Sierra Club

BULLETIN/JANUARY 1971

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EDITORIAL

CONSERVATIONISTS AND THE POLITICAL THICKET

The need for conservationists to be politically active is obvious. Whether the Sierra Club itself should become politically active — in the sense of endorsing or opposing candidates — is a separate question which the Board studied carefully at its recent quarterly meeting. The unanimous decision was to remain legislatively active but avoid involving the Club directly in the election of political candidates. The reasons for this important decision are summarized here because of intense membership interest in the question.

All of us want the Club to continue to be uncompromising. Politicians either can't or won't do the same — with the result that some of our best friends in Congress and state legislatures occasionally oppose us on important issues, as, for example, when a recipient of a Club conservation award recently led proponents of the SST. We hope to continue working with friendly politicians in spite of differences, but, because few if any of them have perfect records, the Board feels it best to avoid outright political endorsement by the Club. Moreover, the danger of becoming too closely allied with one party must be viewed carefully in light of the constant need for bipartisan support of our programs, both inside and outside the Club.

Tax considerations are still important. Though the IRS stripped us of tax *deductibility* [under Internal Revenue Code, section 170(c)(2)] because of our attempts to affect legislation, the Club still retains tax *exempt* status [under 501(c)(4)], which cannot be maintained if we engage in political affairs by endorsing or opposing candidates for office. Our loss of tax deductibility has been largely made up by the accelerated activity of the Sierra Club Foundation, a separate but allied organization which can receive gifts, with assurance of tax deductibility for donors, and make grants to the Club for individual projects (books, lawsuits, campus programs, etc.), which themselves are non-legislative in character. Were we to lose tax exempt status, Club income would be taxed at corporation rates and the resulting financial loss could not be avoided through use of alternative organizations. Obviously, taxation of our income would severely hamper our total effort, probably requiring *less* legislative activity.

While the Board has decided against entering the political thicket, it is acutely aware of the need for informing its members and the general public about the quality of performance by national and state administrations and individual legislators and decision-makers. Accordingly, we will continue to criticize — vigorously when necessary — to bring policies into line with conservation objectives. Within legal bounds for the protection of our tax exempt status, the leadership will use internal publications, such as the *Bulletin, National News Report* and chapter newsletters to publish legitimate news concerning the conservation records of public figures.

The Board recognizes that political efforts, by individual members and organized groups not acting in the name of the Club, can make conservation a life or death issue for all public candidates. Such efforts with recognizable conservation leaders at the head have appeared already and hopefully will multiply. Your help is needed and welcome here. Meanwhile, the Club will attempt through legal action to make it possible for conservation organizations to become more legislatively active, and still retain tax deductible status.

—Phillip S. Berry
President

Sierra Club
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. . . TO EXPLORE, ENJOY, AND PROTECT
THE NATION'S SCENIC RESOURCES . . .

COVER: Midnight in June. Overflow ice on Sagavanirktok River, in northern Alaska. See "Oil On Ice" page 14.

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THE SIERRA CLUB,* founded in 1892, has devoted itself to the study and protection of national scenic resources, particularly those of mountain regions. Participation is invited in the program to enjoy and preserve wilderness, wildlife, forests, and streams.

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*Reg. U.S. Pat. Off.

NEWS

OIL SPILL

Early in the morning of January 18 two 17,000-ton Standard Oil tankers collided in a zero-visibility fog outside the Golden Gate Bridge. 840,000 gallons of oil were spilled in San Francisco Bay — more oil was released than in the now famous Santa Barbara oil spill. "This spill is a forerunner of what we can expect if major Alaskan oil fields are developed. Unless we develop better safeguards, major supertanker traffic will threaten us with a series of these incidents. Are we willing to pay such a cost up and down our coasts?" Michael McCloskey, the Club's executive director, said in news interviews. Club President Phillip Berry said the Club "seriously doubts that this was an 'unavoidable accident.' We strongly suspect that this major oil pollution occurred because it is Standard's policy to allow tankers to sail regardless of weather conditions simply to improve average vessel turnaround time, and thus to save operating expenses."

Following the accident the Western Region office of the Coast Guard convened an inquiry into the causes of the collision. The Club's request to be admitted as a full party to the proceedings with the right to cross-examine and present evidence was not granted, but as a result of the request the Commandant of the Coast Guard did reclassify the collision as a major marine casualty. The Club was permitted, however, to submit questions and suggestions in writing to the Marine Board.

LAND FREEZE

Acting Secretary Fred Russell signed an order extending the "freeze" on public domain lands in Alaska until midnight of June 30, 1971 — or sooner, if native claim legislation takes effect in the interim. Russell stressed that the language of the extension order is identical to that of the original order issued by former Secretary Stewart Udall in January 1969 to protect the land rights of Alaska's native Aleuts, Eskimos and Indians, pending action by Congress.

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Subdividing The Wilderness

By Ron Taylor

Fly free to the "Sequoia Country" — or the "Yosemite Country" or California's "Lost Coast." Buy a piece of an *exclusive* vacation hideaway in Hawaii, in Florida or the Carolinas. Don't miss "an incredibly exciting opportunity for profit. . ."

Daily the U.S. mails, television, newspapers and national magazines carry the Lorelei advertisements that lure the urban dwellers of the nation into investing in the salesmen's newest land boom, the recreational subdivision.

As overdevelopment crowds naturally attractive places like Lake Tahoe, developers turn to rural, open lands where they create lakes and golf courses and a country club atmosphere. While the bulldozers rip out roadways, clear forests, fill in coastal canyons and dam streams, the sales force goes to work.

The land is packaged and promoted like an auto or an underarm deodorant. Salesmen—suited casually in immaculate western wear, their hair styled in beautiful razor cuts—offer free dinners and plane rides out into the boondocks to see El Dorado. Elaborate on-site clubhouses double as closing rooms, complete with title reports, sales contracts, low down payments and convenient terms.

Developers buy into the land at from $300 to $500 an acre. Depending upon the type and complexity of urban services required by the various counties —no two are alike—profit margins range from ten to thirty per cent, on "quality" projects by reputable firms. (Profits soar on the land projects that only vaguely promise roads and water and sewers. And the four-by-four-by-four again lot splitting has even more profit and headache potential.)

The market appears insatiable. Earl D. Hollinshead, president of the Washington, D.C. based Urban Land Institute, noted: "Our burgeoning population, armed with increasing leisure time, income and a desire to get away from the tensions of a fast moving society, flock to the beaches, golf courses, mountains and other recreational areas . . . to meet this ever increasing demand, land must be developed. . ."

According to *Business Week* magazine, fifty corporations and conglomerates are investing in major recreation land developments. From Hawaii east to the Great Lakes and on to New Jersey and south to Florida and the Bahamas, the number of second home-leisure time subdivisions is rapidly increasing.

Laissez-faire rules; and no government agency can even guess how much of the nation's open lands are being carved up by these highly profitable ventures. One conglomerate alone—Boise Cascade Corporation—has developed or is developing 130,000 acres in thirty projects in a dozen states.

Nowhere is the development more rapid than in California. Two-thirds of the Boise projects—84,700 acres divided into 41,734 lots—are spread between the Klamath River and Los Angeles. Another dozen major corporations and scores of smaller developers throughout the state are dividing up an estimated 50,000 to 100,000 acres a year. They offer buyers anything from raw desert—with, or without roads—to $28,000 urbanesque lots overlooking man-made lakes and golf courses.

Tiny Nevada county, east of Sacramento, in the gold rush country, sets the pattern; it has 18,000 lots already subdivided. Virtually all were sold to outsiders, to urban dwellers who hoped for profits as land values went up. Few ever built on their lots. Boise Cascade, with one four-year-old, 1,944-lot subdivision that has only 126 homes built, is now developing another 4,000 lot subdivision in the county.

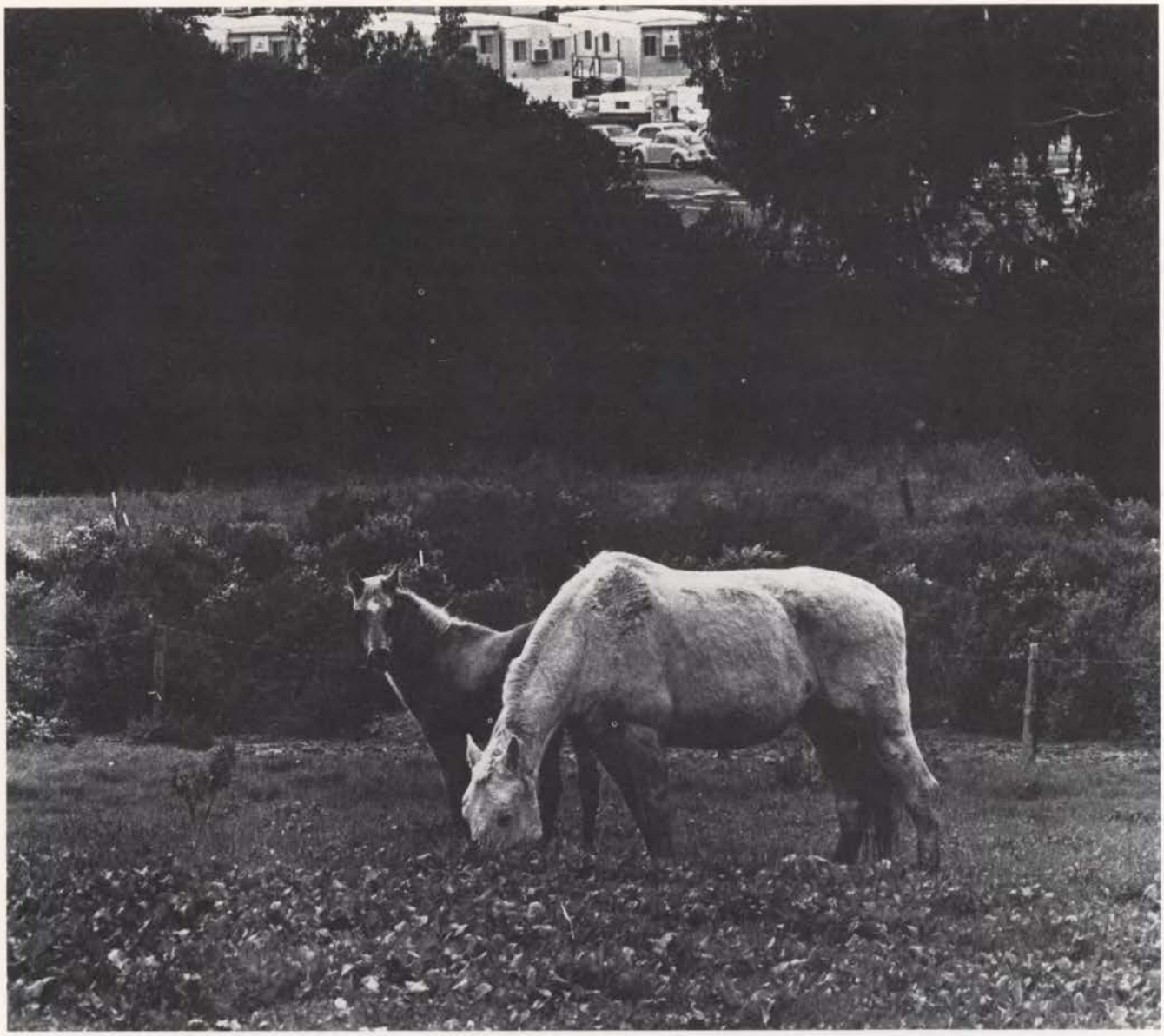
Nevada County District Attorney Harold Berliner says: "Rural California is being carved up and committed to completely unneeded urban development for the short-term gain of a greedy handful of corporated subdividers." Berliner conducted a survey that revealed the resale market for the lots was unprofitable, and that most buyers wouldn't repeat what they now consider a folly.

Too many of the recreational subdividers create a paradox: they either convert open lands to a use that is non-use, developing promotional subdivisions that stand virtually empty, or they turn woodland retreats like Lake Tahoe into neon jungles, into *resorts* filled with condominiums, night clubs, gas stations and hot dog stands.

Tahoe's waters are being polluted, perhaps irretrievably. Charles Goldman, University of California, Davis, limnologist who has studied Lake Tahoe for a decade, says: "Man's potential for destroying the beauty of Tahoe must be recognized and controlled, now. Every disturbance of the watershed has its influence. . . . The erosion rate continues to increase with every form of land disturbance."

Goldman's primary concern isn't sewage—Tahoe is exporting its sewage out of the basin. Rather he is deeply concerned over the release of soil-bound plant nutrients as the soil is opened by bulldozers. Rains flush the nutrients into the lake, stimulating rapid algae growths. These growths speed-up the ecological time clock causing the lake to age, or eutrophy, faster.

