

# High Country News

August 12, 1991

Vol. 23 No. 14

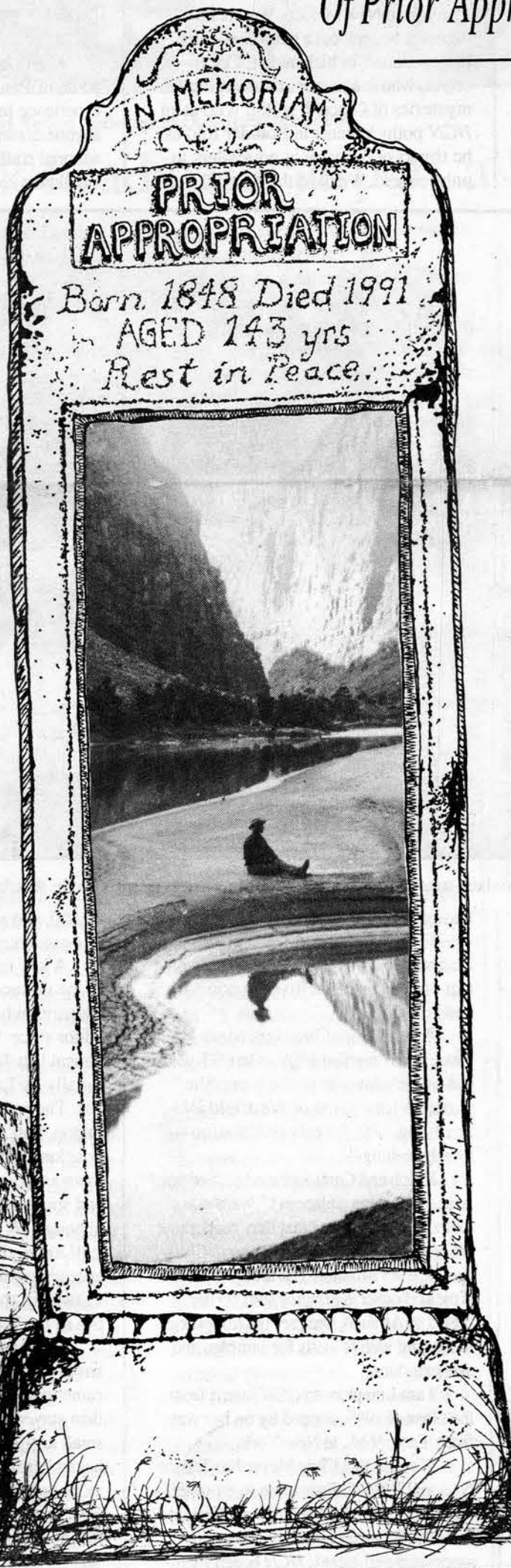
A Paper for People who Care about the West

One dollar

## WEST'S GRAND OLD WATER DOCTRINE DIES

### Colorado Attorney Declares "First In Time, First In Right" DEAD

*Noted Water Expert Details Fabulous Life And Times  
Of Prior Appropriation*



## PRIOR INVESTED MINERS, RANCHERS AND OTHER "BENEFICIAL USERS" OF WATER WITH VAST POWER IN THE WEST

### Some Say The News Of Prior's Death Is A Gross Exaggeration

### Who Will Fill The Void Left By Prior?

—by Charles F. Wilkinson

As has been so widely reported, Prior Appropriation passed away in January of 1991 at age 143. Prior was a grand man and led a grand life. By any standard he was one of the most influential people in the history of the American West. It is a tall order, but with these few thoughts I will try to recount his life, and assess some of his accomplishments and shortcomings.

The story of Prior's birth has been told so often it is part of the bedrock of western history — how, on Jan. 26, 1848, James Marshall, literally shaking with exhilaration moments after his epic discovery of gold, came upon a babe on

his mad rush back to Sutters Mill to spread the news. The child was so young he must have been left by the side of the American River that very day. And although botanists deny the species ever existed in the Sierra Nevada foothills, legend persists that Marshall found the infant Prior wrapped in a blanket nestled in bulrushes.

The young boy was raised by the miners in as remarkable a time as ever existed, passed from miner to miner in the diggings in California and Nevada. Smart, exuberant and savvy, Prior was a favorite of this nearly all-male society from the beginning. There was that moment of moments in September 1851 at Rich Bar, on the Feather River. Dame Shirley, author of the acclaimed *Shirley*

*Continued on page 11*

## Dear friends,

### You're invited

Please plan on joining the board and staff of *High Country News* on Saturday, Sept. 7, at the Old City Park in Moab, Utah, for a dinner-dance, with dinner beginning at 6 p.m. and the dance at 8 p.m. The cost for *HCN* subscribers is \$7.50 for adults and \$3 for children. Please RSVP to *HCN* at 303/527-4898 or by writing: P.O. Box 1090, Paonia, CO 81428.

These get-togethers occur three times a year, following day-long meetings of the board of the High Country Foundation. It is a way for board and staff to meet readers in various parts of the region. Normally, the evening gatherings consist of a potluck. But this board meeting coincided with a benefit for children's outdoor education planned by Canyonlands Field Institute. Rather than hold two competing events, CFI invited *HCN* board, staff and readers to join its dinner-dance.

### Congratulations ...

Congratulations to Forest Service District Ranger Don Oman, who just received the Olaus and Margaret Murie Award from the Wilderness Society. Oman, whose story was first told here in spring 1990, was cited for his range improvement work on his Twin Falls, Idaho, district in the face of political attempts to remove him.

### ... and thanks

Thanks to reader Lori Nielsen of Fort Collins, Colo., for alerting us to a recent article in the *Los Angeles Times* about Luz International of Westwood, Calif. Luz was featured in an *HCN* lead article by Don Olsen on May 20. The article described the growth of Luz, which is the world's largest producer of solar power in the world. The *Times* says the firm has fallen on hard times, laying off half of its work force and postponing plans to build its tenth solar power plant in the Mojave Desert. The *Times* attributes the trouble to lack of a strong national energy policy, low oil prices and a poor economy.

Thanks also to the management of the *Los Angeles Times*, which has generously agreed to send *HCN* a subscription in exchange for us sending *HCNs* to various *Times* staffers.

### Corrections

We have two minor corrections to report: The book, *Desert Heart: Chronicles of the Sonoran Desert*, by William K. Hartman, sells for \$39.95 from Fisher Books, Box 38040, Tucson, AZ 85740-8040, and not for \$35. And on page 4 of the July 15, 1991, issue, a line was dropped describing writer Michael J. Robinson. He is the director of Sinapu, a Colorado wolf introduction advocacy group.

More seriously, a July 15, 1991, Hotline reported that Los Angeles was causing most of the pollution over the Grand Canyon. But the researchers who did the work reported on by *Associated Press*, and picked up by *HCN*, say that is not true. Warren White and Edward Macias of Washington University in St. Louis say their findings do not lay all

blame on L.A. They say the Navajo and Page power plants, Phoenix, smelters and other developments "all contribute in varying degrees to the widespread haze. Navajo's emissions, in particular, appear to be carried into the canyon most often in the winter, when we find transport from Los Angeles occurring least often." The Washington University research was funded by Southern California Edison Co.

### Welcome, visitors

Ruth Russell, a bird-bander and past president of the Audubon Society in Tucson, Ariz., stopped by while on vacation with her husband, Steve, an ornithologist.

After 15 years of subscribing, Phil Friedman of Fort Collins, Colo., found his way to *HCN*'s offices. He and his group were on their way from backpacking in the San Juan Mountains to Chaco Canyon in New Mexico. We recommended he seek out a naturalist-interpreter named, or nicknamed, Cornucopia, who is a master at conveying the mysteries of Chaco. It is Phil who at an *HCN* potluck dinner in Boulder told us he thinks of the paper as equivalent to public radio. We liked the parallel well

just left the United States Senate.

Colorado Springs subscribers Tom Havens and Christine Latham came through on their round-about way home from the San Luis Valley in southern Colorado.

Dr. Charles Gaylord stopped by on his way back from western Colorado to Denver.

Subscriber Mary Lower of Columbia, Mo., was in Paonia to investigate her forebears, town founders Samuel Wade and George Merchant.

Roz McClellan, who is traveling western Colorado to map ecosystems for the Wilderness Study Group of the University of Colorado, Boulder, described *HCN*'s office as "distinctly unpretentious."

Photographer J.D. Marston (no relation to the Paonia Marstons) whose work has been reproduced in *HCN*, stopped by during a camping trip in the nearby West Elk mountains. He lives in Crestone, Colo.

### Not so perilous

*High Country News* is famous for a perils-of-Pauline existence, but last year's experience indicates it is more stable than anyone dreamed. Despite a turnover in the editorial staff over the last 12 months, paid circulation expanded by almost 2,000, to



### HIGH COUNTRY NEWS

(ISSN/0191/5657) is published biweekly, except for one issue during July and one issue during January, by the High Country Foundation, 124 Grand Avenue, Paonia, CO 81428. Second-class postage paid at Paonia, Colorado.

POSTMASTER: Send address changes to HIGH COUNTRY NEWS, Box 1090, Paonia, CO 81428.

Subscriptions are \$24 per year for individuals and public libraries, \$34 per year for institutions. Single copies \$1 plus postage and handling. Special issues \$3 each.

Tom Bell  
Editor emeritus

Ed Marston  
Publisher

Betsy Marston  
Editor

Linda Bacigalupi  
Associate publisher

Florence Williams  
Staff reporter

C.L. Rawlins  
Poetry editor

Diane Sylvain  
Production/graphics

Cindy Wehling  
Desktop publishing/darkroom

Ann Ulrich  
Typesetting

Kay Henry Bartlett, manager  
Gretchen Nicholoff  
Circulation/business

Rick Craig  
Auden Schendler  
Jane Bailie  
Interns

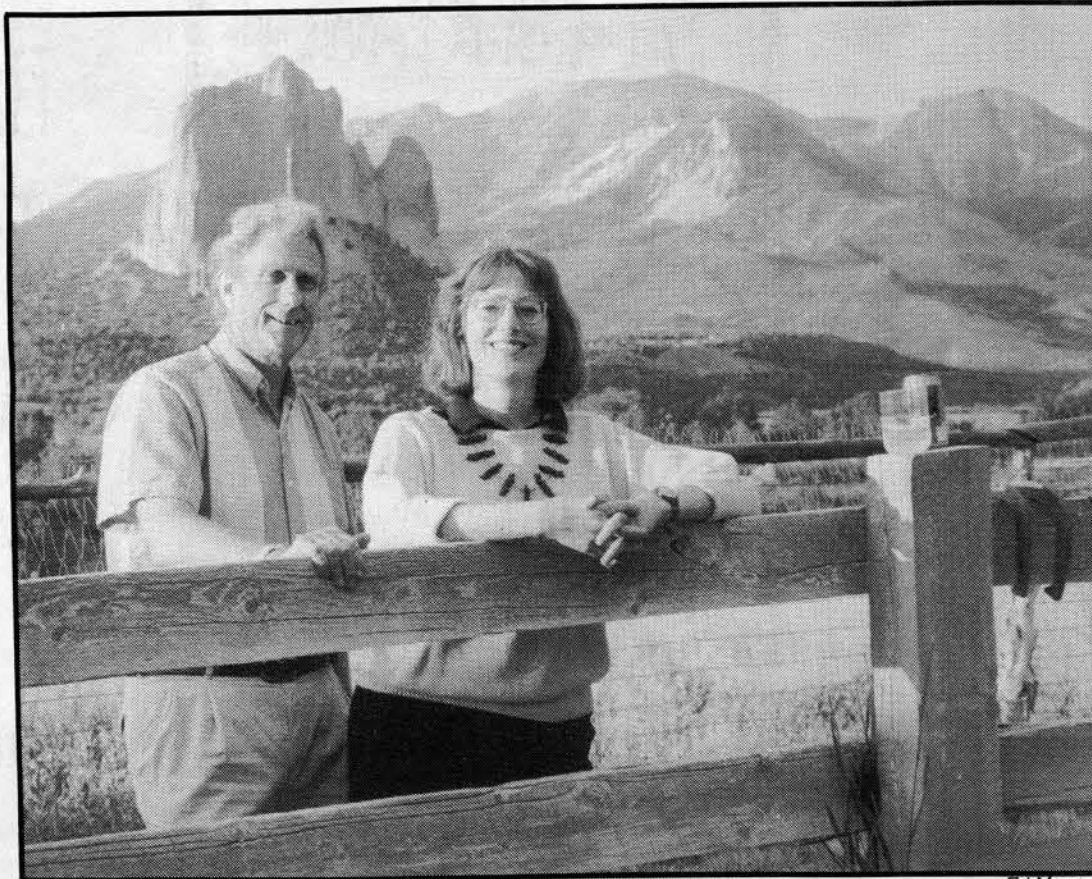
Victoria Bomberry, Forestville, Calif.  
Judy Donald, Washington, D.C.  
Michael Ehlers, Boulder, Colo.  
Jeff Fereday, Boise, Idaho  
Bert Fingerhut, Aspen, Colo.  
Tom France, Missoula, Mont.  
Karil Frohboese, Park City, Utah  
Sally Gordon, Buffalo, Wyo.  
Bill Hedden, Moab, Utah  
Dan Luecke, Boulder, Colo.  
Geoffrey O'Gara, Lander, Wyo.  
James B. Ruch, Flagstaff, Ariz.  
Emily Swanson, Bozeman, Mont.  
Lynda S. Taylor, Albuquerque, N.M.  
Herman Warsh, Emigrant, Mont.  
Andy Wiessner, Denver, Colo.  
Board of Directors

Articles appearing in *High Country News* are indexed in *Environmental Periodicals Bibliography*, Environmental Studies Institute, 800 Garden St., Suite D, Santa Barbara, CA 93101.

All rights to publication of articles in this issue are reserved. Write for permission to print any articles or illustrations. Contributions (manuscripts, photos, artwork) will be welcomed with the understanding that the editors cannot be held responsible for loss or damage. Enclose a self-addressed stamped envelope with all unsolicited submissions to ensure return. Articles and letters will be edited and published at the discretion of the editors.

Advertising information is available upon request. To have a sample copy sent to a friend, send us his or her address. Write to Box 1090, Paonia, CO 81428. Call *High Country News* in Colorado at 303/527-4898.

Printed on recycled paper:  
45 percent de-inked,  
9 percent post-consumer.



Larry Mosher and Mary Jarrett at their ranch near Needle Rock

Ed Marston

enough to use it in fundraising efforts.

Hank and Jeanne Moreno of the Denver area took time off from a fishing trip on the Gunnison River to come by and subscribe.

Anne Rigor of Warriors Mark, Pa., came by to say that *HCN* is her 93-year-old uncle's favorite publication. She quoted Victor Kruse of Westfield, N.J., as saying, "It's the only publication worth reading."

Ralph and Carol Storsand of Sedona, Ariz., who have a place in Cimarron, Colo., came by to say that they read about *HCN* in the July 11, 1991, issue of *Christian Science Monitor*. The article by Brad Knickerbocker, a *Monitor* staff writer based in Ashland, Ore., set the telephones to ringing with requests for samples and subscriptions.

Tara Lumpkin, an *HCN* intern from the class of 1988, stopped by on her way from Taos, N.M., to New York.

We hear that Chris Meyer has left the National Wildlife Federation in Boulder, Colo., and joined the law firm of Givens, Pursley, Webb and Huntley. There his associates will include *HCN* board member Jeff Fereday and James McClure, who

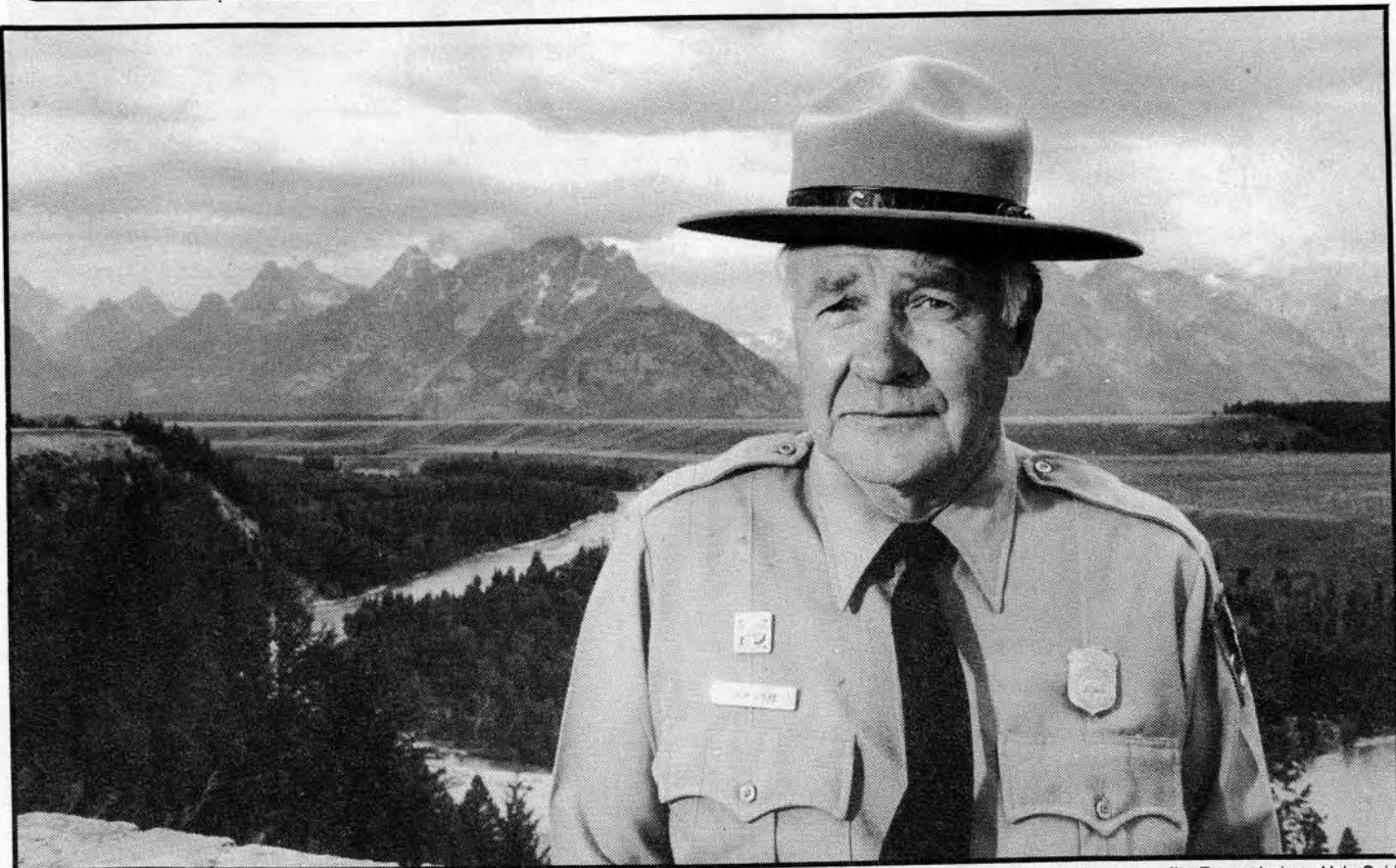
10,000, and other vital indicators (i.e., money) remained strong.

