

River

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Crossings

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Reader Survey

This ends our third year of publishing *River Crossings*. We hope it has provided a service not only to our members, but to the "River Community" as well. We can hardly believe that three years have passed!

A similar reader survey was conducted two years ago, and we received many useful comments and words of encouragement. We appreciated the response and tried to use all of our reader's comments to improve the publication.

Also, since *River Crossings* is being provided at no cost to our readers, we need to constantly trim our mailing list in order to reduce costs and eliminate those who aren't finding it useful enough to respond.

So please fill out and return the "Reader

Survey" sheet provided at the end of this issue of *River Crossings*; it will ensure that your name remains on our mailing list.

In the meantime, we wish everyone a very happy holiday season; and thank you for your continued interest in and support of important river issues!

MICRA Paddlefish Survey

The MICRA Paddlefish/Sturgeon Subcommittee is planning a January coordination meeting to "kick off" their multi-state paddlefish tagging project. Subcommittee Chairman Kim Graham (MO) has been working with Subcommittee members to review tagging options and to determine which State and Entity members will participate.

Pending release of funds from the U.S. Fish and Wildlife Service and development of interagency cooperative agreements, tagging is expected to begin in the Spring.

Missouri River Chub Survey

A cooperative project between the U.S. Fish and Wildlife Service, MICRA, and the Missouri Department of

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Conservation began on the Missouri reach of the Missouri River this fall. The survey will document current abundance and distribution of sicklefin,



sturgeon, and flathead chubs, and compare the results to past surveys completed by Dr. William Pflieger (Missouri Department of Conservation). The same sample locations and techniques used by Pflieger are being used for this survey.

A limited number of chubs have been collected, but early results indicate that chub numbers decline significantly as seining moves in an upstream direction into the severely channelized and degraded river reaches upstream from Kansas City, MO.

Additional sampling will be conducted in the Spring and Summer, with a final report due early next Winter.

Battle for the Missouri River

"We are in a war--a water war--over control of the Missouri River. We cannot afford to lose this war; but just as in World War II when we lost the battle of Pearl Harbor, we must defend what is rightfully ours". These are the words of David Shorr, Director of the Missouri Department of Natural Resources (MODNR), in an editorial written for *Rural Missouri*, a publication of the Association of Missouri Electric Cooperatives.

Shorr goes on to say that the U.S. Army Corps of Engineers has announced plans for the Missouri River that are "...departing from four decades of responsible, productive management". "Unbelievable as it may seem", Shorr says, "the Corps now proposes to deliver an annual, three-month-long flood, sink the barge industry, and drastically cut releases from the reservoir system in the late summer and fall when water is needed the most." "As if that were not enough", Shorr says, "the new guidelines for river management would hold back more water in the large reservoirs in Montana, the Dakotas and Nebraska than they do now."

"In short", Shorr says, "the Corps' plan is a brazen attempt to take water that belongs to Missouri by geography and by majority (Missouri has a larger population than all of the upper basin

states combined) and allow upstream states to use as much of it as they wish. The threat to out-of-basin transfers has never been so great."

Shorr goes on to say, the Corps' plan fails, "...to consider that an annual spring flood would keep bottomland farmers from their fields, and the drastic cuts in support for navigation would almost certainly mean that towboats and barges would leave the Missouri River entirely, resulting in higher shipping costs that would be borne mostly by the farmer...Even worse, the sharply curtailed river flows in the fall months would put Mississippi River navigation at risk from shutdown because of low water on the river from St. Louis to Cape Girardeau, thereby putting at risk Missouri's access to the international grain markets through the Port of New Orleans."

Shorr calls the Corps' Preferred

Alternative "a monumental mistake". He believes that "...economic activity and agriculture have higher priorities than recreation, and that the Missouri River has a great future -- in Missouri". He concludes that, "We must ensure that the Preferred Alternative is replaced with a reasonable and workable plan that will make the Missouri River better for all who use it."

Shorr is right in his conclusion, the Missouri River must be managed to make it better for "all who use it". That includes both upstream and downstream users, as well as the River's fish and wildlife resources. Unfortunately, Shorr seems to care only about his own State's economic interests.

He has thus clearly drawn sharp "battle lines" in this debate, and his rhetoric will likely only fan the fires between upstream and downstream interests.

River Crossings

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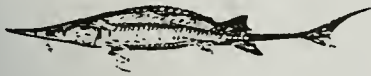
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River Crossings is a mechanism for communication, information transfer, and coordination between agencies, groups and persons responsible for and/or interested in preserving and protecting the aquatic resources of the Mississippi River Drainage Basin through improved communication and management. Information provided by the newsletter, or opinions expressed in it by contributing authors are provided in the spirit of "open communication", and do not necessarily reflect the position of MICRA or any of its member States or Entities. Any comments related to "River Crossings" should be directed to the MICRA Chairman.

