big game.

The Institute of the Rockies hopes to refine and publicize Scott's proposal, but will do so slowly for fear the deal will be misconstrued as a government takeover. Actually, Scott said, it would not be necessary for the government to purchase any private land for the wildlife range if landowners manage their holdings for wildlife instead of livestock.

Alan Bjergo, the organization's president, said when the proposed wildlife range is first mentioned to eastern Montana ranchers, "their hair goes up." Responding to Bjergo's suggestion that landowners will warm to the idea of a wildlife range, a rancher at the institute's recent conference drew some laughs when he said: "I'd like to see you play that suggestion in the Hell Creek Bar in Jordan."

At 500 people, Jordan is the largest community in the Big Open; it is the center of an area where residents have battled the government over management of the Charles M. Russell Refuge.

To Charles Jonkel, the institute's vice president, the wildlife range proposal may be the sole economic alternative for the area's strapped ranchers and farmers. The Big Open proposal may look like a good idea to landowners when they are faced with losing their land through foreclosure, he said recently.

--Bruce Farling

Outfitter Smoke Elser said instead of being a "bunch of ostriches" who hide from trouble, Montanans should look at the state's economic dilemma as an opportunity to make a living from their recreational interests.

Elser, who outfits in the Bob Marshall Wilderness, said commercial opportunities abound not only in guiding hunters and fishermen, but also in wildlife viewing and treating out-of-staters to Montana's traditional lifestyles. "There's a ton of money to be made in taking a wealthy guy to a sheep ranch" and setting him up to live in a wagon, he said.

According to Steve Laursen, forestry specialist for the Montana State Extension Service, landowners are receptive to making money from wildlife. He said 90 percent of the 600 landowners he recently surveyed about fee hunting indicated they want reimbursement for letting hunters use their land. Laursen said only 8 percent now charge a fee on their lands.

But conservationist Jim Posewitz warned that too much emphasis on fee hunting might lock Montanans out of lands they have been hunting on for years. He said hunting in Montana might evolve into a matter of privilege, based on an ability to pay.

Posewitz, who works for the Montana Department of Fish, Wildlife and Parks, said, "I have no problem with a rancher charging access fees -- that is his right." But commercialization of wildlife could lead to ranchers and outfitters dictating to the state who gets hunting licenses, he added.

--Bruce Farling

Study concludes ecosystem is mismanaged

A report on the Yellowstone National Park ecosystem by a congressional research agency has harsh words for the area's federal managers.

The Congressional Research Service, an arm of the Library of Congress, said the Forest Service and Park Service, which manages most of the land in and around the park, do poor research and often use incomplete and conflicting information to make land-use decisions. The result is mismanagement of the grizzly bear, a threatened species, the report said. The report also said national forests that surround the park consistently underestimate the value of tourism to the region.

A spokesman for The Wilderness Society, which issued a report of its own in January that made similar points, said the new report confirms their conclusions. Michael Scott, director of the group's Northern Rockies regional office in Bozeman, Mont., said the report points out that the methods of federal land-management agencies are "shoddy, deficient and often contradictory."

Forest Service officials in the area are building roads for logging, developing oil and gas and cutting timber with very little idea of how their action will affect the health of the entire ecosystem, Scott added. "We're recommending a moratorium on development until the agencies figure out what they're doing."

Yellowstone National Park Super-

intendent Robert Barbee said he had not seen the report and declined to comment.

Bob Breazeale, supervisor of the Gallatin National Forest in Montana, was critical of the report, which was done at the request of two subcommittees of the House Committee on Interior and Insular Affairs. He said that some of the problems the report cited, such as a lack of ways to measure cumulative effects, are being changed. A new system for measuring impacts throughout the region has just been completed. "The analytical process is just now being prototyped and is ready to use," Breazeale said.

Breazeale said what critics of the Forest Service often miss is that federal law mandates that national forests be managed for often contradictory uses. "We're not going to turn the national forests into a national park any more than a national park is going to be turned into a national forest," he said. If changes in forest management are desired, he said, Congress must change the law.

The report said one of the most serious problems in the Yellowstone region is the management of the grizzly bear, both within and outside of the park. Yellowstone is one of the bear's two remaining strongholds in the lower 48, with a population estimated at somewhere around 200. "Two outstanding facts would lead the most impartial observer to

conclude that the federal grizzly bear management program is flawed: Deaths continue and statistics on those deaths are suspect," the report said. Human-caused mortalities are the greatest threat to grizzlies.

The report pointed to several areas with high concentrations of grizzly deaths, which it called "black holes" for bears. These included Fishing Bridge, a large campground within Yellowstone that the Park Service planned to tear down, and then, in the face of opposition from businesses in the tourist town of Cody, Wyo., decided to leave open. The report said the Park Service killed 10 bears at Fishing Bridge over the past 10 years after the bears came into conflict with humans. But researchers were unable to make recommendations to rectify the problem, saying data on the grizzly deaths for Fishing Bridge were so poor they were "almost useless."

The Congressional Research Service report said different agencies in the Yellowstone region with similar responsibilities often have grizzly data that is inconsistent or non-existent. When researchers requested information from Wyoming's Department of Fish and Game and the Interagency Grizzly Bear Coordinating Committee on bear mortalities, for example, they received two different numbers. The state reported 94 bears had been killed from 1975 to 1985, and the Interagency Committee, which is made up

of representatives from state and federal agencies, reported 63.

The report said the Interagency Committee only compiled the information on grizzly mortalities after researchers requested the data. "The truly surprising finding is that such information was not already accessible to the IGBC -- which is charged with coordinating recovery of this population -- before congressional inquiries began."

Part of the problem, according to the Forest Service's Breazeale, is that prior to 1980 there was no systematic compilation of information on bear deaths and data for those years is hit or miss.

Among the Congressional Research Service's recommendations are that a new system of classifying grizzly habitat be developed, that bear deaths be more fully investigated, that agencies more vigorously enforce laws against killing grizzly bears, and that better statistics on bear deaths be kept.

The Park Service could improve its research by making it independent, the report said. The Park Service is the only land-management agency without an independent research arm, the report said. One result is that research projects often end when personnel changes.

The report also recommends that all federal agencies in the area coordinate proposed development activities such as roadbuilding, logging and oil and gas development, so that cumulative impacts can be understood and measured.

--Jim Robbins

Drought, federal agencies threaten Northwest's salmon

Unless March and April precipitation is well above normal, Idaho's ocean-bound salmon and steelhead will face a migratory test this spring. Their success will hinge on another test -- the first real one -- of the complex, multi-agency system designed five years ago to ensure that reasonable numbers of fish reach the ocean.

From mid-April to mid-June, the migratory instinct triggers both wild and hatchery juvenile salmon and steelhead to leave Idaho headwaters on a journey down the Snake and Columbia rivers to the Pacific.

Even in a good water year, over half of the fish are killed by the eight dams and reservoirs they must pass. In a low water year, when flows are sluggish and almost all fish are pushed through turbines, 90 to 95 percent of the tiny juveniles are destroyed.

This spring, unless things change, flows will be roughly half of normal in the upper and middle Snake River. Steve Pettit of the Idaho Fish and Game Department says the "numbers aren't as bad as the drought year of 1977, but they're close." Without heavy snows in the next month or so, he says, "It looks like the Northwest Power Act and the Water Budget are facing their first serious test."

The 1980 Northwest Power Act secured what regional fish interests see as an unequivocal mandate that fish and hydroelectric production be treated equally in the management of the Columbia Basin. The Water Budget, adopted in 1982 by the Northwest Power Planning Council, is the administrative means to that end.

It provides for an average flow of 85,000 cubic feet per second (cfs) during the migration period at Lower Granite Dam, the Snake's last dam before it joins the Columbia. Pettit says, "Mortalities are still very high at 85,000. But it prevents real disaster in a low-water year."

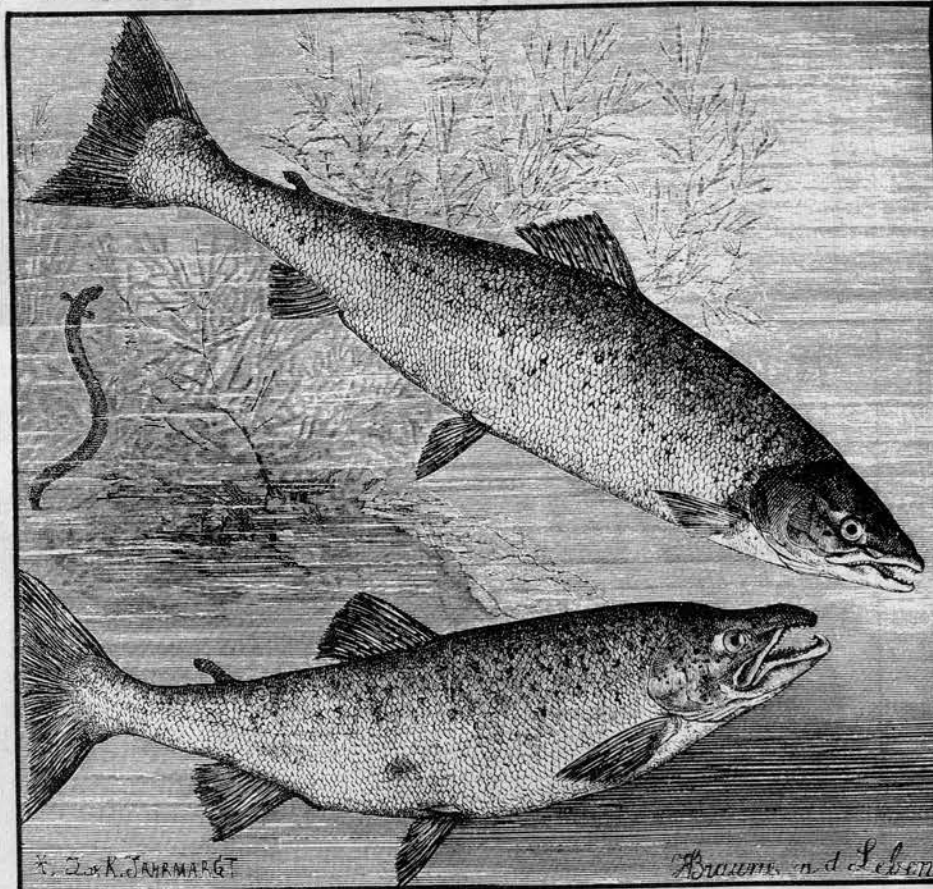
However, the Power Council doesn't control the water. The flows are in the hands of nature and of the Bonneville Power Administration (BPA), the U.S. Army Corps of Engineers and the Idaho Power Company. Those organizations have interpreted the Water Budget as a target, not a mandate. In 1985, for instance, there were 22 days of flows under 85,000 cfs during migration.