Incline Village, on Tahoe's North Shore, is the star



of the Boise recreational projects. Boise purchased it from the original developer and immediately started adding a second golf course and subdivisions. From a developer's view this is a high cost, high quality project. Special attention is being paid to environmental concerns; erosion control on the ski slopes, for example, costs $2,500 an acre and includes planting grasses that are watered by sprinklers.

Boise President Robert V. Hansberger, the guiding genius in the corporation's rise to a $1 billion a year gross revenue, set this policy: "Our recreational resort developments are planned with emphasis on achieving a balance between the demands of people for leisure living and the desirability of preserving the natural environment."

Goldman, acknowledging "Boise *did* purchase a lot of its erosion problems," said, however, his studies show that as Boise added to the project, pollution problems, caused by erosion, increased. It is not Goldman's intention to single Boise out; the corporation is only one of scores of developers on the lake. According to Goldman, virtually all, including the state Division of Highways, contribute to the problem.

With some justification, Boise feels picked on. Because it is the biggest, and because it proclaims concern for environmental values, it presents a "high

profile" and takes a lot of flak. But, whether at Tahoe or out in the boondocks, it is hard to know what Boise means by "natural environment" when corporate construction crews totally change the topographical and ecological structures of from 4,000 to 8,000 acres at a time. Boise, and its competitors, are building urbanized country clubs pitched to urban tastes. A Boise brochure says, in part: "The company's goal is to create a beautiful environment that will endure."

Because Boise is, quite properly, a profit-making private enterprise, it must sell its products—whether manufactured wood or manufactured land—at a profit. No one looking at new Boise projects, as they are built, can question that the corporation spends millions in development, but by building roads, and large dams and stripping brush the projects' physical presence drastically changes the natural environment. And no one knows the impact of this kind of development.

The California state division of real estate is just now compiling a total acreage figure — it will run between 50,000 and 100,000 acres in this type of development each year. Other state agencies are trying to establish studies, but funds are limited. State sanitary engineer Glen Browning, who supervises water and sewer inspections in thirty northern California counties, says: "This type of development is the number one environmental problem in California. Speculative subdivisions irreversibly change land use patterns, and in some counties, subdivisions have already outstripped water supplies."

But rural county boards of supervisors, and their planning commissions, faced with declining revenues and increasing costs, are not apt to take a long view when a giant corporation offers a $45 million conversion of a cow pasture into a country club. These elective boards are heavily weighted in favor of "economic progress," but painfully short of ecological insight.

A California legislature joint committee on open space lands found thirty-one per cent of the county planning commissioners in the state have "at least a direct beneficial interest in [commission] decisions . . . [and there] is strong evidence that planning commissions, as presently structured and regulated, potentially can be utilized in a manner contrary to public interest."

In the rural counties, supervisors and planning commissioners are farmers, small businessmen, realtors, land developers. When the well-paid professionals hired by corporate developers come into the county, local officials begin to dream of a greatly increased tax base, more tax revenues. But the overwhelming size, scope and complexity of a $40 or $50 million, urbanized project soon swamps county government.

In Tuolumne County, Earl Magwoode *is* the total planning staff. The county now has 20,000 recreational subdivision lots developed and Magwoode says, "We're so far behind, I need at least two years to catch up. We are $2 million behind in our road work, and there probably isn't enough water available to meet the demands of the existing subdivisions, if they are built up." He estimates it will cost $50 million to develop adequate water supplies.

In Mendocino county the work loads imposed by a single project, Brooktrails, were so great the developer's engineering company was allowed to pay the county employees overtime to expedite county technical review and authorization. When the County Public Works Director, Robert Newhouse, quit, he took $1,500 in checks made out by the engineers to him. The district attorney filed criminal charges. Newhouse returned voluntarily, contending the checks were for overtime he worked.

The courts will decide the legal issues, but the case points to one of the problems created by this swamping of local government. Such projects create another problem in small counties. They create jobs and they require services that local businessmen would like to supply. So a painting contractor, who is also a planning commissioner, bids and gets a job on a big project in his own county; a county counsel, on his own time, handles legal matters for a major developer. In a third county, a real estate man—planning commissioner, halfway through a discussion of a major project, announces he is licensed to sell land for that particular developer and will therefore abstain from voting. All three individuals were open about their relationships, and they saw no conflict.

The legislature's committee on open space commented: "It is remarkable that in this area where virtual fortunes can ride on a single decision, that there is no counterpart to the regulations that control the securities transactions on the Security Exchange Commission. . ."

Not long after the committee's report was issued, the Riverside county grand jury indicted a county supervisor, a planning commissioner, and three developer representatives on charges of perjury, bribery and conspiracy. It is alleged the developer of a proposed recreation subdivision influenced the county officials through a $3,500 campaign contribution. The supervisor switched his vote to "yes," making the project vote 3-to-2 in favor of development, according to the allegations.

Another problem, brought up recently by California Secretary of Natural Resources Norman Livermore, Jr., at a Tahoe regional planning conference, was the high-pressure sales tactics used to sell such projects. Livermore, without announcing who he was, had previously subjected himself to the sales pitch of one north coast project, and walked away "appalled." Livermore believes such developers are "selling speculative greed."

One aggressive real estate salesman—who is also a county planning commissioner—explained sales tactics: "You sell the sizzle, never the steak." Sizzle is when a developer advertises that his "Squaw Valley Ranchos" are "next door to Disney's $35 million Mineral King ski resort." (If the proposed Disney resort—now tied up in federal court by the Sierra Club suit—is ever built, it would be in another county, 85 miles from the foothills where "Squaw Valley Ranchos" are located.)

Daily the mails are filled with promotions pitching the investment opportunities in rural, second home subdivisions. Ironically, Californians buying land out of state have more protection from the California Real Estate Commission than Californians buying land in the state. Out-of-state real estate sales must be found "fair, just and equitable" before they can be licensed to sell in California. When the same test is suggested for in-state projects, California developers howl in angry rage.

California Real Estate Commissioner Burton Smith says, "There are thousands of buyers just waiting. They see the ads and are attracted. If a guy buys the sizzle, there's not much we can do, as long as no laws are violated."

Developers must file with Smith's office a full "disclosure" of all their in-state project's facts and figures. Smith then issues a "public report," listing these details and, if need be, warning about pitfalls. One such report, on one California City subdivision, in the Mojave Desert, warned: "This land cannot be sold in California for residential use because purchasers cannot know when the city, if ever, will put improvements (streets and water) in the tract." The report also warns buyers of an aggregate debt of $6 million that must be paid by special liens and assessments against land within the city.

California City is the creation of a land developer; it covers 154 square miles of desert and was incorporated by the developer who has filed ninety subdivision maps setting out 43,816 lots. That is enough for a

population of 150,000 people, and there are another 45,000 acres to divide. California City's population is between 900 and 1,000 people. After lengthy investigation, the California Attorney General's office reported: "To prospective land buyers, California City is presented as a safe, secure real estate investment in a community of 'abundant' water. These representations are false."

The "investment value" of a lot in any recreation-second home subdivision is not the only thing the buyer should worry about. In some the purchase price may only be the beginning. For instance, at Shelter Cove, in Humboldt County, on California's north coast, there is a $1,150 assessment against each lot, to pay off the $5.4 million bond issue that financed construction of the subdivision.

Touted by Congressman Donald H. Clauson (R-Eureka) as a "superb example" of free enterprise when it was begun, Shelter Cove has become a serious problem to the county. The 2,500 acres were carved into 4,700 lots, but before the streets were surfaced, heavy rains caused $2 million worth of erosion, by Humboldt County Public Works Director Guy Kulstad's estimates. (Engineers for the developer contend damage was only $400,000.) Either way, Kulstad is worried about county liability, if the developer goes broke.

None of the economic, environmental or political problems were anticipated when most large projects were started, not, at least, by most governing boards. And great, empty subdivisions stand as testimony to this fact. Weed-choked streets, sagging "for sale" signs and a lot of bitter "investors" are all that remain.

But there is evidence the growing environmental concerns of the public are now having some effect. In El Dorado county conservationists fought to keep Lake Edson from being polluted by a major Boise project, and won. Their leader, a lady librarian named Mrs. Teresa Lengyel, wrote during the battle: "Here is the ruthless destruction of the land for quick profit. Here is inflation in action. Here at work are the pious polluters who advertise themselves in *Life* and *Time* and *Newsweek* and *Look* as promoters of the environment."

Boise has proven susceptible to such pressure; this, plus predictions from its economic advisers, is causing Boise to shift. It has shelved some of its projects, slowed others down. The drop in its recreation-resort division profits, plus its predictions of a second home land market slowdown fit in with a *Business Week* magazine prediction in August: "Misapplied, the huge influx of corporate money (in recreation-related developments) could produce orgies of overbuilding, and set off a disastrous boom and bust cycle. In the second home or vacation home market, for example, development is already getting dangerously far ahead of demand."

Boise isn't the only large corporation susceptible to the growing pressures. Ten large companies, including Transamerica ($872 million in gross revenue a year), Tenneco ($2.4 billion gross) and Avco ($898 million gross), have formed a Western Developers Council and have adopted a *laissez-faire,* self-policing code of ethics. The WDC hopes to upgrade the industry's image and operating procedures; it wants to help local governments standardize rural-recreational subdivision ordinances, but the WDC stands as far away from state regulation as it can.

On the other hand Boise wants state land use policies "that are tough enough to force the schlock (bad) operators and their suede-shoe salesmen out of business." Both Boise, and the WDC will be exerting great pressures on the newly-created state legislative committee studying recreational subdivision impact on the state's open lands. The committee, chaired by Assemblyman Leo McCarthy, has already held two hearings, and indications are that legislation to bring some kind of state wide controls will be at least proposed in 1971. Hopefully, other states also will be moving soon to curb this needless destruction of the land by speculators.

Mr. Taylor is a staff writer for the Fresno Bee *of California.*

Congressional Scoreboard

91st Congress–2nd Session

ENACTED INTO LAW:

Air Quality Standards Act of 1970. (P.L. 91-604)

Water Quality Improvement Act. (P.L.91-224)

Joint Committee on the Environment. (H.J.Res. 1117)

Commission on Population Growth and the American Future. (P.L. 91-213)

Family Planning Services and Population Growth Act. (P.L.91-572)

Environmental Education Act. (P.L.91-516)

Youth Conservation Corps. (P.L.91-378)

Surplus federal lands for parks; increases Land and Water Conservation Fund to $300 million. (P.L.91-485)

Omnibus Wilderness Bill; designates 26 wilderness areas in several states, including: Bering, Bogoslof, Tuxedni, St. Lazaria, Hazy Island, and Forrester in Alaska; Three Arch Rock, Oregon Islands, Washington Islands, Bitter Lake, Passage Key, Island Bat, Wichita Mountains, Seney, Huron, Michigan Islands, Wisconsin Islands, Moosehorn, Pelican, Monomoy, Craters of the Moon, Petrified Forest and Mt. Baldy. (P.L.91-504)

Everglades National Park additions, Fla. (P.L.91-428 and P.L.91-88)

Golden Eagle Passport. (P.L.91-308)

Boundary extensions in Toiyabe National Forest. (P.L.91-372)

Point Reyes National Seashore funding, Calif. (P.L.91-223)

Cape Cod National Seashore funding, Mass. (P.L. 91-252)

Apostle Islands National Seashore funding, Wis. (P.L.91-424)

Sleeping Bear Dunes National Lakeshore, Mich. (P.L.91-479)

Feasibility study of Lake Tahoe National Lakeshore, Nev. and Calif. (P.L.91-425)

King Range National Conservation Area, Calif. (P.L.91-476)

Fort Point Historic Site, San Francisco. (P.L.91-457)

Anadromous Fish Conservation Act. (P.L.91-249)

Airport and Airway Development Act (includes environmental safeguards). (P.L.91-258)

Extends regulations on utilization of Hudson Riverway. (P.L.91-242)

Grants Trust Title to Taos Pueblo Indians of 48,000 acres in Blue Lake Area of Carson National Forest, N. Mex. (P.L.91-550)

Water Bank Act. (P.L.91-559)

Mining Mineral Policy (modified as conservationists requested). (P.L.91-581)

Federal Aid Highway Act of 1970 (Sierra Club opposed continuation of Highway Trust Fund). (P.L. 91-605)

Omnibus Rivers and Harbors Bill (Sierra Club opposed certain projects included). (P.L.91-611)

Voyageurs National Park, Minn. (P.L.91-661)

C&O National Historical Park, Potomac River. (P.L.91-664)

Gulf Islands National Seashore, La., Miss., and Fla. (P.L.91-660)

DEFEATED:

National Timber Supply Act: defeated as Sierra Club wished. (H.R.12025, S.1832)

STAND-OFF:

1971 appropriations for the Department of Transportation, including SST funds. (H.R.17755) See box, adjoining page.