On October 25th Mr. Shorr submitted, for the MODNR, a Freedom of Information Act (FOYA) Request to the U.S. Fish & Wildlife Service requesting all available information on the pallid sturgeon and its listing as an



endangered species. Shorr said this information is needed to respond to the Corps of Engineers' Draft Environmental Impact Statement for the Missouri River Master Water Control Manual. Shorr may see the pallid sturgeon as his "spotted owl".

Source: Rural Missouri, Vol. 47, No. 11, November 1994

Citizen's Missouri River Environmental Coalition

Citizens from across the Missouri River Basin representing environmental interests, hunting and fishing groups, county conservation boards, Indian tribes and farming groups met near Council Bluffs, Iowa on November 19-20 to (1) share views about the River; (2) share ideas for improving it; (3) discuss the status of the Missouri River Master Manual Review process; and (4) discuss positions of the various states, agencies and organizations.

The group hopes to form a coalition of environmentally concerned citizen's groups which can play a more effective role in shaping the Missouri River's future. Of special interest to the group is determination of the true economics of the Missouri River navigation project and development of alternative channel maintenance methods which address the needs of multiple purpose uses, including the needs of native fish and wildlife species.

Many feel that the only voices currently being heard by downstream Congressmen is that of floodplain farming and navigation interests. The group hopes to help change that.

Reasonable and Prudent Alternatives for Missouri River Ecosystem Restoration

The Missouri River ecosystem is thought by many to be on the verge of collapse unless significant measures are taken to change the way it is managed. The least tern, piping plover, and pallid sturgeon are currently listed by the U.S. Fish and Wildlife Service on the federal "List of Endangered and Threatened Wildlife and Plants". The sicklefin and sturgeon chub are currently under review for listing, and several other species await petitioning.

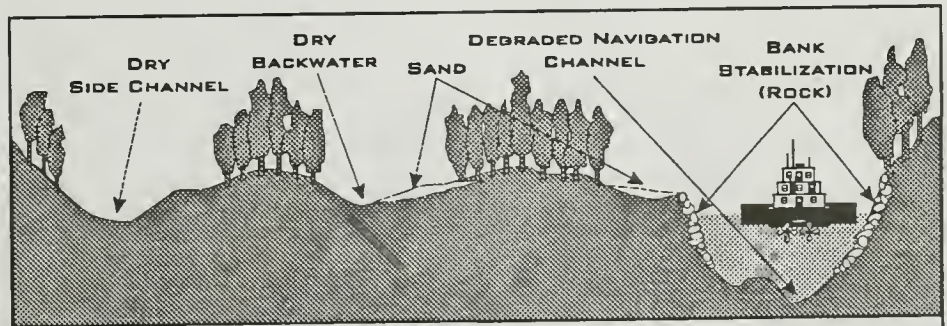
The following summarizes recommendations made by the Fish and Wildlife Service (Service) for restoration of the Missouri River ecosystem, as part of their Draft Biological Opinion on the Corps of Engineers' Master Manual Review:

In order to avoid jeopardy for the tern, plover, and pallid sturgeon, the Service believes it is essential to reestablish some semblance of the River's natural hydrology and channel morphology. Biologists are uncertain, however, as to how far a modified hydrograph can depart from natural conditions and still achieve recovery. Studies which were completed in support of the Corps' Master Manual fail to adequately address ecosystem functions, or parameters related to sediment transport, nutrient supply, turbidity, temperature, fish migration barriers, and other ecological processes important to the long-term viability of the aforementioned species.

Changes in Missouri River ecosystem form and function necessary to preclude jeopardy for the three listed species include:

• Restoration of the Spring Flood Pulse and Riverine/Floodplain Connection (Seasonal Flooding):

Restoration of the spring flood pulse and riverine/floodplain connection in the channelized river (downstream of Gavins Point Dam) is essential. The Service believes that restoration of the spring flood pulse and river/floodplain connection function to 64,000 acres of adjacent, low-lying riverine/floodplain lands is reasonable and prudent. Flooding can be accomplished through fee-title acquisition or easements on accreted, floodway lands, and reconnection of these lands through structural measures (e.g. breaching of agricultural levees or opening of closing structures), flow management, or combinations thereof. The acreage target also can be met through flooding of within high-bank forested and emergent wetlands restored as a consequence of restoring shallow water habitat. The elevation of flooded lands and/or stages of flows should be such that the 64,000 acres are flooded from May 1-June 15, with a return frequency of at least 2.5 years (40% exceedance stage). The Service expects that flooding 64,000 acres every 2.5 years will significantly increase the amount of palustrine wetlands in the lower river, promote nutrient cycling, partially restore turbidity and suspended sediment, flush organic matter (large woody debris and detritus) into the river, and provide seasonal off-channel habitat for spawning and for larval fishes and invertebrates. In the