"One result is that Idaho probably won't have a spring chinook salmon season this year," says Dan Magers of Idaho Steelhead and Salmon Unlimited. "The returns from that 1985 generation of migrants will be too low."

Idaho Fish and Game, Steelhead and Salmon Unlimited, and the fishing tribes are all worried that the Water Budget will again be ignored, but this time with more serious consequences. "This is going to be a much worse water year than 1985," says Magers.

As of later February, the BPA was not as worried as fish advocates. Spokesman Bob Griffins said, "Assuming weather from here on is normal, we would expect flows around 85,000 (at Lower Granite)." He said there is a probability of lower flows, but that it would take until April for the agency to have confidence in flow forecasts.

The movement of fish downstream is a science. The state fishery



A turn-of-the-century lithograph showing steelhead, above, and salmon

agencies and the fishing tribes monitor the fish movements with great precision, and can call for precise "pulses" of water at critical times to move the maximum number of fish through reservoirs or wash them over dams. "If the 85,000 cfs is provided, we can use it for optimum results," Pettit says.

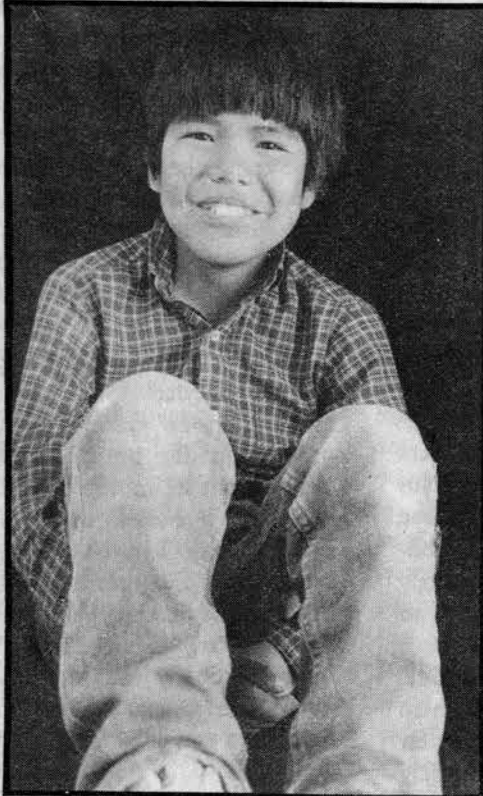
Fish interests have less faith in mechanical movement of the fish. Magers of Steelhead and Salmon Unlimited says, "The downstream trucking and barging [in which fish are collected and transported past dams] is primarily for hatchery steelhead. Strong flows and spills

over dams is what gets our salmon and wild steelhead to the ocean. The Corps is already saying that if conditions don't improve this year, they'll have to keep spill to a minimum. Well, from our standpoint, what has to improve this year is their cooperation to help fish."

Whether or not the Water Budget works this year, the fish agencies and tribes will fight to establish a minimum flow at Lower Granite. Rather than having to rely each year on the cooperation of BPA and the Corps, they want a legally enforceable minimum-flow for fish.

--Pat Ford

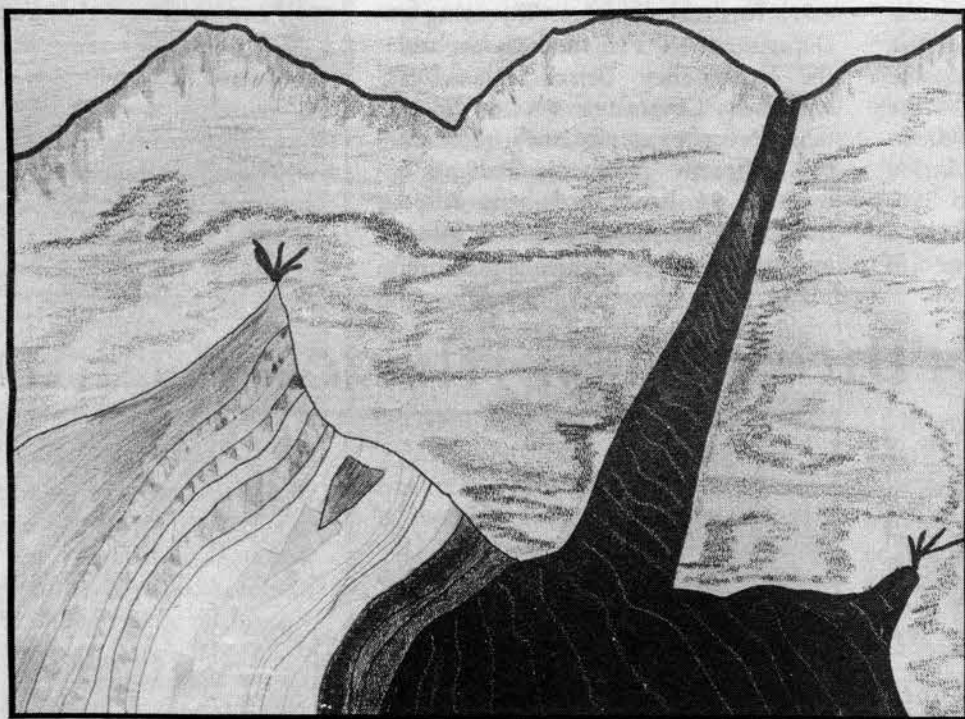
MAX BENALLY, 10: The pile of rocks keeps coyote away from the sheep.



Bruce Hucko



Navajo scarecrow



The way the water flows

DELPHINE TANNER, 11: The water comes down, then it slowly turns into a rug. The designs come from the waves.

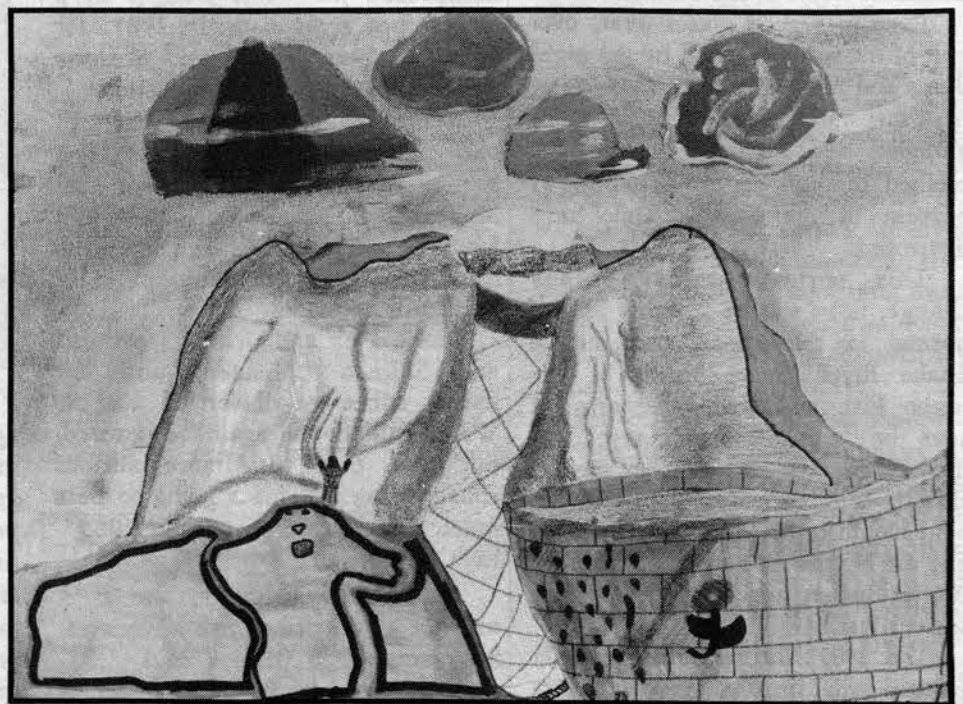


Bruce Hucko

CERELIA DEE, 11: My picture came from my brain. The ghost just landed there... The water flowing down looks like braids. Blood is running down the hill to the little girl. Clouds came out as caps and different designs.