A key to the stability was the quality of the replacements. When Ed and Betsy Marston, who have been publisher and editor since 1983, left on a one-year sabbatical last July, they were replaced editorially by Larry Mosher and Mary Jarrett. The pair, who moved from Washington, D.C., to Paonia to accept the positions, made the transition from big town and big publications to small town and small publication flawlessly. And although *HCN* has a reputation for eating staff alive, they liked the experience well enough to purchase a ranch in nearby Crawford; they also plan to retain their ties to *HCN* on a freelance basis.

The survival of *High Country News* has always depended on people who came to the paper for a few months and then stayed for years. The latest in that small army is Steve Hinchman, who began here as an intern in fall 1986, more or less fresh out of Colorado College, and then returned as a staff writer. It is not easy to work for *High Country*

Continued on page 16

# WESTERN ROUNDUP



Jim Evans/Jackson Hole Guide

Jack Stark, retiring Grand Teton National Park superintendent

## Teton park head calls airport a 'cancer'

Jack Stark spent his career fighting a sometimes-losing battle against those who would civilize wilderness, but he says the task may be easier for his successors.

As the wild areas of America — and particularly of its national parks — dwindle, wilderness gains in value through scarcity, Stark says. Hopefully, more Americans will appreciate that value, and park superintendents will have an easier life.

After 11 years in Wyoming as superintendent of Grand Teton National Park, Stark retired Aug. 10.

One of Stark's more heated battles, especially in recent years, has been to stave off expansion at the Jackson Hole Airport — the only airport in an American national park.

"Basically I would term (the airport) a cancer growing on the park," he says. He hopes the new superintendent will continue to fight an expansion of the

runway, an issue he defines in economic rather than safety terms.

"If there's a safety problem, bring smaller planes in," Stark says.

Proponents of runway extension often say the park is non-wilderness anyway, so a little more air traffic or noise won't hurt, he says.

"I can tell that they've never been in the park's backcountry ..."

Looking back on his tenure, Stark says his only regret is that he didn't speak up a little louder on some issues.

Stark identifies the recent road-realignment and widening project as his greatest achievement while with the park. The old road was crumbling, and the alignment was such that drivers almost always rode parallel to the Tetons, he says.

By changing the alignment, drivers now can look at the mountains while keeping their eyes on the road. Stark says the project was his greatest achieve-

ment because he took an already existing development and made it better or safer without harming the resource.

By contrast, lengthening the runway merely would allow airlines to bring more passengers to the park, Stark says.

The park's current annual budget is \$5.5 million, and Stark says, "You could easily double the budget of Grand Teton National Park. And we would not be fat."

The greatest responsibility for replacement Jack Nichols, a one-time Grand Teton assistant superintendent, will continue to be preservation against "loving the park to death," Stark says.

"Certainly, Grand Teton has some wilderness. But as more people come and partake of the wilderness, it becomes sort of self-defeating."

Stark has served the National Park Service since 1953, when he took his first ranger job in Yellowstone. Since then, he has worked for parks throughout the Rockies and the East Coast. He took his first superintendent job at Coronado National Monument, Ariz., in 1965. After retirement, he will stay in Jackson Hole.

— Brandon Loomis

Brandon Loomis is a staff writer for the *Jackson Hole Guide*.

## BARBS

**Like water, science can also flow uphill toward money.**

A survey of research scientists funded by the tobacco industry showed that most believed smoking causes serious and often fatal disease, the *Arizona Republic* reported.

**Americans will no longer have to travel all the way to Chartres to see holy places and great architecture.**

Denver architect Anthony Pellechia recently told the *Aspen Times Daily* that a giant 365,000-square-foot resort proposed for Telluride, Colo., was meant to serve the same role as a dominant cathedral in a medieval European city.

## Politics runs over park manager

During Jack Stark's 11-year tenure as superintendent of Grand Teton National Park, he experienced varying degrees of political pressure from the Department of Interior and the Wyoming congressional delegation, he says.

"There are certainly issues, like wolf reintroduction, when political fallout is great."

Stark says in 1988 his office published an article in the park's newsletter discussing wolves' possible return to Wyoming. "I thought the article presented both sides ... I received a letter from a senator in Wyoming expressing dismay that we were writing about a controversial issue. He wrote, 'I hope you will do what you can in the future to ban controversial issues from your paper ... or do what you can to present both sides.'"

The senator sent a copy of the letter to then-Park Service Director William Penn Mott. "I wrote a draft letter in response to be signed by the director, but I heard my response was never sent," says Stark.

Stark says he never wanted to

see an airport in Grand Teton National Park, but the Department of Interior "took the matter into their own hands when [Secretary James] Watt was there and bypassed me," he said. "I felt discouraged that actions like that were done without involvement of the superintendent."

Stark says he fears the current proposal to expand the airport may be just the beginning of a spate of inappropriate projects. But pro-development interests working with Wyoming's legislators may be tough to beat.

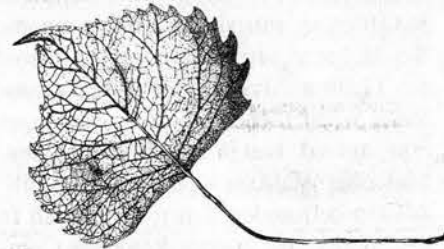
"The expansion is not going to stop if they're successful in rolling over the Park Service politically," says Stark. "If this expansion is added, it will only result in more political pressure, from the Wyoming delegation primarily, and only be a matter of time before there are new additions — hangars, parking and the like. The whole thing will keep growing incrementally."

— Florence Williams,  
HCN staff reporter

## HOTLINE

### Firms pay up, but don't own up

Three industrial firms believed responsible for polluting groundwater near the Brookhurst subdivision near Casper, Wyo., have reached a financial settlement with the Environmental Protection Agency. But all three companies continue to deny responsibility for the contamination, reports the *Casper Star-Tribune*. KN Energy, Dow Chemical, and Dowell-Schlumberger agreed to a \$5.4 million settlement with the EPA for cleanup costs, plus an additional \$602,000 for a treatment system at the site. But no money went to Brookhurst residents, and many have joined a still-pending civil lawsuit against 20 companies close to their neighborhood. The pollution issue first came to light in October 1986 when many Brookhurst residents began to experience sore throats and headaches. People attributed their symptoms to noxious fumes in the air, but an investigation by the state Department of Environmental Quality found potentially dangerous levels of trichlorethylene and benzene in domestic wells. The subdivision's 80 families were told not to use the water for cooking or drinking. Angry and frustrated, some Brookhurst residents expressed their emotions by painting huge messages such as "We Want Out" on the sides of their homes (*HCN*, 5/25/87).



Steve Wood

### L-P protests revised forest plan

In a long-awaited amendment to its land and resource management plan, the Grand Mesa, Uncompahgre and Gunnison National Forest in western Colorado proposes annual aspen timber sales of 1,370 acres and conifer sales of 21 million board-feet. Acting Forest Supervisor Karl Siderits says this is a significant reduction from the 3,000 acres of aspen and 31 million board-feet of conifer proposed for annual cuts in 1989. The changes failed to please Louisiana-Pacific Corp., the forest's largest aspen purchaser, which had lobbied strongly for cuts of at least 1,750 acres of aspen each year. The new plan represents "a cop-out to environmental and other special interests," said L-P forester Tim Kylo in the *Grand Junction Daily Sentinel*. The amendment was produced in response to an administrative appeal filed by the Natural Resources Defense Council. The Forest Service also received 2,700 letters from the public, with almost all asking for the removal of roadless and scenic areas from the forest's timber base. Under the amendment, timber sales in several recreation areas, including Kebler Pass near Crested Butte, Mount Sneffels near Telluride, and McClure Pass between Carbonade and Paonia, are reduced or eliminated. Regional Forester Gary Cargill will issue a decision after a 30-day review period. Send written comments by Aug. 29 to Cargill, c/o The Plan, 2250 Highway 50, Delta, CO 81416.

## HOTLINE

### Four fish, so far

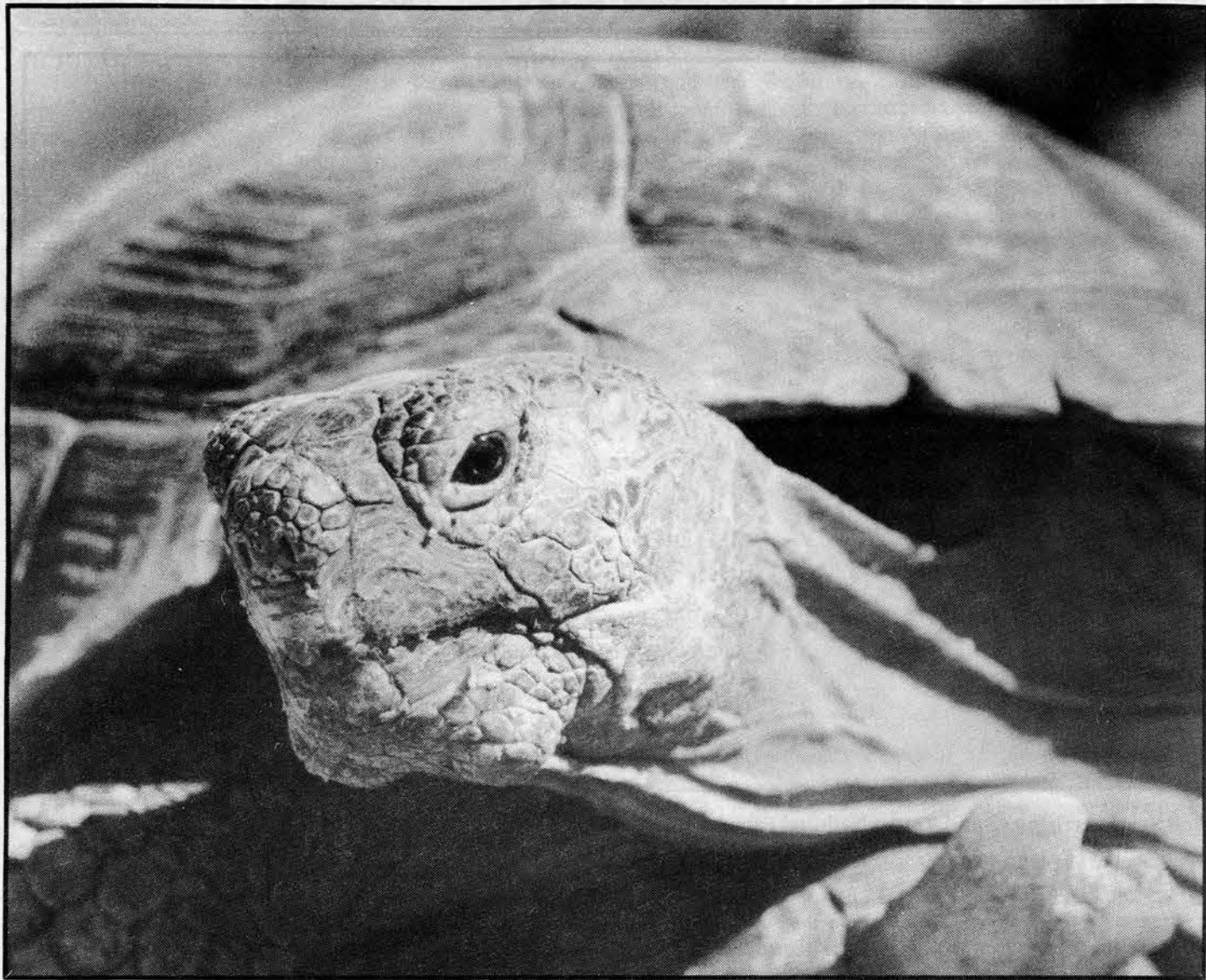
By late July, four adult Snake River sockeye salmon had cleared the last of eight dams on their way up the Columbia and Snake rivers to spawn. This was a minute improvement over last year when no salmon completed the journey of 870 miles and 7,000 vertical feet. The four fish were spotted heading for spawning grounds in Redfish Lake in central Idaho, but what happens next is controversial. The conflict is between backers of captive breeding and environmentalists who want the sockeye to be allowed to breed naturally. Steve Yundt of the Idaho Fish and Game Department, the agency that will decide the issue, said officials now plan to trap all returning sockeye, release a pair into Redfish Lake and breed the rest at a hatchery. That plan depends on the sex, maturity and condition of the fish that survive the trip, he added.

### Custer's Last Stand, revisited

The Battle of the Little Bighorn River has moved from the grassy plains of Montana to the marble-floored halls of Capitol Hill. The confrontation now under way is between those endorsing the renaming of Custer Battlefield National Monument to Little Bighorn Battlefield Park, and those who want Custer's name to stand. In June, Colorado Rep. Ben Nighthorse Campbell, a Democrat and the only Native American in Congress, introduced a bill to rename the 765-acre site. It was on the eve of the 115th anniversary of Custer's Last Stand when the House, in a unanimous vote, agreed. But in July, Wyoming Sen. Malcolm Wallop, R, derailed the bill. Wallop demanded that it be referred to the Energy and Natural Resources Committee for a hearing, saying there was no need "for Congress to run around renaming everything," reports the *Rocky Mountain News*. In addition to the name change, Campbell's bill proposes the creation of a memorial to the Native Americans, who in 1876 defeated the 268 men under Custer's command. The force of 10,000 Sioux and Cheyenne Indians was led by the Sioux warrior Crazy Horse. Under Campbell's bill, the eight-acre national cemetery on the property would retain the name of Custer, the leader of the Seventh Cavalry.

### Bonneville Mud Flats?

Utah's Bonneville Salt Flats are turning into mud. What was a 96,000-acre site has shrunk to 25,000 acres, and the salt is vanishing at the rate of one percent annually. In recent years, cracks, holes and pressure ridges have developed around the edges of the thinning and weakened flats, reports the *Washington Post*. Scientists attribute these changes to a nearby mine which uses salt-laden ground water to make fertilizer. Federal geologists say the problem is exacerbated by Interstate 80, which cuts across the southern border of the flats. As a result, much of the salt appears to be dissolving and seeping from the area at a rate of 1.6 million tons a year. The prospect that this geologically distinct area could turn into mud in a few decades has prompted an unusual alliance among environmentalists, fast-car enthusiasts and state tourism officials. To study the problem, the Utah congressional delegation is asking for \$1.3 million in federal funds.



George Andrejko/Arizona Game and Fish Department

### Arizona's Sonoran desert tortoise

## Critics say agency moves at tortoise pace

Environmentalists are dissatisfied with a recent decision by the U.S. Fish and Wildlife Service to deny threatened or endangered status to Arizona's Sonoran desert tortoise.

"We're not giving up on saving the tortoise," Natural Resources Defense Council spokesperson Faith Campbell said. "We might find it difficult to challenge their decision in court, but we can gather more evidence and file a new petition asking them to list it."

The Natural Resources Defense Council is part of a coalition, including the Environmental Defense Fund and the Defenders of Wildlife, that in 1984 asked the federal agency to give all desert tortoises protection under the Endangered Species Act.

The agency responded to their request in 1985 by declaring that listing the tortoises was "warranted but precluded." This meant it was overwhelmed by a listing backlog of 3,000 species.

In June 1989 the coalition submitted another petition asking the agency to immediately list the tortoises because an upper respiratory disease was devastating the Mojave population.

Nothing happened, so the coalition filed a lawsuit in July 1989 asserting that the agency's failure to take emergency action was tantamount to a denial.

As a result, in August 1989 the Fish and Wildlife Service granted protection to the Mojave desert tortoise population and agreed to issue a decision on the Sonoran population by January 1991.

According to wildlife biologists, the two tortoise populations are the same species. However, they've been separated for millions of years by the Colorado River.

The Mojave tortoises, found to the west and north of the river, usually inhabit areas of level terrain. The Sonoran tortoises, found to the east and south of the river, most often inhabit steep, rocky areas.

Why Sonoran tortoises aren't found in areas of level terrain, like their

brethren across the river, is a major source of disagreement between the government and environmentalists.

"The Sonoran tortoises are found only in the steep areas because that's the habitat they prefer," said Dr. Richard Byles, author of the agency's decision. "Typically, this type of habitat is like an island in the landscape so the tortoise populations are like islands, too."

In its decision, the Fish and Wildlife Service said the patchiness of the Sonoran population will inhibit the spread of the upper respiratory disease that forced listing of the Mojave tortoise population.

Many environmentalists believe the disease is a symptom of a bigger threat to the animal's survival. They say a growing body of evidence suggests the disease has been able to reach epidemic proportions in the Mojave population only because the turtles are weak from starvation.

"Overgrazing by domestic livestock has adversely affected the desert vegetation they feed upon," Tucson environmental consultant Steve Johnson said. "And I suspect livestock overgrazing is also the main reason the Sonoran tortoises are only found in steep, rocky areas."

Johnson admitted there is no hard evidence to prove his theory that the tortoises once inhabited Arizona's desert lowlands. He said that's because cattle grazing had drastically altered desert vegetation before biologists began studying the tortoises.

"But I grew up in Tucson and I remember seeing many tortoises in the flatlands around town when I was a kid," he said.

Johnson also criticized the Fish and Wildlife Service for claiming the Sonoran population's pattern of isolated groups will help it survive. He said any species needs breeding populations large enough to provide for genetic diversity.

In its decision, the government said no evidence exists to show that the Sonoran population is declining. Out of 200 historical Sonoran tortoise localities

recently visited by the Arizona Game and Fish Department, federal biologists said, tortoises are still inhabiting all but four of them.

Johnson conceded that the range of the Sonoran population may not be shrinking. But he said the number of tortoises within the range is declining.

"There's been insufficient research on the tortoise's reproductive success," he said.

The Arizona Game and Fish Department and the Bureau of Land Management, along with the U.S. Fish and Wildlife Service, are continuing to do research on the tortoises.

Johnson said he hopes the research doesn't bear fruit too late to save the tortoise. "The tortoise is an ancient animal," he said. "It's an indicator species; its status is an indicator of the overall health of the desert ecosystem."

— Jeffrey D. Burgess

Jeffrey Burgess is a free-lance writer in Tempe, Arizona.

## BARBS

Don't forget that a Coloradan first discovered fire and another invented the electric can opener.

Durango, Colo., attorney Sam Maynes said he was "appalled" when opponents of Sen. Tim Wirth's Colorado wilderness bill charged that it would create areas which are second rate in comparison to wilderness areas in other states. "Colorado has always been first in wilderness, first in water law, first in scenic beauty of its mountains, first in skiing and recreation, and more recently, we have been first in college football. Sooner or later we will be first in airports and first in the National League. To demean our existing wilderness areas insults our Colorado citizens..." said Maynes in the Grand Junction (Colo.) *Daily Sentinel*.