Main channel bank stabilization and bed degradation on the lower Missouri River dewater floodplain backwaters and side channels, destroying native fish and wildlife habitats.

unchannelized river and reservoir reaches, the Service believes that it is reasonable and prudent to implement a hydrograph in the Garrison reach similar to the one provided in the Fort Peck, Fort Randall, and Gavins Point reaches so as to inundate within-channel wetlands during the spring. Open river reaches below reservoirs should be monitored (for dissolved organic carbon and particulate organic carbon) to determine whether within-channel high flows are providing desired increases in organic matter and nutrients. Other options for restoring riverine organic matter (introduction of large woody debris and lawn wastes) should be considered in the Fort Peck, Garrison, Fort Randall, and Gavins Point reaches if inundation of wetlands below the high banks does not provide the desired response.

● **Restoration of Shallow Water Habitat in the Channelized River:**

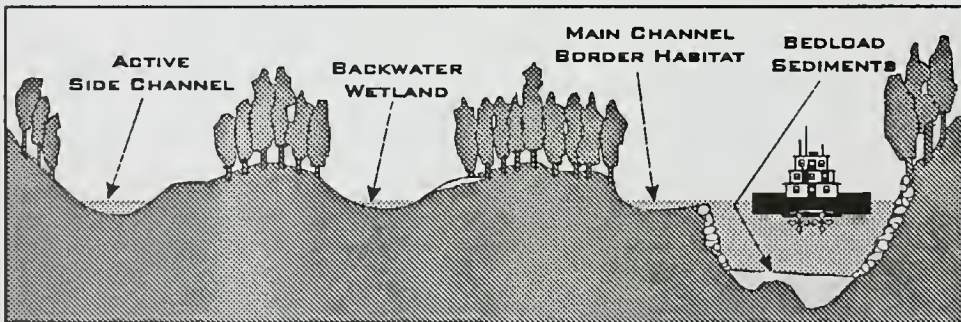
Offsetting the difference between historical shallow water channel habitat and today's conditions requires restoration of almost 57,500 acres in the channelized river. The Service believes that restoration of 19,227 acres of shallow water habitat in the channelized Missouri River is reasonable and prudent, and should be distributed by reach and acreage as follows: Sioux City-Omaha (6,097), Omaha-Rulo (4,199), Rulo-Kansas City (4,271), Kansas City-Jefferson City (3,152), and Jefferson City-St. Louis (1,508). Restoration of this amount of shallow, aquatic habitat is almost equivalent to 20% of the aquatic habitat loss (100,000 acres) attributed to the Corps' Bank Stabilization and

Navigation Project. Shallow water habitat may be restored by increasing main channel top width, restoring chutes and side channels, manipulating summer flows, or a combination of these methods.

● **Temperature Regime:** Measures are needed to more closely mimic natural precontrol instream temperature regimes downstream of Fort Peck, Garrison, and Fort Randall Dams. These initiatives should first be addressed within those reaches identified as priority recovery areas for the pallid sturgeon (i.e. Fort Peck, Fort Randall, and Gavins Point). Alternative measures to incorporate selective reservoir water withdrawal might include higher elevation or multi-level outlets, reservoir surface-water discharges, or upper level conduits to feed dam turbines. Another option might be construction of a submerged in-lake mixing weir just upstream of existing fixed outlets to mix cold hypolimnion waters with warmer surface waters. Use of warm water effluents from power plants and relaxed restrictions on effluent water temperature may also provide opportunities for recovery. Scientific study is needed to determine the most feasible design within each target reach. At Fort Peck Dam, consideration should be given to maintenance of a temperature threshold for cold or cool water species for several miles downstream of the dam and increasing temperatures as water moves further downstream to benefit warm water fish species such as the pallid sturgeon. Warmer water temperatures will promote increased productivity of the entire riverine system.

● **Sediment Transport and Turbidity:** Dynamic equilibrium of sediment transport and associated turbidity should be restored in reaches downstream of Ft. Peck, Garrison, Ft. Randall, and Gavins Point dams. Bed degradation must also be stopped or reversed. Sediment input will be necessary to restore instream habitats and water turbidity. Options to achieve sediment transport might include sediment bypass pipelines or physical deposition of sediments at the face of dams. Bed degradation below dams and head cutting at the mouths of tributaries might be addressed with grade control structures, but these structures would need weir notches to allow for fish passage into the tributaries. Turbidity should also be restored to functional levels downstream of Ft. Peck, Ft. Randall, and Gavins Point dams. Turbidity will increase with actions taken to restore sediment transport; however, additional measures may be needed if reintroduced sediments are clean of small particulate matter.