THESE BILLS MOVED PART WAY THROUGH CONGRESS:

S.4547	Prohibits supersonic flights over U.S.	Passed Senate
S.3354	National Land Use Policy Act	Senate hearing
S.3575	Environmental Protection Act	Senate hearing
H.R.17436	National Environmental Data Bank Act	Passed House, ref'd to Senate
S.2752	Intergovernmental Power Coordination and Environmental Protection — regulates power plant siting	House and Senate hearings
S.2802	Coastal Zone Management (also S.3183 and S.3460)	Reported out of Senate Subcommittee
S.1830, as amended	Alaska Native Claims (includes 5-year extension on BLM classification in Alaska)	Passed Senate
S.15188	Penalty for shooting at wildlife from aircraft	Passed House; amended by Senate
S.3728	Extends the BLM Multiple Use and Classification Act	Passed Senate
S.1142	Adds Minam River to Eagle Cap Wilderness, Ore.	Passed Senate
S.3701 — H.R.778	Oregon Dunes National Recreation Area	House hearings
S.709	Okefenokee Wilderness, Georgia	Hearings in House and Senate
S.1468	Additions to Washakie Wilderness, Wyo.	Passed Senate
S.26	Canyonlands National Park, Utah, additions	Passed Senate; House hearings
S.27	Glen Canyon National Park, Utah	Passed Senate; House Committee hearings
S.531	Revises Capitol Reef National Monument boundaries, Utah	Passed Senate; House hearing
S.532	Revises Arches National Monument boundaries, Utah	Passed Senate; House hearing
S.4 — H.R.18498	Big Thicket National Park, Texas	Passed Senate; ref'd to House
S.4212 — H.R.18900	Sawtooth National Park, Idaho	House hearings
H.R.14603	Tule Elk Wildlife Refuge, Calif.	House Committee hearing held
S.855 — H.R.10246	Buffalo National River, Ark.	Passed Senate
S.4090	Protection of Connecticut River Valley resources	Passed Senate
S.940	Moratorium on Snake River Dam — Hells Canyon	Passed Senate
S.3516	Santa Barbara Channel Preservation Act of 1970	Senate hearings
S.3351	Terminates mineral leasing in Santa Barbara Channel	Senate hearings

SST

After years of congressional support, of by better than two-to-one margins, in 1970 the SST met its first congressional rebuff. Perhaps more importantly, in 1970 the American public clearly demonstrated for the first time that it did not want the plane. Public and congressional disapproval came close on the heels of the release in October 1969 of the long-withheld report of the President's SST Ad Hoc Review Committee. Among other criticisms, this report outlined the effects of sonic booms; the noise levels to be imposed on airport communities by these new high-temperature, high-velocity jets; the effects of water vapor in the stratosphere; and the probability of intensive air pollution, especially at subsonic speeds.

Concern continued to mount as the public learned in May 1970 of a suppressed report on the SST made for the Administration by a panel of the President's Science Advisory Committee. Later that month the Environmental Quality Council warned the Joint Economic Subcommittee of the plane's environmental risks. In June, Rep. Henry Reuss discovered that Boeing scientists had prepared a secret report on the pollution effects of the SST. August saw the release of MIT's Study of Critical Environmental Problems urging delay in SST production because of evidence that the planes could change the world's climate.

As this evidence was mounting, Congress was acting. On May 27, 1970, the House narrowly defeated by 176 to 162 Rep. Sidney Yates' motion to recommit the Department of Transportation appropriations bill with instructions to delete all SST funds. As the bill moved to the Senate, its worried supporters mounted an unprecedented lobbying effort. Delay became their chief tactic as they sought to hold off a vote until after the election, when they hoped senators would be less susceptible to constituent pressures. Finally, on Dec. 3, the Senate voted 52 to 41 to kill the $290 million subsidy for the SST. It was left to a conference committee to reconcile the differences between the $290 million House version and the Senate's deletion of all funds.

The conference committee reported a "compromise": $210 million for the SST. The House voted to accept the conference committee report. Senator William Proxmire and his supporters, who had fought the SST for months and had already won, had only one option left: to debate the so-called compromise. Sen. Proxmire ended the debate only when he was assured that, although federal funding would continue until March, 1971, before the end of March there would be a separate vote on the SST. Always before the SST has been tied to other programs in the Department of Transportation. **This March it will stand or fall on its own merits. Between now and then urge your elected representatives in Washington to vote against the SST. It may be our last chance to stop this monstrosity.**

ACTION NOW

This is supposed to be the Age of Ecology, but the federal government and nine southern states are nevertheless prepared to embark on the type of program that was common two decades ago when the dangers of pesticide misuse were not known.

The U.S. Department of Agriculture (USDA) in conjunction with state agencies in nine southeastern states is planning a $400 million program aimed at eradicating the fire ant by *aerial application* of Mirex, a persistent toxic pesticide, over more than 120 million acres. State wildlife officials, conservation organizations, and ex-Secretary Hickel have opposed this program, but to no avail.

The program opens a flank of the agricultural chemical industry to attack by environmental groups. Opponents of USDA's colossal "eradication" program are not in favor of fire ants, nor are they opposed to fire ant control, but are opposed to massive aerial distribution of 450 million pounds of ground corn cob granules treated with Mirex (a chlorinated hydrocarbon cousin to DDT).

It is known that Mirex will kill birds and mammals and affect their reproduction. The U.S. Bureau of Commercial Fisheries has demonstrated that a single granule of Mirex bait will kill shrimp. During a three-week test, one-tenth part per billion Mirex in sea water killed eleven per cent of the shrimp tested and another twenty-five per cent died within two weeks even after being transferred to clean sea water. The shrimp accumulated 24,000 times more Mirex than was present in the water.

Studies on a two-acre pond on Cat Island, Mississippi, just off Pass Christian, showed that, after application of Mirex in the manner now intended for use over nine southeastern states, there was a decline in the crab and shrimp population so that by the seventeenth day only one-fifth of the previous number of adult crabs were found, twenty per cent of these being dead and another thirty per cent paralyzed. Shrimp were less than one-twentieth as abundant as before. After twenty-three days, only one live crab and no shrimp could be found.

Crayfish are killed by Mirex in the same order of concentration that is lethal to shrimp. One bait granule (each square foot of treated area receives approximately fifty bait granules) to a half-pint of water resulted in fifty per cent mortality of juvenile crayfish in six days.

Research clearly indicates that Mirex, when applied in the method now intended, enters the food chain, a fact not acknowledged by the Department of Agriculture. Mirex is known to kill birds and mammals. A diet containing 200 parts per million caused seventy-eight per cent mortality in young mallard ducks in ten days. Ten parts per million of Mirex in the diet caused 100 per cent mortality in mice by sixty days. More subtle effects such as eggshell thinning (the mechanism by which DDT has nearly exterminated the brown pelican as a breeding bird on the Gulf and California Coasts) have yet to be studied.

The Health, Education and Welfare Department classifies Mirex as a carcinogen, a potentially cancer-producing substance.

While we know something about Mirex's potential impact on the environment, no one really knows what will happen when 450 million pounds of Mirex bait are broadcast over 120 million acres of land and water.

The present program must be studied in light of USDA's past fire ant programs. From the fall of 1957 through June 30, 1963, more than five million acres were saturated with heptachlor (another persistent chlorinated hydrocarbon cousin of DDT) at the cost of about $24.7 million and an enormous amount of fish, wildlife and assorted lower life forms. This fiasco is described at length in *Silent Spring* by Rachel Carson.

When the "eradication" program was all over, the imported fire ant had increased its range by about eleven million acres.

Following this program, a 1965 U.S. General Accounting Office report to Congress denied USDA's contention that the fire ant was a serious agricultural pest and called for the USDA to coordinate any further fire ant programs with the Fish and Wildlife Service, Food and Drug Administration and other interested agencies.

In 1967, the National Research Council's fire ant committee — composed of leading scientists from around the country—concluded that fire ants rank below other biting and stinging insects in nuisance value. The Committee quoted the director of one southeastern state's Board of Health who said, "It would be rated below mosquitos, sand flies, dog flies or stable flies, midges, tabanides, and stinging caterpillars as a human nuisance."

The National Research Council's report concluded, "After considering all available information, the

Committee feels that an eradication of the Imported Fire Ant is not now biologically and technically feasible. Further, in view of its conclusions as to the importance of the insect relative to other pest species, and the values to be achieved through its eradication, the Committee has very grave doubts whether an attempt to eradicate it would be justified, even if it were shown to be feasible at a later date."

When the first fire ant "eradication" program petered out—and the federal funds with it—the state agriculture departments didn't like it. In Georgia, "eradicating" the fire ant commanded the largest single amount of money in the state's entire agriculture budget.

When then-campaigner Richard M. Nixon was touring the South, during a televised question and answer session he was asked specifically what he intended to do about the fire ant if elected. Nixon replied something to the effect that, if elected, he would wage an aggressive campaign against the fire ant. The current fire ant eradication program followed President Nixon's appointment of Georgia's Agriculture Commissioner J. Phil Campbell to Undersecretary of Agriculture.

Conservationists believe the fire ant can be controlled while definitive studies are made of the environmental impact of 450 million pounds of Mirex bait. To do otherwise is a demonstration of how little we have learned from our past disasters.

The Delta Chapter of the Sierra Club has been actively engaged in the Mirex fight throughout much of 1970. At its December 5 meeting, the Sierra Club national Board of Directors went on record against the aerial distribution of Mirex. A special committee, with William Futrell as chairman, was appointed and directed to run and campaign throughout the Southeast.

The fire ant program is a monument to the cooperation of agricultural bureaucrats, with their need for expensive make-work programs, and salesmen of the chemical industry with their need for expanded markets. Conservationists have the opportunity to make their will known during this winter season before the USDA embarks on its program in the spring. Write President Richard Nixon, The White House, Washington, D.C. 20006, to register your views on the fire ant suppression program.

—William Futrell
Ex Officio *Vice President*

Newspaper ads similar to this one were run in major southeastern cities.

Ice lens on the Atigun River. The proposed pipeline route is along hundreds of miles of permafrost such as this. Photo by Pete Martin.

OIL ON ICE

By Richard Pollak

"Hell, this country's so goddamn big that even if industry ran wild we could never wreck it. We can have our cake and eat it, too."

—Henry Pratt
executive assistant to former
Gov. Keith H. Miller of Alaska

One contemplates Alaska today with a numbing sense of historical perspective. We have seen this pristine land before: the United States at its birth two centuries ago. Now, once again, we are playing out the scenario that has reduced so much of the nation to an environmental theater of the absurd. The cake this time is oil — an estimated 100 billion barrels, maybe more—buried beneath the frigid landscape of our last great wilderness, a stunning national outback the size of Texas, California and Montana combined. To get this newly found black treasure to market, the oil industry seeks to lay down an 800-mile pipeline from the arctic tundra of Alaska's North Slope south to the ice-free port of Valdez. Eventually, two million barrels of hot oil would sluice daily from the throbbing wells in the frozen north to mammoth tankers waiting at the terminus on Prince William Sound.

En route, this viscous crude would travel the breadth of Alaska's most fragile ecosystems: from the ice-worn coast of Prudhoe Bay, across the lichen-sprinkled tundra of the North Slope, up rolling foothills into the glaciated grandeur of the Brooks Range, through barren, snowbound mountain passes, down to the valleys and forests of the interior highlands, hard by the growing population center of Fairbanks,

A caribou wears a rack tinted to match the late August colors of the Arctic tundra. Caribou are a staple food of many Alaskans — Cheechakos as well as Natives. Photo by Edgar Wayburn.

Soggy with summer melt, polygons formed by permafrost make geometric puddles for a few weeks of the year. Locked in ice, they pose a formidable problem for pipeline engineers. Note cat tracks, lower left: it takes only a few runs across frozen tundra to leave deep scars. Photo by Peggy Wayburn.

through the Alaska Range, the Copper River Basin and Chugach Mountains and, finally, down to the waiting ships at Valdez. The 48-inch steel pipe would snake through the once-untrammeled habitats of hundreds of thousands of caribou, of wolves and Barren Ground grizzlies, Dall sheep and moose, the peregrine falcon (elsewhere, nearly extinct) and millions of migratory birds and waterfowl. On its way, the oil would cross two dozen rivers (including the Yukon), well over a hundred streams and border scores of lakes in whose sparkling waters salmon, char, pike and myriad other fish abound.

As originally planned, all but 50 miles of the pipeline would be buried four to ten feet underground. Much of this earth is permafrost, the perennially frozen subsoil so vital to the stabilization of the Alaskan environment. Oil coursing through the pipeline at up to 170 degrees F. would thaw the subsoil into a trans-Alaska quagmire, with incalculable consequences. Earthquakes, for example, have a particularly chaotic effect on waterlogged ground, their vibrations turning it to liquid and causing catastrophic slides. The pipeline would pass through three major earthquake zones.