# Endangered species must scale legal wall to reach the wild

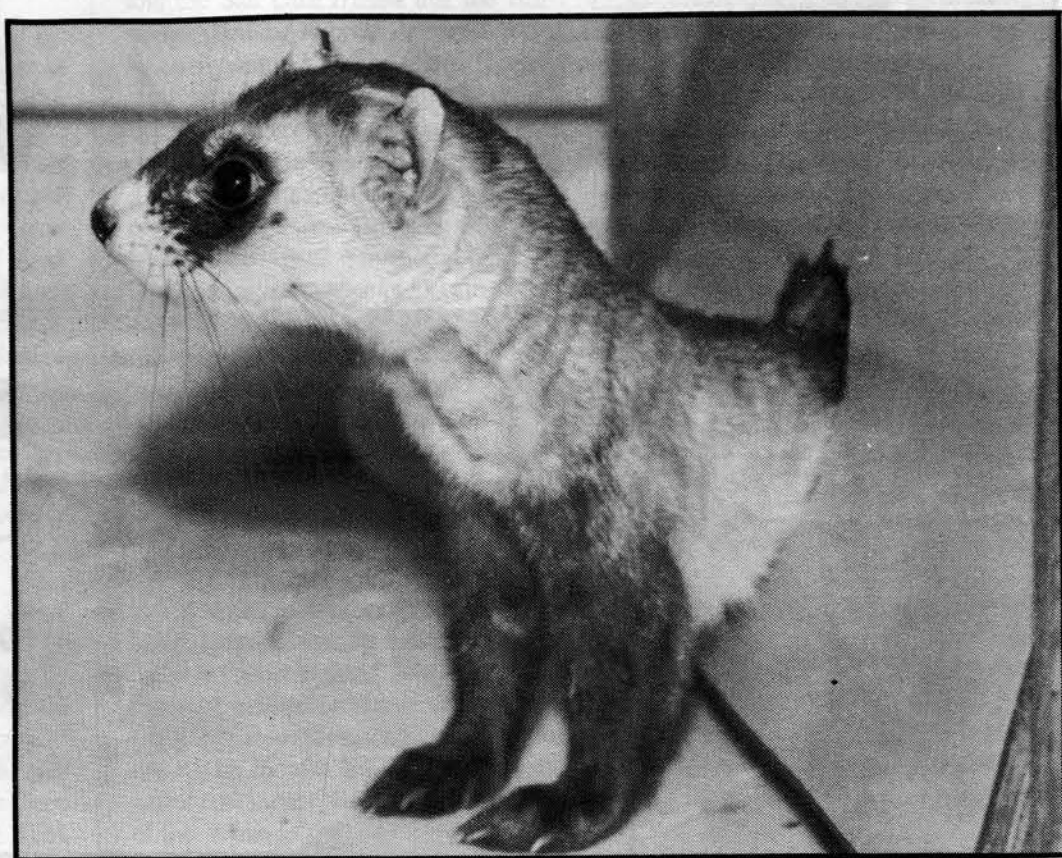
Black-footed ferrets may be ready to return to the wild.

Biologists have successfully bred more than 300 of the weasel-like carnivores in captivity — enough for a reintroduction program in Wyoming's Shirley Basin this fall. This is a dramatic change from 1985, when an epidemic reduced the last known ferret colony to only 18 animals.

But before they can attempt survival in their native habitat, the ferrets will have to survive a test of the power of the Endangered Species Act.

Biologists from the U.S. Fish and Wildlife Service and the Wyoming Game and Fish Department, the agencies managing the program, consider it critical to release the animals in September, when young ferrets are imprinting on their food source. To meet the deadline this year, a plan prepared by the USFWS must be approved by Interior Secretary Manuel Lujan in August.

Developing the plan, called a "proposed rule," has been a political balancing act. The reintroduction site includes parts of over 100 ranches, and landowners are concerned that hosting an endangered species will bring government restrictions. To gain the support of Shirley Basin residents, the proposed rule designates the reintroduced ferrets an "experimental, non-essential" population. The designation was created by 1982 amendments to the Endangered Species Act. It reduces the ferrets' legal protection to that of a species proposed for listing, though they technically remain an endangered species. The des-



Wyoming Game and Fish Department

A captive black-footed ferret peers out of its nest box

ignation also reduces legal penalties against any rancher whose operations cause the death of ferrets.

Many landowners have accepted the program, and Wyoming Game and Fish's Harry Harju says that the ferrets' "charisma" has helped.

"Ferrets don't haul down sheep, and eat an animal ranchers don't like," he said. Black-footed ferrets prey primarily on prairie dogs, which ranchers consider pests that damage pastures and compete with livestock for forage.

But ferrets are not necessarily the issue. The Wyoming Farm Bureau Federation announced last fall that although it has nothing against ferrets, it opposes rein-

troduction unless they are removed from the endangered species list. The Farm Bureau also passed resolutions opposing reintroduction of wolves and bighorn sheep in Wyoming. They said animals protected under the Endangered Species Act bring federal restrictions on the lands they inhabit and damage economies based on multiple use of public lands.

"The Endangered Species Act has been misused," said Farm Bureau executive vice president Larry Bourrett, "and that misuse has led to distrust." Asked whether the ferrets' reduced protection under the proposed rule satisfied the Farm Bureau, he warned, "The experimental, non-essential designation can

still be misused." Bourrett added that if the appropriate concerns are not addressed by the final version of the rule, the Farm Bureau may sue.

While the Farm Bureau signals that any protection under the Endangered Species Act is too much, some environmentalists charge that the experimental, non-essential designation provides too little.

The Sierra Club Legal Defense Fund, representing the Greater Yellowstone Coalition, is investigating rumors that mortality statistics in the captive breeding program have been underreported. The defense fund is also weighing a challenge to the experimental, non-essential designation.

Staff attorney Doug Honnold said the designation "may be a case of the Fish and Wildlife Service playing politics with the act." He added that the Endangered Species Act could be used to compel the Fish and Wildlife Service to reintroduce black-footed ferrets with full protection.

"They may be in a position where they would be forced to reintroduce without the [experimental, non-essential] designation," Hannold said. He said the Legal Defense Fund may also contest the final version of the proposed rule.

The rule has been undergoing revisions since the close of the public comment period June 24. "We're trying to walk it through the system as fast as possible," said Olin Bray, USFWS branch chief for listing and recovery of endangered species. Though the process of finalizing a rule normally takes months, biologists say they still hope for a September release of ferrets in Wyoming.

— Rick Craig, HCN intern

## Did fish and game's ark preserve the ferrets' gene pool?

The success of the captive breeding program at the Wyoming Game and Fish Department's Sybille facility marks the first time that interactions with humans have benefited black-footed ferrets.

The species ranged throughout the Great Plains before massive poisonings of prairie dogs, their primary prey, wiped out thousands of ferrets and left remaining populations unstable and vulnerable.

"Anytime you eliminate vast acreages of habitat, you set the stage for problems," said Bob Oakleaf, who is coordinating the program for Wyoming's game agency. Ferrets disappeared steadily throughout this century and had been thought extinct for almost a decade until a dog near Meeteetse, Wyo., brought a dead ferret back to a ranch in 1981.

When an epidemic of canine distemper reduced the Meeteetse colony from 128 animals to 18 in 1985, extinction seemed imminent. The remaining ferrets were rounded up and placed at Sybille in 1986, but optimism in the wildlife conservation community was low. The animals had never been bred in captivity, few of the ferrets had ever bred before, and previous captive ferrets had all died of disease.

Decisions regarding the ferrets' fate were also plagued by infighting among government and private agencies, and critics said the Wyoming

Game and Fish Department lacked the expertise to manage the program (HCN, 6/10/85).

Wyoming biologists moved cautiously, bringing in outside experts and developing a vaccine to protect the animals from canine distemper.

Although the program's success means extinction has probably been

averted, the captive-bred ferrets will face handicaps in the wild. Ron Crete, a federal biologist, said the ferrets have killed prairie dogs in controlled situations, but "killing may be instinctive; hunting may be learned." Since captive-bred parents can't teach their offspring survival skills, the reintroduced ferrets will have to learn to hunt on their own.

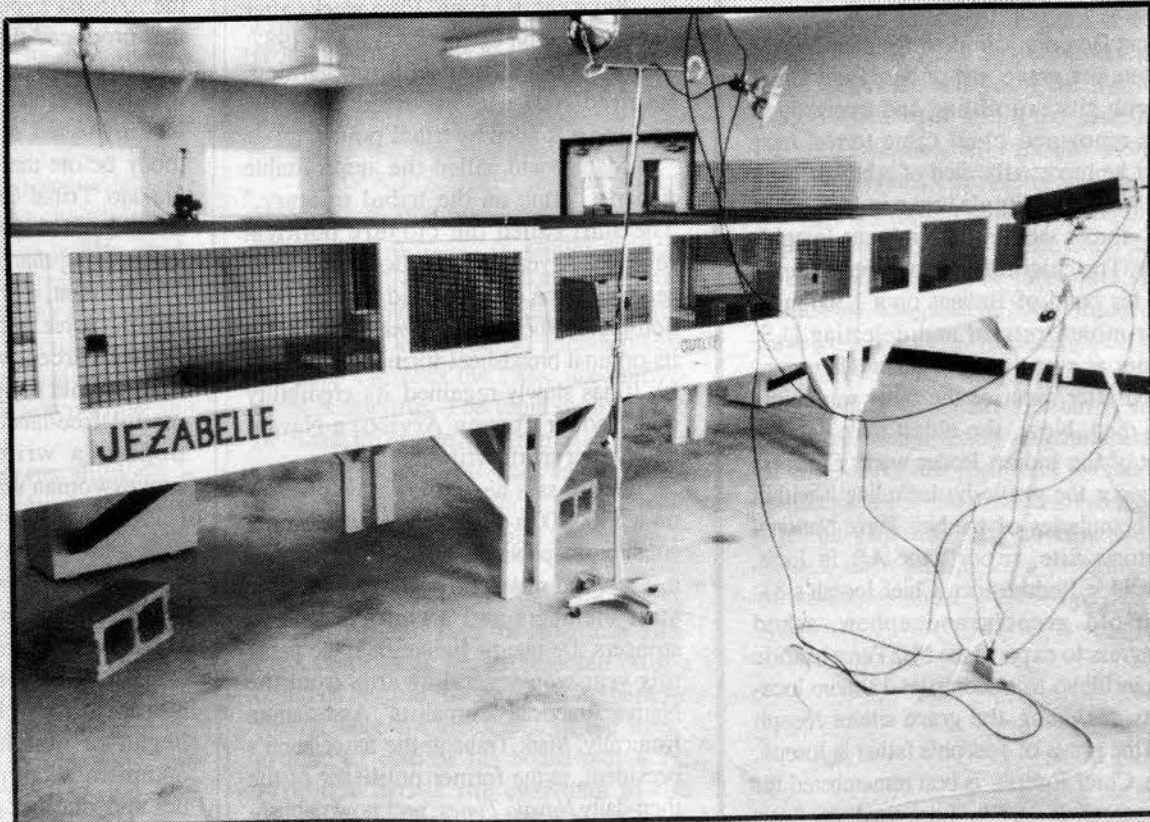
They may also be handicapped by a lack of genetic diversity. The Sybille colony was

founded with the genetic material of only 10 animals. Biologists at Sybille believe they have retained 87 percent of the founders' genes, but there is no way to tell what portion of the species' original gene pool that represents. Genetic diversity provides a reservoir of potential adaptations that gives a species greater flexibility in meeting environ-

mental challenges.

A test could come soon. If political obstacles are cleared away, black-footed ferrets will get a chance in a few weeks to answer what Harry Harju says is now the big question: "Are they wild enough to survive in the wild?"

— R.C.



Ferrets in a captive breeding facility in Wyoming

## HOTLINE

### Poachers get nailed

The sentencing of rancher Gilbert Powers in June put an end to an interstate poaching ring that illegally shipped deer from Montana to Wisconsin. At Powers' ranch in Otter, Mont., a group of Wisconsin hunters specialized in illegal activities such as highgrading — killing a number of animals and then selecting the best — shooting from vehicles, and using artificial light to hunt at night, reports the *Billings Gazette*. Special agent Dick Dickinson of the U.S. Fish and Wildlife Service said the poachers' worst offense was shooting six antelope in Wyoming "just for target practice." The 15 poachers, including Powers, were fined a total of \$50,000, sentenced to 320 hours of community service, 334 months of probation and 140 days in jail. They were also required to forfeit five weapons and numerous animal parts, including antlers, venison and a spotted fawn carcass.



Sheila Whitelaw

**Chief Joe Redthunder, great-grandnephew of Chief Joseph, stands near the chief's grave**

### Honoring Chief Joseph

On a hilltop overlooking the Colville Indian Reservation in northeastern Washington, the grave site of Nez Perce Chief Joseph sits crumbling and overgrown. The renowned chief came to rest here after he reportedly died of a broken heart in 1904. His struggle began in 1877, when U.S. forces were sent to relocate Joseph's tribe. The chief refused to surrender, leading his band of Indians on a 1,300-mile, four-month retreat and defeating U.S. armies at every confrontation. He surrendered after most of the other war chiefs had died. Now, the oldest male descendant of the Indian leader wants Congress to honor the grave by including it within the boundaries of the Nez Perce National Historic Site, reports the *AP*. In June, Chief Joe Redthunder, Chief Joseph's 83-year-old great-grandnephew, asked Congress to expand the Nez Perce historic site in Idaho to encompass 13 more locations, including the grave site of Joseph and the grave of Joseph's father in Joseph, Ore. Chief Joseph is best remembered for his speech in 1877: "I am tired; my heart is sick and sad. From where the sun now stands, I will fight no more forever."



Paul Natonabah

Monty Roessel and LeNora Begay of the new *Navajo Nation TODAY*

## Navajo Nation is now a two-paper town

Four years ago, the first daily Native American newspaper, the *Navajo Times TODAY*, was abruptly closed, leaving the reservation without a newspaper. Today the reservation has two newspapers. But, like most towns and cities in the United States, it is not clear that even the vast reservation, which sprawls across Arizona and Utah, can support two newspapers.

The newest paper is a weekly tabloid named the *Navajo Nation TODAY*, published by four former staff members of the closed daily. It is an independently owned paper in competition with the closed daily's successor — the weekly *Navajo Times*.

Monty Roessel, the new weekly's editor and photographer and the closed daily's managing editor, says he returned because, "It just really felt like unfinished business. I think a lot of it had to do with the way the old paper was shut down, the way it was taken away." Even though the daily *Navajo Times TODAY* was owned by the Navajo Tribe, which provided its budget of about \$750,000 a year, the paper assumed an independent editorial stance, even choosing sides in the 1986 Peter MacDonald-Peterson Zah election for tribal chairman.

But it chose wrong. Five weeks after the inauguration of MacDonald in 1987, the paper was closed without warning. Its fired staff was escorted from the newsroom at noon by tribal police.

MacDonald called the unprofitable paper a "drain on the tribal treasury." The staff called the closure political revenge. A year later, following a brief reappearance as a tabloid edited by a non-Indian, the *Navajo Times* returned to its original broadsheet format as a weekly. It has slowly regained its credibility under editor Tommy Arviso, a Navajo and former sports writer.

Arviso says his weekly now operates on a \$300,000-a-year budget, is turning a small profit, publishes about 15,000 copies a week, and makes do with two full-time staff members and a small stable of stringers. Despite its limitations, the paper this year won several awards from the Native American Journalists' Association. Ironically, Mark Trahan, the association's president, is the former publisher of the then-daily *Navajo Times*, and now publishes the new weekly *TODAY*.

Trahan, too, says a sense of unfin-

ished business and the belief that the Navajo Reservation needs its own daily newspaper — a one-to-three-year goal for him — was the reason he left his job with the *Arizona Republic* in December. He says it has nothing to do with MacDonald, who has long since been removed from office and convicted twice on 54 corruption charges.

Trahan's reputation helped garner the new publication some regional and national coverage, in which he took liberal swipes at both the weekly *Navajo Times* and the Gallup, N.M., *Independent*, the only daily now serving the entire reservation.

"They tend to mostly react to government," Trahan says. "Whatever government does, they print. A newspaper ought to do a lot more than that. There's a changing lifestyle that's never written about. There's things that go on outside of Window Rock that never get written about. I think that's why we're needed."

In 1985, Trahan was given a National Press Foundation editor-of-the-year citation for successfully turning the tribal weekly into a daily despite the overwhelming odds. It was a first in Indian country. After being fired by MacDonald, he went to work for the *Arizona Republic* as part of the team that produced the huge "Fraud in Indian Country" series that launched a Senate investigation and won a George Polk Journalism Award, among other prizes. Testimony before the Senate panel spurred the Navajo Tribal Council to suspend MacDonald and ultimately hire special prosecutors to bring charges against him.

Trahan, a Shoshone-Bannock, is the driving force behind the new paper. He joined forces with Navajo managers from the old daily *Times*: Roessel, a successful free-lance photographer; LeNora Begay, a writer and former tribal spokeswoman under the interim Leonard Haskie administration; and Mary Whitehair, a talented advertising saleswoman.

In contrast with the *Times*, *TODAY* is independent and takes no tribal funding, not even a tribal business loan.

The downside is that no one has received a paycheck since the venture began in March. Despite the group's optimism about providing a better product and cheaper ad rates for the Navajo Reservation, there's speculation about how long the paper can survive.

"All the newspapers that come in, they invariably fail," says Bob Zollinger, publisher of the Gallup *Independent*. "They fail because they can't get their product to the people, they don't have the right kind of news, they don't have the money and they don't have the advertising base."

When Trahan and his partners first decided to return to reservation journalism, they hoped to overcome these obstacles by buying into the tribal *Navajo Times*. With a brand-new administration taking over at the same time with other concerns on its agenda, frustration was the only result. The group soon replaced its offer with a second proposal seeking only the newspaper's name. Reportedly, tribal officials are considering a third offer — to let *TODAY* assume control of the *Times*, even though *Times* editor Arviso adamantly opposes such a move.

When *TODAY* began regular weekly publication in May, it looked as if a newspaper war was brewing in Window Rock. But the squall blew over as the two papers went back to covering the news instead of each other.

Arviso says he's not threatened by another weekly published in the same town. "The *Navajo Times* will always be the paper of the Navajo people," he says. "We have a purpose here, and that's to inform the Navajo people about what's going on with their government. That's what the newspaper's for."

—George Hardeen

George Hardeen is a free-lance writer and radio producer who lives in Tuba City, Arizona.

## BARBS

**Hey, this is the West! Go all the way and give them federal subsidies.**

The Colorado Gaming Commission is considering tax breaks for "mom and pop" casino operators in three mountain towns that will begin legal gambling Oct. 1.

**Our judicial system has pervasive influence.**

A reporter for KREY-TV in Montrose, Colo., noted that mosquitoes in Olathe, Colo., would be "exonerated" when spraying began.

## HOTLINE

### The last mine closes

The last remaining hardrock mine in the San Juan Mountains of southwestern Colorado is ceasing operations this week. Sunnyside Mine, operated by the San Juan Mining Venture, will lay off 137 of 148 workers, or 37 percent of San Juan County's entire workforce. The mine faced diminishing ore reserves and a weak market for gold, silver, lead, zinc and copper. Silverton, Colo., stands to lose a third of its residents as miners leave to seek jobs in Nevada and Oregon. "This is one of the largest economic blows ever suffered by a community in Colorado history," says Mayor Brenda Miller, whose husband is among those laid off.

### Well near Arches blocked, for now

The Bureau of Land Management has withdrawn its approval for construction of a controversial oil well near Arches National Park in Utah. In June, the Sierra Club Legal Defense Fund sued the BLM, charging that its approval of Coors Energy's drilling application was illegal because the agency failed to prepare an environmental impact statement. Although the agency withdrew its approval for the well, it did not agree that it should have prepared an EIS. BLM spokesperson Jerry Meredith said a delay caused by the law-

suit rather than the substance of the suit prompted the agency's decision. Meredith told the Salt Lake *Tribune* that the BLM wanted drilling to occur during summer, when it would have the least effect on mountain bikers and bighorn sheep. Because the lawsuit would have delayed drilling until fall, the BLM decided to withdraw its approval and re-evaluate the project. Fern Shepard, an attorney for the legal defense fund, dismissed the BLM's explanation as an attempt to camouflage defeat. She said Coors is expected to pursue the project but will have to file another application, which will be subject to more stringent environmental review and continued opposition.