● **Long-term Ecological/Biological Research and Monitoring:** Concurrent with implementation of other actions, a cooperative, interagency research and monitoring program should be conducted to measure the effects of operations and elements of the reasonable and prudent alternative on the three listed species, in particular, and on riverine and reservoir fish and wildlife resources, in general. The Service believes that an initial program funding level, commensurate with 1% of the \$1.2 billion annual economic benefits of the System (i.e. approximately \$12 million) is reasonable and prudent. The ecological/biological processes of the Missouri River are very complex and dynamic and, for most reaches, are continuously affected by the Corps' operation and management actions. Therefore, the recommended research and monitoring program should be a continuous and long-term interagency commitment.



Increased bedload and reduced bank stabilization would allow for main channel widening, restoration of floodplain wetlands and side channels, and rehabilitation of native fish and wildlife populations.

The Service's Draft Biological Opinion also makes specific management recommendations for the various endangered species, as well as for their

"incidental take", and the need for future reporting and consultation.

Alabama Sturgeon Listing Challenged

Business and economic interests have submitted a new analysis to the U.S. Fish & Wildlife Service (Service) arguing that the Alabama sturgeon is not distinct from the shovelnose sturgeon, and thus should not be listed as endangered. The Alabama sturgeon issue has drawn national attention because opponents of the current Endangered Species Act are citing it as a key example of why the law must be reformed by Congress to better balance both economic and environmental interests.

The Alabama-Tombigbee Rivers Coalition, a group of approximately 34 businesses and organizations that would be economically impacted by a listing of the sturgeon, has argued that channel dredging and other critical economic activities would be significantly curtailed if efforts are initiated to protect the sturgeon's habitat. The group has also disputed the fundamental scientific issue of whether the Alabama sturgeon can properly be considered a distinct species.

The coalition has submitted a critique of a key report on the sturgeon that the Service is relying on as a definitive scientific assessment of the sturgeon's status. The new analysis entitled, "A Critique of the Written Comments Submitted by R.J. Mayden and B.R. Kuhajda to the U.S. Fish and Wildlife Service: Reevaluation of the Taxonomic, Systematic, and Conservation Status of the Alabama Sturgeon, *Scaphirhynchus suttkusi*, Williams and Clemmer (*Actinoterygii*, *Acipenseridae*)" cites numerous scientific errors and challenges the subject report's conclusions.

"The issue of whether the Alabama sturgeon is, in fact, a distinct and separate species from the Mississippi shovelnose sturgeon is the crucial issue in the proposed listing process," according to a statement by the

coalition. In the meantime, the Service is seeking data on whether the sturgeon still exists in the Mobile River System.

The coalition's critique notes that the Service's decision to list the sturgeon is based on a taxonomic description by two scientists, Jim Williams and Glenn Clemmer, whose work was examined by Kuhajda and Mayden. The coalition's analysis examines both efforts, agreeing with Kuhajda and Mayden's findings of significant errors in the earlier taxonomic description, but also challenging Mayden and Kuhajda's assertions that they have discovered a "new" taxonomic characteristic to distinguish the Alabama from the shovelnose sturgeon. The new characteristic – spines on the head and snout of the shovelnose – is seriously flawed, the analysis says, because its presence varies within populations of fish, and some shovelnose have been found without them.

"We need a big taxonomic study of the shovelnose...if it's not a separate species, then the proposed listing should be dropped," a coalition source adds. Another coalition source stresses the broader importance of the sturgeon issue for legislative debates over revising the Endangered Species Act, noting that this case – along with the California gnatcatcher dispute – points to the strong need for reforming the law to "force a balance between economic and environmental interests."

The issue has been raised with White House officials, and has attracted the attention of the entire Alabama congressional delegation as well as Mississippi senators, this source says.

The Service must issue a final decision on the sturgeon by December 15, after its six-month extension of the deadline expires. The coalition, on August 12, filed a 60-day notice of intent to sue with Interior Secretary Bruce Babbitt, arguing that the Service failed to publish either an extension notice or a final regulation by June 15 and therefore "the proposed regulation must be immediately withdrawn."

Source: WATER POLICY REPORT, Vol. III, No. 20 - September 28, 1994

IWLA Speaks Out on Corps' Navigation Study

According to a News Release by the Izaak Walton League of America (IWLA), "The U.S. Army Corps of Engineers is intentionally using a faulty cost-benefit methodology in an attempt to justify billions of dollars of new, environmentally destructive 'pork barrel' waterways projects on the Upper Mississippi and Illinois Rivers.

"These public meetings and the \$44 million navigation study are a sham," said Paul Hansen, director of the IWLA Midwest Office. "The Corps does not



care what people think about their proposals; they simply want to fulfill their legal obligations under the National Environmental Policy Act to consult the public."

"The Corps' economics are also a sham," said Hansen citing a paper by two respected University professors (Baumel and Woo, "Economic Evaluation of Alternatives to Rebuilding Ten Locks and Dams on the Upper Mississippi River," 1993), and a major study by the University of Iowa Public Policy Center (Forckenbrock, et al., Transportation and Iowa's Economic Future, 1993). Corps' analyses have historically been oriented toward justifying additional inland waterway investments...the current Corps methodology is incapable of adequately evaluating alternatives to barge movements. Quite clearly, it is not necessary to expand the capacity of Upper Mississippi River locks and dams

at the present time...major improvements are very unlikely to be efficient investments in public capital.