But it would take far less than an earthquake to rupture so long and vulnerable a pipeline, and even oilmen concede that spills are inevitable. What they don't readily admit is that a pipeline break in Alaska would make the *Torrey Canyon* and Santa Barbara disasters seem like so much spilt milk. Although electronic sensors could detect ruptures within microseconds after they occur, closing one of the pipeline's 73 cutoff valves — which are to be 30 feet high and weigh 60,000 pounds — would take several minutes. Even where the pipeline runs level, thousands of gallons would pour out and destroy fish and wildlife for miles around. Where the conduit slopes down from the mountains, the spillage and destruction would be many times worse.

In Alaska, moreover, the intrusion of industrial man has a uniquely severe effect. The state's ecological metabolism falters at the slightest disruption. For example, the U.S. Geological Survey reports, "... The simple passage of a tracked vehicle that destroys the vegetation mat is enough to upset the delicate balance and to cause the top of the permafrost layer to thaw. This thawing can cause differential settlement of the surface of the ground, drainage problems, and severe frost action. Once the equilibrium is upset, the whole process can feed on itself and be practically

Moose country and breeding grounds for millions of wildfowl, interior Alaska is still emerging from the Ice Age. Pipeline must traverse regions like the Tanana Flats. Photo by Edgar Wayburn.

Ice from Tana "river-glacier" will eventually feed the Copper River. Pipeline must cross similar areas in the Chugach Mountain Range. Photo by Edgar Wayburn.

Walker Lake in the Brooks Range lies in the heart of million acres Sierra Club spokesmen are asking be protecte ness in return for the millions of Alaskan acres being economic exploitation. Photo by Edgar Wayburn.

impossible to reverse." Equally critical, the icy climate keeps matter non-biodegradable — not susceptible to decomposition. As a result, the environment acts as a giant freezer, preserving man's tracks and debris wherever he leaves them. The trail of a wagon driven across the tundra of the Seward Peninsula two times in 1920 remains unhealed a half century later. The tracks made by World War II vehicles on Amchitka Island in the Aleutians look as if they might have been created a week ago. At Amchitka, Point Barrow and at the Naval Petroleum Reserve just west of the present oil concession on the North Slope, arctic junkyards of Quonset huts, wrecked planes and cars and just now rusting oil drums stretch for miles in every direction. Now, the 450,858-acre concession on the North Slope is daily raked and scarred as the oil industry probes its bonanza with all the alien technology it can muster. Testifying to the oilmen's success, the industrial smears stain the gray-white terrain like so many grotesque Rorschach blots. Already, says University of Alaska ecologist Robert B. Weeden, "Oil explorations in northern Alaska have destroyed the wilderness character of an area bigger than the state of Massachusetts."

Two million barrels a day would be just the beginning, for once the pipeline was built, the industry's march through the rest of Alaska could become irreversible. The North Slope is but one of 10 sedimentary basins in the state that hold promise—or, in the case of Cook Inlet, proof—that huge deposits of oil lie below the soil. In fact, as much as half of Alaska's land mass and vast offshore shelf is underlain with geological formations that tantalize the oil companies. Just east of the eager drillers on the North Slope, for example, lies the Arctic National Wildlife Range, an 8.9-million-acre refuge that provides a critical calving ground for thousands of caribou cows. Beneath the range, it is believed, more oil awaits the takers, who even now reportedly are conducting clandestine seismic explorations in the area.

The pollution threat would not diminish if the industry opted to bring its new-found oil to market directly from the North Slope in ships like the S.S. *Manhattan,* the 115,000-ton dead-weight tanker that plowed through the icy Northwest Passage in 1969. On the contrary, oil congeals at frigid temperatures, and a single spill could visit incalculable mischief on the arctic ecosystem. If 30 or more tankers began crashing through the treacherous passage, the effect of their pollution, in fact, could easily become global.

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In determining the world's weather, no single land mass plays a more critical role than the arctic ice pack. Once widespread, oil pollution from the fleet of tankers and from the North Slope field as well could seriously alter arctic heat patterns, upsetting fundamental weather balances thousands of miles away.

Alaska, then, is nothing less than what ecologist Barry Commoner so aptly calls "a living microcosm of the whole environmental issue." A microcosm, moreover, that covers some 586,000 square miles, stretches 3,200 miles through four time zones from the tip of the Aleutians to Prince Rupert on the border of British Columbia, whose 33,000 miles of coastline are half again that of the rest of the nation's seaboard and whose awesome precincts offer Americans their last chance to preserve, in Dr. Weeden's words, "an embodiment of the frontier mythology, the sense of horizons unexplored, the mystery of uninhabited miles." Of the 2.3 billion acres of land and water in the 50 states, only about 10 per cent remains fairly unspoiled. The bulk of this wilderness is in Alaska.

It took two centuries to desecrate the 48 states. Given the impact of modern technology, the population boom and the ever-shrinking supply of open space elsewhere, it should take only a decade or two to foul Alaska. "The discovery of oil," warns Dr. Weeden, "has telescoped the margin of time for wilderness preservation into a very few years. . . . There is no other private industry with similar ability to amass huge amounts of capital, and move men and equipment to remote parts of the earth [and] there is no other industry that changes the appearance of the landscape over such large areas in the process of looking for a resource."

To justify this rape, the oil companies and their supporters flay us with conventional wisdom. They argue, for example, that Alaska desperately needs the industry because it is a "poor" state. And in the one-dimensional context of the cash nexus, so it seems. Long little more than a colony dependent on Washington for more than $1 of every $2 spent within its borders, Alaska suffers the nation's highest unemployment rate and its native Aleuts, Eskimos and Indians (one-fifth the total state population of 304,000) are likely the poorest citizens in the United States.

Anticipating fat profits, the industry has already invested upward of $2 billion in the North Slope and the pipeline and is prepared to spend a billion or so more before a single drop of arctic oil starts moving

Yukon flats support an enormous resource of migratory wildfowl but are deceptively difficult terrain for people and pipelines. Pipe will probably be buried in a tunnel underneath the Yukon River. Photo by Edgar Wayburn.

Startled by a passing plane, a female Grizzly takes off with her cubs across a glacial river bar. The fastness of their Arctic wilderness is rapidly disappearing: they are fair game for hunters on foot or in the air. Photo by Edgar Wayburn.

to market. At capacity, the pipeline would generate $200 million a year for Alaska in royalties and severance taxes. And this would come on top of the $900 million the industry paid the state in September, 1969, simply for the privilege of drilling on the North Slope. Predictably, all these fast bucks have given most Alaskans an acute case of Klondike fever, complete with gilded fantasies of transforming the state—in the words of one former resident—"from a frozen Appalachia to a frozen Kuwait." This prospector mentality, of course, smogged the air, curdled the waters and blighted the cities of the rest of the nation. Excusing it here on the ground that Alaska is poor is like telling an Eskimo he can have a refrigerator if he will allow oil drills to obliterate his hunting grounds. Yet in no real sense is Alaska poor at all. On the contrary, it is rich not only in that rarest of resources—wilderness—but in the opportunities wilderness provides to develop such industries as fishing and tourism. Properly managed, these would impinge on the sensitive Alaskan environment infinitely less than would the extraction of oil, and at the same time provide a firm economic foundation for a population unlikely to exceed half a million by the end of the century. As for the state's 57,000 natives, they live in squalid villages not because funds are lacking to help them but because, like all dark-skinned Americans in our history, they have been systematically exploited and mistreated. Only now is Washington finally dealing with their long-standing claims to ancestral lands taken by Alaska's white settlers in time-honored exchange for fast talk, cheap liquor and the ravages of tuberculosis and syphilis. But while the natives wait for Congress to translate this tardy justice into acres and dollars, Alaska's power brokers seem in no hurry to provide even interim assistance. The natives continue to subsist in abject poverty throughout the state while the $900 million in oil lease money sits in banks gathering nearly $200,000 in interest a day. And the state legislature can't decide what to do with it.

When jackpot psychology fails to persuade their opponents, the industry offers up perhaps its most specious argument of all—that the North Slope oil is desperately needed to head off an acute fuel shortage in the heavily populated areas of the U.S. And, indeed, so it seemed in the early fall of 1970 as scare headlines warned that thousands of citizens faced a chilly winter for lack of residual crude to heat their homes and apartments. Yet the fact of the matter is that no real shortage existed then, exists now, or ap-

pears at all likely in the near future. As the *New York Times* correctly noted early on: "If there ever was a man-made crisis, this is it."

The threads of this manufactured emergency are undeniably tangled in the volatile politics of the Middle East, the demand for cleaner fuel in the U.S., a temporary shortage of tankers, unneeded restrictions on imports, a vague energy policy set by a score of federal agencies and, not the least, in the organized obfuscation of the oil industry. Despite this confusion, two things have long been clear: the nation could quickly end its fuel "crisis" if (1) domestic oil production were not rigged low to keep the price stable and (2) imports were not rigidly discouraged. When President Nixon belatedly accepted these facts in December, 1970, the Great Oil Shortage became the economic non-event of the year. By authorizing an increase in the production from offshore wells and letting in additional Canadian oil, the President in one stroke added up to 500,000 barrels a day to the U.S. supply.

Beyond this immediate relief, the U.S. and Canada are now busily working out a continental energy policy that would provide, in the words of a joint communiqué issued by the two governments late in 1970, "full and unimpeded access to United States markets of Canadian crude oil and petroleum products, surplus to Canadian commercial and security requirements." In 1971, the agreement is expected to add 100,000 barrels to the 750,000 Canada already exports daily to the U.S. And, given Canada's vast oil reserves and relatively small population (21 million), its exportable surplus will likely grow markedly in the next decade. These exports, along with existing reserves, leave the nation nowhere near the precarious position so dear to the oil company propagandists. (Significantly, too, the industry-generated flap over shortages turned entirely on heating oil; not once was it suggested that motor fuel might become scarce, a fact that reflects the industry's devotion to that highly profitable product and the super-polluter it feeds, the internal combustion engine.)

In light of the ephemeral nature of the energy shortfall, there appears no immediate justification whatsoever to violate further the North Slope, much less construct an 800-mile pipeline from Prudhoe Bay to Prince William Sound. And the long view proves even less persuasive. Despite all the superlatives employed to describe the black pool beneath the North Slope, the crude there would satisfy no more than five per cent of the U.S. demand once it began flowing to market through the pipeline. True, that percentage could be increased, but only by gradually pocking the rest of Alaska with oil wells and criss-crossing the landscape with more and more pipelines. Predictably, the oil industry vigorously denies such expansionist aims—all the while poking around in the wilderness for other fields to tap.

Alaska may contribute only a small percentage to the U.S. oil supply, but some other percentages are more impressive. As Alaskan economist Arlon R. Tussing explained at a Department of Interior hearing not long ago, "The anticipated rate of return to [oil companies working the Slope] would be 43 per cent." Even should the cost of the pipeline double, Tussing maintained, the returns would still approach 36 per cent. These huge potential profits are made possible by an Oil Import Quota Program that severely limits domestic consumption of cheap foreign oil, artificially inflates the price of U.S. crude and, by conservative estimates, costs the American consumer some $7 billion a year. Historically, Congress has justified this protectionist policy on the grounds that national security requires that the U.S. not become too dependent on foreign oil. But as Sen. Philip A. Hart has pointed out, "The prime effect of such 'security' measures has been to insulate the American market from the low world prices for oil and petroleum products."

The planned plunder of Alaska's North Slope seems particularly criminal at a time when the government could begin to develop other energy sources —sources calculated to reduce the nation's dependency on a fuel that has become its worst pollutant. Beyond nuclear energy, scientists now are experimenting with myriad new power possibilities, among them: superconductivity, the transmission of electricity through hyper-cooled conduits without resistance or loss; magnetohydrodynamics, the generation of electricity from a supersonic flow of hot ionized gases, and solar energy, the conversion of sunlight to electricity by synergizing electronic and space technology. Much research remains, of course, and new environmental problems (such as thermal pollution from atomic plants) will doubtless arise. But with the intelligent reordering of fiscal and scientific priorities, a viable, efficient, inexpensive and cleaner alternative to oil should not be impossible to find.