### Supremacists charge conspiracy

A white supremacist group in Hayden Lake, Idaho, is aiming a recruiting campaign at "white loggers." A bulletin sent to logging groups by the Aryan Nations Church of Jesus Christ Christian asks, "Are the RIGHTS of a few BIRDS far more important? Aryan Nation supports the right of the White LOGGER and all hardworking White TAXPAYERS to make a living." Carl Franklin, the group's "chief of staff," said he thought protection of old-growth forests was part of a conspiracy to return land to Native Americans. Franklin wouldn't say how many people his group attracted, but residents of the logging town of Forks, Wash., reacted by staging an anti-

supremacist rally after the Aryan Nations distributed leaflets in the town.



Chaining in the Henry Mountains

### Scrubbed clean

Two yellow tractors lumber across a scrub landscape, the huge anchor chain linking them uprooting hundreds of juniper and piñon trees in their path. For years, this clearing technique, called "chaining," has laid the groundwork for a

debate between environmentalists, who oppose the practice, and ranchers and a number of government officials in the Soil Conservation Service and the Bureau of Land Management, who endorse it. The most recent battle is being fought over the 6,700-acre Muddy Creek-Oderville watershed in Kane County, Utah. Advocates say chaining the trees will control erosion while also benefiting cattle grazing. The treated ground will also stop some 1,700 tons of salt a year from flowing into the Colorado River, says Soil Conservation Service staffer Marilyn O'Dell. Ken Rait of the Southern Utah Wilderness Alliance disagrees. He says the salinity control benefits are minor, the claims of erosion control a sham and the project "a thinly veiled livestock subsidiary — again."

### Gone with the wind

Prolonged drought has caused a steady increase in the amount of Great Plains cropland damaged by wind erosion. Over 8 million acres were eroded last year, up 400,000 acres from the previous year. Soil Conservation Service chief William Richards said the drought led to insufficient groundcover, which left almost 17 million acres in condition to blow. In Kansas, a storm in March blew soil from almost 1.7 million acres. North Dakota was also hit hard by windstorms. The damage continues the trend of the 1980s, which saw nearly twice as much wind erosion as the 1970s.

## LETTERS

### PEOPLE FOR THE WEST! CRITICIZES COVERAGE

Dear HCN,

Your articles about "People for the West!" in both the June 3 and July 1 issues contained many factual errors that beg for correction.

Security officers calculated that about 1,000 miners and their families rallied in Reno, Nev., during Rep. Rahall's field hearing on HR-918, not 400 as your publication reported. Other hearings and rallies were held in Denver, Santa Fe and Fairbanks; there were none in Albuquerque nor Anchorage as described by your reporter.

Your report attempts to portray the coalition as a "front for the mining industry" and implies that other non-mining Western members are too stupid to realize that their interests aren't also being represented. Whether it is comfortable for you to believe or not, there are over 80 coalitions in 14 states. This kind of grassroots cannot be faked and Westerners cannot be led to water if they're not thirsty.

The membership is in fact made up of miners, timber producers, ranchers, recreationists, oil and gas producers, school teachers, county commissioners, mayors and people from all walks of life up and down Main Street.

Your reporter ignored our role in the fight against increased grazing fees, better access for snowmobilers and hunters, etc., in order to portray us as a one-trick pony.

The Mining Law is indeed the focus of the current campaign because those who don't understand its importance to the West are trying to demolish it. The previous campaign emphasized access for timber producers during the spotted owl controversy. Public lands users are being assaulted in such a way that the coalition must use its limited financial resources on the threats most pressing at any given time.

Penthouse dwellers living in the city may find it easy to believe preservation-

ist claims that public lands-dependent communities are in no real danger, but most Westerners know differently. Unity among public lands users is the only effective defense left for these hardworking Westerners, many of whom come from families who have been working the land for many generations. It may be difficult for the narrow-minded to understand how strongly people in the West feel about this.

It's very simple. If you don't like mining, don't buy things made of metal or you'll be helping to cause the demand that miners are trying to meet. You don't want trees to be cut and used? Stop buying wood and paper products. Some consumers want all the niceties of life but they don't want producers to develop the natural resources needed to make them. Your readers should be told the truth: You can't have it both ways.

The two or three "People for the West!" supporters dug up by your reporter who were "fuzzy" about campaign objectives do not represent the hundreds who have volunteered both time and resources to give their communities a stronger voice in public lands management. And, contrary to your report, the American Mining Congress is not on our board of directors — they have avoided becoming involved with us because we help empower people and that makes them nervous.

Naturally, your reporter thinks it is not a good idea for public lands users such as ranchers and miners to work together — when we were divided it was easier to saddle us with restrictions that make the West an Eastern playground, where those who have no understanding nor appreciation of where their clothes originally came from, or their cars or the building materials for their homes, can "be at one with nature." Get real. We can't all play all the time; someone has to work.

There are many other points in your

lopsided article that could be refuted if time and space permitted, but allow me to raise just one more: If your reporter had actually looked at the "People for the West!" petition, she would have seen that there is nothing written in fine print except "Please recycle — Originals printed on recycled paper." Tell your readers the truth, that they would not even be able to enjoy *High Country News* if it weren't for minerals and trees, and therefore mining and timber cutting.

Joe Snyder  
Pueblo, Colorado

The writer is communications director for Western State Public Lands Coalition, the umbrella group for People for the West!

### Free-lance reporter Jon Christensen replies:

I stand corrected on the factual mistakes. I inexcusably mixed up the New Mexico cities. But Anchorage came from a People for the West! flyer. I regret the errors. The Reno rally crowd size, however, was an independent estimate from the *Reno Gazette Journal*.

As for Mr. Snyder's broader point: I agree that it is a mistake to dismiss the phenomenal growth of groups such as People for the West! as "industry fronts." Anybody who cares about the West would be a fool to underestimate the deep currents the "wise use" movement is stirring. The rapid proliferation of flashpoints in confrontations over public lands and resources and the escalation of rhetoric to "holy war" heights are warning signs of things to come.

### Florence Williams replies:

Mr. Snyder says the American Mining Congress is not represented on the board of People for the West! Perhaps he should take a closer look at the background of one of his board members: Milton Ward is the chairman of the American Mining Congress in addition to his affiliation as the CEO of Freeport McMoran Mining Co.

In all, 12 of the group's 13 board members are mining company executives and 96 percent of the group's donations are from industry donors. Their one objective: To keep the 1872 Mining Law intact. As the July 1 article in HCN made clear, People for the West! has succeeded in drawing grassroots support, but the behind-the-scenes figures speak for themselves.

### CORRECTION FROM NEVADA

Dear HCN,

Thank you for running the article on Nevada's unknown wilderness, the BLM wilderness study areas, in the July 1 issue. We hope wilderness lovers are inspired to come and explore some of these remote and spectacular areas.

Unfortunately, the article does contain some errors that need to be corrected. Neither of us made a statement that the wilderness coalition will ask for at least 3 million acres, since our studies of these WSAs are still going on. Although we are enthusiastic about the areas BLM has recommended, we feel that there are many important omissions and that the acreages are far too small. At this time it appears that nearly all of the more than 5 million acres of WSA land qualify for wilderness designation. Also, many of us have visited a large number of the more than 100 WSAs on the ground.

In spite of Grant Gerber's vague comments about roads and ranchers, all of the WSAs are roadless — the first requirement for WSA status. No rancher will be expendable, as Mr. Gerber claims, since grazing is a permitted use of wilderness under the 1964 Wilderness Act.

Ann Kersten  
Marjorie Sill  
Reno, Nevada

The writers are members of the Sierra Club and Friends of Nevada Wilderness.

### **PUBLISHER'S CIRCLE**

Mr. and Mrs. Anthony Lapham  
New York, New York

### **BENEFACTOR**

Edmund A. Stanley, Jr.  
Oxford, Maryland

### **SPONSOR**

T.H. Watkins  
Washington, D.C.

Margo Stratford  
Cody, Wyoming

Howard and Mary Alice Evans  
Livermore, Colorado

Sharon Galbreath  
Flagstaff, Arizona

Daryl and Sherrie Parker  
Monroe, Washington

Tony Merten  
Lakewood, Colorado

Wayne Roth and Kathleen Alcalá  
Seattle, Washington

Tom Becker  
Boulder, Colorado

Sanford Berry  
Arcata, California

Kent Borges and Stephanie DiCenzo  
Colorado Springs, Colorado

George and Trudy Healy  
Sandy, Utah

Linda Honeycutt  
Yellow Jacket, Colorado

Walter Jessel  
Boulder, Colorado

Janet Johnson  
Arlee, Montana

David Kuntz  
Boulder, Colorado

Lawrence H. Linden  
New York, New York

Steve Livingston  
Anchorage, Alaska

Gil Sharp and Amy Saxby  
Hood River, Oregon

Stanley Sloss  
Washington, D.C.

Harriet and Ed Spencer  
Long Lake, Minnesota

The Amy and Steve Unfried Foundation  
Bronxville, New York

### **PATRON**

Roger Ames  
Tulsa Oklahoma

Thomas H. Jefferson, Jr.  
Pleasanton, California

John A. Leitch  
Las Vegas, Nevada

Mary Ellen Lynch  
Grinnell, Iowa

Mark Randall  
Darren, Connecticut

Charlene Dougherty  
Washington, D.C.

Fred Dowsett  
Lakewood, Colorado

Daniel W. Pierce  
Woodside, California

William and Suzanne Wuerthele  
Denver, Colorado

Saxe-Patterson, Inc.  
Taos, New Mexico

Gerry Ashdown  
Morgantown, West Virginia

H.H. Barton  
Philadelphia, Pennsylvania

Lee Breckenridge  
Rosindale, Massachusetts

David A. Bunzow  
Pocatello, Idaho

Elinor Burchard  
Montrose, Colorado

David Carlton  
Seattle, Washington

Ann and Doug Christensen  
Ketchum, Idaho

Wilma Cosgriff  
Craig, Colorado

H. Benjamin Duke Jr.  
Littleton, Colorado

Louise and Steve Forrest  
Seattle, Washington

Clark E. Franz  
Rockford, Illinois

Mike Freemont  
Cincinnati, Ohio

Timothy Gaines  
Timnath, Colorado

John T. Gless  
Philadelphia, Pennsylvania

Barbara Grove  
Hermitage, Tennessee

John M. Heyneman  
Fishtail, Montana

Richard B. Hubbard  
Buellton, California

Jeffrey Jackson  
Seattle, Washington

Thomas C. Jensen  
Washington, D.C.

Morley M. John  
Lincoln, Massachusetts

Jack and Maria Johns  
Somers, Montana

Ancel M. Johnson  
Hecla, South Dakota

John G. Kie  
Clovis, California

David Lavender  
Ojai, California

R. Leutheuser  
Albuquerque, New Mexico

Mr. and Mrs. Jay R. Mart  
Austin, Texas

Lucas Mathis  
Los Angeles, California

Robert and Debra McGimsey  
Eagle River, Alaska

Sylvia McLaughlin  
Berkeley, California

Charlton Mills  
Sandpoint, Idaho

John Osborn  
Spokane, Washington

Ed Pembleton  
Washington, D.C.

Janiece Pompa  
Salt Lake City, Utah

Donna Posin  
Salt Lake City, Utah

Story Clark and Bill Resor  
Wilson, Wyoming

Mr. and Mrs. L.T. Rutledge  
Stevensville, Montana

David Schroeder  
Eugene, Oregon

Thomas Fenton Smith  
Aspen, Colorado

Christine Stevens  
Washington, D.C.

Owen S. Stratton  
Wellesley, Massachusetts

Tim and Emily Swanson  
Bozeman, Montana

Deborah Tancik  
Sonoma, California

Trust for Public Land  
Santa Fe, New Mexico

Robert and Dorothy Udall  
Fort Collins, Colorado

Alan Locklear and Marie Valleroy  
Portland, Oregon

Gary Vogt  
Port Angeles, Washington

Bob Waite  
Fairfax, Virginia

Christian Yoder  
Arlington, Virginia

Andrea Castellanos  
Moab, Utah

Margherita Brich  
Hotchkiss, Colorado

Steve and Diana Reese  
Salida, Colorado

Mrs. William R. Fry  
Riverside, California

Jonathan Friedman  
Louisville, Colorado

Tom LeFevre  
Wauconda, Illinois

Richard Ettlinger  
Highland Park, Illinois

James Crisp  
Los Angeles, California

Lauren Weinstein  
Phoenix, Arizona

Tonia Harvey  
Baker, Nevada

Robert J. Quintana  
Santa Fe, New Mexico

John R. Post  
Santa Rosa, California

Trudy Scott  
Bozeman, Montana

Sherryl A. Jones  
Window Rock, Arizona

Martin Murie  
North Bangor, New York

Charlotte Wunderlich  
Bethesda, Maryland

Karin Lundquist  
Fort Collins, Colorado

Phantom Ranch Staff  
Grand Canyon, Arizona

Joan Schumaker and Steve Chadde  
Arlee, Montana

Bob Fulford  
Portland, Oregon

Karen Lindebo  
Menomonie, Wisconsin

John Crock  
Moscow, Idaho

Sarah Andrew  
Gig Harbor, Washington

R. Leslie Shader  
Fort Collins, Colorado

Brian Peck  
Boulder, Colorado

C.M. Twedt  
Lincoln, Nebraska

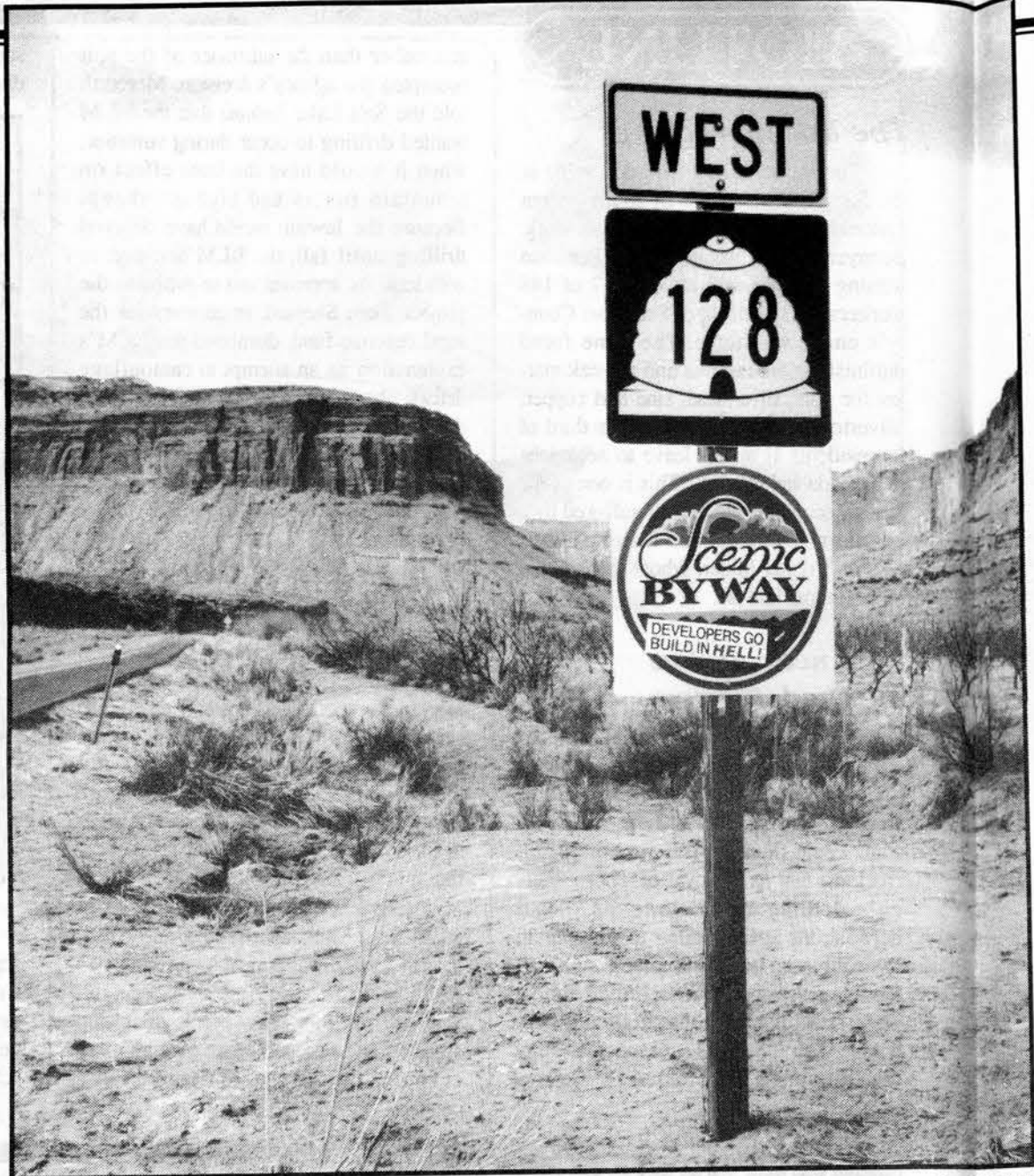
Lori Nielsen  
Fort Collins, Colorado

Tom Fitch  
Vail, Colorado

Marshall H. Gill  
LaSalle, Michigan

Ron Breckon  
Ellensburg, Washington

Beth Millemann  
Washington, D.C.