"Two years ago, at another Corps Public Meeting, all of the conservation groups asked the Corps to have the National Academy of Sciences (NAS) provide an independent review of these navigation studies," Hansen added. "Our request was at first ignored, and then rejected – even though the NAS cost for a three year review (\$385,000) represented only about 1% of the total cost of the Corps study."

"According to many biologists, the Mississippi River is on the verge of a major ecological collapse," Hansen concluded. "Taxpayers and the environment deserve a fair comparison of alternative modes of commodity transportation before being asked to pay for billions of dollars in subsidies for what would probably be the most expensive public works project in U.S. history. This issue is not about getting our goods to the international market, it is about subsidizing one mode of commodity transport for some of the richest corporations in America."

Contact: Paul Hansen, Director, Midwest Office, Izaak Walton League of America, 5701 Normandale Road, Suite 210 Minneapolis, MN 55424

GAO Report on Ecosystem Management

A Government Accounting Office (GAO) report entitled, "Ecosystem Management - Additional Actions Needed to Adequately Test a Promising Approach," was issued September 20. Although the report generally endorses ecosystem management as a concept, it warns that unless the administration creates clear policy goals and induces interagency coordination, the approach will not be effective.

The report comes in response to the efforts of Interior Secretary Bruce Babbitt, who has made ecosystem management a top priority, hoping the

ecosystem perspective will bring foresight and flexibility to public land management and minimize future endangered species conflicts.

"The administration has not clearly identified the priority to be given to the health of ecosystems relative to existing levels of human activities when the two conflict," said James Duffus, who directed the report. "Ecosystem management has come to mean different things to different people." Because of this void, critics are leery of ecosystem management's possible impact on private property owners. "When you can extend ecosystem to mean whatever you want it to mean,



that doesn't spell ecosystem, that spells trouble," said Rep. Charlie Taylor (R/NC).

The report also lists insufficient data, disparities in federal agency missions, and constraints on collaborative efforts by federal and nonfederal parties as possible barriers to successful ecosystem management. In response to the first two problems, proponents of the ecosystem approach point to a number of government efforts already underway – the four primary federal land management agencies – Bureau of Land Management, U.S. Forest Service, National Park Service, and Fish &

Wildlife Service – have independently begun implementing ecosystem management strategies. With the absence of national priorities, the different evolving strategies could hamper initial coordination of a national strategy. Moreover, the federal government will have to engage in an intensive consensus-building effort with state, local and tribal governments, as well as public and private interests. This collaboration will be constrained by current laws, institutions, interests, and limitations already "embedded in the larger national land and natural resource use framework."

The effort will also require collection of massive volumes of data about ecosystems' structures, components, functions, and processes "at several geographic scales" to determine current conditions and trends. Current data held by the different agencies are generally incomparable and contain significant gaps. Widescale socioeconomic data will also be needed, notes the report, pointing out that data of this sort will be difficult to aggregate by ecosystem. For example, socioeconomic data collected for the Pacific Northwest Forest Plan led to job loss estimates ranging from 12,000 to 147,000. Other implementation steps recommended by GAO include delineating ecosystem boundaries by reasonable ecological and management criteria; establishing management choices about desired future ecological conditions of the systems, including consideration of what types of natural resource activities can be sustained; and understanding ecosystems to determine maintenance and restoration needs as well as the effects of human activities.

Administration and agency officials believe pilot studies in the Pacific Northwest, Everglades, Anacostia River, and Prince William Sound, supported with \$700 million in the administration's 1995 budget, will provide federal agencies with the information needed to iron-out wrinkles that could hamper effective implementation. Also, in accordance with Al Gore's recommendation for greater interagency

cooperation, included in his "Reinventing Government" review, the administration established the Interagency Ecosystem Management Task Force in the White House Office of Environmental Policy.

As for the role of private property, ecosystem management is "a recognition that the federal government can't achieve its objectives by buying private lands," according to George Frampton, the Interior Department's Assistant Secretary for Fish, Wildlife and Parks. "It must cooperate with private property owners," a monumental task considering their currently acrimonious relationship, fraught with property-use restrictions and accusations of government takings. "Regardless of complexities, when looking 100 years down the road ... we need to have the ecosystem approach in place," said Rep. Wayne Gilchrest (R/MD) of the Merchant Marine and Fisheries Committee.

Sources: Land Letter, Vol. 13, No. 28, October 20, 1994 and Water Policy Report, Vol. III, No. 20, September 28, 1994

Oregon Economy Thriving Despite Owls

When federal protection for the northern spotted owl kicked in under the Endangered Species Act, timber industry representatives and elected officials warned of pending economic collapse. Now, the latest economic reports have the Oregon economy

posting a low unemployment rate, just over 5%, three years after the largest reductions in logging on the state's federal forests.