Mr. Pollak is a former Newsweek *writer, and is author of the introduction to the Club's forthcoming battlebook* Oil On Ice, *from which this article is taken.*

Alaska Diary

By Dennis Schmitt

August 10, 1965—*By auspice of the Office of Economic Opportunity the (urban) umbilical today is severed, at least tentatively, as I have reached another world. It is called the Endicott Mountains. It is apparent that I am not the first to arrive. Rows of oil drums aggressively remind me of this fact, though, happily, it is the inhabitants proper that command my attentions. This applies to the females most especially who smile in the background together with children in an arc of unstudied charm. The men stand independently scattered in the foreground, their smiles pointing more readily at my figure. By this place I am delivered from my books and my dreams. I accept myself unto it. My eyes, mind and feet sense a harmony with which I hope to find myself marching about its jagged horizon. For the present I will voyage only into the recesses of the village.*

August 18—*Eskimo (Inupiat) strikes me as an elegant language (much in the manner of the land—which has acquired some noxious English appellations), especially when being muttered excitedly near the surface of the bubbling river in the nights of August. "Kaluk" is a much repeated sound under these circumstances, meaning 'fish.' Fish (kaluich) are so plentiful in the village river at this season that prodigious catches of them are achieved by children with nothing other than stones which are thrown in the water, and a light which is used to spot the stunned fish. Tonight I sat on the bank of the river and watched. Some children introduced themselves to me by showing me their loads of fish and saying, "Hi Tannik [whiteman], I'm... this person. You like Kaluk? You take any much Kaluk you want."*

August 20—*Today I described to some young hunters how the Indian people, with whom I had lived to the east, skin their animals. They listened attentively and then matter of factly told me to go over into the Anaktiktok Valley to the northeast where I would find an old man camping. I set out in the direction of the mountain called 'Napaktualuit(ch),[2] whose meaning, in some way, designates the presence of trees. Crossing the many strands of the Anaktuvuk River I lost the pack dogs that were sent with me. A tall, powerful Nunamiut did, however, find me and took me to the old man's camp. The old man, Elijah, was sitting before his tent with his legs stretched out before him on a yellow bear skin; he was sewing his boots. My companion, Noah, addressed him casually with, "Elijah, tamna tannik kaitkiga" (I brought the tannik). Elijah looked up and giggled with a benign mockery prevalent in certain other of his gestures. His face was powerful and masculine. "Hello Tannik tamna," he said, "I don't eat you; you got no fat, no good that way to Inupiat, better feed 'em first. You know Nikipiaq [meaning real food, that is to say meat]? Nikipiaq is friend to inside man; help head too." Pointing his finger at the meat drying in the willows around us, he continued, "I catch 'em lots of caribou, even catch 'em cookie." He pointed to the package of cookies in his tent. Noah commented inadvertently, "Yeaheaheahey, Elijah! all right."*

We entered the old man's tent. The floor of the tent was of green willow strands, engendering an aura of natural grace to its other aspects. The stove was a 5 gallon gasoline can, the bedding of caribou skin and army surplus sleeping bag material, the tea pot of tin, the teacups of plastic. As we sat down Elijah said to me, "Drink tea." He said this matter of factly, not as a

question and not even as a command but as an irrefutable statement. Observing my hesitation, Noah spoke to me pontifically, "If you don't drink tea, can't be Eskimo" is what he said, meaning that tea drinking was essential to Eskimohood (real personhood). Recalling a document stating that the Eskimo of Alaska used Russian tea as of well over a hundred years ago I proceeded to agree with him. But it was not until Elijah told me the same thing about raw meat, as he set some before us, that my agreement achieved conviction. But I was well aware of the high quantities of radiation present in the caribou meat as a result of Soviet nuclear tests and I showed suspicious timidity in the face of this once wholesome diet. When Elijah saw how poorly I ate the meat he asked me why I had not brought any pack dogs along with which to bring meat to the village. I told him I had lost them along the way at which he laughed with a mockery that had expected that answer. "No matter," he said, consoling me, "dog play with lady foxy one, [then] come back eat."

The next morning I followed the old man with my puppy, Shillig, to a knoll between the mountain and a lake. He talked to me at length, addressing many issues. He explained how his uncle Tulugak (Raven) was a great Angatkok (magic man) who, out of respect for kinship obligations, did not scavenge on Elijah's meat in his many black and featherly incarnations. This, at least, is how I interpreted his random discussions of the word 'Tulugak.' From the knoll we could watch the foxy one (a red fox?) lead a nearly blind pack dog irreverently about the tundra.

When the first caribou approached we crouched low and drew higher up the slope to wait for her. As she loped by us, showing her flanks, he shot her and signaled that I should run and catch her. She lunged vainly a good distance before she dropped at the feet of me and my suddenly truculent puppy. I, with absolute wonder in mind, but knife in hand, put the blade through the back of her neck. I lay her head on the tundra with abrupt tenderness, as if on a pillow, and kicked my hasty puppy away from her body. Elijah arrived, cut off her skin and instructed me to observe the particulars of this act.

So it was that we again soon were sitting on the knoll discussing Tulugak and watching the mysterious foxy one lead the myopic pack dog toward his bliss on the tundra. But now we had fresh blood to add to our cookies.

The days continued this way until some women came to the knoll one morning with pack dogs to take the meat back to the village. I loaded the dogs charged to me, which were suddenly no longer lost, and followed.

September 30—*Today some Eskimos danced and, by the way, some thousands of migrating caribou appeared in our pass. None dare shoot at the front running herds for fear of turning them, and the many thousands behind them, back. Once the first bunches reestablish their trail across this pass, however, the momentum is irrevocable. As for dancing, that is what I did today, leaving the Nunamiut to scout the impending migration without the liability of my help. My dancing is absurd enough to prove eventful to these people. The true Nunamiut style of dancing requires wavelike butterfly strokes on the part of the females and stark muscular tension joined to stamping feet and hunting cries (Ahooeee!) on the part of the males. My lanky hybridizations of the two contrasting styles brought comic relief to what was otherwise a serious day.*

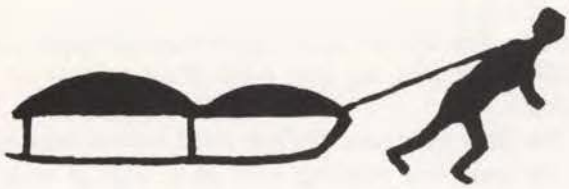
This evening a young hunter explained to me the importance of the migration: "Pretty soon we better catch lots o' caribous; that way plenty to eat till coming back. You know what, [if] winter still coming, coming . . . coming . . . plus no meat [at the word 'meat' the pitch of his voice suddenly rose hysterically—a phenomenon that overflows from Inupiat into English] . . . my dogs go to dying. I shoot hungry part of them; they even thank me."

He paused sullenly and then continued vindictively, "What they think we gonna eat anyways, cookie? . . . Maybe you think cookie."

He paused again, now ruminating seriously over the idea of cookies. "I jokes," he said at last, "Pretty soon maybe you see lot o' cookies around this place. Pretty soon dog catch 'em too.'

He paused again, finally smiling daringly to say, "I jokes. Pretty soon nothing to think anymore; just catch caribous, tomorrow even. How that sound eh?"

I had stood impassively as he spoke of all this. As he began I was gazing directly into the stark mischievousness of his eyes, though, by the end, my vision was being tickled by the aurora floating above his head. I asked him what it was. "You mean Kigogia?" he said. Then, turning his head around to face it, he began to cry out "Kigogia Ki!" repeatedly. At this I lapsed into the glories of renewed infancy.



October 26—*Saglu gave me her dogs and a little uniak (sledge) with which to bring back some meat. I set off at sunrise into the Anaktiktok Valley. From the slopes above the valley a monumental spectacle unfolded below me. A herd of many thousands of caribou stretched a number of miles across the valley as many hunters were chasing and firing along their flanks by uniak. In the midst of the herd as well as along its periphery were various scattered hunters on foot. Shots were pealing from various directions as caribou would falter from time to time. Many loose dogs were aggressively scavenging on wounded caribou within the herd, thereby reinforcing the aspect of chaos in this event. Yet, despite this confused activity, the main core of the herd did not appear to alter or quicken its pace as it grazed toward the pass.*

November 1—*Today I fell asleep on the sledge after fighting over an hour with the dogs simply to get them to turn around and go the other way. Sometime later I awoke to find the moon shining and a mountain wall passing by. Here and there stray dogs would loom in my face as they ran alongside and then vanished. Dead and dying caribou also appeared, though more passively, and vanishing more instantly, some merely as vague silhouettes. At the edge of the plateau the sledge plunged out of control down the ice slope, pulling the dogs after it and spinning us in circles until the dogs again regained their footing. I woke up in front of Saglu's door. "Teatugin" (Drink tea), she laughed at me with compassion and delight, and immediately began to unharness the dogs.*

March 4, 1966—*Today I climbed the east face of Pk. 5280+ to the summit. My dog, Shillig, followed me, and I had to throw her up the steep buttresses as I climbed them. For her courageous efforts I shared my cookies with her on top. The Nunamiut found this activity of mountain climbing insane. Shining the sunlight down onto the village with my mirror did not change their opinion of my next ascent. Meat is extremely scarce in the village now. Men have been forming consolidated hunting expeditions to the southern mountains. The women have been merging households. The dogs have been getting shot. This is the coldest month.*

April 12—*Spring caribou came through the outskirts of the village today. This is not surprising, since the houses are of sod and naturally camouflaged. The proximity of the caribou to the village has allowed the children to hunt. They form diminutive bands of spear and stone-throwing wild men who almost literally torment the wounded caribou to death. Dogs assist as well.*

April 16—*Today everybody stood up at noontime to beam their faces into the sun.*

May 5—*With some little boys I climbed above a secluded hollow on the slopes of the western mountain wall. A few hundred caribou were sleeping in the hollow, appearing like a host of phantoms through the falling snow. The boys wanted to surround them and attack. We set some lairs but had not plotted the caribou's escape route accurately before we charged.*

May 30—*A boy and I climbed up the eastern mountain wall at midnight. At the mouth of the Inukpak Valley we watched a kavik (wolverine) pass less than 50 feet below us. After gazing down at the area of the village, he backtracked and passed again beneath us. We slid down an icy crust getting very close to him. Why we did this it is hard to tell. Perhaps we were hunting.*

June—*Many planes are arriving. The quality of life is deteriorating in preparation for the summer.*

July 1968—*Johnny Rulland fixed me up with what appears to be Elijah's little tent with fresh willow shoots. Johnny is one of the few hunters to keep his dogs alive. The Bureau of Indian Affairs (BIA) has provided oil fuel and stoves for the Nunamiut's winter houses. But they have also provided materials and incentive for the Nunamiut to build frame plywood houses, that is to say, houses proper. I reluctantly help with this task. When he had finished his house, a very noble Nunamiut patriarch said with uncertain pride, "When white man fly around here he think it look like regular house."*

August—*Helicopters and planes fly in almost daily. The number of oil drums cluttering the village seems to increase geometrically. The air is perceptibly polluted. I resolve to do something mechanical—leave the village.*

August 12—*From Anaktuvuk Pass I marched into the Anaktiktok Valley, camped and set out again at*

sunrise reaching the canyon of Grayling Creek by the night of the next day.

August 14—*I crossed over the little lake pass to the headwaters of the Nanushuk River and, after continuing a few miles down the Nanushuk valley, I turned southwest back up the valley of the eastern Alapah Mountain glacier.*

August 17—*I crossed south over the drainage divide called Ernie Pass by some maps, and camped high in the easternmost valley rising northwest out of Kenunga Valley. A flock of 10 Dahl sheep grazed a half mile above during the night of ever deepening twilight.*

August 18—*From camp, at the creek feeding from Rumbling Mountain snowfield (unmarked), I followed the flock of 10 sheep up the idyllic valley to the snowfed lake at the base of Rumbling Mountain. From here I climbed the obvious pass resembling a succession of terraced garden walls to the NW ridge of Rumbling Mountain.*

August 19—*I returned to the Anaktiktok Valley with its quasi-miniature limestone formations (pyramids and indescribables both regular and irregular) recalling certain fabulous worlds privy to the imaginative or the dreamer. Since I am out of cookies as of yesterday, and I have resolved not to use my rifle for hunting purposes, I have to live on Asiat (blue berries) and Masu (roots growing along the rivers) until I reach the growing cookie reserves of the village. But there is no dilemma here as the Asiat are very abundant at this time of year (called the season of berries). A few miles from the village I encounter Nunamiut women, children and dogs engaged in just this task. At last I am somewhat relieved to find that I am not alone, a feeling the helicopters soon deprive me of. In the village I receive the customary house to house hospitality on my way home and, in turn, am pressed lightly for information concerning the whereabouts of imnayat (sheep) and taktu (caribou). I disrespectfully, however, discourage the hunting of the flock I had followed in (vague) appreciation for their leading me so innocently up to the garden wall, of which I have already spoken.*

August 30—*Again I must light out, this time heading west to my first camp near the head of the Big Contact Valley.*

September 2—*I completed the traverse of the Nunamiut Divide, reaching Chandler Lake by way of Ikagiak Creek. On the east side of the 8-mile long lake there is what appears to be the remnants of a stone caribou corral (a not too uncommon feature between this lake and the Killik River area). This, along with some oil drums in the lake, are the first artifacts I have found since beginning my crossing.*

September 4—*I followed the long Kollutark Valley to a surprising, warm, even summery, willow laden gorge leading, by twists and turns, to the Contact Pass, whose superficial presentments seemed somehow Hellenic in the austere drama of their graces. Even the natural inhabitants, to whom I was now returning late in the night through the Contact Valley, even those who chant, sew and gaze under the droning engines of the helicopter, are possessed by or possess this rare classical nature. My genuine fear is that this land and its natives will suffer real, crushing disasters on their own, even without the heavy laden interpretation of speculative imaginations like mine.*

October—*The caribou return and winter clears the sky and its air so that life again regains its effortlessness.*

November—*Sensing the corruption of the whiteman in myself I leave for Fairbanks, a hideous slum where cookies are readily available. When I left, the same women and men with different children stood as they had before, when they had first greeted me. That their faces were now hovering above rows of oil drums did not change my memory of them.*

November 1969 (Juneau)—*The state is no longer interested in Eskimo language usage-and-teaching in native schools. The purpose of this is obscure to the officials, since none of them seem to know the language. Hopefully, someone else will take up this project as I no longer can.*

Mr. Schmitt worked as a volunteer for the Office of Economic Opportunity in Alaska, helping to establish native land claims, and native language teaching in bush schools. He is presently studying Anthropology at the University of California at Berkeley.