A message to developers on a sign near Castle Valley, Utah

Doug Rhinehart

**Thanks, HCN Research Fund  
and recycling fund donors,  
from Conifer, Coarsegold, High Rolls,  
Greenbelt, Gig Harbor,  
Barefoot Bay, Tualatin, Naro Moru ...**

David Levine Nederland, Colorado	Benjamin S. Smith Aiken, South Carolina	Diane Madigan Elko, Nevada	Bitten Skartvedt Golden, Colorado
Glenn M. Snyder Littleton, Colorado	Robert Stamp Casper, Wyoming	Susy Ellison Aspen, Colorado	Bonner J. McAllester Monterey, Massachusetts
Trish Klahr Boise, Idaho	Steven Chase Middleburg, Virginia	David L. Mayerson Bosque Farms, New Mexico	James Pontolillo Fairfax, Virginia
Jerry H. Berry Springville, California	Doug Shaffer Merrimack, New Hampshire	Cynthia Beyer Moab, Utah	Susan Dejmal Yosemite, California
R. Edward Grumbine Santa Cruz, California	Eric Dittert Beaverton, Oregon	Steve and Lynn Hansen Boise, Idaho	Anna Lindahl Laramie, Wyoming
Rob Dorival Ojo Caliente, New Mexico	Bob Clancy Albuquerque, New Mexico	Mary Sue Miller Westlake Village, California	Donald R. Walden Arlington, Virginia
Caroline Byrd Naro Moru, Kenya	Roger and Julie Grette Amherst, Massachusetts	Sally Layer Carlin, Nevada	Stewart Aitchison Flagstaff, Arizona
Phyllis Falconer Trego, Montana	Bob Rashkin Greenbelt, Maryland	Thomas M. Dwyer Santa Fe, New Mexico	Daniel McCool Salt Lake City, Utah
Steve Lanigan Vancouver, Washington	Gerald Meral Sacramento, California	Stephen M. Born Madison, Wisconsin	John V. and Priscilla A. Roberts Lakewood, Colorado
Larry Spanne Lompoc, California	Kevin and Cindy Roache Silverthorne, Colorado	Lois Bruhn Glenoma, Washington	Tommy Williams and Cielette Karn Burlington, Vermont
Andy Pearce Bend, Oregon	J.H. Phelps Billings, Montana	Mary Furney Camptonville, California	Matts Myhrman Tucson, Arizona
Roger and Patricia Otstot Idaho Falls, Idaho	Russell Bodnar Carlsbad, New Mexico	Sandy Righter Denver, Colorado	Kate West and Alan McKnight Saugerties, New York
H. Gerritt Rosenthal Tualatin, Oregon	Donald M. Hall Westminster, Colorado	Tom Kursar Salt Lake City, Utah	



- |  |  |  |   |   |   |
|--|--|--|---|---|---|
| David E. Robinson<br>Boise, Idaho  | Clayton and Beth Eberle<br>Muncie, Indiana                       | Dixie Meagher<br>Mill Valley, California           | Paul B. Porter<br>Livermore, Colorado                       | Stephanie Hargrove<br>Washington, D.C.                          | Travis Tritschuh<br>Moab, Utah                      |
| Chandler P. St. John<br>Salt Lake City, Utah   | Elaine M. Corrigan<br>Missoula, Montana                          | Peter C. Monson<br>Arlington, Virginia             | Mr. and Mrs. Riley<br>Newhall, California                   | Bill Hill<br>West Redding, Connecticut                          | Robert P. Turner<br>Denver, Colorado                |
| Carol Watson<br>Golden, Colorado   | Tim McLaughlin<br>North Highlands, California                    | Jean C. Musick<br>Colorado Springs, Colorado       | Lawrence Rueter<br>Wauneta, Nebraska                        | Bonnie E. Jones<br>Grants Pass, Oregon                          | Elizabeth Butler<br>Missoula, Montana               |
| Clint Watkins<br>Spokane, Washington   | Mary Garrow and<br>Gary Splittberger<br>Billings, Montana        | Eric Nagle<br>Washington, D.C.                     | Randal Rutsch<br>Boulder, Colorado                          | Ted Kerasote<br>Kelly, Wyoming                                  | Mary Johnston<br>Coarsegold, California             |
| Mary Ljung<br>San Luis Obispo, California  | Peggy Bell<br>Durango, Colorado                                  | Mitch Noonan<br>Santa Fe, New Mexico               | John Savarese<br>Staten Island, New York                    | Wayne King<br>Churdan, Iowa                                     | Carolee Laughton<br>Denver, Colorado                |
| Mark and Melinda Clark<br>Bend, Oregon   | Anne Dahl<br>Condon, Montana                                     | Charles and Ethel Orr<br>Tempe, Arizona            | Alan Seegert<br>Denali National Park, Alaska                | Ken Kirkpatrick<br>Denver, Colorado                             | James Sullivan<br>Denver, Colorado                  |
| D.J. Schubert<br>Silver Spring, Maryland   | Joe and Marian Harvat<br>Olathe, Colorado                        | Kevin R. Parks<br>Paonia, Colorado                 | Howard Sklar<br>Cupertino, California                       | T.E. Knight<br>San Diego, California                            | NRDC Staff<br>San Francisco, California             |
| Donna Edwards<br>Wayzata, Minnesota  | Anthony Horstman<br>Lakewood, Colorado                           | Mary Pengelli<br>Missoula, Montana                 | Amy Unthank<br>Baker City, Oregon                           | Mary A. Moore<br>Crawford, Colorado                             | Gladys Winblad<br>Albuquerque, New Mexico           |
| Alan Russell<br>Del Mar, California  | William L. Jones<br>Cedaredge, Colorado                          | Merle Peratis<br>Salt Lake City, Utah              | Steve<br>Everett, Washington                                | Joni Quarnstrom<br>Mazama, Washington                           | Rex Atwell<br>Hermosa Beach, California             |
| John Oppenlander<br>Longmont, Colorado   | Lew Matis<br>Dolores, Colorado                                   | Ann L. and Harvey Pratt<br>Englewood, Colorado     | Joe and Sally Hendry<br>Burns, Oregon                       | Jane S. Quimby<br>Grand Junction, Colorado                      | Joanne Hershenhorn<br>Tucson, Arizona               |
| Pat Puckett<br>Mount Center, California  | Guy Miller<br>High Rolls, New Mexico                             | Diane Reddin<br>Evergreen, Colorado                | Dexter Wesson<br>Burnsville, Minnesota                      | Suzanne Sarver<br>Ogden, Utah                                   | Christine Anne Cline<br>Salt Lake City, Utah        |
| Cathy Hope and<br>Jamie Ash<br>San Cristobal, New Mexico                                 | Tom Starrs<br>Seattle, Washington                                | William E. Riebsame<br>Boulder, Colorado           | Joseph Chiaretti<br>Farmington, New Mexico                  | Seyrl Schochen<br>Crestone, Colorado                            | Suzanne Fouty<br>Yosemite, California               |
| Jerry Lile<br>Glendale, California   | Roger Hathaway<br>Santa Fe, New Mexico                           | Walter Rusinek<br>San Leandro, California          | John N. Clawson<br>Salt Lake City, Utah                     | Linda Schorr<br>Minneapolis, Minnesota                          | Carole Richmond<br>Olympia, Washington              |
| John S. Chambers, Jr.<br>Albuquerque, New Mexico   | Randy Albright<br>Portland, Oregon                               | Barbara Shaw<br>El Dorado Hills, California        | Gary Conover<br>Colorado Springs, Colorado                  | Dee Sprio<br>Atlanta, Georgia                                   | Katrina McCormick Barnes<br>Santa Fe, New Mexico    |
| Peter R. Christensen<br>Boulder, Colorado  | Debra Corbett<br>Anchorage, Alaska                               | Warner Shippee<br>St. Paul, Minnesota              | Katherine Deuel<br>St. Louis, Missouri                      | Jim Stoltz<br>Big Sky, Montana                                  | Louis A. Cherbeneau<br>Estes Park, Colorado         |
| David A. Hoff<br>Citrus Heights, California  | Lissa Fahlman<br>Petersbury, Alaska                              | Howard Sloan, Jr.<br>Conifer, Colorado             | June Edverson<br>Oak Park, Illinois                         | Rich Truax<br>Fort Collins, Colorado                            | Bill Flower<br>Livermore, California                |
| David R. Lewis<br>River Heights, Utah  | Timothy Kaminski<br>Washington, D.C.                             | James Stevenson<br>Phoenix, Arizona                | Dana Field<br>Great Falls, Montana                          | John D. Vehr<br>Scottsdale, Arizona                             | Ronald and Wanda Hill<br>Batavia, Ohio              |
| Denis Davis<br>Page, Arizona   | Greg Booth and<br>Vickie Kettlewell<br>Grand Forks, North Dakota | Georgette Theotig<br>Tehachapi, California         | Richard Reynolds and<br>Mary McQuiston<br>Boulder, Colorado | Priscilla Warner<br>Sultan, Washington                          | Katherine Keane<br>Portland, Oregon                 |
| Charles and Elise Hereth<br>APO Miami, Florida   | Lois and Frank Abbott<br>Lakewood, Colorado                      | Marjorie Van Ochten<br>Lansing, Michigan           | Dave Parsons<br>Albuquerque, New Mexico                     | John and Lavinia Ycas<br>Boulder, Colorado                      | Christy and<br>Jan Konigsberg<br>Anchorage, Alaska  |
| Chuck Neal<br>Cody, Wyoming  | Linda V. Batlin<br>Boulder, Colorado                             | Heidi and Scott<br>VanGendern<br>Boulder, Colorado | Sandra Phillips<br>Brecksville, Ohio                        | Douglas Young<br>Boulder, Colorado                              | The KUSA Research<br>Foundation<br>Ojai, California |
| Jon Barrett<br>Steilacoom, Washington  | Carl Beyerhelm<br>Flagstaff, Arizona                             | Katherine Warren<br>Grand Canyon, Arizona          | Michelle Riley<br>Jensen, Utah                              | William Davis<br>Anchorage, Alaska                              | Steve Ludington<br>Palo Alto, California            |
| David Lobato<br>Monument, Colorado   | Guen Simons and<br>Steve Brown<br>Boulder, Colorado              | Joe Weidman<br>Flagstaff, Arizona                  | Betty Scarpino<br>Indianapolis, Indiana                     | Frederick V. Grady<br>Arlington, Virginia                       | Nuclear Safety Campaign<br>Seattle, Washington      |
| Kirk Halford<br>Truckee, California  | Patrick Carr<br>Sebastopol, California                           | John G. Welles<br>Englewood, Colorado              | Brian Schaeffer<br>Boise, Idaho                             | Jan L. Schmid<br>Littleton, Colorado                            | John Ong<br>Fairfield, Iowa                         |
| Martin Tuegel and<br>Christine Hass<br>Boulder City, Nevada                              | Brian Corey<br>Lexington, Massachusetts                          | Warren Weston<br>Denver, Colorado                  | John W. Seidel<br>Carbondale, Colorado                      | D.C. Knauber<br>Corvallis, Oregon                               | Thomas A. Speicher<br>Denver, Colorado              |
| Curtis Spalding<br>McCall, Idaho   | Kathleen Crawford<br>Silver Spring, Maryland                     | Skip Edwards<br>Moab, Utah                         | Charles Sellers<br>Idaho Falls, Idaho                       | M. Cade<br>Las Vegas, Nevada                                    | Stephen E. Cornell<br>San Diego, California         |
| Joseph Oliver<br>Pacific Grove, California   | William J. Cronon<br>New Haven, Connecticut                      | Rob Cifelli<br>Fort Collins, Colorado              | Todd Vandyke<br>Louisville, Colorado                        | John Cooley<br>Fort Collins, Colorado                           | Hans Moosmuller<br>Las Vegas, Nevada                |
| William R. Dejager<br>Los Angeles, California  | Anne Castle and<br>Frank Daviess<br>Golden, Colorado             | F. Mallory Clarke<br>Ridgway, Colorado             | Fran Nimick<br>Sandia Park, New Mexico                      | Carolyn Dejanikus<br>Bethesda, Maryland                         | Brian Reid<br>Gold Bar, Washington                  |
| Mary Beath<br>Albuquerque, New Mexico  | Nancy Debevoise<br>Washington, D.C.                              | Anthony DiRenzo<br>Boulder, Colorado               | Stephen E. Shelley<br>American Fork, Utah                   | Karen Ferner<br>Sandia Park, New Mexico                         | Jeffrey R. Rice<br>Billings, Montana                |
| Diane Bentrup<br>Barefoot Bay, Florida   | Ann and Tom Elder<br>Vernal, Utah                                | Mary Ann Donfield<br>Boulder, Colorado             | Peter Ashley<br>Palo Alto, California                       | Ellen Gage<br>Longmire, Washington                              | Fred Schmidt<br>Shelb, Utah                         |
| Douglas Cool<br>Palisade, Colorado   | Art Farley<br>Eugene, Oregon                                     | L. Evers<br>Dufur, Oregon                          | Judith Becker<br>Chandler, Arizona                          | John and Ruth Morton<br>Rochester, New York                     | Kevin Walker<br>Moab, Utah                          |
| Janet R. Huebner<br>Sierra Vista, Arizona  | M.B. FitzGerald<br>Billings, Montana                             | Friends of the Bow<br>Laramie, Wyoming             | Jett and Rosemary Conner<br>Conifer, Colorado               | Marcel Rodriguez<br>Springdale, Utah                            | John C. Gawne<br>Oak Park, Illinois                 |
| Keith Axline<br>Challis, Idaho   | Matthew Gilbert<br>Boulder, Colorado                             | Keith Goering<br>Joda, Kansas                      | Merrill and Leslie Glustrom<br>Prescott, Arizona            | Autumn Brook and<br>Carl Magagnosc<br>Santa Barbara, California | Anonymous Donors                                    |
| Donald Arndt<br>Berthoud, Colorado   | Bradley Gummersall<br>Santa Fe, New Mexico                       | B.G. Hicks<br>Ashland, Oregon                      |   |   |   |
| Emily and Charles<br>Chauncey Hall<br>Salt Lake City, Utah                               | Randall and Staci Hobbet<br>Walnut Creek, California             | G. Mathias Kondolf<br>Berkeley, California         |   |   |   |
| Christine Paige and<br>Tobin Kelley<br>Kalispell, Montana                                | Andrew D. Kahn<br>Entiat, Washington                             | D.L. Langdon<br>Grand Junction, Colorado           |   |   |   |
| In Memory of<br>Emily Jackson<br>Marjane Ambler<br>Yellowstone National Park,<br>Wyoming | Jeffrey R. Leich<br>North Conway, New<br>Hampshire               | Sue Lowry<br>Laramie, Wyoming                      |   |   |   |
| Jonathan Marvel<br>Hailey, Idaho   | Jack Liesner<br>Morrison, Colorado                               | John F. McCormick<br>Arlington, Virginia           |   |   |   |
| Merry Cox and<br>Erik Hvoslef<br>Silverthorne, Colorado                                  | Mr. and Mrs. Adrian Malone<br>Big Horn, Wyoming                  | Doc Munson<br>Boise, Idaho                         |   |   |   |
|  | Ron McComb<br>Seattle, Washington                                | Kay Firor and<br>Kent Osterberg<br>Cove, Oregon    |   |   |   |
|  |  | Dan Paulsen<br>Albuquerque, New Mexico             |   |   |   |

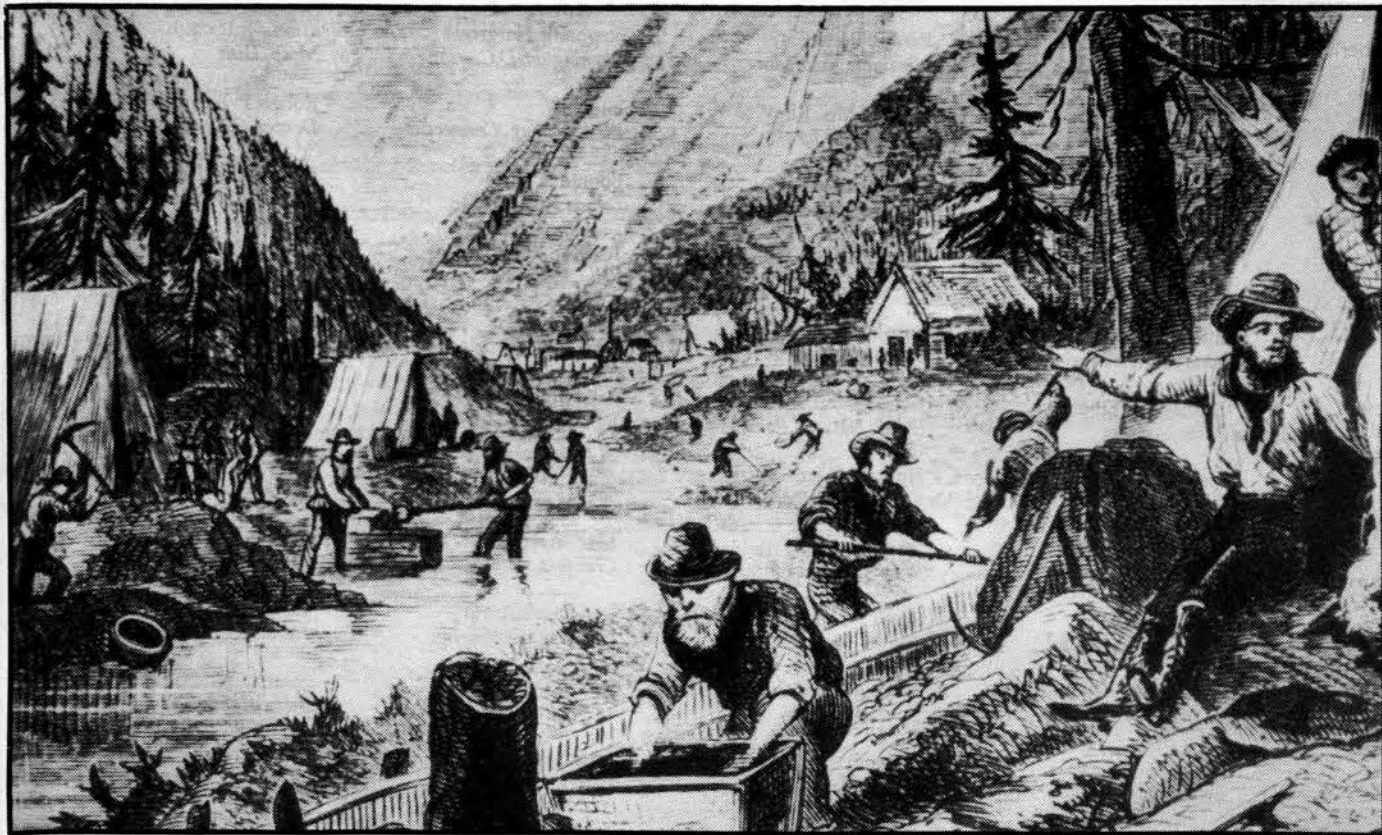


**Add my gift to the 1990-91 Research Fund**

- \$1-\$49 (Friend)   
  \$50-\$99 (Patron)   
  \$100-\$249 (Sponsor)  
 \$250-\$499 (Benefactor)   
  \$500-\$999 (Assoc.)   
  \$1000 and above (Pub. Circle)

Amount of Gift \_\_\_\_\_  Payment is enclosed  Charge my credit card  
 Name \_\_\_\_\_  Visa or  MasterCard Expires \_\_\_\_\_  
 Address \_\_\_\_\_  
 Card # \_\_\_\_\_ Signature \_\_\_\_\_

Please check here if you **do not want** your gift acknowledged in HCN.  
 If you contribute \$50 or more, you may designate the recipient of a free HCN gift subscription (new subscriptions only, please).  
 Yes, see other side for name and address of my gift sub recipient.  
 I do not wish to receive any premium for my gift level.  
 Make checks payable to the High Country News Research Fund. Mail to Box 1090, Paonia, CO 81428  
 \* This premium has a \$24 value which must be subtracted from your Research Fund gift to arrive at the tax-deductible portion.



The Denver Public Library, Western History Department

Sluice mining in a river valley

## Wilkinson Eulogizes An Old Scourge, And Warns Against A New One

by Ed Marston

Charles Wilkinson has a right to crow over the corpse of the West's traditional approach to water.

The West's leading legal scholar of public land and Indian issues has said for years that the Doctrine of Prior Appropriation was the most radical and destructive of a series of 19th century laws he has nicknamed The Lords of Yesterday.

But when the defeat of Colorado's proposed Two Forks Dam signalled the death of the strongest of the lords, Wilkinson did not cheer. Instead, he imagined the Doctrine of Prior Appropriation as a person, and delivered a eulogy.

In part the eulogy, delivered on Feb. 22, 1991, to the Northwest School of Law at Lewis and Clark College in Portland, expressed the generosity of a victor. "A eulogy puts things in their best light. It draws positive lessons." But Wilkinson's eulogy represents more than generosity. It also implicitly calls on opponents of "Prior" to understand the dead lord's legitimate strengths. Without that understanding, reform in the wake of his death, Wilkinson believes, will be even more difficult.

"The hope for the West lies in good communities. And the creation of communities was the best of Prior Appropriation, and that deserves to be said. Reclamation was a beautiful, honorable, virtuous, idealistic movement during the 1880s, 1890s and early part of the 20th century. It was well-intentioned. To see those valleys opened up — to see good families and communities established — was very significant stuff, even if it was subsidized."

Wilkinson sees signs that the replacement of Prior and other traditional extractive activities may not be automatically benign. A Lord of Today, he says, "is modern recreation in the West: overuse of wilderness, second homes, congested roads, crowding of Yellowstone and Yosemite.