While Oregon did lose 15,000 forest products jobs in the past five years, it gained almost 20,000 jobs in technology industries, according to the October 11 New York Times. In fact, next year high technology will replace timber as the top source of jobs in Oregon. Timber industry representatives, however, still warn of a delayed economic decline due to the restrictions.

Source: Land Letter, Vol. 13, No. 28, October 20, 1994

Jobs/Environmental Health Highly Correlated

The Durham-based Institute for Southern Studies released a report October 12 that, after separately determining each state's environmental and economic ranking, concludes "states with the best environmental records also offer the best job opportunities and climate for long-term economic development."

State economic rankings were based on 20 economic indicators, which included annual pay, job opportunities, business start-ups, and workplace injury rates. Toxic emissions, pesticide use, energy consumption, and spending for natural resource protection were just a few of the 20 measures contributing to a state's environmental ranking.

Hawaii, Vermont, New Hampshire, Minnesota, Wisconsin, Colorado, Oregon, Massachusetts, and Maryland rank among the top 12 states in each category while Louisiana, West Virginia, Alabama, Mississippi, Texas, Tennessee, South Carolina, Kentucky, Oklahoma, Indiana, Arkansas, and Ohio rank among the worst 14 on both lists.

Source: Land Letter, Vol 13, No. 29, November 1, 1994

Endangered Species Act and Public Lands

The Endangered Species Act's (ESA) effectiveness on public lands, as well as a new federal interagency memorandum of understanding on the subject, was the focus of a Senate Environment subcommittee hearing held September 29.

Representatives of public land management agencies testifying at the Hearing described the ESA as necessary, but insufficient for responsible management of the nation's biological resources.

"We simply don't have the resources to restore declining fish and wildlife populations on a species-by-species basis," said Denise Meridith, deputy director of the Bureau of Land Management. "Managing ecological systems in their entirety, rather than focusing on their parts, is the essence of good stewardship." Her sentiments were echoed by Robert Davison of the Interior Department, who added, "All federal agencies must act as a team if we are to conserve the nation's remaining biodiversity."

Each agency representative emphasized the importance of the memorandum of understanding, signed by 14 federal agencies September 28, which establishes regional interagency working groups in an attempt to coordinate agency actions to avoid conflicts over endangered species and create opportunities for conserving and recovering species that are listed as threatened or endangered. The agencies will help the Fish and Wildlife Service and The National Marine Fisheries Service form endangered species recovery teams to implement their recovery plans and conservation agreements. The working groups also will involve the public, states, Native



American tribal government's, and local governments to protect declining species that are candidates for possible listing.

"This agreement is a major step forward in our efforts to make the Endangered Species Act work better," said Interior Secretary Bruce Babbitt at the hearing. "Agencies will now sit down at the same table to coordinate their planning efforts, preempting potential endangered species problems."

Battle lines are forming in the Senate, however, with members beginning to square off on the need for a drastic overhaul of the ESA. "It is not my goal to abandon our national commitment to the protection of endangered species," said Sen. Bob Packwood (R/OR), testifying before the subcommittee, "However, I believe the act can, and should, do a better job of balancing jobs and economic opportunity with species protection." Packwood's testimony drew the ire of Sen. John Chafee (R/RI), who considers the ESA balanced in its current form. Chafee referred to a 1982 amendment which gives the Interior Secretary authority to consider economic factors when designating critical habitat on public lands. Chafee and Senate Environment Committee Chairman Max Baucus (D/MT) plan to reintroduce their environmentalist-supported ESA reauthorization legislation in the next Congress.

Source: Land Letter, Vol. 13, No. 28, October 20, 1994

Endangered Species Act and Private Lands Case

A Federal Judge is about to rule in a case that could have profound affects on the reach of the Endangered Species Act (ESA) on private lands. The Environmental Protection Information Service expects a decision within a few weeks in their lawsuit against the Pacific Lumber Company on behalf of the endangered marbled murrelet. The group's case, filed to prevent logging on 137 acres of the murrelet's virgin redwood habitat, is the first to test Sweet Home... v. Babbitt, in

which a federal court of appeals found invalid an Interior Department regulation defining "harm" to a species to include habitat modification.

"This is a very significant case," said John Gaffin, the endangered species coordinator for the information service. "If the judge rules against Pacific Lumber, he will be denying Sweet Home and invoking Palila," a reference to Palila v. Hawaii Department of Land and Natural Resources, a ruling that concluded Congress intended habitat modification to constitute a "take" under Section 9 of the ESA. Pacific Lumber Company originally argued that their logging plans would not involve significant marbled murrelet habitat, but that line of defense faded when company officials conceded in court that their surveyors were told not to record any murrelet calls or other evidence of the birds' presence. Thus, the Sweet Home precedent became the center of the company's defense.