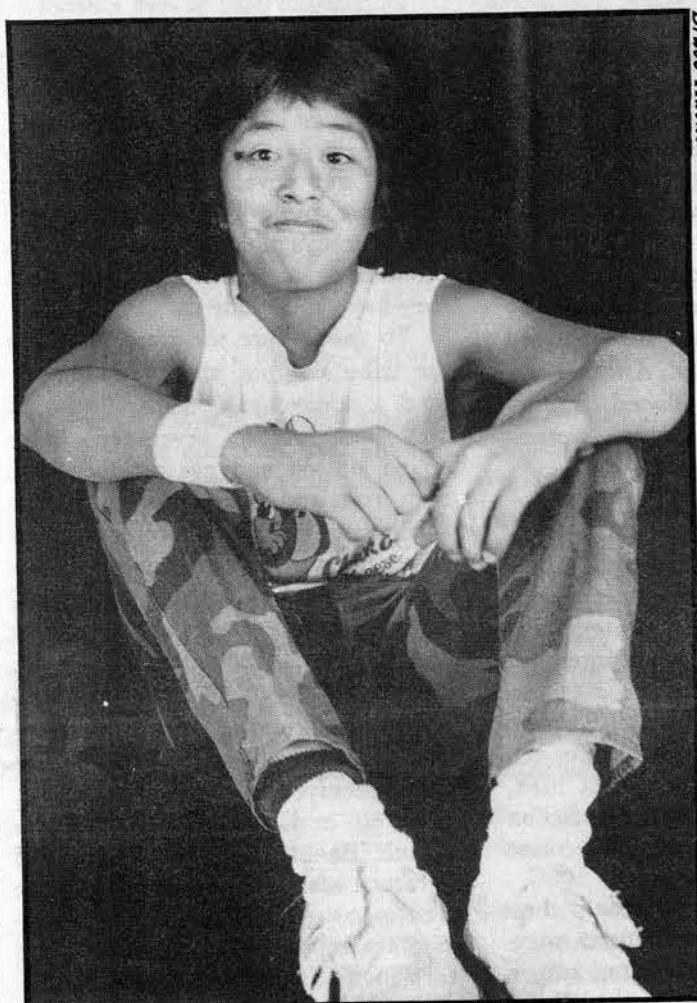


Bruce Hucko



The funny picture

STEWART SAM, 12: 'Chiindi' is somebody in my dreams. In English he's like the devil. He does witchcraft, curses people and hypnotizes with his eyes. He disguises himself as a maii [coyote].



Bruce Hucko



My Chiindi

Have you ever seen a rainbow at night?

THE ART OF NAVAJO CHILDREN

What do you see when you look out your kitchen window? Cecilia Dee, who lives on the Utah portion of the Navajo Reservation, sees flowing water that reminds her of braids. Max Benally thinks of a scarecrow made from a big pile of rocks.

When Indian youngsters paint their world the symbols they use tell us a lot about the enduring elements of Native American culture. One of the strongest elements is a vivid blending of myth and imagination.

Artist-in-Education teacher Bruce Hucko, who has worked on the reservation for six years, was intrigued by the paintings his students produced and he was curious about where the children's ideas sprang from.

So Hucko, whose work is sponsored and supported in part by the Utah Arts Council, began asking the children questions and making notes. Then he took candid photos of the

artists, mounted and framed their work, and entered it all as a potential travelling exhibit for the state arts council. The show, called "Have you ever seen a rainbow at night?" was accepted and is now on a two-year tour of Utah museums and schools.

Hucko winnowed the exhibit of 37 pieces from 200 produced by elementary school children in the communities of Montezuma Creek, Bluff, Aneth, Red Mesa, Mexican Hat, Monument Valley and Oljato. He wished all the children's art could be shown, he says.

To build on what they have accomplished, Hucko and the artists would like to do a poster to help raise money for both a book and a Navajo children's art foundation. For more information about the art work, which can be purchased, or about future plans, write Bruce Hucko at P.O. box 399, Montezuma Creek, UT 84534.

--Betsy Marston

JANELLA BENALLY, 11: Have you ever seen a rainbow at night?



The spirit is coming

10-High Country News -- March 30, 1987

An Indian tribe regains its sovereign rights over 3 million acres

by Steve Hinchman

A quiet and little-noticed battle has been fought and won in the desolate high country of eastern Utah over the last decade. In a landmark case, 2,500 members of the Northern Ute Indian tribe have re-established sovereignty over three million acres in Utah's Uintah Basin.

The decision, handed down by the 10th Circuit Court of Appeals and backed by the U.S. Supreme Court, restores the Northern Ute's Uintah-Ouray reservation to its original size of 4 million acres, making it the second largest Indian reservation in the nation. The decision does not give title to a single acre of land back to the Utes. Instead, it extends tribal government to the 3 million acres, giving the tribe criminal and civil jurisdiction over the vast majority of the Uintah Basin.

Now included within the Ute reservation are 90 percent of Duchesne County, 60 percent of Uintah County and the cities of Duchesne and Roosevelt, all of which are 90 percent non-Indian. In addition, the Uintah Basin oil and gas fields, worth millions of dollars a year to the state in tax revenues, are also on the reservation.

The case reverses the status of Indians and whites living on the 3 million acres that had been under the jurisdiction of cities and counties. The newly established Ute jurisdiction exempts tribal members from state and county laws and taxes, bringing them instead under the authority of the Ute Tribal Business Council, which is the tribal government. Jurisdiction also gives the tribe some authority over non-Indians and, in theory, the right to tax, to regulate land use and planning, to issue business licenses and to exercise nearly all other powers enjoyed by state and county governments.

That prospect has brought angry protests from area residents, who say they are now at the mercy of a foreign government. Dennis Draney, the former Duchesne County Attorney, notes, "As a non-tribal member, I can't vote for leaders of the tribe's government. But, in fact, they may be able to exercise governmental authority over me and my family. That's government without representation."

Duchesne and Uintah counties spent over a million dollars between them to fight the jurisdiction case. Now that it is over, many residents

say the court decision raised more questions than it answered. The paramount questions are what degree of authority the tribe legally can assert over non-Indians, and how much they will try to assert.

For now, residents are taking a wait-and-see attitude, but many say they will resist if the tribe enacts ordinances taxing their property or regulating civil activities. "If I have to go to the tribe to do something, then there will be lawsuits," promises ex-County Commissioner Ted Kappen.

The Utes argue that they have had jurisdictional powers all along and that this case merely confirms those rights. The issue reveals to all concerned that the Ute Tribe is a legitimate government, equal to the surrounding state and county governments, says tribe member Clifford Duncan.

"Jurisdiction is not something gained," says Duncan. "We, as the first Native Americans, still have certain rights that were never given up. To treat Indians as foreigners who just came onto the land is wrong, because we were here first."

The jurisdiction controversy dates back to 1975, when the Utes initiated a law and order code that included not only the 1 million acres in trust lands (lands owned by or allotted to the tribe), but also 3 million more acres that were within the reservation's exterior boundaries. The counties and the state refused to

Ravell Call, Deseret News



Alton Moon and his family now live inside the boundaries of the Uintah-

Ouray Reservation

recognize Ute jurisdiction outside the trust area. They argued that when the reservation was opened to homesteading in 1906, all lands not allotted to the tribe were returned to the public domain.

Of the 3 million contested acres, nearly 2 million were settled by whites after 1906, and incorporated into local governments. Another 1.1 million acres were placed in the Uintah Forest Reserve by presidential decree.

For the Utes, jurisdiction over the entire reservation is seen as necessary to protect both tribal members and tribal interests, especially since Indians are a minority on the reservation. Stephen Boyden, who was the lawyer for the Utes when the case was first filed, says the lack of criminal jurisdiction on the reservation was the most vexing problem.

"Indian people in what they perceived to be Indian country were being tried in state courts, rather than tribe and federal courts. From the standpoint of the tribe, those people were in the wrong forum and didn't understand the system. The tribe felt they were exploited," Boyden says.

Business Council member Stuart Pike says the tribe also filed the suit because the state and county governments were constantly infringing on tribal lands and water rights while

denying the tribe any share of income from oil and gas tax receipts. "Our area was impacted heavily by oil and gas development. Everybody got their piece of cake except the tribe," says Pike. "The suit re-establishes the reservation and says they have to include us."

To make sure the state observes the tribe's rights, the Utes recently filed a second suit, demanding that the state return severance taxes levied on oil and gas produced on both trust and reservation lands. The suit says the state overtaxed the tribe in the five-year period beginning in 1980, taking over \$20 million in taxes but only returning \$3.5 million in services. Pike says, "They owe us the difference."

A second part of the suit claims a share for the tribe of the \$150 million Utah received in federal royalties from oil and gas produced in the Uintah Basin. States are obligated to return some of those monies to the area to cover economic and environmental impacts from mining. Pike says local cities and counties received those funds but not the tribe.

The stakes are higher than the lawsuit would indicate. Utah tax experts estimate the state's revenue from oil and gas production in the Uintah Basin at close to \$40 million a year. They say Ute jurisdiction over the area may put all or some of that figure in jeopardy. The threat comes at a time when Utah state government is in terrible financial shape.

Other than dunning the state for its share of oil and gas tax revenues, which was expected, the tribe has yet to use their newly confirmed rights. Lester Chapoose, who is the Tribal Business Council Chair, says the council currently has no plans to enact any laws or taxes that would affect non-Indians. Things will continue as they always have, says Chapoose.

But Chapoose can't vouch for the future. The tribe may make changes at a later date, he says, because, "we have the authority to tax under the constitution. It's a sovereign right."

That possibility makes many local people nervous and adds to the uncertainty that has been troubling the basin since the initial court decisions in the Ute's favor. "Very few people are willing to invest here. They don't know how it's going to turn out," says Roosevelt realtor Dean Frandsen.