Environmental Law

By R. Frederic Fisher

Few people have ever heard of *Cyprinodon diabolis,* or even of its common name, the pupfish. They are an ancient little fish, about an inch and one-half long, that live in holes in the desert floor of Death Valley. There are only about 500 of them in existence. They have no commercial or other known use for man. They are also listed in the Code of Federal Regulations as an endangered species.

The water-filled holes in Death Valley where the pupfish live are in a detached part of Death Valley National Monument, surrounded by private lands being developed for agricultural use by a corporation called Spring Meadows, Inc.

When pumping for irrigation began, the water in the holes went down, below the level of a rocky outcrop where the fish breed. Various governmental agencies were mournfully wringing their hands over the inevitable destruction of these fish, but they were doing nothing.

Don Harris, co-chairman of the Sierra Club's Legal Committee, began brooding about the incredible presumptuousness of man casually wiping out an entire species that had successfully lived in this alien environment for thousands and thousands of years. After working himself up to the proper level of outrage, he began calling an Under-Secretary of the Interior three times a day, until finally the call was returned.

Harris outlined the problem, got a sympathetic response, and then announced that the Sierra Club was considering bringing a mandamus action against then Secretary of Interior Hickel to compel him to take legal action to protect these fish. And Harris was quite ready to file the action.

You have never seen such activity. Experts were flown back and forth across the country, hydrological studies begun, an artificial breeding platform constructed. The Department forced Spring Meadows, Inc., to reduce pumping significantly, pending the outcome of the water study. And the Department is pretty well committed to legal action against the private interests if that is necessary to protect these fish.

The cynical might say that this only shows that the government will spend tens of thousands of dollars to save three-quarters of a pound of fish. But we see it quite differently. It shows that the old-line, much reviled agencies can and will act decisively to solve environmental problems. And it tells us something about what environmental lawyers acting as political strategists can and must do to push those agencies

into action.

The most important job for environmental lawyers dealing with governmental agencies is to use all available means to persuade, embarrass, prod and force those agencies to do the job they should be doing anyway. This observation applies to lawyers representing citizen groups, and it applies to environmentally minded lawyers working for those agencies. If the agencies would do their job, there would be little need for outside environmental lawyers. But, these agencies are among the most imperfect creations ever devised by man. All too often, they are timid where they should be forceful, they are arrogant where they should listen; they act upon momentary political pressures from industry where they should stand on principle; they are secretive where they should be open; they treat new ideas as a threat to civilization; they resent citizen activities and lawyers representing citizen interests as a threat to their prerogatives.

These self-same agencies are, and must be, the key to achieving improvement in our natural environment. Whether we like it or not, the potential for controlling environmental ills in this country lies largely in the hands of these agencies rather than with courts. And, to put the role of the environmental lawyer representing public interest groups in perspective, the degree of energy and direction of those agencies has to date had relatively little to do with what public interest lawyers have done.

I am convinced that this country will turn increasingly to administrative agencies rather than courts to solve environmental problems. The role of courts in reviewing agency action or non-action will greatly expand, but this function is really an extension of the administrative process in which the center of gravity is the agency itself. In the last analysis it will usually be the agency rather than the court that makes the final decision. And the agency, in hundreds of ways, makes day-to-day decisions of environmental consequence which will never be reviewed by a court.

There are several reasons why practice before and against agencies rather than citizen lawsuits against corporations or other individuals will play a larger and larger role in our lives. First, government is one of the very worst offenders in desecration of the environment, witness the Army Corps of Engineers. Any battle against government projects almost always means that the environmental lawyer becomes involved in the toils of the administrative process, if only to establish his client's "standing" to seek court review.

Second, agencies are expanding and proliferating as a result of new environmental legislation and public pressure.

Third, we have no real choice as to this growth in the administrative agency function, notwithstanding the fact that we can expect the same horrifying frustrations in dealing with them that we now have with, for example, the A.E.C., the Bureau of Reclamation and the Federal Power Commission. Even at present levels of population and productivity, the non-governmental resources available to fight environmental degradation using traditional lawsuits in court against sources of pollution are so pathetically minute when compared to the scope of the problem that such lawsuits cannot, at least as yet, be taken as a serious means of combating environmental degradation.

Environmental groups should, as a general matter, strongly back creation of new agencies especially created to protect the environment. I am speaking of agencies such as the new Environmental Protection Agency, which among others, was recently given the job of regulating pesticides, which had been in the hands of the Department of Agriculture. (The handing of pesticide control to the U.S. Department of Agriculture is like handing the program to Stauffer Chemical Company.)

But, because environmental litigation by groups such as the Sierra Club and the Environmental Defense Fund is in such an early stage, some dramatic possibilities for change in the law exist, even when old-line agencies are involved. In several cases, the sheer blindness of the old-line agencies has led or appears to be leading to some sweeping and significant victories. Such cases show that the outside environmental lawyer with limited revenues can successfully select high priority issues in which a victory will have a wide-ranging national effect.

For example, *In re Consumers Power Co.* is an extremely important proceeding before the Atomic Energy Commission. Few people have heard of the case or know of its significance. Yet, the question of how to deal with the thermal pollution of bodies of water caused by nuclear power plants is one of the critical questions facing this nation. A chain of some thirty nuclear power plants is projected for the shores of the Great Lakes. If their heated effluents are put in the lakes, they have the potential of substantially raising lake temperatures and thus changing the entire ecological balance of these lakes. The first plant in Michigan has already been constructed pursuant to an AEC license. In late 1968, the power company

filed an amendment to its application, requesting an AEC license to operate the plant at levels up to 2,200 megawatts. At this point, conservation and environmental groups, including the Sierra Club, protested or intervened in the proceeding, alleging that the Commission must consider thermal and radioactive pollution of waters in passing on the request for the amended license.

The proceeding thus directly raised broad questions of law with respect to the duties of the Atomic Energy Commission in taking environmental issues into consideration in licensing such facilities, both under the Atomic Energy Act and under other statutes having no specific relation to atomic energy. The outcome of the matter may well set the pattern for the future as to the Atomic Energy Commission's role in controlling thermal and radioactive pollution.

In this regard, the environmental lawyers involved were operating under a considerable disability. The Atomic Energy Act specifically provides that it is national policy:

> *"... to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public."*

Thus, the Commission, by statutory direction as well as by predilection, has long been a promoter as well as licensor of nuclear plants and has built-in hostilities to anything—including pollution control—which will raise the cost of nuclear-produced electricity.

The Commission at the outset took the position that its statutory authority to license facilities making use of atomic energy did not authorize it to consider *thermal* pollution of bodies of water used for reactor cooling, on the theory that heat was not atomic energy and hence outside the Commission's jurisdiction. The conservationist argument went like this: atomic energy includes thermal energy. Conservationists pointed to the definition of atomic energy in section II of the Act as including "all forms of energy released in the course of nuclear fission or nuclear transformation." Since heat is a form of released energy and all such forms are atomic energy, heat produced by reactors is atomic energy. Therefore, the Commission must regulate heat emissions under its statutory injunction to regulate atomic energy. The conservationists also argued that the National Environmental Policy Act and the Water Quality Improvement Act placed additional obligations on the Commission to control thermal pollution as a condition of licensing.

Incredibly, the Commission refused to hear evidence relating to thermal pollution, thus setting itself up for judicial reversal on a point having tremendous ramifications. The conservation groups, without waiting for a final order, filed an interlocutory appeal with the Court of Appeals for the District of Columbia Circuit. Although this appeal was rejected as premature, the court warned the Commission in dictum:

> *"If the Commission persists in excluding such evidence, it is courting the possibility that if error is found a court will reverse its final order, condemn its proceeding as so much waste motion, and order that the proceeding be conducted over again in a way that realistically permits* de novo *consideration of the tendered evidence."*

At the present time, the start-up of this multi-million dollar plant has been halted pending future hearings before the Atomic Energy Commission. Consumers Power Company had previously stated that construction of cooling facilities to reduce the temperature of water being returned to the lake was economically unfeasible and that elimination of radioactive discharge into the lake was impossible. Yet, it now appears that Consumers Power, faced with costly delays in plant start-up, may be willing to solve these problems after all.

Typically, this case involved an old-line agency committed by habit, outlook, political pressure, and even by statutory direction to a pro-industry, do-little attitude. It involved an agency which set itself up for judicial reversal on an issue of law by its narrow-minded approach to environmental problems. And it proved that agencies must learn that if they fail to

act aggressively themselves, they risk being sued and, at a minimum, embarrassed. Being sued and embarrassed once will hopefully operate as a spur or deterrent in the future.

Because environmental lawyers operate with limited resources, they must also learn to be highly selective in their choice of cases and to be willing to seize upon unexpected types of proceedings to extract environmental concessions from their opponents. Knowing that the slow, laborious and expensive procedures of administrative agencies usually work to our disadvantage, we must use these processes in new and unexpected ways against the opposition. We must follow applications for permits, government financial aid and rate increases filed by industry, with the object of using this leverage to extract environmental concessions. To be the only protestant in a proceeding which the applicant wants to push fast and hard, is to be in a good bargaining position, indeed.

Recently, Congress has given environmental lawyers an important tool to use in the struggle to make administrative agencies do the things they should be doing on their own steam.

It is the National Environmental Policy Act of 1969 (42 U.S.C. § 4331), passed by Congress and signed by the President, probably without realization of the potential that lies therein. NEPA is one of those statutes whose meaning depends largely on how imaginative and unorthodox the lawyer is who reads it.

Some persons view the Act as merely a statement of national policy, together with a directive to federal agencies to make environmental studies in certain instances and to recommend and adopt changes in federal statutes or agency rules. Others view it as a charter for common law development of an entire body of environmental administrative law. I frankly do not know how far NEPA goes. I would like, however, to advance the thesis that NEPA has wide possibilities for prodding and goading unsuspecting agencies into fulfilling their obligations.

NEPA first declares a national policy of encouraging "productive and enjoyable harmony between man and his environment"; of promoting "efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man . . ." NEPA further declares, as

> *". . . a continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."*

Even without more, that declaration of policy offers interesting possibilities for the environmental lawyer dealing with an administrative agency which is enjoined by statute to make a determination of "the public interest" or of "public convenience and necessity" or of "public need."

Another significant directive of NEPA is the requirement in section 102(A) that all federal agencies shall utilize an interdisciplinary approach in planning and decision-making which will have an impact on the environment. Sections 102(C) and (D) have already become the subject of some successful litigation against agencies.

We can anticipate continuing dispute as to what federal projects "significantly affect the quality of the environment" and hence require a NEPA study. Since all agencies are directed to "identify" those actions requiring NEPA statements, we can also anticipate that agencies will try to exclude some of the projects we are worried about from the "significant" category. Therefore, we can also expect suits which challenge the correctness or the applicability of agency regulations designating the projects covered.

Can the environmental lawyer participate in the NEPA study and find out how it and the comments of other agencies are progressing? Can he take issue

with the study as it moves along?

While I have some doubts that non-governmental participation in NEPA studies *is required,* it would appear to be proper for an agency to permit such participation. The environmental lawyer can usually find one or more cooperative federal and local governmental agencies and work with them in preparing their NEPA comments.

NEPA also suggests some relief for the perennial problem of arrogant behavior by federal installations in refusing to comply with local anti-pollution ordinances and other local regulations. Since NEPA and the guidelines clearly contemplate state and local agency participation in NEPA studies, the possibility exists of state agencies enjoining federal projects or activities as to which no NEPA study has been performed. Whether there exist any state or local agencies with the guts to try, remains to be seen.