Source: Land Letter, Vol. 13, No. 29, November 1, 1994

The Changing Farm Scene

According to a byline article by Jon Margolis of the Chicago Tribune, Neil Harl, an agricultural economist at Iowa State University says, "We're poised on the edge of the greatest period of farm consolidation anyone has ever seen," "We're going through a transformation of many dimensions. Government's hand is receding, trade barriers are being reduced, and there will be more attention paid to air and water pollution and to food safety."

Perhaps even more important, Harl said, is this little-noted demographic fact: Most farmers are approaching retirement age, and most don't have able-bodied sons who want to farm. In short, there will be fewer farmers, fewer of the businesses that serve farmers, and fewer farm hamlets dotting the countryside. "What we're going to have is a shrinkage of the Corn Belt to the most productive areas," said Harl. "So some of the marginal land, in southern Iowa for instance, will go back to grazing. That means the grazing land

in the West loses value. There will be a rolling wave of adjustment."

A decade ago, Margolis says, perhaps even five years ago, all this speculation would have been fighting words to the farm community, especially to its central establishment as embodied by the American Farm Bureau Federation. In effect, the farm community is admitting that if farm subsidies were designed to preserve the midsized operator—that "family farmer" who has been central to the American myth since Thomas Jefferson's time—it has failed, Margolis said.

Perhaps the first hint that the farm community's period of denial had come to an end was in the reaction, or lack of reaction, Margolis said, to the June 30 report of the Interagency Floodplain Management Review Committee, the government's official report on the 1993 floods. Though written with diplomatic tact, Margolis said, it called "inconclusive" the speculation that wetland restoration might have softened the impact of the flood—the report was the first official government document to conclude that there had been too much conversion of wetlands into croplands, that in general flood plains should be for rivers instead of for towns and farms and that the government should not "carry the burden of massive flood disaster relief costs." Neither agricultural organizations nor politicians from the Farm Belt complained.

"There used to be a lot of pasture grass along the creek," said Darrel Groth, a 55-year-old Iowa farmer. Groth's family raised cattle, so they would leave unplowed the land right alongside Wolf Creek, which flows into the Cedar River, which flows into the Iowa, which flows into the Mississippi. "But we quit feeding cattle," he said. "There was no money in it." Now, the Groths grow crops on that land, almost to the creek bank, so instead of soggy ground that can absorb flooding, the land is plowed firm, more of a splashblock than a blotter. "Groth and his fellow-farmers did not cause the 1993 flood, nature did. But converting all that pastureland and woods to all that cropland, because the government was subsidizing the crops, may have

worsened the flood", Margolis said.

Perhaps the last bastion of denial, in vogue just a few years ago, was that all farmers needed was more foreign markets. Toward that end, subsidies were actually increased, not to the individual farmer but to the giant export concerns, Margolis said. Foreign markets are important, and the relaxation of trade barriers is one of the forces transforming agriculture. But, Margolis said, the United States is no longer the dominant force in agricultural production.

The new realism of the farm community can be seen in Iowa, where leading farm groups are proposing that the current subsidy system be abolished completely, and replaced with "revenue assurance," which would protect farm income only in case of natural disaster or an unexpectedly steep drop in commodity prices. Their proposal is not likely to be adopted, Margolis says. "If we back out cold turkey it can cause tremendous problems," said John Harman, the General Accounting Office's director of food and agricultural issues. But the very fact that the idea comes from farmers who are associated with mainstream organizations indicates farmers do not deny change is coming, Margolis says.

Furthermore, some observers believe that after a period of adjustment the Midwest and its farmers can prosper under a less subsidized system. If the subsidies drop, so will the value of land and barns, which would be bad news for some current farmers, but good news for young people who want to start farming and don't want to start with huge debt. "There would probably be some disruptions," Harman said. "But wheat and corn would do very well under a more open market situation. In fact, on net, the Midwest would probably do better."

To save soil from erosion, thousands of farmers have stopped plowing their fields in favor of "no-till" farming, Margolis says. Organic farming, once derided as a counterculture pipe dream, has established a foothold in mainstream agriculture. The impending changes in policy in the middle of the

country bear some resemblance to the changes that have embroiled the West in controversies over owls, river pollution, grazing and open space. Those are largely environmental disputes, but they also reflect the growing belief that the country was subsidizing the production of more logs, beef and minerals than were needed, Margolis says.

In the Midwest, the money spent to subsidize more corn, wheat, soybeans and dairy products than are needed makes the timber and grazing subsidies pale by comparison, Margolis says. Here, the money is the major problem. The environmental concerns are secondary, if important.

But as one Congressman noted, "There are 25 million dues-paying members of environmental groups. It's naive for the farming community to believe that we can build a wall and keep out the environmentalists."