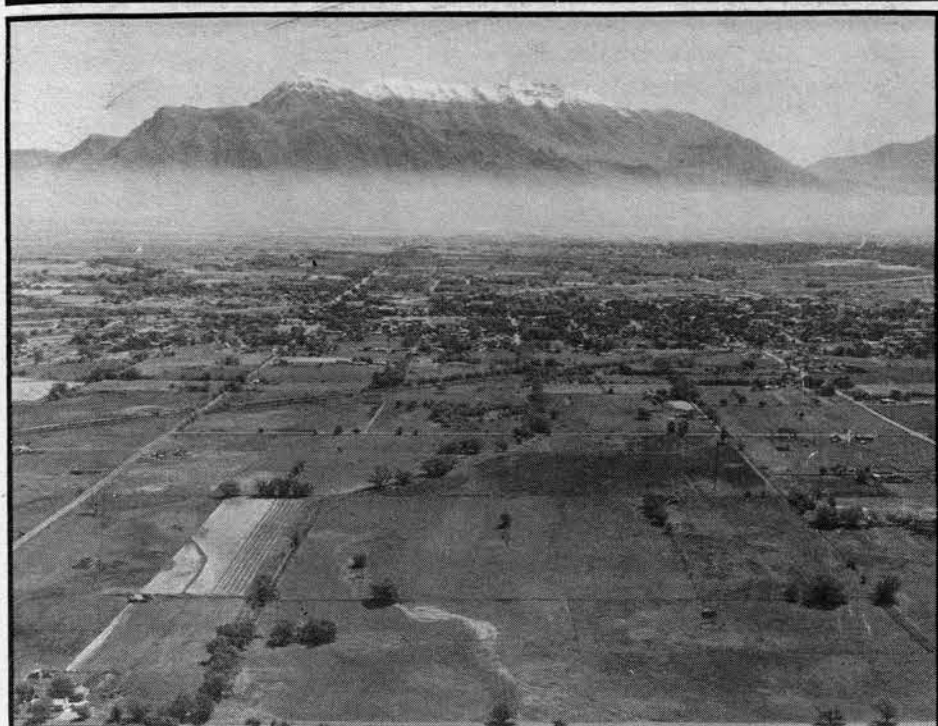
John Martin



Ute Tribal Council. Standing, from left, Leon Peranck, Maxine Nachees, Frank Arrowchis and Stewart Pike.

Sitting, Floyd Wopsack and Chairman Lester Chapoose

(Continued on page 11)



A suburban part of Utah County, on the Wasatch Front, which will

receive CUP water from the Uintah Basin

Bureau of Reclamation

How the Ute Tribe lost its water

by Richard White and Ed Marston

The way in which the Northern Utes of northeast Utah have lost their water to the Central Utah Project is both difficult to believe and all too believable. This loss, in combination with attempts to curtail Ute sovereignty, has plunged the Utes into a struggle with the federal and state governments to preserve their resources and sovereignty.

It is difficult to believe because of the immensity of the loss the Utes appear to have suffered. It is believable because it is merely another example of how, after the first great taking in the West of land and resources, Indians all over the West have continued to lose large chunks of what had been left to them.

The need for the ongoing taking

in the case of the Utes comes from a misjudgment by the federal government. When the federal government created the Uintah and Ouray reservations, it assumed they would never have anything of value. At the creation of the Uintah Reservation in 1861, the basin seemed "one vast contiguity of waste," useful only as a place for Indians and "to hold the world together."

Originally, the reservation was a refuge for the Uintah Utes driven from lands west of the Wasatch by the Mormons. In 1880-1881, they were joined by the Uncompahgre and White River Utes, Colorado bands that lost their western Colorado lands after the Meeker Massacre in 1879. The White Rivers settled at Uintah. The Uncompahgres obtained the adjacent Ouray Reservation to the south. It is these three bands -- separate, distinct and to this day often mutually suspicious -- that make up the Northern Utes.

Initially, the Ute holdings in the basin were about 4 million acres. But in the period from 1861 to 1937, those holdings shrank by over 90 percent, to roughly 360,000 acres. Some of the shrinkage was accomplished through the creation of a national forest over Ute objections. Some was lost by allotment of tribal land to individual Indians, again over Ute objections. That resulted in the subsequent sale of those allotments to whites. Much of the loss was driven by federal water projects, which made the land desirable to non-Indians.

The Utes occupy high, harsh, arid land -- a desert basin whose elevation varies from

4,000 to 5,000 feet and rises higher on the benches. It is a drab picture in a spectacular frame formed by the Uintahs to the north, the Tavaputs Plateaus on the south and the Colorado and Green rivers to the southeast.

It is traversed by water flowing down out of the High Uintahs, into Rock Creek, Lake Fork, the Duchesne River and the Uinta River. It is water that is only passing through the Uintah-Ouray Reservation on its way to the Colorado and Green rivers to the southeast.

Despite their differences, the various factions of the Northern Utes are united on one point: that they were robbed of some of the water that flows through their reservation and to which they had very strong claims under the U.S. Supreme Court's 1908 Winters Doctrine.

In that decision, the court ruled that when Indians retained or Congress created reservations, the land came with enough water for the purposes of the reservation. These rights are not subject to the "use it or lose it" constraint of the doctrine of prior appropriation. The Indians' water rights remain firm whether or not the water is put to use. In addition, the Indian rights come with very strong seniority -- in the case of the Northern Utes, the rights date back to the creation of the reservations.

In 1963, the Northern Utes agreed to loan part of their water rights to the Bonneville Unit of the CUP. The loan came in the Indian Deferral Agreement. In it, the Utes agreed to delay development of at least 50,000 acre-feet a year of their

(Continued on page 12)

Sovereignty...

(Continued from page 10)

Real estate values have dropped, undermined by both the Ute case and a severe economic depression due to the oil and gas industry slump. People would move out of here in a minute if they could sell, says Frandsen. "If I could get my stuff sold, I'm gone. I

don't want to live under anybody else's jurisdiction."

Other residents argue that the case isn't settled yet and won't be for years. "The tribe told us there would be no changes," says ex-Duchesne Commissioner Alton Moon. "But if taxes are imposed I think the counties will take them back to court."

"In a country like the United States, it just seems weird that one

group can have special interests," says Moon's wife, Carol. "The government is going to have to make them citizens or make them their own nation," she adds.

Ute jurisdiction does not replace local governments, which represent and serve non-Indians, but comes as an additional, higher power -- like the relationship between state and local governments. While the tribe only has criminal jurisdiction over non-Indians when the case affects Indian affairs, it has broad civil jurisdiction over all activities that take place on the reservation. That opens up a Pandora's box of unresolved questions of authority between the tribe and local governments.

The consensus is that, depending on what the tribes do, the struggle could drag on for another 20 to 30 years in court, with the counties fighting the tribe on each issue. The alternative is for the tribes and local governments to negotiate their differences.

However, negotiations have already stalled over the same question of police jurisdiction that led to the initial lawsuit. County and city police forces were cross-deputized by the Bureau of Indian Affairs two years ago, giving them jurisdiction over both Indians and non-Indians. But BIA officers have not been cross-deputized in return, and the Utes say whites in the basin refuse to recognize the authority of their police.

Cross-deputization is a matter of practical importance, says Roosevelt Patrolman Dave Holmes. "It will

allow officers to respond to a scene without having to worry about jurisdiction." The reservation is a huge chunk of territory, too big for any one police force to cover, he says.

Holmes says negotiations over cross-deputization were making good progress until the tribe filed suit against the state for oil and gas revenues. Despite the snag, Holmes says BIA officers will eventually be deputized. "There's going to have to be an acceptance by people in the community that the tribal officers have jurisdiction over whites."

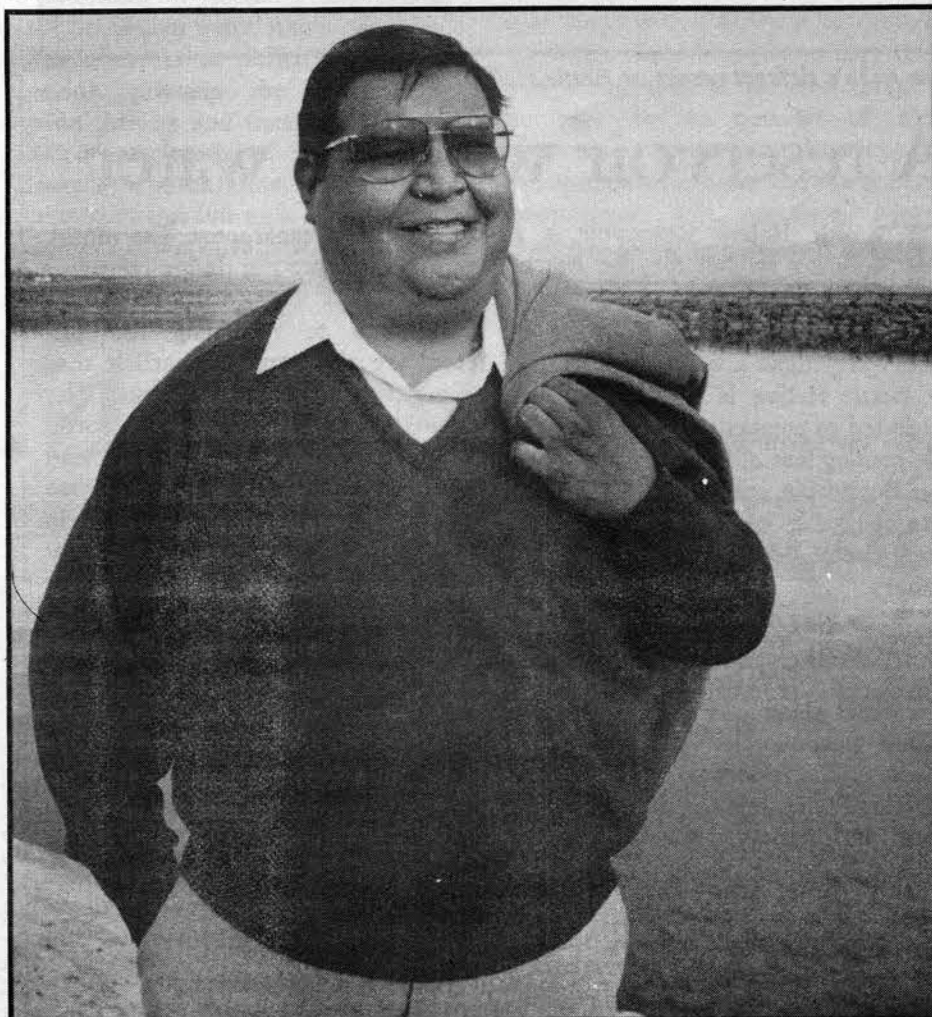
Some in the basin have hinted that if the situation becomes unbearable and their constitutional rights are endangered, they will ask Congress to step in and rescind the Utes' powers.