"Environmentalists loosely said we have to move away from extraction to recreation. That may be wrong if it means Aspen, Catamount ski area at Steamboat Springs, and condos at the north end of Ketchum. Environmentalists helped this along; they argued for

recreation. But recreation means something different than it did 20 years ago, and they certainly didn't warn us of the ramifications."

But the community-building strengths of Prior and the threats posed by his successors did not make Wilkinson's eulogy to Prior an adoring or nostalgic one:

"There was a dark side, and you can't deny that either. Even in a eulogy, you can allude to that." The point is to see both sides: "Too many people see Prior through one lens or another."

Wilkinson knows Prior's dark side intimately. He came to the West through the door of social justice and equity, and he has seen how Prior took water from Indian and Hispanic people. "I feel great bitterness and anger over what has happened at particular places. Elephant Butte and the Hispanic communities there in New Mexico were defrauded of their water.

"It angers me to go to the upper end of the Salt River watershed — the Salt River Project (an irrigation and hydropower corporation near Phoenix) almost owns it. The White Mountain Apache Reservation produces 60 percent of the water, but its rights have not been quantified, and the Salt River Project challenges any water the tribe tries to use. The Salt River Project objects to even small recreational lakes because of evaporation. This is sick policy.

"Water policy in the West is the most extreme, most out-of-kilter, most biased against rational decisions there is. They're cutting back logging in the Northwest, but with water it is still a lot of business as usual," he observes.

"This spring I stood at the junction of the Salt and Verde rivers just east of Phoenix. Both rivers were flowing full. Then, a little farther downstream, in Phoenix, the Salt River is completely dry, and the arrogance of that angers me."

Despite the West's dewatered streams, dammed rivers and drowned canyons, Wilkinson doesn't put all blame on Prior and the water developers. Wilkinson has written in a law review article that the problem with Prior "is not the interests it represents. They deserve to be represented — well represented — in any sensible water policy. The problem is that the classic doctrine represents only those interests

— it is too narrow... The classic doctrine never intersects with fundamental notions of economics, social equity, conservation, environmental protection and science."

That article, titled "Aldo Leopold and Western Water Law," appeared in 1989 in the University of Wyoming's *Law and Water Law Review*. Now, two years later, Wilkinson announces that the Doctrine of Prior Appropriation met with economics, social equity, conservation, environmental protection and science at Two Forks Dam, and came out of that intersection simply one of many players. As a result, Two Forks will not be built and Prior has been diminished to approximately the stature of the Endangered Species Act or the Clean Water Act.

"The decline of Prior had many causes. We now better understand that there has been enough water storage in the West since 1955, that tribes have rights and deserve water, and that there are moral issues about wrecking streams."

These tendencies are partly a result of changing demographics. "Migration to the West has brought in more people who haven't grown up with the old stereotypes, and who revere the countryside."

As a result of the on-going changes revealed at the Battle of Two Forks, the West is now in an age of reform, Wilkinson says. "But real reform in water is going to come very slowly. In the next few years, we're going to see definitive changes in hardrock mining and timber harvests on national forests. But water will take longer because it has been made so complex. Colorado water, to take an example, is Rube Goldberg at his finest. No one understands it, so fixing it — to the delight of those who don't want it fixed — just takes forever."

Part of the slow pace results from the public's inability to understand the issues surrounding water in the West. And that comes from "the blandness of the language water developers use. They talk of 'projects,' of 'water development,' of 'storage.' People have no idea what that all means." Aside from the language, "water developers have created the myth that water is so complex common people can't understand it."

The defeat of Two Forks, Wilkinson says, shows that people can get involved in water projects. But the understanding is partial. "There is still a sense in Colorado that while we shouldn't build Two Forks, we'll have to build a project somewhere for the Front Range. But the fact is that we don't need a water project of any size for at least 50 years."

Although Wilkinson believes Prior is dead, in the sense of being able to build new dams, he leaves a heritage in the form of thousands of water projects across the West, many of which continue to dewater streams, devastate salmon runs, damage surviving rivers with salty or polluted water, and drown canyons.

Changing the nature of those vested rights, Wilkinson says, will be slow and difficult. "Prior is gone, but he's left 140 years of vested rights sitting out there."

But the reformers have a few weapons. "Ironically, the overbuilding of water supplies through dams and transbasin tunnels is one of our greatest assets because it gives us great flexibility. Reallocation of water is made much easier. One good example is the Northern Colorado Water Conservancy District north of Denver, which built the Windy Gap and Colorado-Big Thompson projects and brought huge quantities of water over from the Western Slope. There is a great deal of surplus water up around Greeley. We just need to get it down to Denver and its suburbs. Past excesses have become a great advantage."

The taking of water from streams and the building of dams must be based, under the Doctrine of Prior Appropriation, on putting the water to beneficial use. How, then, has the West ended up with enormous amounts of unneeded water behind dams?

"Part of it is the language again. 'Beneficial' doesn't mean beneficial — it means any use that water developers want and, in effect, that includes overuse, waste. Beyond that, building became an end in itself. You have a powerful system of lawyers, engineers, contractors and federal agencies, and all they did was build water projects. Water development eventually became patently reckless. There were people like Prior in the Bureau of Reclamation and elsewhere who did believe in the reclamation ideal." But eventually, Wilkinson says, water development became a machine serving very narrow interests.

According to Wilkinson, a major barrier between water developers and environmentalists is the amoral, businesslike approach the developers take toward their "projects" and "diversions," contrasted with the highly moralistic approach environmentalists take toward streams they see almost as living creatures.

But Wilkinson says water developers and users are not blind to the beauty of the West. "Westerners split their personalities. Business and development had to come first, but that didn't mean they couldn't enjoy an evening on the porch, or the rivers, or the irrigated fields. The loggers too — they loved and love working in the woods."

Is there hope for reconciliation among the West's warring parties? "Some of the best dynamics happen when environmentalists and developers get on the river or in the woods together. Lifestyle differences drop away, real understanding begins to take place, and sometimes you can get some real breakthroughs."

## Prior Appropriation, 1848-1991 ...

(Continued from page 1)

Letters was in Rich Bar that autumn and wrote:

"A precocious, curly-haired three-year-old boy was playing jubilantly by the creek one afternoon. He had laboriously built a sand and gravel castle with a moat. An elderly miner came down with a bucket to fetch his (must I say it?) weekly bath. He never saw the boy, his castle, or the moat, the flow to which the old man had disturbed by plunking his bucket in the stream. My heavens! All at once the September air was filled with the din of commotion. The boy shrieked with a purple rage and threw his favorite toys — his 2 1/2-pound Colt 45 revolver, his Green River knife with the six-inch blade, his molded iron mining pan — in every direction.

"And then, as the chastened old miner departed with an empty bucket, the boy thrust his index finger in the air and bawled out that word that bespoke to perfection the spirit of these mines: 'First! First!! First!!!' From that day on, the adopted boy had a name and his idea about water became the byword in those rough camps."

Prior rose again to glory in 1855. Matthew Irwin, one of Prior's foster parents, had diverted the water — all of the water — from the South Fork of Poor Man's Creek near the Sierra Nevada mining town of Eureka. But Robert Phillips, a would-be water user, had come to Poor Man's Creek after Irwin, and so Irwin brought suit in California Supreme Court to make sure that his claim to the creek was paramount over Phillips'.

The case was argued in the small courtroom in Sacramento amid a judicial scene rare even in those boisterous days. In the back of the courtroom sat Matthew Irwin and the many miners and storekeepers who had bought water from him. When the five judges entered the chambers, the crowd stood, initially respectful and silent; but then Prior climbed one of the benches, turned to the Irwin contingent and, like a conductor, caused them to begin to chant: "We're number one! We're number one! We're number one!" Chief Justice Murray first looked startled, then grinned, then gently raised his hand for silence, then just stopped and drank in the simplicity and justice of the chant.

The court ruled for Matthew Irwin and those he supplied — and for Prior. Even today, nearly a century and a half later, is there one of us who could say we would have done differently back then?

Prior spent much of his youth in the Gold Country, but he also took many trips with miners or merchants who wanted his company. Those early journeys presaged a life spent exploring every nook and cranny of the West. Prior's very first trip was to the Mormon settlements in Utah. He went in 1852, when he was just four. How the Mormons doted on him: tossing him in the air, teasing him with tickles and jests, taking him out to the irrigation fields where the languid summer evenings were heavy with the breath of the new green crops.

He even met Brigham Young, who, when he saw Prior, did a double-take, grabbed the boy, hoisted him into the air, looked up at him and, beaming beatifically, exclaimed: "When I came to this valley five years ago, I had a vision of a boy and an idea, and you are the boy whom I saw at that gilded moment." From that day on, there was a religious dimension

to Prior's ideas.

He loved the generous and hard-working Mormons so. Years later, when Prior, who had no formal schooling, began a life of self-taught reading, he learned of the agrarian ideal and said of the Mormons, "That's what Jefferson had in mind."

### "Law With No Brains"

**B**ut most of Prior's growing-up days were spent in the Gold Country. His best and tightest pal would later earn fame as a military man — General Mining Law. I personally think it wrong for some late-20th-century commentators to term the General, who came from a large and distinguished family, as "the Law with no brain," but the description has stuck.

Prior and the General grew up fast and grew up about the best any boys could. They went to all the gold camps — in California, Oregon, Idaho, Colorado, Arizona, even Mexico and Alaska in later years. They saw shootings and hangings. Once they even saw the ultimate Gold Country act — one burly miner carved another's heart out 'Maltese style,' with a single motion from a curved-blade knife imported from the Mediterranean. Prior and the General clinked their shot glasses and the General hooted: "He probably deserved it; if he didn't steal water, he must have jumped a claim." To which Prior replied, "First in time, first in right."

Prior and the General knew every bar from Columbia to the Klondike and from Virginia City to Cripple Creek, and they caroused and cursed and drank and whored and fought in them all. They were men's men — broad-shouldered, barrel-chested and square-jawed. Prior, who knew Mark Twain, was fond of quoting Twain's comment upon his first visit to Nevada in the 1860s: "This is no place for a god-fearing Methodist and I did not long remain one."

But Prior did marry, and while he married late — at 33 — he married well. Ramona was a black-eyed beauty, half Indian and half Mexican. They settled down near the heart of the West, in the farm-ranch country out near Vale, Oregon.

Prior went everywhere in the West and he took Ramona with him whenever he could. He gave most of his adult life to public service — to furthering the cause he believed in. In the beginning, it was easy. Colorado bought in in 1882. So did his beloved Utah. With some town-square oratory, Fourth-of-July backslapping and Sunday-meeting preaching, nearly all of the others came into line. Prior was messianic and he developed a cult following that spread the word.

Everywhere, his message was the same, logical and true. "The water is our heritage. Take it — take it all, if you can. This is the American century. Progress will result." And, he would usually add, "Take it now. I'm traveling upriver to other towns and states; if you don't take it they will. Be first. Achieve progress first."

To be sure, not everyone listened at first. Washington, Oregon and California bought part way into Riparian Law. Riparian was the General's outcast cousin who eventually moved back east to Newark. But no real matter. Everyone

Continued on page 12

## Charles Wilkinson: A Profile

—by Ed Marston

**T**he Dodger baseball team abandoned Ebbets Fields in Brooklyn for Los Angeles in spring 1958, leaving in its wake hundreds of thousands of permanently embittered fans. But Charles Wilkinson was not among them. In fact, five years after the Dodgers left Brooklyn, Wilkinson enrolled at Stanford University Law School, eager to be again near a team he had continued to love.

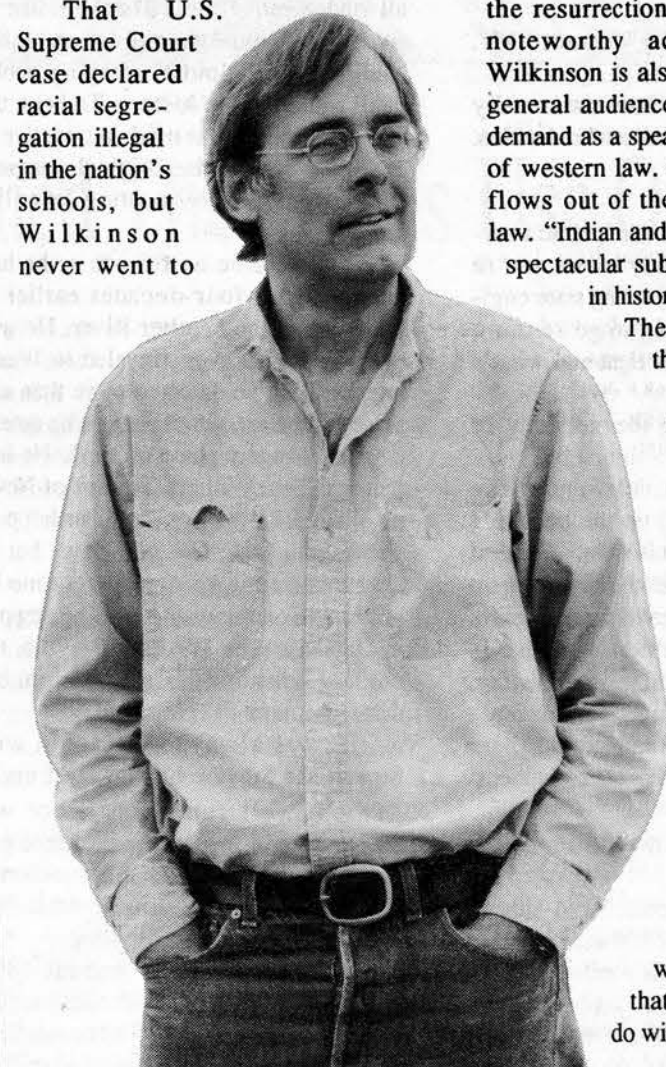
Wilkinson arrived at Stanford, 30 miles south of San Francisco, in fall 1963, in the midst of an exciting pennant race. He recalls today, from his home in Boulder, Colo., that the first thing he wanted to do was see a game. It was then he discovered that the Bay Area and Los Angeles are not like Brooklyn and the Bronx — nearby neighbors. "I found out they are a six-hour drive apart. I looked into transferring to UCLA but it was too late."

Perhaps that is why Wilkinson today is forever consulting maps, and why he appears to be intimate with every creek, watershed, lake, national forest, Indian reservation and geologic landmark in the one-million-square-mile West he calls home.

In the years since the Dodgers drew this native Easterner to the West, Wilkinson has also become a leading scholar on the interlocking web of public land, natural resource, water and Indian law.

As the Dodger anecdote indicates, Wilkinson did not intend to become an authority on western law. He was drawn to the field by a different set of concerns. "I suppose I decided to become a lawyer in May 1954, when I read about *Brown vs. Board of Education* in the old New York *Herald Tribune* in Bronxville, New York."

That U.S. Supreme Court case declared racial segregation illegal in the nation's schools, but Wilkinson never went to



work for the NAACP. Instead, he went into private practice in Phoenix and San Francisco, and then became an attorney for the Native American Rights Fund in Boulder in 1971, where he refought the southern civil rights battles on behalf of American Indians. His litigation provided Indian children with schools in southern Utah, provided tribal governments with power they are entitled to according to their treaties, and literally restored to life tribes such as the Menominee in Wisconsin, whose legal existence had been extinguished.

"That period was the shaping moment of my professional and personal life. I've gotten so much from Indian people and Indian life."

He left NARF and the courtroom in 1975 for the University of Oregon, and in 1987 he moved to the University of Colorado. Over the past 16 years of university work, his casebooks on federal public land and natural resource law and on Indian law have become the foundations of modern legal work in those fields.

Wilkinson was a pioneer. "People were practicing public land and Indian law, but it wasn't being taught. It shows how influential the East was in determining even western law school curricula. Also, with the termination of Indian tribes going on, there was the sense that Indians were vanishing. Indian law was thought to be a dead letter, and treated about the same as Roman law."

His two casebooks and many other scholarly works have established him as a founder of modern western legal scholarship. His appointment in 1989 as the University of Colorado's Moses Lasky Professor of Law — a prestigious endowed chair not confined to those specializing in western law — confirmed his stature.

The reshaping of the West's public land and natural resource law, and the resurrection of Indian law, are noteworthy achievements. But Wilkinson is also able to convey to general audiences — he is much in demand as a speaker — the workings of western law. He says that ability flows out of the nature of western law. "Indian and public land law are spectacular subjects. They are rich in history and human drama.

They practically teach themselves."

Wilkinson, who has won teaching awards at several universities, says his avocation also helped. "All the while I was teaching I was learning more and more about trout fishing. My water law course is a thinly disguised course in trout fishing. When you trout fish, you need to think in terms of the whole watershed, and that's what you need to do with water law."

# The Life And Turbulent Times of Prior Appropriation, 1848-1991 ...

(Continued from page 11)

## Prior Meets Powell

knew that by the 1890s Prior had won out basically everywhere west of the Hundredth Meridian. He had done it by knowing the land and the people, and by giving the people what they wanted and needed.

Ramona would say, "Prior, oh Prior. We've gone everywhere and seen so much and I admire you so. You're the man of the miners, yes, but you're also the man of the farmers. You're always so right."

It was about then, about 1890, when the frontier closed, that things began to change and Prior's work began to take on a much harder edge. His first confrontation came in Wyoming. Prior had learned of the expert engineer, Elwood Mead, who had brought innovations to Colorado water policy (a century later, Coloradans wait for another innovation) and who then moved to Wyoming as statehood drew near. Mead was a major figure at the Wyoming constitutional convention in 1890, and Prior was concerned; he had heard that Mead wanted the new constitution to make water the property of the state, with appropriations allowed only if in the public interest.

Their meeting was inevitable. When it came it was a study in contrasts — the big, ebullient, charismatic Prior sitting opposite the quiet, scholarly Mead, with his round, wire-rimmed glasses. "Well, what is this, Elwood? I thought water was for the people, not for big government."

"It is, Mr. Appropriation, but who would you say owns it before our farmers put it to use? The federal government, which will own most of the land and all of the watersheds in Wyoming after statehood? The Arapahoe and Shoshone are the second biggest landowners in Wyoming. Do you want them to claim ownership before diversion?"

"I see your point, Elwood. But the state is only a front, right? The people can just take the water, right? State ownership is just a fiction, right? A way of explaining how the settlers can just take the water. Right?"

"That's generally correct, Mr. Appropriation."

Prior pressed on. "State law is really no law. Each individual settler decides. Is that right?"

"I'd say so, yes."

"Now, what about this 'public interest,' Elwood? Everybody knows you're going to be the first Wyoming state engineer. You're not going to go running around deciding what's right and what's wrong, are you?"

"No, that's for the settlers to decide."

"Well, all right. It sounds like you're just prettying up the people's rule, 'first in time, first in right.' I'll need your assurance, Elwood, because you know damn well if I go to those farmers and tell them that this here new state is going to deny or regulate their water, then you know damn well there isn't going to be any constitution, and there isn't going to be any new state engineer. You understand me?"

"I've given you my interpretation, Mr. Appropriation."

In the years to come, Mead kept to his interpretation. He distributed water to people according to their priorities, and he hardly ever used the 'public interest' provision. Prior had been right. Whatever the constitution said, the water users owned the water. They had vested rights.

No sooner was Prior done with Elwood Mead than he was locked into a confrontation that changed the course of history more than anything he ever did. If there was another great man of the West in the late 19th century, it was John Wesley Powell.