In summary, NEPA is what the courts and the environmental lawyers, governmental and private, will make of it. Probably the cases reaching the federal courts in the next two years will not immediately strain the outermost possibilities of the Act. Judges feel more comfortable doing something that is only a little more than what the last Judge has done. If the courts are asked to make the leap all at once, they probably will not do so. The gradual common-law case-by-case type of development, however, can make NEPA into something like an environmental Magna Charta.

Mr. Fisher is co-chairman of the Sierra Club's Legal Committee.

SUMMARY OF CLUB LEGAL ACTION

DECIDED CASES:

- *Northern California Ass'n. to Preserve Bodega Head and Harbor, Inc. v. Public Util. Comm'n.,* 61 Cal. 2d 126, 37 Cal. Rep. 432 (March 17, 1964). Petition for a writ of review to the California Supreme Court from a Public Utilities Commission decision granting a certificate of convenience and necessity to Pacific Gas and Electric Company to construct a 325-megawatt nuclear power plant on Bodega Head in Sonoma County. Writ was refused, but P.G.&E. later withdrew its application when the Atomic Energy Commission expressed disapproval of the site selection. (a.c.)
- *Citizens Committee for the Hudson Valley and Sierra Club, et al. v. Volpe, et al.,* 425 F. 2d 97 (U.S.C.A., 2d Cir., April 6, 1970; Cert. denied, Dec. 7, 1970). Secretary of Transportation enjoined from building an expressway on the Hudson River. (p)
- *Dietz, et al. v King, et al.,* 2 Cal. 3d 29, 84 Cal. Rep. 164 (Feb. 19, 1970). Decision which greatly enlarged the public's access rights to beach and shore lands. (a.c.)
- *Sierra Club v. Pacific Gas and Electric Co.,* (California Public Util. Comm'n. Case No. 8952; Pet. for Rev. denied June 17, 1970). Club attempted unsuccessfully to prevent the construction of a 230,000-volt power line through Briones Regional Park, California. (p)
- *Martin v. Kentucky Oak Mining Co., et al.,* 429 S.W. 2d 395 (Ky. Ct. App., 1968). Lawsuit sought unsuccessfully to establish that the broad form of mineral deed in Kentucky does not include the right to use strip or auger mining practices. (a.c.)
- *Candlestick Properties, Inc. v. San Francisco Bay Conservation and Development Comm'n, et al.,* 11 Cal. App. 3d 557, 89 Cal. Rep. 897 (Sept. 24, 1970). Case upholding the refusal of the BCDC to grant a permit to fill a portion of San Francisco Bay to a corporation operating a baseball stadium. (a.c.)
- *Sierra Club and M.C.E.I. v. Minn. Pollution Control Agency* (Dist. Ct., Minn. 4th Judicial District, No. 662008, 1969). Successful petition for mandamus to require the Minnesota Pollution Control Agency to hold hearings on the effect on Lake Superior of Reserve Mining Company's practice of dumping taconite tailings into the lake. (p)
- *Sierra Club v. Beattie, et al.* (Calif. Super. Ct., Santa Barbara County, No. 86643, 1969). Mandate proceeding to require Santa Barbara County to hold hearings to consider the Club's protest of a county permit to drill for oil in the Channel Islands. The court denied the relief. (p)
- *DC Federation of Civic Association, Inc., et al. v. Volpe, et al.* (1 E.R.C. 1316, U.S.C.A., D.C. Cir., Apr. 6, 1970). Case halting the proposed construction of the Three Sisters Bridge in Washington, D.C. (a.c.)
- *City of Martinez, et al. v. Pacific Gas and Electric Company* (Public Utilities Commission, Case No. 9040, 1970). Proceeding to prevent the construction of an electric transmission line through Hidden Valley Park in Martinez, California. Defendant consequently donated enough money to purchase additions to the park. (i)
- *United States, ex rel Sierra Club v. Krupansky* (U.S.D.C., N.D. Ohio, E.D., 1970). Successful petition for mandamus to require the U.S. Attorney to prosecute the Harshaw Chemical Co. for polluting the Cayahoga River. (p)
- *Kings Castle Ltd., et al. v. Washoe County Board of Commissioners* (Nev. 2d Judicial Dist. Ct., Washoe County, No. 261237, 1970). Case which upheld strict regulation of a proposed subdivision along the shores of Lake Tahoe. (i)
- *Environmental Defense Fund, Inc. v. Corps of Engineers* (U.S.D.C., D.C. Dist., Civil No. 2655-69). Action to prevent further construction of the Cross-Florida Barge Canal. The Sierra Club and others were in the process of preparing an amicus curiae brief supporting E.D.F., when President Nixon ordered a halt to all further construction of the canal on January 19, 1971.
- *Association of Data Processing Service Organizations v. Camp,* 397 U.S. 150, 90 S. Ct. 82, (March 3, 1970). Case in which the rules governing the legal doctrine of "standing-to-sue" were enlarged and redefined. (a.c.)
- *Paepcke v. Public Building Commission of Chicago* (Ill. Sup. Ct., No. 43240, May 1970). Taxpayer suit to prevent the use of a park site in Chicago for a school building. Conservationists failed to prevail but established in the Illinois Supreme Court the right of citizens to sue to enforce the "public trust" in state lands. (a.c.)
- *In the Matter of Arizona Power Authority* (Fed. Pr. Comm's., Project No. 2248, 1967). Club succeeded in holding up Federal Power Commission licensing of Grand Canyon dams until Congress could act to prevent the dams. (i)

PENDING CASES:

- *Sierra Club v. Hickel, et al.,* 433 F. 2d 24 (U.S.C.A., 9th Cir. Sept. 16, 1970; Petition for Certiorari in U.S. Supreme Court filed Nov. 5, 1970). Injunctive action to stop the Disney Corporation ski development in the Mineral King area, California. Club won before District Court and lost before Court of Appeals. (p)
- *Parker, Sierra Club, et al. v. United States, et al.,* 309 F. Supp. 593 (U.S.D.C., Colo., 1970). Forest Service was prohibited from cutting areas

of wilderness character adjacent to present primitive areas until such time as the President and Congress act to determine the final boundaries of the Wilderness Area for the region. Now on appeal to the Tenth Circuit Court of Appeals. (p)

• *Save San Francisco Bay Association, Sierra Club, et al. v. City of Albany, et al.* (Calif. Super. Ct., Alameda County, No. 383480). Action for declaratory judgment that a proposed land fill by the City of Albany in San Francisco Bay is illegal and in violation of a public trust. (p)

• *Scenic Hudson Preservation Conference, et al. v. F.P.C.*, 354 F. 2d 608 (U.S.C.A., 2d Cir., 1965). Power Commission licensing proceeding in which Club opposed hydropower plant at Storm King Mountain on the Hudson River. Case established the right of organizations like the Sierra Club to appeal in Federal Power Commission proceedings. A new appeal to the Second Circuit from an adverse decision on the merits rendered by the F.P.C. on August 19, 1970, is in preparation. (p)

• *County of Orange v. Heim* (Calif. Super. Ct., Orange County, No. M-1105). Action to challenge lawfulness of a land swap to the Irvine Company of public tidelands in Upper Newport Bay, California. Judgment was for the county, but a new board of supervisors reversed the land swap. (i)

• *Sierra Club, et al. v. Hardin, et al.* (U.S.D.C., Alaska, No. A-16-70 Civil). Action to stop wholesale lumbering, without adequate provision for recreation uses, of Tongass National Forest, Alaska. The matter is under submission for judgment following trial. (p)

• *Citizens Committee for the Columbia River and Sierra Club, et al. v. Resor, et al.* (U.S.D.C., Oregon, Civil No. 69-498). Lawsuit seeking order against additional filling of the Columbia River for use as jet runways at Portland Airport. (p)

• *In re Applications for License for Middle Snake River Project* (Fed. Pr. Comm'n. Projects No. 2243 and No. 2273). Proceeding before the Federal Power Commission to oppose the construction of the High Mountain Sheep Dam in Hells Canyon on the Middle Snake River in Idaho. (i)

• *Texas Committee on Natural Resources and Sierra Club, et al. v. U.S., et al.*, 1 E.R.C. 1303 (U.S.D.C., W.D. Texas, No. A-69-CA-119, Feb. 5, 1970). Action to prevent construction of a golf course in Meridian State Park, Texas. Pending an appeal to the Fifth Circuit in Court of Appeals, the District Court granted an injunction to prevent construction. (p)

• *Washington Environmental Council, Sierra Club, et al. v. Andrews, et al.* (Wash. Super. Ct., King County, Jan. 9, 1970). Club is attacking the constitutionality under Washington law of omnibus highway legislation. (p)

• *Environmental Defense Fund, Sierra Club, et al. v. Ruckelshaus, et al.* (U.S.C.A., D.C. Cir., No. 23813, decision rendered Jan. 7, 1971). Court ordered the U.S. government to cancel and suspend interstate shipment and sale of DDT. (p)

• *California v. County of San Mateo, et al.* (Calif. Super. Ct., San Mateo County, No. 144257). Action to determine ownership of tidelands in San Francisco Bay near Coyote Point in San Mateo County. (i)

• *Citizens to Preserve Overton Park, Sierra Club, et al. v. Volpe, et al.*, 432 F. 2d 1307 (U.S.C.A., 6th Cir., decided Sept. 29, 1970; Cert. granted, Dec. 7, 1970). Action to prevent construction of an interstate highway through Overton Park, Memphis, Tennessee. (p)

• *Calvert Cliffs Coordinating Committee, Sierra Club, et al. v. U.S. Atomic Energy Commission* (U.S.C.A., D.C. Cir., No. 24871). Petition for review of inadequate rules and regulations adopted by the A.E.C. to implement the National Environmental Policy Act. (p)

• *Calvert Cliffs Coordinating Committee, Sierra Club, et al. v. U.S. Atomic Energy Commission* (U.S.C.A., D.C. Cir., No. 24839). Petition for review of the A.E.C.'s refusal to order construction of the Calvert Cliffs Nuclear Power Plant in Maryland halted pending a complete study of the environmental impact of the plant. (p)

• *Bayside Timber Company v. Board of Supervisors of San Mateo, et al.* (Calif. Ct. App., 1st App. Dist., Div. 1, 1 Civil No. 28244). Appeal from a judgment holding that the County of San Mateo had exceeded its planning and police powers in refusing to grant a permit for a commercial logging operation. (a.c.)

• *In re Catskill Power Line* (Power Authority of State of New York, Project No. 2685, Pet. to Intervene Feb. 5, 1970). Action to re-route the Gilboa-Leeds transmission line which the N.Y. State Power Authority wants to build over the Catskills. (i)

• *Alpine Lakes Protection Society, Sierra Club, et al. v. Hardin, et al.* (U.S.D.C., W.D. Wash., N.D., No. 8885). Action to prevent the development of a mine east of Seattle in an alpine lake area. (p)

• *Stewart, Sierra Club, et al. v. Resor, et al.* (U.S.D.C., E.D. Penn., Civil Action No. 70-551). Action to prevent the U.S. Army Engineers from diking and filling Tinicum Marsh in Pennsylvania for a road project. (p)

• *In re Application of Rubinow, et al. v. Rockefeller, et al.* (N.Y. Sup. Ct., App. Div.; 1st Dept., No. 3197/1970). Action to prevent the construction of an expressway through a "green belt" area of Staten Island, New York. (a.c.)

• *Marks, et al. v. Whitney, et al.*, 12 Cal. App. 3d 796 (Oct. 9, 1970; Pet. for Hrg. granted Dec. 14, 1970). Action to establish public rights over tidelands and public standing to assert such rights. (a.c.)

• *In re Application of Green v. Heckscher, et al.* (N.Y. Sup. Ct., New York County, June 15, 1970). Action to oppose construction of a sewer in Riverside Park, New York City. (a.c.)

• *Concerned Citizens for the Preservation of Clarksville, et al. v. Volpe, et al.* (U.S.D.C., W.D. Tex., Civil Action No. A-70CA27). Action to oppose construction of an expressway through portions of Zilker Park and West Enfield Park in Austin, Texas. (a.c.)