Observers of Indian affairs and Indian law say that is an idle threat. "Congress has been very reluctant to do that kind of thing," says Charles Wilkinson, a professor of law at the University of Oregon and a former attorney with the Native American Rights Fund in Boulder, Colo.

Wilkinson says the Ute case is backed up by a number of successful lawsuits on other reservations in the West. "It's part of a profoundly important trend," says Wilkinson. "(Indian tribes) are trying to establish what is legally theirs and you're seeing it on nearly every reservation in the country."

□

Former intern Steve Hinchman is now a staff reporter for *High Country News*. This story was paid for by the High Country News Research Fund.



Salt Lake Tribune

Lester Chapoose, in front of Bottle Hollow Reservoir

Ute water...

(Continued from page 11)

water, and allow it to be transferred west through the mountains to the Bonneville Basin along the Wasatch Front. The 50,000 acre-feet that the Utes loaned was their most accessible water -- the only water they could have hoped to develop at a moderate cost.

Part of the agreement has gone forward. Some time in 1987, with the completion of the Upper Stillwater Dam, water from Rock Creek will be diverted west through the mountains, and no longer even flow past them. For the time being -- the "time being" at least through 2005 -- the Utes have lost that water, and gained nothing in return.

But back in 1965, the Utes had reason to think they had struck a reasonable deal. The Deferral Agreement was signed by the Bureau of Indian Affairs, the Central Utah Water Conservancy District, which is the local entity in charge of the CUP, and the Bureau of Reclamation. It was then approved by the Secretary of Interior. Only the state of Utah did not sign it.

In return for the loan to the CUP, the Utes received a federal guarantee of their right to divert about 500,000 acre-feet of water a year, as well as a promise to irrigate a total of 29,118 acres of land that had neither a previous history of irrigation nor previously certified water rights. The federal government also agreed that some of the Ute water could be used for purposes other than agriculture.

The agreement was hailed as a great victory for everyone. It provided the CUP with both water and a guarantee that some future adjudication of Ute water rights wouldn't dry up the massive project. At the same time, it had also avoided for the Utes the expense of litigation while providing the tribe with water for future development of their reservation.

The future development could occur because the agreement gave the Utes a piece of the CUP. Their land was to be irrigated in the "ultimate phase" of the CUP; the Uintah, Upalco and Ute Indian units of CUP were to be built to enable the Utes to irrigate fully all the arable lands on the reservation at the earliest possible date.

The Utes could probably have



Michael Clinton, Department of the Interior

wrung a larger water right under the Winters Doctrine had they gone to court. But by being reasonable, and compromising, they had obtained not just a right, but a delivery system. The "paper" water a court would have granted had become "wet" water through the agreement.

Physically, the Deferral Agreement involved a water exchange. Ute water from the Uintah Basin was to be transferred west through the mountains by one part of CUP. Later, other CUP projects were to bring Ute water to reservation lands from elsewhere in the Uintah Basin and from outside the basin.

Today the deal looks different. The CUP reservoirs, canals and tunnels that will move Ute water to the Wasatch Front are nearing completion. But the Utes' projects are not being built. Those projects have been dropped from the CUP in response to an era of tight budgets and environmental awareness.

One of the dropped projects, the Ute Indian Unit, was always a precarious undertaking. It called for moving water to the Utes from Flaming Gorge Reservoir in Wyoming by an elaborate series of aqueducts, canals and tunnels through what is now the High Uintah Wilderness Area. Even in the palmy days of the 1950s, it would have been a tough one to pull off. By the 1970s, it was impossible.

It can be argued that the Utes should have known they were vulnerable. But they signed the 1965 agreement when water projects were doing well in the West, and when opposition to them was almost non-existent.

The Utes understood that their unadjudicated rights could stop the Bonneville part of the CUP. They also knew that stopping CUP wouldn't do them any good. The Utes had winnable rights to the water, but without the money it takes to build dams and canals to get that water to the land, the water was useless.

So the Utes signed the Deferral Agreement because they thought it guaranteed to them the water needed to irrigate 129,201 acres of land, or an annual diversion of about 500,000 acre-feet. They also believed that by becoming part of CUP, the federal government would build them the hardware to put that water to use.

The failure of the government and conservancy district to keep their part of the bargain was foreseen by some. William Veeder, then a solicitor in the Bureau of Indian Affairs, and who was already gaining a reputation as the "crazy man of Indian water rights," wrote a scathing memo in 1965. He said the Deferral Agreement was potentially unenforceable because it promised the Utes water projects not yet authorized by Congress. It also guaranteed Ute rights to water it was in no position to guarantee. The other major claimant of the water, the state of Utah, had not signed the agreement. Veeder warned that the document would cause "probable irreparable damage to the Indians."

Veeder proved an excellent prophet. In 1973 the government in effect unilaterally broke the Deferral Agreement. Assistant Secretary of Interior Horton recommended the construction of Currant Creek Dam, which would transfer waters out of



Upper Stillwater Drainage, taken in 1976 before construction of the dam began

the Uintah Basin, while he simultaneously ordered reconsideration of other water uses in the Uintah and Bonneville basins.

The decision to build the dam while restudying other parts of the project changed -- the Utes say broke -- the Deferral Agreement. Horton had tacitly admitted that although the elaborate Ute Indian Unit would probably never be built, the government planned to take Ute water anyway. This, the Associate Solicitor for Indian Affairs informed his superiors, was a clear violation of the

government's contractual commitment under the 1965 agreement. The Utes could sue to prevent diversions from the Uintah Basin. If changes in the agreement were necessary, he wrote, "the tribe must agree to such changes."

When the Utes protested Horton's actions, Interior Secretary Rogers Morton chose to regard the issue as a matter of detail. The government, he said, was committed to finding "a practicable way" to deliver the water to which the Utes were entitled. He would work to

(Continued on page 13)



The tribe's defunct resort at Bottle Hollow Reservoir

A reservoir without water

Bottle Hollow Reservoir is a fitting symbol for the Northern Utes' relationship to the Central Utah Project -- it is a reservoir without a water right.

Bottle Hollow is a plugged sink intended to compensate the Utes for the coming loss of Rock Creek. When the Bonneville unit of the CUP goes into operation, it will take water from Rock Creek, destroying that stream's fishery.

So as part of CUP, the Bureau of Reclamation built and filled with water the 420-acre Bottle Hollow Reservoir about one mile from Ute tribal headquarters at Fort Duchesne. The reservoir was stocked with trout and the tribe built a resort near it, hoping it would attract fishermen.

For various reasons, the plan has not worked. Until Lester Chapoose, who heads the tribal government, reopened the restaurant under lease from the tribe, the resort had been

closed and in bankruptcy. The motel, with its concrete tipi design, remains closed.

Barriers to reopening the full resort are the carp and catfish that have taken over the reservoir. The logical solution is to drain Bottle Hollow, refill it with fresh water, and restock it with trout. But Chapoose says he can't use CUP water to do that. The reservoir came with a right to use CUP water only for a first filling.

The Utes have made the \$2 billion Bonneville unit of CUP possible through their loan of 50,000 acre-feet of water a year, but they don't have enough CUP water for a small reservoir. If Chapoose wants to drain and then refill Bottle Hollow Reservoir as part of an effort to reopen the resort, he will have to buy, lease or borrow water from elsewhere.

--Ed Marston

Ute water...

(Continued from page 12)

ensure that "there be no action taken that will delay completion of the Central Utah Project as originally agreed to by the Ute Tribe."

In 1974, the Utes and the government even signed the Ute Indian Water Resources Planning Agreement to guarantee tribal participation in future decisions affecting the Utes. Those promises too proved to be empty.

In fact, by the mid-1970s, not just the Ute Indian Unit but the entire CUP had entered stormy waters. The Utes found that when they had boarded CUP, they had climbed on a badly listing vessel. Environmental legislation of the 1960s opened the CUP units to court challenge. In 1977, President Jimmy Carter attacked the CUP as part of his Hit List. The CUP, although damaged, survived. But inflation, the growing federal deficits, and huge cost overruns and mismanagement took further toll.