He was the visionary who in 1869 was the first to float the Colorado River, and who wrote his famous *Arid Lands*

*Report* in 1878. In it, Powell urged steps to induce more ordered settlement and a better fit between settlement and the limits imposed by the scarcity of water. Prior hated the widely read and admired report. Those who liked it, he said, were "a bunch of god-damned blind, thick-headed Easterners." And he hated the idea of limits. "Human beings can accomplish anything. There's no point in being negative."

Without Prior's knowledge, Powell was appointed head of both the U.S. Geological Survey and the Bureau of Ethnology. In 1888, Powell convinced Congress to commission him to conduct a comprehensive survey of potentially irrigable lands and possible reservoir sites in the West.

It seemed innocuous. But then Powell persuaded the Interior Department to close

all lands west of the 101st Meridian to settlement pending completion of his study. It was the most sweeping public lands withdrawal in history. To boot, the 1889 withdrawal was made retroactive to 1888, the date of the original congressional resolution requesting Powell's survey.

Prior became as furious as he had been that day four decades earlier at Rich Bar on the Feather River. He was everywhere. He even traveled to Washington, which he detested more than any place in the East, which in turn he detested more than any place on earth. He first met with Sen. William Stewart of Nevada — Big Bill — Prior's old bar-hopping friend from Gold Country days, but he also found time to meet everyone he knew. And on the way home, he stopped in Omaha to see William Smythe, the untiring booster of big irrigation, big dams, and more development.

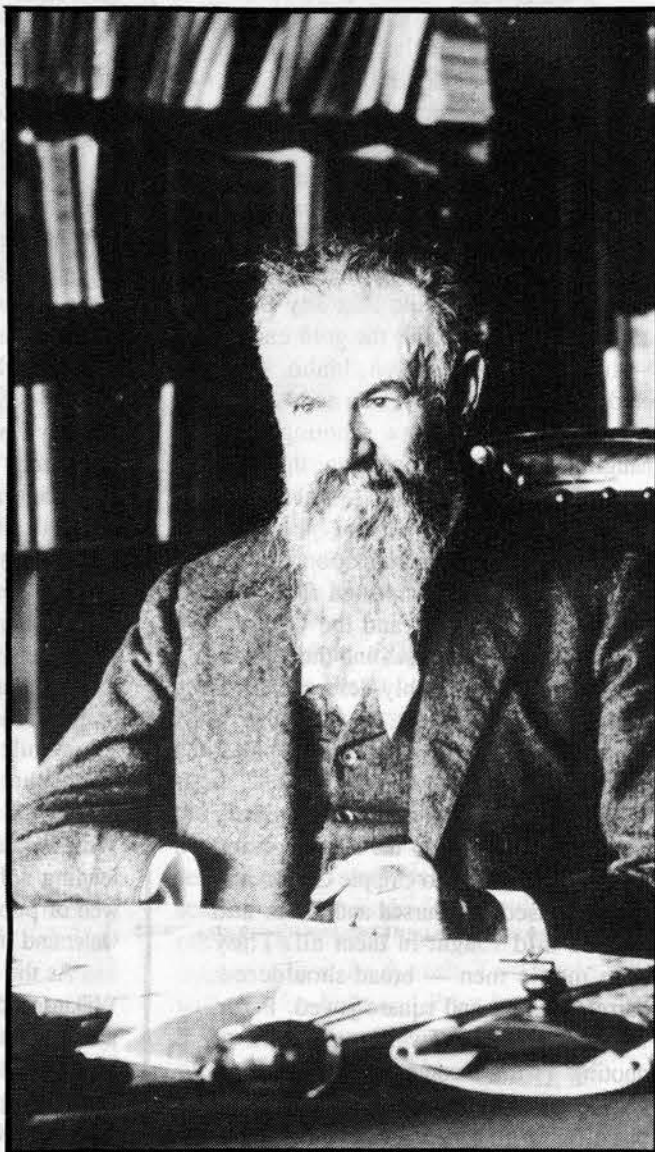
He was always direct, but with Stewart and Smythe he was most direct. "This Powell sumbitch [Prior was always careful to use the preferred pronunciation] is a madman," he exhorted, the veins standing out on his neck. "Get him. Get the sumbitch."

And they did. In August 1890, Congress, at Stewart's relentless urging, overturned the 1889 withdrawal. Then Smythe took over. He organized the Irrigation Congress in 1891, followed two

years later by the most notorious Irrigation Congress ever, in Los Angeles. There, Smythe, Prior and nearly the whole crowd — a gang, really — shouted Powell down. He was a pariah, he was against progress. They finally drove him from office in 1894, when he was forced to resign.

Wallace Stegner, who saw it differently from Prior, described Powell's downfall this way in his book, *Beyond the Hundredth Meridian: John Wesley Powell and the Second Opening of the West*:

"But they hadn't given him time.



The Denver Public Library, Western History Department  
Major John Wesley Powell in his office

They had beaten him when he was within a year of introducing an utterly revolutionary — or evolutionary — set of institutions into the arid West, and when he was within a few months of saving that West from another half century of exploitation and waste. It was the West itself that beat him, the Big Bill Stewarts and the Gideon Moodys, the land and cattle and water barons, the plain homesteaders, the locally patriotic, the ambitious, the acquisitive, the myth-bound West which insisted on running into the future like a streetcar on a dirt road."

Ramona, who knew of the Powell confrontation, remained silent.

Prior stayed busy. He lobbied through the great Reclamation Act of 1902. He knew it would never pay its way, although he kept that to himself during the debate over the act. He knew reclamation was good because it meant more farms and more farming towns. Besides, water users should be subsidized. That's how you made progress in the West.

Prior had grown to respect southern California, although not as much as Utah, for sure. But he saw there the beginnings of a great city. He wanted to help. So in 1903 he traveled to Los Angeles by rail, riding in the plush coach car specially designed for Leland Stanford. Prior had arranged for a meeting with William Mulholland, the tall, dap-

per, mustachioed head of the Los Angeles Department of Water and Power. It was a match made in heaven.

"Owens Valley," Mulholland mused after hearing Prior's careful, detailed, two-hour presentation in the wood-paneled, high-ceilinged room. "That's a long way from here, nearly 250 miles."

"That's exactly the point, Mr. Mulholland. If this city is going to be what you want it to be, you're going to have to think big. Imagine all the jobs you'll create building the canal and the facilities. Besides, and I've got to be direct with you, I can either head back home or go on to Las Vegas and Reno. They want to grow, too, you know."

"Prior, may I call you Prior?"

"You sure can... Bill."

"Prior, you've got a deal. But let's keep this to ourselves."

"We sure will, Bill."

Then Mulholland got up from his mahogany desk and walked to the window. "Do you think there's any problem with those folks up in the Owens who are planning their own reclamation project? We'll have to take the water out of their watershed, and my impression is that water law pretty much favors irrigation."

"Bill, don't worry about a thing. This Riparian Law you sometimes use here in California is no problem. Just quietly, through a third party, buy up all the landowners along the stream. The only water law that really matters is first in time, first in right. Frankly, it's all up for grabs for the first taker. If that happens to be farming — fine. I'm all for farming. But if our cities need it, and get there first, they've got it. The law is neutral. Don't worry about a thing."

"As I say, Prior, we've got a deal. Thank you for this. A lot of people will thank you."

The two shook hands and Prior moved toward the door, but then stopped and said, "And Bill, by the way, make your plans broad enough to include Mono Lake, up to the north. Your city is going to need it some day."

"Prior, you took the words out of my mouth."

And the two men laughed heartily.

Prior was wakened one morning in 1908 by a friend's loud, rapid knock. He brought news that seemed to come from Mars. "What?" Prior asked in disbelief. "Indians? Water rights? Even if they haven't diverted the water? The United States Supreme Court, you say?"

The *Winters* decision gnawed at Prior. He could not accept a ruling that put the Indians at the front of the water appropriation line — ahead of his miners, his farmers, his booming cities. Finally, in 1911, he got in his prized red 1909 Model T Ford and drove to the Reclamation office in Billings. He knew the people there, but even so they were taken aback by his ideas. "Take on the *Winters* decision? Rub out the words of the Supreme Court by real action on the ground?" But they quickly understood, and they carried out Prior's carefully drawn plan.

As the first symbolic act of a campaign that would continue for nearly the whole century, in 1911 Bureau of Reclamation officials entered the Gros Ventre-Assiniboine Reservation at Fort Belknap, the very reservation at issue in *Winters*. They dammed Peoples Creek, which drained most of the reservation. They diverted the flow and by canals sent the water to non-Indian irrigators in the Malta District, 150 miles away.

When Prior returned and told Ramona, she said, "Oh, Prior, those are my people."

"Damn it, this is about law, Ramona. Law protects people who use

water, not those who waste it."

Two years later, Prior came up against John Muir in a fight over the damming of a beautiful valley to provide San Francisco with water. Three years later, Hetch Hetchy, the sister valley of Yosemite, was a reservoir. He railed to Ramona about Muir. "That long-haired wild man, with his talk about wilderness and beauty and animals — and flowers. He needed to be put in his place."

"But Prior, oh Prior. You used to read Mr. Muir's books. And Prior, just last night we walked by the stream and you picked me a mariposa lily, the one in the vase over there, and you told me mariposa meant butterfly in Spanish and

that I was your butterfly lily."

Prior just said, "Those were books and that flower was personal, Ramona. This is about water."

By 1916, Prior had succeeded in getting the Reclamation Service to build giant Elephant Butte Dam on the Rio Grande in southern New Mexico. Traditional Hispanic farmers — 1,400 farms with 50,000 acres in crops supporting 6,000 Hispanic people in all — had worked the land long before the dam. In 1936, Hugh Calkins of the U.S. Soil Conservation Service wrote a report showing that Hispanic subsistence farmers couldn't pay the charges for the big project and would not or could not con-

vert to the new, intensive cash crops of cotton favored by the Anglos for whom Elephant Butte was built. Before the dam, Calkins wrote, "The Spanish-American population [was] largely self-sufficient and secure." Afterward the Hispanics lost their farms and became farm laborers living "at a permanently low income level and a high insecurity level."

When Prior learned of Calkins' report, he cranked up his telephone and told Reclamation, "Bury it!" which Reclamation did.

"But Prior, these are my people. And aren't they living the Jeffersonian ideal?"

"This is about policy, Ramona, and progress. And policy must be color-blind."

By the 1930s, even though he was in his 80s, Prior was as energetic and effective as ever. He was ready for his last crusade: the great dam-building orgy that began in the 1930s and lasted into the 1960s. It remade the American West and it was driven by Prior's central premise: The rivers and canyons, all of them, were zoned for intensive use. First come, first served, with no holds barred.

Reservoir capacity expanded at the rate of 80 percent per decade during the

*Continued on page 14*



The Denver Public Library, Western History Department

Miners use a hydraulic sluice

## It Was California That Determined The West's Use Of Water

**W**as the establishment of the Doctrine of Prior Appropriation throughout the West an historic accident? Could the West just as easily have ended up adopting the East's riparian approach to water use, with its greater respect for water remaining in streams? Law professor Charles Wilkinson doesn't think so.

In his eulogy (see page 10), the doctrine that built the West is personified first as a bawling, brawling brat found at streamside in the early moments of the California gold discovery. He grows up to become the two-fisted, cussing, desert- and street-wise man who created Hoover and Glen Canyon dams, Las Vegas, enormous stretches of irrigated land and — most of all — southern California.

So far as Wilkinson is concerned, Prior's dominance of the West's water was inevitable. "It is unthinkable that the West not adopt Prior Appropriation.

The people who made the social movement that made the new laws were irresistible."

That "social movement" was the California gold rush of 1848-1852. "It was one of the largest migrations of human beings. It can be put alongside anything that happened in human history." It was certainly the formative chapter in the settling of the western United States. "The westward expansion was comparatively sedate and careful — a trickle — until the gold rush," he says.

Its effects can be seen in the speed with which California became a state. In 1848, California had 14,000 residents, not counting Indians. In 1852, it had 220,000 residents. It had become a state in 1850, leaving a huge expanse of unsettled or lightly settled territories between it and the other westernmost states (Wisconsin had been admitted two years before California).

The force of the gold rush, and

miners' need to take water out of streams on a first-come, first-served basis "were so powerful that they changed and reformed laws. Law is not permanent; it's something that's there until a powerful interest group changes it. Law is a pretty frail thing in the face of a gold rush," Wilkinson says.

With Prior Appropriation established in California, it was perhaps inevitable that its approach to water would be adopted by the territories to its east, territories that would not become states for several more decades.

The usual view, Wilkinson says, is that Colorado, Idaho, Wyoming, et al, were settled from the East. "But westward expansion took place as much from California as it did from the East."

Today, California continues to dominate the large, lightly populated states to its east and north. It exports "excess" population to Las Vegas, Seattle and Portland, Idaho's Snake

River Plain, Phoenix-Tucson and elsewhere, even as it reaches east for Colorado River water, for electricity and for other resources.

According to Wilkinson, the present large population and great economic power of this colonizing state can be traced back to 1848. "The big cities and ranches of California have their roots in the gold rush."

One result of California's quick ascension to statehood is that there "is almost no Indian country in California.

"The Indians' land was just taken away in California. Treaties were signed but California's congressional delegation lobbied against them in Washington and they were never ratified," Wilkinson says. Tribes elsewhere in the West did better because "treaties were made with tribes living in territories that had no political representation in Congress to lobby against them."

— E.M.

# The Life And Turbulent Times of Prior Appropriation, 1848-1991 ...

(Continued from page 13)

boom. Ironically, Prior's greatest ally in the early 1930s was Elwood Mead, by then Commissioner of Reclamation. Although they never talked, and although each man carried a visceral dislike for the other from their 1890 meeting in Wyoming, the products of their combined activities were overwhelming. Both held a life-long love for irrigation and personally they favored the farmers. But they believed in development more, and now it was the cities, the subdivisions, the hydro facilities, and the coal-fired power plants that wanted and need-

reasonably well-heeled public water officials; well-heeled executives from special water districts; very well-heeled engineers; very, very well-heeled real estate developers; and very, very, very well-heeled lawyers. The conclusion of Prior's famous swan song went like this:

"Think back, gentlemen, over what we and our forebears have accomplished. We have conquered, tamed and settled the harshest land. We have made it green. We have built great cities. We have served all the people. We did it with water.

"The Bureau of Reclamation alone has built 355 storage reservoirs and 15,000 miles of canals, 1,333 miles of

multiple causes.

The publication of *The Milagro Beanfield War* wounded. "It's lies, lies top to bottom," Prior would fume. Ramona, who seldom teased Prior, would say, "It's just fiction, love," and she would add with a gleam in her bright eyes, "Oh, but it's a funny book, Prior."

Carter's 1977 hit list of reclamation projects to kill also hurt. ("We need a good conservative Republican president from the West, preferably California," Prior ranted.) But President Reagan's moratorium on federal funding of water projects also hurt. There was the *Mono Lake* opinion and the public trust doc-

There were other contributing causes. The many Indian water settlements ("they don't deserve a drop"); environmentalists — just the mere existence of them; academics who relentlessly criticized Prior's ideas ("the bastards wouldn't know the real world from a beachball"); federal reserved water rights; state water planning ("We've got a plan. It's called 'first in time, first in right.'"). An especially cruel blow was when they adopted an instream flow program — in Utah.

But perhaps we should leave the last word to Ramona. After all, she knew more about Prior than anybody. She had heard I was writing this piece, and a while back she called to talk. Here is part of what Ramona told me in her measured way:

"Everybody knows I've never been one to criticize Prior. Lord, I always loved the man so. But, you know, he was wrong sometimes. And for me personally, the worst of it was that his wrong-headedness increased over the years. It seems he just couldn't change — he was so set in his ways because he believed so deeply in his convictions.

"But what people need to remember is that there were times when he was right, too. Otherwise, how could he have lived for so long? How many ideas, after all, last for a century and a half?

"What I hope is that the reformers remember some of the good things about Prior. I hope they appreciate that Prior's real roots were in the communities he helped to build: in the Bitterroot, Gallatin, and Yellowstone valleys; the Powder River country; the Gunnison and Yampa watersheds; the Upper Rio Grande; the Verde Valley; the Virgin River country; some of the small farm communities in California's Central Valley; the Humboldt; our country out near Vale; places on the Snake River Plain; the Wenatchee Valley. And places, too, where my people have managed to thrive: the Culebra watershed near San Luis, Colorado; the Chama Valley; the Wind River Valley; the Deschutes watershed. There are many others. These are some of the finest places in the world.

"Whatever wrong directions his hard-headedness might have taken him off in, that sense of community was what he most cared about. That was his most luminous idea.

"I wonder whether the reformers will be able to keep the light of that idea alive and whether, now that they will have to replace Prior, they can offer up other ideas as bright. I hope they can and if they can, I wish all the reformers god-speed. I wish them 143 years also."

This article was paid for by the High Country News Research Fund.



The Denver Public Library, Western History Department

"We have conquered, tamed and settled the harshest land.  
We have made it green. We have built great cities. We did it with water."  
— Prior Appropriation

ed water. Prior and Mead made sure there were no obstacles.

Every river system was built up. The Columbia, the River of the West, became slack water pools from Bonneville to Canada. The Missouri had 85-million acre-feet impounded. The Rio Grande had 7.8 million acre-feet, twice the annual flow of the river, put behind dams. The Colorado had 72 million acre-feet in storage — nearly six times its annual runoff. And nearly all the smaller watersheds had dams, too.

It seemed not to matter that so many hundreds of places were sacrificed. Glen Canyon. The rich bottom lands of the Fort Berthold Reservation. The Hispanic settlements at Los Martinez, Rio de los Pinos, and Rosa under Navajo Reservoir on the San Juan River. Also gone were the Columbia's old falls and Indian fishing scaffolds at Celilo. On the other extreme, hundreds of rivers were drained dry by diversions.

It was an ordeal and Prior felt his age for the first time. Beginning in about 1975, he grew less and less active. His last public appearance was the closing address to an emotional, standing-room-only crowd of his truest believers. It was the 1987 annual meeting of the Colorado Water Congress and it had drawn, as usual, a prosperous audience: farmers;

pipeline, and 275 miles of tunnels. More than 100,000 miles of canals divert the flows of western rivers and deliver water to irrigators and other water users. More than a million artificial reservoirs, lakes and ponds store 294 million acre-feet. This is the equivalent of 22 whole Colorado Rivers backed up behind dams, filling former canyons. It is enough to put Montana, Wyoming, Colorado, and New Mexico — an entire tier of states — under a foot of water. All of that creativity and energy was unleashed by the simple, time-proven idea that the ingenuity and diligence of the individual American should not be shackled.

"Progress, gentlemen, progress. That is what we have given to our children and grandchildren."

## Fax Fells Prior

Prior has now passed on. He died Jan. 19, 1991, when his heart seized up after receiving a fax informing him that, on that very day, the new Director of the Denver Water Board had recommended that the water developers not file a lawsuit challenging the Environmental Protection Agency's rejection of the dam at Two Forks.

In truth, however, Prior died of mul-

trine (Prior raged, "What kind of a court is this? Talking about brine shrimp, gulls, Wilson's Phalarope, tufa — whatever the hell that is. This was supposed to be a case about water.") The serious illness of the General Mining Law and the ridicule he is suffering just now, in his last days, also grieved Prior.

## Two Forks Proponents May Sue To Revive Project

The proposed Two Forks Reservoir refuses to go quietly into oblivion.