• *Sierra Club, et al. v. Laird, et al.* (U.S.D.C., Ariz., No. Civ. 70-78 TUC). Club obtained an injunction preventing the Army Corps of Engineers from clearing fifty miles of riverbank along the Gila River in southeast Arizona without studying the environmental effect of the project. An appeal by the government to the Ninth Circuit Court of Appeals is pending. (p)

• *Hitchings, Sierra Club, et al. v. Del Rio Woods Recreation and Park District, et al.* (Calif. Super. Ct., Sonoma County, No. 64755). Case protecting public right of navigation on the Russian River and other California waterways. (p)

• *In the Matter of Consumers Power Company (Palisades Plant)*, U.S. Atomic Energy Commission, Docket No. 50-255; see interim appeal: *T.E.M.P., Sierra Club, et al. v. Atomic Energy Commission*, 433 F. 2d 524 (July 20, 1970, U.S.C.A., D.C. Cir.). Club asserts that the A.E.C. is required to examine evidence of thermal and radioactive pollution as a condition to granting a license for Consumers Power plant at Palisades, Michigan. (i)

• *United States v. Denarius Mining Company, et al.* (U.S.D.C., Colo., Civil Action No. C-2441). An action by the Forest Service for damages resulting from the building of an unauthorized mining road across national forest lands. (i)

• *Sierra Club, et al. v. Richardson, et al.* (Calif. Super. Ct., Mendocino County, No. 31292). Action to prevent the county from approving a subdivision without allowing for public access to the coast under the rule of *Dietz v. King, supra.* (p)

• *Pyramid Lake Paiute Tribe of Indians v. Hickel, et al.* (U.S.D.C., D.C. Dist. Civil No. 2506-70). Action to prevent the further diversion of water from Pyramid Lake in Nevada. (i)

• *U.S. ex rel. Sierra Club v. Hickel* (U.S.D.C., N.D. Ohio, E.D., Civil Action No. C70-971). Action to contest building a power plant at Navarre Marsh, Ohio, a refuge prior to its sale to a power company. (p)

• *Petition to Rid California's Atmosphere of Automotive Lead Emissions* (Calif. State Air Resources Bd., Nov. 9, 1970). Action to urge the Board to eliminate lead from gasoline in the state of California. The Board adopted the lead standards urged by the Club.

• *Orange County Air Pollution Control District v. Public Utilities Commission* (Calif. Sup. Ct., No. SF 22766; Pet. for Review granted Jan. 21, 1971). Case opposing the construction of two additional fossil fuel power generating units at Huntington Beach, California, within the Los Angeles air basin. (a.c.)

• *In the matter of Consumers Power Company (Midland Plant, Units 1 and 2)* (U.S. Atomic Energy Commission, Docket Nos. 50-329, 50-330). Action to prevent construction of a nuclear power plant near a highly populated urban area of Michigan. (i)

• *White v. California* (Calif. Ct. App., 1st App. Dist., Div. 1, 1 Civ. No. 28156). Appeal from a decision involving title to tidelands and the rights of the public to use them. (a.c.)

• *U.S. v. Ideal Cement Company* (Dept. of Interior Contest No. AA-062315, Alaska). Case involving the rights of a cement company to "patent" rights to a large area within federal forest lands to use for mining limestone. (a.c.)

• *In re Application of Consolidated Edison Co. of New York* (N.Y. Public Service Comm'n., Oct. 8, 1970). Action to support a local ordinance forbidding overhead high-tension power transmission lines through the town of Walkill, New York. (i)

• *Sierra Club, et al. v. City of Orlando, et al.* (Fla. Circ. Ct., Orange County, 1970). Action to stop construction of a proposed cross-town expressway which would traverse the center of Lake Underhill in Orlando, Florida. (p)

• *Associated Home Builders of the Greater East Bay v. Walnut Creek, et al.*, 11 Cal. App. 3d 1129 (Pet. for Hrg. granted Dec. 10, 1970). Action to overturn a decision that placing open space conditions on subdivision approval was unconstitutional. (a.c.)

• *People v. Rubin and Myers* (Calif. Super. Ct., Santa Barbara County, No. 90448). Criminal action against two Club members for correcting the spelling of names on a petition in a referendum to preserve the agricultural zoning of an area which was proposed for higher density rezoning by the county. (a.c.)

CASES BEING CONSIDERED:

In addition to those matters already decided or pending, the Club is considering participation in a number of other cases, covering a wide spectrum of environmental problems either as a party or an amicus curiae.

KEY: (p) denotes the Club is a party in the case.
(a.c.) denotes the Club is an amicus curiae in the case.
(i) denotes the Club is an intervenor in the case.

ALASKA PIPELINE

The Interior Department recommendation to proceed with construction of a trans-Alaska pipeline brought an immediate unqualified reaction from Sierra Club officials, who termed the decision "outrageous." The recommendation, released in mid-January, was the outcome of a 196-page environmental impact statement, which was submitted to comply with the National Environmental Policy Act. While the report did recognize the probability of a number of environmental hazards, including oil spills and pollution, melting of the permafrost, jeopardization of wildlife habitats, and destruction of wilderness and scenic values, the Interior Department urged going ahead with construction of the 800-mile hot oil pipeline on the grounds of national security and economic benefits.

"Despite the Environmental Policy Act, the Administration has chosen to give the oil companies' profits clear priority over the protection of the environment," Michael McCloskey, executive director of the Sierra Club, said. "And, as for justifying its decision on the grounds of national security, the Administration is simply excusing itself for putting the oil companies' profits first and the environment second." McCloskey continued, "Despite requests for many months from conservationists, the Administration has refused to release any of its pipeline studies until they were all tied together to make the case the Administration wanted." McCloskey also noted the Administration's evasion of responsibility in choosing to release this major report when there was no Secretary of Interior to take responsibility for it. He pledged that the Sierra Club will "continue to resist development of this ill-conceived project."

BOARD MEETING

The citizen's right to sue on behalf of his environment and his right to information that could have a bearing on that suit were two of the policy decisions made by the Sierra Club Board of Directors on December 5 and 6 in San Francisco. The Board voted to support "passage of legislation in Congress similar to the Hart-McGovern bill, introduced in the 91st Congress, that would clearly establish citizens' rights to sue polluters to maintain a clean environment." The Board also urged that such legislation incorporate the concept that the right to a clean environment is based on a public trust.

In related action, the Board of Directors called on "the President and his Administration to comply with the National Environmental Policy Act." The Board asked that "environmental impact studies made under Section 102 (2)(C) of the Act be released and made available to the public upon receipt by the Council on Environmental Quality in order to carry out the spirit of the law."

SURVIVAL

The Sierra Club Board of Directors has appointed a Committee on Environmental Survival. Its task: to recommend Club policy on such problems as population growth, power production and utilization, land use. In these areas particularly, the Club (not to mention society in general) has often lacked the necessary scientific information to make sound policy judgments.

The Environmental Survival Committee, in seeking to fill this void, will also try to provide overviews of environmental problems so that desperate, last-minute confrontations can be avoided whenever possible. The Committee includes physical, biological, and social scientists.

By itself, however, this small task force cannot hope to answer all the questions that will surely be raised in the years ahead. We know that there are many Sierra Club members with professional experience and expertise in environmental affairs. If you are one of these members and would like to make your experience available to the Club, either as a resource person or through specific suggestions toward specific solutions, please write to the Environmental Survival Committee at the Club office, 1050 Mills Tower, San Francisco 94104.

Richard A. Cellarius
Chairman, Environmental Survival Committee

EXPRESSWAY CASE

The United States Supreme Court has denied *certiorari* in the Hudson River Expressway case. The decision of the court makes permanent the injunction against the proposed $200 million roadway along the Hudson River. The case, in which the Club was joined by the Citizens Committee for the Hudson Valley and the Village of Tarrytown, may well represent the most significant final court victory to date of conservation organizations opposing public works projects threatening valuable natural resources. The Second Circuit Court of Appeals decision, which the Supreme Court has refused to review, grants the broadest rights of standing in court to conservation groups. It requires the Army Corps of Engineers to obey laws governing many major works projects in navigable waters, which have been disregarded by the Corps for 75 years.

FLORIDA CANAL

The White House announced in mid-January a permanent halt to all construction of the Army Corps of Engineers' $210 million Cross-Florida Barge Canal. Termed by conservationists one of the most politically outrageous public works projects in modern times, the canal was originally authorized by Congress in 1942 as a wartime security measure to protect American shipping from Nazi submarines. The White House decision was prompted by the recent recommendations against the project by both the Council on Environmental Quality and the Engineers' Environmental Advisory Board and the strong opposition of conservation groups, including the Sierra Club.

CONFERENCE

The dates of the Twelfth Biennial Wilderness Conference have been changed. The conference has been re-scheduled for the weekend of September 24-26, 1971, at the Washington Hilton Hotel, Washington, D.C. Originally, the conference had been scheduled for May 7-9. Futher details on the conference will soon be announced by Conference Chairman James P. Gilligan.

Statement required by the Act of Congress of August 24, 1912, amended by the Acts of March 3, 1933, July 2, 1946, June 11, 1960 (74 STAT. 208), and October 23, 1962, showing the OWNERSHIP, MANAGEMENT AND CIRCULATION OF the *Sierra Club Bulletin,* published monthly at San Francisco, California — for October 1, 1970.

1. The names and addresses of the publisher, editor, and executive director are: Publisher: Sierra Club, 1050 Mills Tower, San Francisco, California; Editor: James Ramsey; Executive Director: J. Michael McCloskey.
2. The owner is the Sierra Club, an incorporated non-profit membership organization, not issuing stock; Phillip S. Berry, President, 7173 Norfolk Rd., Berkeley, California 94705; Charles Huestis, Treasurer, Duke University, Durham, N.C. 27706.
3. The known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amounts of bonds, mortgages, or other securities are: NONE.

The average number of copies of each issue of the publication sold or distributed, through the mails or otherwise, to paid subscribers during the 12 months preceding the date shown above was 80,400.

(Signed) James Ramsey

WASHINGTON REPORT

Adjournment bells ending the last session of the 91st Congress symbolically sounded the opening round of a new series of environmental controversies for the 92nd Congress.

The last business transacted by the House and Senate was passage of a scaled-down appropriation for the supersonic transport program, leaving unresolved the fate of the controversial boomdoggle until the early days of the new Congress. Senator William Proxmire of Wisconsin, leader of the Senate anti-SST forces, won a commitment from Senate Transportation Appropriations Chairman John Stennis for a separate vote on SST funding prior to March 30, 1971. A similar promise was made by the House leadership, thus assuring a continuation of the year-long fight. By a narrow margin, the House voted last May to continue the program, but the Senate voted 52 to 41 for terminating the SST.

Opponents of the SST hoped for an improvement in the House vote because a majority of the fifty-one new Representatives in the 92nd Congress had expressed opposition. Although eleven new Senators will vote this year, little change is expected in the Senate's pro and con alignments. Since the funds for the SST will expire on March 30, the vote will come on a supplemental appropriation of about $50-million to continue SST work through the 1971 fiscal year. The Nixon Administration also is expected to seek funds for continuance in the 1972 fiscal year, starting July 1.

Another major conservation struggle—a re-play of 1970's Timber Supply Act fight — surfaced early in January when Under Secretary of Agriculture J. Phil Campbell announced that the Forest Service will seek authorization to escalate cutting in the national forests by sixty per cent. Campbell said that the Administration wants to step up cutting of the national forests to an annual level of 22.3 billion board feet, compared to the present 15 billion.

Unlike the 1970 Timber Supply Act struggle which grew out of forest products industry efforts to obtain new legislation for so-called "intensive management," the Nixon Administration's raid on the national forests will follow a different tack. In June, the President issued instructions to the Secretaries of Agriculture and Interior to increase timber cutting on public domain lands. Now it is expected that the Administration will pursue the appropriations route to implement the program, bending existing statutes and regulations for the benefit of the chain-saws. Campbell disclosed that the Forest Service would seek about $290 million more annually to expand timber sales and management. Thus, the new threat to primitive, roadless and de facto wilderness will be wrapped into the multi-billion dollar Interior Department and Related Agencies appropriation bill, without the need for new legislation. Whereas the Timber Supply Act was tied directly to industry, the new thrust will be under auspices of the Forest Service and the Nixon Administration.

Campbell's announcement runs counter to numerous reports of excessive over-cutting of publicly-owned timber, such as the Montana University study describing Forest Service multiple-use management as non-existent. Earlier in the year, Interior Secretary Walter Hickel proposed a thirteen per cent reduction in harvesting from Western Oregon Bureau of Land Management timber lands, some of the most productive in the world, because of evidence of excessive cutting. These and other federal management practices will be aired at hearings scheduled before the Senate Public Lands Subcommittee by Sen. Frank Church of Idaho.

Another resource-oriented struggle will revolve around recommendations of the Public Land Law Review Commission. Although specific legislative proposals were still in the drafting stage at this writing, it is anticipated that battlelines will be drawn over industry hopes of implementing the "dominant use" theory of management. Sen. Henry Jackson, chairman of the Senate Interior Committee, had indicated, however, that he would introduce a bill giving the Bureau of Land Management an "organic act" setting forth balanced management policies, including repeal of the 1872 Mining Act.

Another important policy area will be involved in forthcoming legislation for a national program for planning and approval of power generating facilities and transmission lines. One can only speculate on the degree of controversy this will engender until details of the Administration program are unveiled.

All in all, it is quite apparent that conservationists again will have ample opportunity to concern themselves with vital matters during the 92nd Congress.

— W. Lloyd Tupling

from the Sierra Club Exhibit Format book *Central Park Country*

"There is peace, there is leisure, there are precious encounters."