When the CUP, in distress, had to lighten its load, the Utes and their projects were abandoned. The Ute Indian Unit sank like a stone. A plan to pump Green River water up to some irrigable land replaced it, but high energy costs made this impractical, and it too disappeared.

Then, in 1982, the government scuttled the Uintah Unit. CUP rides higher in the water now, free of not only its Indian obligations, but also of its obligations to white farmers in the Uintah Basin. A multi-billion dollar Bureau of Reclamation project that was intended to provide irrigation water for Indians and whites in the rural Uintah Basin, while also moving water to the urbanizing Wasatch Front, has become mostly a Wasatch Front project. The bulk of the irrigation projects for the Uintah Basin have been dropped, while the Wasatch Front part of the CUP continues.

In the wake of this massive change, a federal employee, Michael Clinton, has been left behind to toss the Utes a life preserver. He is all alone. Most of the officials who created the present situation are now safely ensconced in private life.

As head of Interior's negotiating staff on Indian water rights disputes, Clinton is in a difficult position. Interior contains the Bureau of Indian Affairs and thus holds direct trustee responsibility for Indians. Clinton understands the consequences of this full well. He said last summer, "We have a legal, historical obligation to come down not in

the middle, but somewhere on the Indian side" in disputes with non-Indians over water.

But Interior also contains the Bureau of Reclamation. So Interior is not only the bill collector for the Indians, but also the deadbeat who refuses to pay.

Thus far, attempts to reach agreement have failed. The most recent attempt, in fact, enraged the Utes more than anything that had happened before. In that attempt, made about a year ago, three government representatives from the Interior and Justice departments made a complicated proposal. It involved, in part, allocating water in Flaming Gorge Reservoir to the Utes, and then paying them for the electricity it generated. That would have given the Utes about \$1.5 million a year for the water due them under the Deferral Agreement. The Utes think their water is worth far more; in fact, they think \$14 million would be a more reasonable figure.

The government's offer insulted the Utes, and there have been no meaningful negotiations since. Nor, according to Howard Pearson, a Bureau of Reclamation spokesman, does the Bureau see a pressing need for such negotiations. The government promised "early authorization and construction" of the Ute units under the Deferral Agreement. Even though it broke this promise, the Bonneville Unit does not have to restore water until 2005. There is no hammer to force the government to respond to the Utes.

The government position is that the agreement is still in force. If, in 2005, the federal government has not built projects to deliver Ute water to Ute land, then the 50,000 acre-foot "loan" to the Utes will end, and the tribe will get its water back, spokesmen say.

The Utes say that once the water is put to use on the Wasatch Front, there will be no way to get it back. Their position is that the Deferral Agreement is now dead, killed in the 1970s when the federal government abandoned projects that were to bring water to the Utes.

The Utes could take the government to court. If they really believe that they won't be able to recover the water once it is put to use, then this is the time to act. But there is no sign to an outsider of that happening. Instead, the Utes appear to hope that the state and the federal government will negotiate. Moreover, the Utes have recently gained a new weapon that may encourage the

The Utes found that when they had boarded CUP, they had climbed on a badly listing vessel.

state and federal governments to talk to the Utes. That weapon is the tribe's victory in the sovereignty case (see accompanying story).

Technically, the tribe's right to exercise sovereignty throughout its original 4 million acre reservation is unrelated to the water rights fight. But politically, the two cases cannot be separated.

The linkage comes from the proposed Utah Indian Compact of 1979, which would have granted state recognition of Ute rights to divert 471,035 acre-feet. The state has ratified the compact and says it is in effect. The Utes have not endorsed the compact; they say it gives the state too much power over how they will use their water. Almost certainly, any attempts to settle the sovereignty issue, in which the Utes have a strong case against the state, would come to involve the water issue, where they are weaker.

There are other imponderables, and an exploration of the Ute water question could, and should, fill a book. For example, the U.S. Supreme Court has ruled that water is an article of interstate commerce. That makes it conceivable that the Utes could lease their large Colorado River rights to an Arizona or Southern California city, and thereby put the water to use.

Such a lease would solve the tribe's problem of not having the capital to harness the water flowing through the reservation, and provide the cash flow they think the water should generate. Their right under the Deferral Agreement to a 500,000 acre-foot per year diversion makes them potentially a major force in Western water. But Indian tribes' historic inability to effectively use their water either to bargain with or to develop indicates that the potential of the vast Ute right will never be developed.

Assume for a moment that the Utes win back their water in negotiations or court. What happens then? The Utes, of course, are no longer seeking water for purposes of irrigation. They understand that the real value of water lies in its ability to support urban

development on the Wasatch Front, energy development in eastern Utah, or more homes in Southern California or Arizona.

It is customary to divide tribes into "progressives" and "traditionalists." But that ignores the deeper realities of tribal politics. Past struggles among the Utes have shown that tribal government retains its cultural and political legitimacy only when it acknowledges its communal responsibilities.

In practice, this means the tribe exists to take care of people. Few "traditionalists" can resist calls for tribal government to sell resources to generate revenues to be distributed among the people. Few "progressives" can withstand demands that proceeds from resource sales be redistributed immediately rather than invested for future return.

A hundred years of white efforts to instill individualism among the Utes have not greatly altered this basic outlook; it is unlikely that victory in a water dispute will change matters. Water will neither flow freely through a pristine reservation, nor will it serve the vision of development promoted by the various tribal leaders and government officials who have backed the CUP. Most likely, the water will be leased to others who will use it. The tribe will receive revenues and distribute them to its 2,500 members.

This will displease both those who expect Indians to be environmentalist symbols and those who urge them to be entrepreneurs. But disappointing whites will be the least of the Utes' problems. Because, in the end, the results will probably eventually disappoint the Utes. Like all peoples, they have had ambitions greater than staving off disaster. But a hundred years of political and economic dependence have narrowed their options. Enlarging those options involves changes larger than the occasional observation of legal obligations to Indians.

Richard White is a professor of history at the University of Utah's Salt Lake City. This article was paid for by the High Country News Research Fund.

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BULLETIN BOARD



CANYONLANDS HISTORY WORKSHOP

The Canyonlands Natural History Association will hold its 12th annual Canyon Country weekend workshop in Moab, Utah, April 24-26. Floyd O'Neil of the University of Utah's American West Center will talk about Ute Indian culture, "ice age" canyonlands of the Pleistocene will be discussed by Larry Agenbroad of the University of Northern Arizona. Stanley Welsh, curator of Brigham Young University's herbarium, will discuss plants in the canyons. The final lecture will be a debate by "dueling geologists" Donald Baars of Ft. Lewis College, Durango, Colo., and Peter Hutton of the University of Wyoming. The debate topic is the Colorado Lineament, a structural trend in Canyonlands National Park. The series is free and begins Friday night at 7 p.m., preceded by a chili dinner for \$2.50. Canyonlands Natural History Association is an independent, nonprofit group assisting the educational and interpretive efforts of the National Park Service and Bureau of Land Management. For information contact Canyonlands Natural History Association, 125 West 200 South, Moab, UT 84532 (801/259-8161).

BENEFIT RIVER RUN

The Utah Wilderness Association is offering a five-day whitewater adventure on the Green River from June 18-22. The trip will follow the route John Wesley Powell took 118 years ago through the "tortuous" Desolation Canyon. Co-sponsored by the College of Eastern Utah's Canyonlands Institute, the expedition includes meals, rafting equipment, boatmen, and transportation from Price, Utah, for \$300. A portion of the proceeds are slated for the UWA to help the group continue its efforts to preserve Utah's wildlands. Participation is limited to 25 on a first-come, first-served basis. For information contact Utah Wilderness Association, 455 E. 400 South B-40, Salt Lake City, UT 84111 (801/359-1337).

A WYOMING WILDLIFE GET-TOGETHER

Specialists in wolf recovery will highlight the Annual Wyoming Wildlife Federation Rendez-Vous when it meets April 10-12 at the Holiday Inn in Cody, Wyo. Dr. Victor Van Ballenberghe, an arctic wildlife researcher and commissioner of the Alaska Department of Fish and Game, will discuss hunters, wolves and management. Rene Askins, a Moose, Wyo., wolf recovery activist and Yale graduate student, will present a slide show on wolves. Other speakers include Wyoming Gov. Mike Sullivan, U.S. Sen. Malcolm Wallop, R-Wyo., and Bill Howard, a National Wildlife Federation senior vice-president. Registration for the three-day meeting, which includes a mix of issues, an awards banquet and a field tour of the Wyoming Waterfowl Trust, costs \$35 per person or \$60 per couple. For further information, call the Wyoming Wildlife Federation at 307/637-5433.

CLARK FORK COALITION

The Clark Fork Coalition in Montana will hold its annual membership meeting and a workshop on Upper Clark Fork issues on Saturday, April 4, at the Copper King Inn in Butte, Mont. The coalition of groups concerned with the Clark Fork River will begin the workshop at 1 p.m. with a new slide-tape presentation titled, "The Clark Fork River and Lake Pend Oreille, Crossroads for a Troubled River System." Other subjects will be the Superfund cleanup in the upper Clark Fork Basin, instream flow, tailings reclamation, the Milltown Dam Superfund activities, middle segment issues such as the Missoula sewage plant and forest management practices, and lower river segment issues. A 10 a.m. board meeting, a 3 p.m. break to elect officers and board members and a 5 p.m. board meeting will complete the day. For further information, call Peter Nielsen, executive director of the coalition at 406/542-0539.