The dam and reservoir proposed for Colorado's Front Range was vetoed last November by the Environmental Protection Agency. Now, the Denver Water Board and the Metropolitan Water Providers are considering bringing lawsuits against the federal agency in an effort to revive the project.

At least two suburban water districts, Platte County and Southwest Metropolitan, plan to file suits by the end of the summer, and at least 20 other districts may follow, said Pat Fitzgerald, chairman of the Metropolitan Water Providers.

"We've done our analysis of the EPA's final determination, and we don't agree with their interpretation of the project's purpose and need," said Fitzgerald. The suburbs are suing to force the EPA to reconsider Two Forks or provide technical assistance in finding other suitable water storage projects, he said.

The city of Denver is considering a similar suit, but Mayor Wellington Webb remains undecided over whether to support litigation.

"I think the Denver Water Department very much wants to litigate. They have to negotiate with the new mayor," said Fitzgerald.

— Florence Williams,  
HCN staff reporter

# BULLETIN BOARD

## ALL ABOUT GLOBAL WARMING

Concern Inc.'s booklet, "Global Warming & Energy Choices," is a concise, documented, illustrated, understated horror story. In a few pages, it lays out the technical evidence for global warming and the possible consequences of an overheated world. It also discusses proposed cures such as fusion power (an unknown way off), fission power (fraught with difficulties, long lead times and the fact that electricity only accounts for one-third of the problem), conservation, renewable fuels and forest preservation. The writers have packed a large amount of information, references and citizen action suggestions into the booklet's 38 pages. Because of its elevation and location, the arid West does not face the flooding other areas of the globe do. But global warming still could have real, immediate effects on the West, either because the nation cuts back its consumption of the coal, oil and gas the region provides, or because the nation

doesn't and the climate changes drastically. Single copies are available for \$4 each, plus \$1.50 for postage and handling, from Concern Inc., 1794 Columbia Road, NW, Washington, DC 20009; (202)328-8160. Contact Concern for multiple-copy and group rates.



### WILD BROADS

With a motto coined by writer Dorothy L. Sayers — "an advanced old woman is uncontrollable by any earthly force" — a feisty group

calling itself the Great Old Broads for Wilderness kicked off activities this summer with a conference in Eldora, Colo. The Utah-based group plans to lobby Congress and help educate the public on wilderness issues. "There's nothing more compelling than a Great Old Broad standing straight and tall and testifying about her recent wilderness experience to dispel the notion that the 'elderly' cannot revere and fight for wilderness," says president Susan Tixier. The premier issue of the organization's quarterly newsletter, *Broadsides*, features such columns as "Notes from a broad," "A broad view" and "Broadcast." Not all members are broad, nor are they all old, says Tixier, 48, but all agree that "she who laughs, lasts." For more information, contact Great Old Broads for Wilderness, P.O. Box 368, Cedar City, UT 84721 (801)586-8242.

### THE FIRES NEXT TIME

A proposed fire management plan would again allow naturally caused fires to burn in

Yellowstone National Park. The park's "let burn" policy was rescinded when the massive fires of 1988, fueled by drought and 100 years of fire suppression, raised a storm of protest. Released July 13, the new plan designates most of the park a "prescribed natural fire zone" in which most fires will be allowed to burn. The limits that determine when a fire is a threat and should be fought are, however, more stringent than in the pre-1988 guidelines. The plan also proposes two other types of fire zones. Small "suppression zones" in which all fires would be fought will surround all developed areas, and the park boundary will be ringed by a 1.5-mile wide "conditional zone" in which some natural fires will be fought. The plan also allows prescribed burns — fires set intentionally to reduce fuel buildup — which the Park Service had vigorously rejected before 1988. The Park Service is actively soliciting public reaction. Call 307/344-7381 for a copy of the fire plan; send comments to Superintendent, P.O. Box 168, Yellowstone National Park, WY 82190.

## CLASSIFIEDS

**FOR RENT** — Small 3 bedroom trailer on 36 acres. 15 miles northwest of Fort Collins, Colo. Few conveniences. Mountain living experience and references required. \$250 per month. \$300 damage deposit. Call 303/834-1229 or 303/834-2400 (Elli). (1x14p)

**NEW WATER BOOK:** An Introduction to

**Polo Shirts,**  
white with red and brown design at left on left chest, adult and youth sizes in jersey knits. Youth 50/50 blend S,M,L \$16; adult 50/50 blend S,M,L,XL \$18; adult 100 percent cotton S,M,L,XL \$25. Prices include postage. Send check or money order to:

**SUPPORT YOUR LOCAL BEAR. PREVENT WILDFIRES!**

**Les Joslin**  
61585 West Ridge Avenue, Bend, Oregon 97702  
(503) 386-7124

Water Rights and Conflicts with emphasis on Colorado. \$14.95 plus \$3.00 S/H. To order, please write Network Marketing, 8370 Warhawk Rd., Dept. HC, Conifer, CO 80433, or call 303/674-7105. (12x5b)

**OUTDOOR SINGLES NETWORK,** bi-monthly newsletter, ages 19-90, no forwarding fees, \$18/1-year, \$4/trial issue-information. OSN-HCN, 1611 Cooper #7, Glenwood Springs, CO 81601. (10x10p)

**HIKE OREGON'S ANCIENT FORESTS.** Transportation, cabin, ecologist, meals, hot springs soaks — \$525/wk! AF Hikes, Box 13585, Salem, OR 97309; 503/370-9844.

Solar Electric Power Systems  
Water Conservation  
Alternative Energy Equipment

Designs & Devices for High Quality, Low-impact Living

**Natural Resource Co.**  
Box 91 Victor, ID 83455 (208) 787-2495

"**OUTDOOR PEOPLE AD-Venture**" lists 60-word descriptions of active, outdoor-oriented Singles and Trip Companions nationwide. \$3/issue, \$12/ad. **OUTDOOR PEOPLE-HCN**, P.O. Box 600, Gaston, SC 29053

**6 ACRES NEAR RAMAH, NM**, adjacent to Cibola National Forest. Power roads maintained. Great recreational potential. Covered with piñon, ponderosa and cedar. \$16,000 firm. 602/537-5190. (2x13b)

**WILDERNESS SURVIVAL AND ANIMAL TRACKING WORKSHOP**, Sept. 6-8, at a private wilderness camp near El Rito, New Mexico. Teachers include former Outward Bound, BOSS, and Tracker, Inc. instructor Scott Kuipers

and writer Brandt Morgan, co-author of *Tom Brown's Field Guide to Wilderness Survival*. Course covers fire without matches, natural shelters, water, food, awareness, stalking, tracking and other skills. Cost: \$200. For more info., call Brandt (505)988-4791 or Scott (505)988-9286.

**300 ACRES ON DOLORES RIVER.** Entrance to fabulous Blue Creek Canyon — sheer 1,000-foot red-rocked cliffs with old Ute trail going up. 70 acres can be irrigated, homestead, orchard, small home, swinging bridge across river, surrounded by BLM, 1.5 hours to Grand Junction or Telluride, \$300,000. 600 acres further down the river for the same price. Others. Treece Land, 303/243-4170. (4x14b)

**Four Million Acres of the West in Kansas, The Flint Hills.**

**That Trick of Silence**  
by Steven Hind

"There are terrific poems in there, and some of the best descriptions of the plains I've ever read."  
— Ian Frazier, *Great Plains*

from  
Center for Kansas Studies  
Washburn University  
Topeka, KS 66621  
\$5.50 ppd.

**ENVIRONMENT 2000**

Third Annual Conference on International & Regional Environmental Issues

Transition to a Sustainable Society:

**Economics and Growth**  
Dr. Dan Chiras • Kurt Culbertson  
Dr. Ralph d'Arge • Susan Meeker-Lowry  
Terry Minger • John Spitzer

**ENVIRONMENT 2000**  
Steamboat Springs, Colorado  
**Saturday, September 14, 1991**  
\$65.00 fee includes lunch and dinner

Please call or write for more information:  
Box 774822 • Steamboat Springs, CO 80477  
(303) 879-5056

"If Bill Mulholland should say that he is lining (the Los Angeles) aqueduct with green cheese because green cheese is better than concrete, this town would not only believe the guff but take oath that it was so."  
— Burt A. Heiny  
*Sunset Magazine*, April 1912

Meet William Mulholland, the man who brought water to Los Angeles, on Friday, September 27, at the annual conference of the Center of the American West, University of Colorado.

Also appearing will be John Wesley Powell, Sarah Winnemucca, Mary Hallock Foot and John Muir.

For further information call  
(303) 492-1876 or write  
**Center of the American West**  
Campus Box 40, Boulder, CO 80309.

**TREECYCLE**  
**RECYCLED PAPER**  
*the other half of recycling*

**Not All Recycled Paper Is Created Equal!**

Our customers believe recycled paper is made from the waste paper they recycle. At Treecycle we believe that is how it should be. We sell papers that truly address the waste stream. We feature papers with high post-consumer waste content: 100% pcw envelopes, toilet tissue, and legal pads — all of which are unbleached.

P.O. Box 5086 Bozeman, MT 59717  
(406) 586-5287

**THE RUBBER TREE**

Low-cost condoms by mail from a non-profit service

Write for a **FREE** catalog!

**ZPG-SEATTLE, Dept. HC**  
4426 Burke N, Seattle, WA 98103  
(206) 633-4750

A project of Zero Population Growth — Seattle Chapter

**Dave Foreman's**  
**Books of the Big Outside**

Wilderness lovers and defenders have a new source for the best news of the wild — **BOOKS OF THE BIG OUTSIDE**. Selected and described by Dave Foreman, **BOOKS OF THE BIG OUTSIDE** is a mail-order catalog covering the field of natural history and wilderness defense. It includes hard-to-find classics and the best new releases. And, of course, it includes Foreman's own *Ecodefense* and *Confessions of an Eco-Warrior*, along with Howie Wolke's new *Wilderness on the Rocks*. For a free catalog, write:

**Ned Ludd Books, Dept. HCN**  
P.O. Box 5141, Tucson, AZ 85703

**Here's the beef.**

**High Country News**

One year - \$24      \* One year, institution - \$34  
 Two years - \$42      \* Two years, institution - \$60

\*Institutional rate applies to subscriptions paid for with a business, government, or other organization check. Public and school libraries may subscribe at the \$24 rate.

My check is enclosed, or,  charge my credit card

Visa  MasterCard: acct. no. \_\_\_\_\_

Expiration date \_\_\_\_\_ Signature \_\_\_\_\_

Please bill me

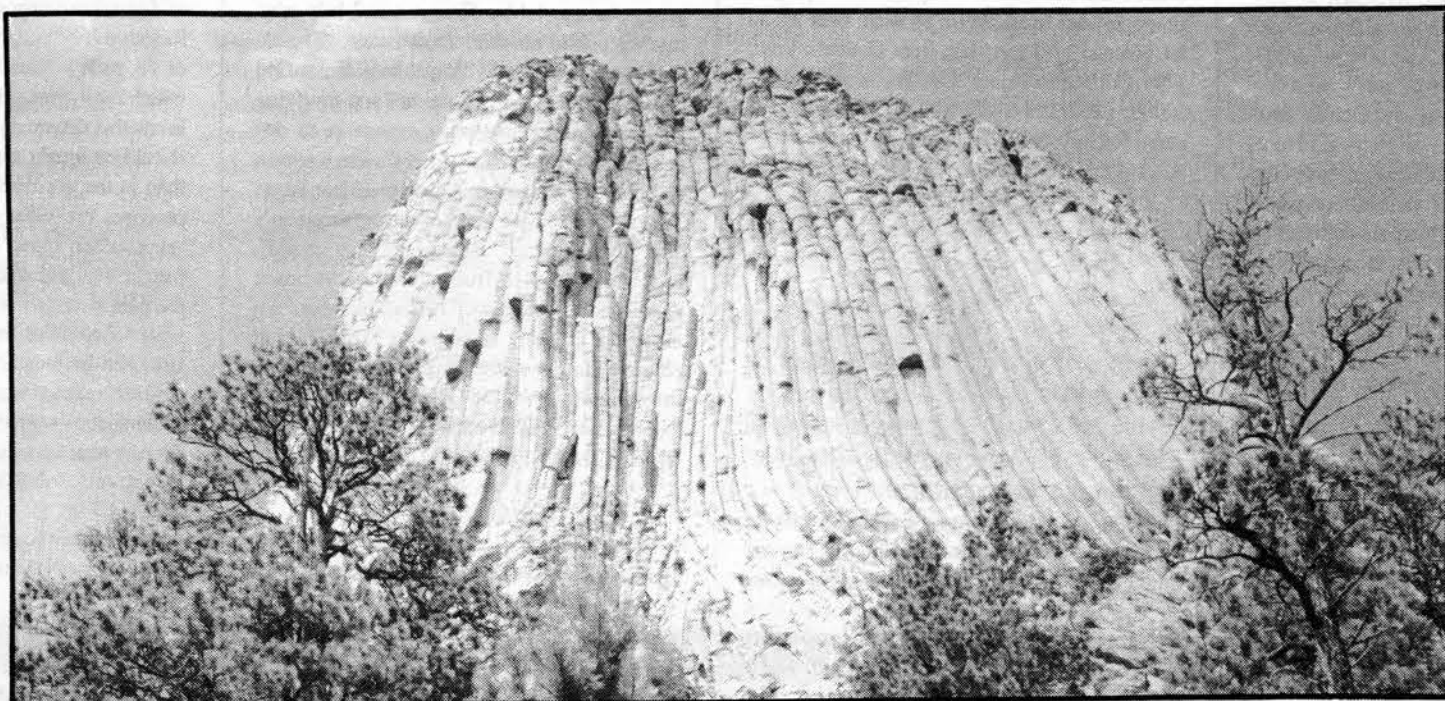
Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Please mail to: **HCN, Box 1090, Paonia, CO 81428**

afield

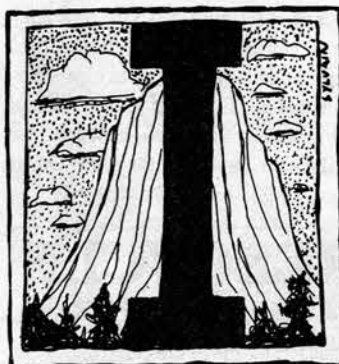


W.S. Keller/National Park Service

## Devils Tower National Monument

## An 800-foot climb to give and get crumbs

by Steve Gardiner



I had taken six hours of strenuous climbing, but at last we reached the summit of Devils Tower National Monument in northeastern Wyoming. It was the first time for me, and I was amazed. It wasn't just the view, the climb and the

gorgeous weather. Those were fine enough, but what amazed me most was the small colony of chipmunks who were living on the summit.

As the five of us sat and ate lunch on the pile of stones at the summit, the chipmunks scurried about, searching under every rock, pouncing on any crumb we happened to drop. One particularly brave chipmunk scampered close to me and I put a piece of bread on my boot. The chipmunk slowly inched forward, took the bread and ate it, carefully watching me all the while.

While we were rappelling down the south face, I asked my friends how the chipmunks got up there. One theory was that the vultures who live in the crumbly upper sections of Devils Tower and soar on the constant updrafts caught chipmunks and carried them

home to their nests. But some lucky chipmunks wiggle loose and fall, landing on the football-field-sized summit where they began a new life.

Two of the climbers that day were veterans of several Devils Tower climbs. They had heard this story before and passed it off as legend.

"How did they get up there, then?" I asked.

One of the climbers looked at me and said, "They run straight up the walls."

I glanced around the group to see if this was an attempt to make a fool out of the new guy, but nobody was laughing.

On subsequent weekends, we climbed the Tower again and again. Each time I saw the chipmunks, shared my lunch with them, and wondered if they really could climb the near-vertical walls. After all — it is nearly 800 feet from the ground to the top. How could they? Why would they?

More weekends and more climbs passed. One fine, sunny Saturday in June we were climbing on the east face. This particular route was the most difficult I had attempted. My fingers were bleeding from jamming them inside cracks for support, and my toes, crammed inside my climbing boots, were going numb from standing on thin ledges and tiny knobs. Sweat was running down my face, burning my eyes, and flakes of lichen and dirt were sticking to my forehead and neck. I pulled up hard to reach the first ledge I had seen in 50 feet of sustained climbing.

A movement to my left caught my eye. I turned to see a chipmunk, its miniature paw gripping holds I could barely see, hanging four feet away from me at eye level. Our eyes met and we stared at each other for a full minute, maybe two.

The chipmunk turned its head and with several quick movements progressed upward. I watched it climb, admired its grace, and wondered if it was climbing from instinct or if it felt some of the same satisfaction and joy of movement my partner and I felt as we moved nearer the summit.

I climbed on to the next ledge, where my partner held the belay rope. "Did you see the chipmunk?" he asked.

"I did. They really do run up the walls."

"Nobody believes it until they see it for themselves."

"O.K., I'm convinced. But how do they get back down?"

He pointed, and I saw that the chipmunk had turned around and was coming back down just as fast and with as much control as it had gone up, facing downward over 600 feet of open air to the ground below.

I was glad no one had told me that before. I never would have believed it.

Steve Gardiner is a free-lance writer and teacher in Jackson, Wyoming.

## Dear Friends ...

Continued from page 2

News, and over the years Steve made several abortive attempts to escape. But he always returned to the paper.

Now he appears to have actually left. He is up on Lamborn Mesa, a few miles south of town, running a small ranch. His parting gift to HCN can be found throughout the July 15, 1991, issue: a treatment of the very complex Central Utah Project, which he conceived, guided to a grant from the 777 Fund of the Tides Foundation, and then took to completion.

The paper also lost another fine writer this spring: Lisa Jones. Although a newcomer to HCN, she quickly became an important part of the staff, producing several impressive articles, including the June 17, 1991, lead article on Utah's wilderness situation. Like the other departing staffers, Lisa will remain in Paonia, as a writer for *Buzzworm* magazine. It occurs to us the Paonia area is a Bermuda Triangle — people sail in here, but don't leave.

In Lisa's case, the turnover is 360 degrees. She came to HCN in fall 1990 to replace Florence Williams. Florence has returned to become the paper's only



Ed Marston

Florence, Steve and Lisa — HCN staffers in transition

staff reporter. Florence joins two other old-newcomers — Ed and Betsy Marston — who have returned from their year as John S. Knight Journalism fellows at Stanford University to resume as publisher and editor with this issue.

One reason the paper survived these editorial upheavals was stability on the administrative side. Development Direc-

tor Linda Bacigalupi became associate publisher and assumed administrative control of the paper. Linda, who will continue as associate publisher, also continued to do impressive development work, as is indicated by the circulation growth and healthy budget. She was backed up by Kay Bartlett, the circulation manager and bookkeeper, and

Gretchen Nicholoff, who is a utility infielder in the office.

Editorial production was also stable during the year. In fact, with Diane Sylvain doing graphics and maps and Cindy Wehling making up pages on the computer, the production unit bloomed.

The board of *High Country News* also became much more active during the past year, taking on greater responsibility for the paper in a variety of ways.

Finally, the real secret of HCN's stability over the past year lies with its very loyal readers and its free-lance network of writers and photographers, without whom this paper would vanish in a few seconds.

## Good news

Congratulations to Barry Noreen, an HCN freelance writer, for taking second place in the Best of the West journalism contest in the growth and development category. The contest attracted about 1,400 entries. Noreen's series appeared in the *Colorado Springs Gazette-Telegraph*.

Congratulations as well to HCN free-lancers Jon Christensen and Kit Miller of Carson City on the birth of Annika Wesley Miller Christensen on June 25.

— Ed Marston for the staff