ELECTRICITY FUTURE

An Electrical Energy Futures Symposium on revitalizing the power industry in the Northwest is set for the Jantzen Beach Red Lion Inn in Portland, Ore., on April 16. Panels will discuss the future of electrical utilities, including the question of how to recapture and maintain lost markets. The Bonneville Power Administration is co-sponsoring the symposium with the Northwest Planning Council and League of Women Voters. For information call Bonneville's Public Involvement Division (503/230-3478), (1-800/547-6048 elsewhere.)

HANDS-ON FARM EXPERIENCES

The 260-acre Malachite Small Farm School near southern Colorado's Sangre de Cristo Mountains is a working farm which teaches traditional farming skills, values and arts. Classes are in six areas: organic gardening, beekeeping, barnyard animals, kitchen arts, farming with horses, and wood shop. The five-week Farm Introduction Course, May 3-June 6 and July 19-August 22, instructs in all six areas. Those interested in one area can join for a Malachite Week. Apprenticeships up to a year long are possible. The one-week Family Program, July 6-11, and Volunteer Week, June 15-20, are available, as are weekend workshops in cheesemaking, marquetry, draft horses, philosophy of the green world, organic gardening and beekeeping. The school also offers three-day pack trips into the Sangre de Cristo Mountains. The farm is on the eastern slope of the mountains near Gardner at 7,200 feet. For more information, call 303/746-2389, or write: M.S.F.S., A.S.R. Box 21, Gardner, CO 81040.

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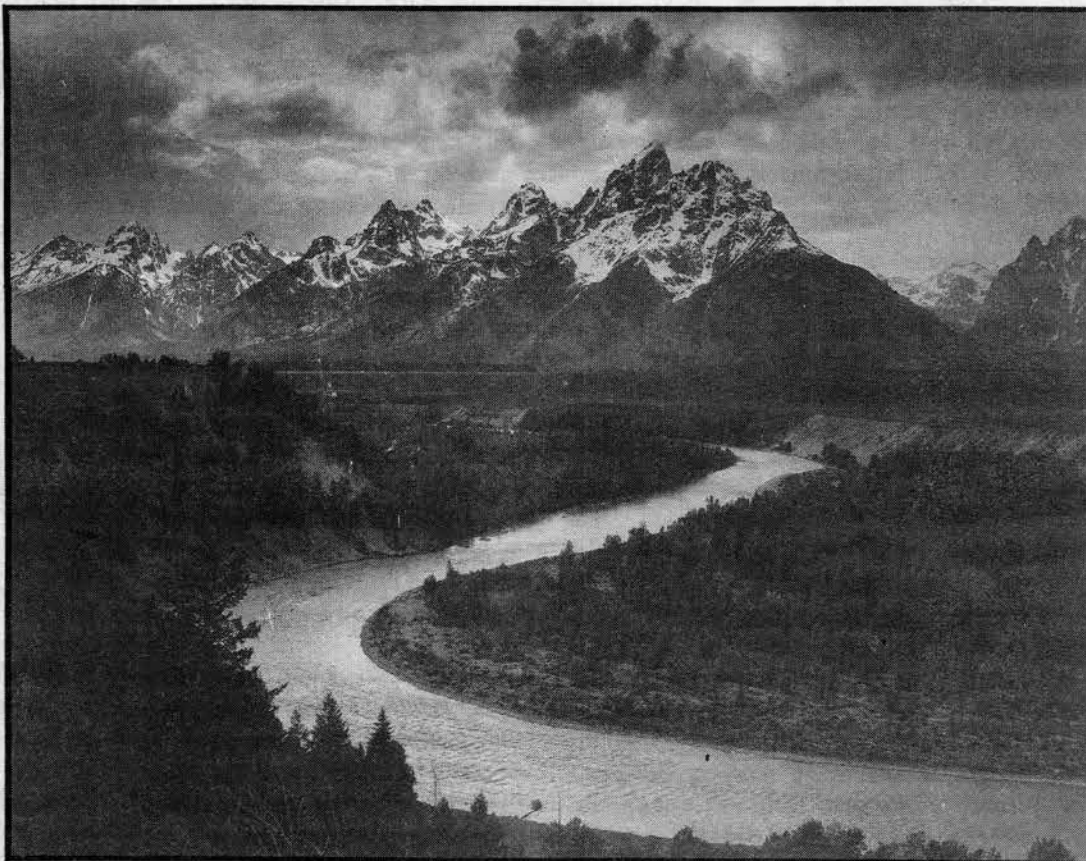
YOU ARE INVITED TO enter your favorite black-and-white photographs in the first annual *High Country News* photo competition. Photos must be black-and-white prints -- no color slides or prints -- 8 inches by 10 inches, and devoted to any of these themes: 1. landscape, 2. rural, 3. wildlife, 4. Western people. Please identify your photo by theme and tell us something about the picture -- person, place, date.

Staff of *High Country News* will select one photograph to be the image for the 1987 Research Fund poster. This poster is sent to all subscribers contributing \$100 or more to the annual Research Fund.

Other winning photos will be published during the year in HCN's annual index, HCN ads or elsewhere in the paper. We value good photos and use a lot of them.

First, second and third place winners will be selected in each of the four categories. In addition to being published, all winners will receive a gift subscription to send to anyone of their choice.

Deadline for submitting photos is June 15. Send photos to: PHOTO CONTEST, *High Country News*, Box 1090, Paonia, CO 81428. All photos sent in become the property of HCN. Photos will not be returned.



Ansel Adams photo of the Teton Mountains and the Snake River, Wyoming, 1942

GUEST ESSAY

The end of multiple use

Charles F. Wilkinson, Professor of Law at the University of Oregon, has written extensively on the policy and law of the national forests. On November 5th, he delivered an after-dinner talk to a conference in Denver attended by some 200 resource professionals and federal employees. The topic of the conference, sponsored by the Colorado State and Washington State natural resource schools, was FORPLAN, the Forest Service computer model. But Wilkinson was asked to reflect on federal forest policy generally -- and he complied by assiduously avoiding any mention whatsoever of FORPLAN. This is an edited version of his remarks.

by Charles F. Wilkinson

I would like to discuss with you tonight a conclusion that I have gradually reached after several years of observation and reflection. My conclusion is this: Although we are now in a transition stage, forces are in motion that will bring to an end the domination of national forests by timber harvesting.

Within, say, two-four years, these forces will cause the national allowable harvest to begin to drop slowly but steadily. Within roughly 15-20 years hence, the cut will become stable at a substantially lower level -- at least 25 percent below today's figure of 11 billion board-feet, perhaps as low as five-six billion board-feet.

At the end of that time -- a generation from now -- the phrase "multiple use" may still be on the statute pages, but it will have been replaced in common discourse, and very likely in codified law, by a concept recently coined by Arizona Gov. Bruce Babbitt. His phrase for the new style of land management on Forest Service and BLM lands is "public use."

This policy shift will matter profoundly. The distinctive personality of the American West draws primary sustenance from the national forests, these remarkable lands that bring pallor to words like "special," "unique," and "important." But for generations all national forest policy has radiated out from the cut: The timber harvest level is set and then other uses -- recreation, wildlife, and watershed -- are allowed to the extent they fit within the strictures of the cut.

A drawdown of the magnitude I predict would eliminate most marginal sales and would allow timber to be harvested only on the most productive second-growth stands. This would reduce the extraordinary stresses now being placed on backcountry roadless areas, usually holding low-value trees. Rural Western towns would experience less divisiveness over national forest uses. The reduced harvest would comport with contemporary Western values and the lower cut would be phased-in over two decades, thus accommodating communities now partially dependent on subsidized public timber sales. The forests would continue to produce a steady supply of economic and social benefits, including those from the sale of timber, but the emphasis would shift.

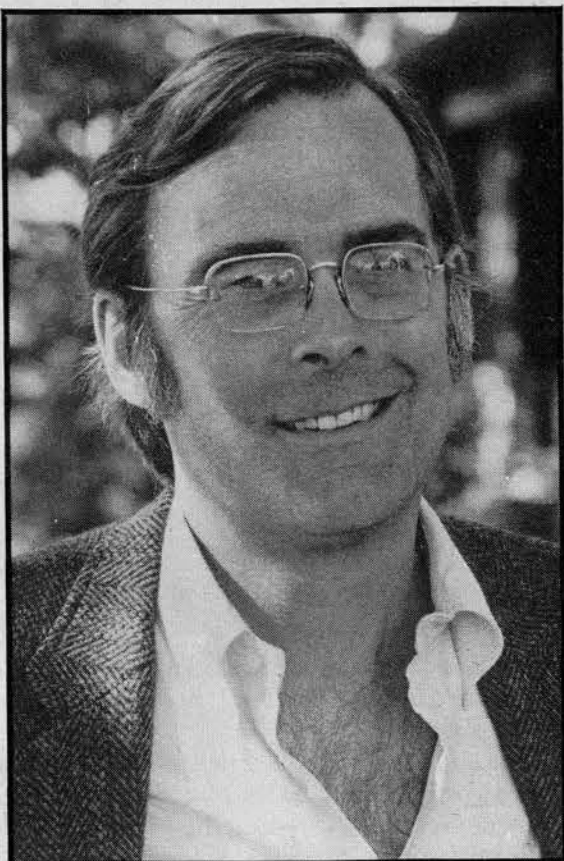
You are well familiar with the formal policies and official events that have brought us to where we are. But to tell us about where I think we are going, let me offer a potpourri of miscellaneous happenings that, taken together, symbolize the persistent, deep-currented new directions in forest policy:

- The regularity with which state resource agencies now oppose Forest Service timber practices.

- The increasing number of landowners who once cherished, but are now angered by, the location of their summer homes on land bordering the national forests.

- The broadened curricula in the forestry schools, many of which have been redesignated as natural resource colleges.

- The sharpening hostility of Western guides and packers toward Forest Service timber and roading programs.



Charles Wilkinson

- The awakening public appreciation of the interconnectedness of all resources, especially of the way in which most extractive development ultimately affects water.

- The entry of American Indians into national forest decision-making in order to protect their sacred places and treaty rights to hunt and fish.

- The state of Montana's conclusion in its 1986 Water Quality report that "accelerated roadbuilding and timber harvests on U.S. Forest Service lands now pose the greatest single threat to aquatic life" in Montana.

- The burgeoning share of research funds directed toward the protection of wildlife habitat.

- The participation by the public in forest planning.

- The state of Colorado's conclusion that the state's national forests produce \$4 billion in recreational benefits annually.

- The skepticism of many neutral observers toward the high level of subsidized, below-cost timber sales, a policy that they believe lacks integrity.

- The differing philosophies of the young people hired by the Forest Service during the last decade.

- The new appreciation of our Pacific salmon and steelhead resource and of the effects that roading and logging can have on these exquisite animals.

- The growing number of everyday, rural Westerners who begin their sentences with "I'm no environmentalist, but..."

I well appreciate -- and I want to underscore this -- that numerous sketches can fairly be presented that show very different things. They include:

- The widely held idea that we need to extend a hand to residents of timber-dependent communities.

- A possible upturn in housing starts.

- The potential of an increased demand for American wood products in third world nations.

- The desires of this administration, reminiscent of proposals made throughout the 1970s, to double the national allowable cut.

- The success of Oregon Sen. Mark Hatfield, as able and visionary a person as there is in public policy, in using the appropriations process to raise the cut from 4.2 billion board feet to 5.1 billion board feet in the national forests of the Pacific Northwest during this fiscal year.

But I stand by the first set of vignettes as painting the truer picture -- not of all future policy, but of irresistible forces that must and will be accommodated by forest planning.

These trends are likely to move forest policy

beyond multiple-use. Last year, Gov. Babbitt addressed the annual convention of the Sierra Club in San Francisco. This resourceful governor, a student of the West who knows the public lands and their history as well as any of us, obviously put a good deal of personal elbow grease into the address. Among other things, Babbitt, who admits to more than casual designs on the presidency of the United States, recalled the moment in 1903 when Teddy Roosevelt and John Muir met in Yosemite National Park to discuss the preservation of wild lands. Babbitt, doubtless with a considerable twinkle in his eye, concluded his talk by hoping that the time would again come when the presidents of the Sierra Club and the United States would meet in Yosemite. But the centerpiece of this talk was this:

We... need a new Western land ethic for non-wilderness. The old concept of multiple use no longer fits the reality of the new West. It must be replaced by a concept of public use. From this day on, we must recognize the new reality that the highest and best, most productive use of Western public land will usually be for public purposes -- watershed, wildlife and recreation.

The move to public use is the climax of a long historical process. The Homestead Act of 1862 recognized that public lands should be used to facilitate settlement and development. Seventy years later, having served that purpose, the public domain was closed to homesteading.

The next phase in the evolution of public land policy was private resource exploitation. The Mineral Entry Act, the Timber Entry Acts and the Reclamation Act of 1902 put the public lands up for mining, grazing, logging and water development.

We are now at the threshold of the final stage in the evolution of public lands policy. The great urban centers of the West are filled with citizens who yearn for solitude, for camping facilities, for a blank spot on the map, a place to teach a son or daughter to hunt, fish or simply survive and enjoy.

The time is at hand to go beyond multiple use. Mining entry must be regulated, timber cutting must be honestly subordinated to watershed and wildlife values, and grazing must be subordinated to regeneration and restoration of grasslands. Many of the Forest Service and BLM plans now being circulated ignore the primacy of public values. It is now time to replace neutral concepts of multiple use with a statutory mandate that public lands are to be administered primarily for public purposes.

We should note what Babbitt did not say. He recognized, and would affirmatively advocate, that extractive uses such as timber harvesting, mining, and grazing should continue. But they should be honestly subordinated to public uses.

Implicit in his formulation are two ideas about multiple-use. First multiple-use has little substantive content: It tells us what factors should be considered, but it fails to tell us which choices should be made. Second, multiple-use as administered has tended to produce -- depending on the region -- domination by timber, grazing, mining and water development interests. Public use would not, and should not, erase those uses. But it would reduce them. The reduction in allowable cut that I think will come is in the heartland of public use.

Let me draw out some very broad directions that the Forest Service should take if I am correct in believing that we already have begun an evolution into public use.

First, the Forest Service ought to be a leading advocate for good resources policy when public uses are jeopardized. We will learn a lot about current agency policy when it takes a position -- or fails to take one -- on one of the

(Continued on page 16)

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The end...

(Continued from page 15)

great resource debates of our time. Two Forks is a proposed water project about 40 miles southwest of us. The city of Denver and other metropolitan users want to build a 550-foot dam and flood some 22 miles of blue-ribbon trout stream on the South Platte River.

The draft EIS on Two Forks will come out within a matter of weeks. There are many signs that this is an old-style Western water project, economically and environmentally unsound. Forest Service staff has diligently conducted research on Two Forks, which would be within the Roosevelt National Forest and which would require various Forest Service permits.

But the Forest Service has traditionally failed to have a water policy, in spite of its broad statutory authority over the national forests dating to the 1897 Organic Act. The Forest Service ought to bring an end to its abdication in the area of water policy and participate fully when water projects have impacts on the forests. Two Forks will tell us whether the Forest Service is finally willing to take the hard positions on Western water.

Second, top officials ought to begin developing a program to deal with financing the forests when timber harvesting begins to fall off. Twenty-five percent of timber revenues go to state and local governments, and there is no need to change that part of the formula; but most of the 75 percent federal share goes into the general federal budget and to federal programs unrelated to the forests. The same is true with revenues from mineral leasing within national forests. Perhaps some or all of the federal share ought to be redirected to the Forest Service in light of the lower volume of timber sales.

But, in an even larger sense, we need to move away from the central thrust of the current budgeting system, which encourages the Forest Service to cut trees because most agency appropriations are tied to timber harvesting. The budget process ought to be revamped to provide a much broader spectrum of incentives for sound public-use management. User fees need to be explored for all uses, including recreation. I, like many other Westerners, object to a charge on the traditionally free use of the forests. But these are new times, with new stakes and pressures. User fees may, on balance, be a wise way to promote and protect public use. Whatever the specifics, an amended system of

Robert McPhee



revenues needs to be developed to comport with changing times.

Third, the Forest Service ought to continue its struggle to reclaim its historic independence. Over the last 15 years, the agency has lost control to the Assistant Secretary of Agriculture's office, to Congress, to the courts, to industry, and to conservation organizations. Ironically, the Service has begun to regain independence in some situations by calling in outside mediators to resolve disputes: Mediation brings the agency closer to its publics, closer to its mission of fulfilling public needs through consensus. But, in general, Forest Service authority has trickled away, due ultimately to a loss of credibility. That is a fundamental shame, for a substantially independent Forest Service -- drawing answers mainly from the sciences and from across-the-board public input -- has a unique potential for producing good results.

In 1905, as you know, the Secretary of Agriculture, James Wilson, signed the so-called "Pinchot Letter." It is called the Pinchot Letter because Gifford Pinchot, never one to be shy about manipulating administrative machinery, actually wrote it, although it was addressed to him. The Pinchot Letter has always been a central source of Forest Service philosophy and law -- among many other things, it was there that Pinchot described the national forests as

being used to provide "the greatest good for the greatest number." That famous, elegantly drafted document was a clarion call for the resource policy of that era, the conservation and wise commercial use of the forests.

Perhaps in about two years it will be time for a second Pinchot Letter, time to signal a truly new forest policy as Pinchot did in his revolutionary day. One thing was probably sealed by the recent national elections: We will not soon return to the excesses of this administration in the area of natural resources policy. The next administration, of either party, will be ready for a progressive, consensus-based, future-looking policy reminiscent of the Nixon, Ford and Carter years, not the exploitive tactics of the Burford, Crowell and Watt era.

The new Assistant Secretary could go to the Chief of the Forest Service and request that he draft a letter to himself from the Assistant Secretary. The letter ought to set out in ringing terms what the Forest Service believes in. It should be an evocative statement that acknowledges the many glories of these lands and goes far beyond planning, net public benefits, and acting as a middleman.

And it ought to speak of public use, because that is where the future is. The Assistant Secretary ought to make it clear in the second Pinchot Letter that the decisions made under the policy set out in the letter -- assuming that the Chief's draft meets the Assistant Secretary's high standards -- will be made by the Forest Service. In the second Pinchot Letter, the Assistant Secretary would agree to act as an advocate for the Forest Service's policy and would thus hand back authority and independence to the Forest Service. If such a letter is written and carried out, the Forest Service will slowly win back the support of Westerners.

Of course, I don't really know if a second Pinchot Letter is literally the right approach. But I do know that a strong, independent Forest Service can be the best trustee for these lands. The Forest Service has always been at its best when it has used the sciences to listen to the commands from the ground, and when it has been the champion of the future, not the captive of the past.

We should begin an earnest and far-ranging debate on whether public use really is the concept of the future. If it is, then the Forest Service should anticipate and embrace public use. In so doing, it would take a giant step toward fulfilling its high calling of serving as the trustee for these lands that have come to embody many of the best dreams of the people of the modern American West.

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