Source: Columbia Daily Tribune, October 31, 1994

Farm Runoff as Point Source Pollution

A recent federal appeals court decision which held that wet weather runoff from a dairy farm is a point source of pollution under the Clean Water Act (CWA) is raising serious concerns among agricultural groups, who call the decision a significant expansion of the point source definition. These sources say the decision, if upheld, could make farmers for the first time subject to CWA citizen suits, and Congressional sources say the decision points to the need for new polluted runoff legislation to clarify

how farm runoff should be addressed.

The U.S. Court of Appeals for the Second Circuit, in a September 2 decision, overturned a lower court decision in the case, Concerned Area Residents for the Environment (CARE) v. Southview Farms. CARE had sued the farm, charging that runoff into a local stream from manure spreading operations at the farm constituted a point source under the CWA. The Justice Department's Environmental Resources Division and EPA's Enforcement Office filed an amicus curiae brief in support of CARE, but neither office could be reached for comment.

Southview is a dairy farm that owns more than 2,000 animals and 1,100 crop acres. The manure storage facility at the farm is defined as a concentrated animal feeding operation, a point source under the CWA. The farm spreads the manure on its crop acreage as fertilizer, a process exempt from CWA regulation. Beginning in 1989, members of CARE testified that liquid manure flowed through a swale coupled with a pipe into the stream. CARE sued the farm, claiming that the flow represented a point source, and a jury ruled in favor of CARE in 1993.

Source: WATER POLICY REPORT, Vol. III, No. 20 - September 28, 1994

Major EPA Study Links Ongoing Discharges/Sediment Problems

EPA in a first-look report on sources of contaminated sediments has found that industrial discharges may be an "ongoing" contributor to sediment



contamination, contrary to the industry view that these facilities contributed to past pollution, but are no longer a significant source. The new information is already being used to identify chemicals and industries that may need further regulation.

The point source inventory study, expected to be released soon as part of the agency's landmark National Contaminated Sediments Strategy, will likely focus increased EPA attention on industrial dischargers as the agency implements the strategy, and is already being used for effluent guidelines targeting, assessment, and enforcement purposes.

The agency considers contaminated sediments to be a significant threat to



aquatic ecosystems and human health, pointing to more than 1,200 fish consumption advisories as evidence of the scope of the problem. Last year dredging of contaminated sediments erupted into an intense political controversy over the dredging of dioxin-contaminated sediments in the New York-New Jersey harbor. While the report, "National Sediment Contaminant Source Inventory: Analysis of Release Data for 1992", will "put some heat on industry," an EPA official involved in its development says there are "limitations to its use." The EPA

official explains that the report is "only as good as its data," pointing out that the data are based on Toxic Release Inventory (TRI) and Permit Compliance System (PCS) information. When looking at the conclusions and uses of the report, its "limitations must be kept in mind," says this source, who notes that the document's peer reviewers recommended that this caveat be included in the report.

Despite any limitations of the report, EPA officials say it provides plenty of evidence that industrial discharges are "still contributing to the contaminated sediments problem." However, "the question does remain as to how much industry is contributing [to the problem] as EPA does not have a handle on the nonpoint source contribution."

Source: Inside EPA's Water Policy Report, Vol. III, No. 20, September 28, 1994

Environmental Sentencing Guidelines

The U.S. Sentencing Commission has worked periodically over the past two years to develop guidelines for judges and prosecutors for use in determining penalties—primarily in civil cases—for violations of environmental statutes. By statute, such recommendations must be forwarded to Congress by May 1 if they are to be considered in a given year.

If Congress approves the recommendations, they take effect November 1, meaning that the Commission must act by May and the earliest any new environmental guidelines could take effect would be November 1996.

However, four vacancies presently exist on the Commission, and an Administration delay in nominating new members will likely prevent the Commission from proposing new environmental crime sentencing guidelines in 1995 as planned. Once developed, the guidelines could mean tough penalties for clean water and drinking water violators.

The potential for delay comes as a relief to industry officials, who expressed

grave concerns with an environmental crime proposal that was floated by the Commission last November. Industry was particularly concerned that the November proposal failed to adequately address "intent" when determining corporate criminal culpability. One industry source believes, however, that the November proposal did not enjoy widespread support on the Commission, and was particularly opposed by one of the commissioners who remains on the panel, and therefore it is likely that the Commission will "start from scratch" when they reconsider the issue.



Starting from scratch will undoubtedly set the process further back, say several industry sources, who believe that the new commissioners will need several months to come up to speed on an issue that has proven to be very controversial both within the commission and in the regulated community.

Source: WATER POLICY REPORT, Vol. III, No. 20 - September 28, 1994

Aquatic Plants/Zebra Mussels

An article in the August *Twine Line*, an Ohio Sea Grant publication, notes that the clarity of Lake Erie waters began to increase following passage and implementation of the Clean Water Act in 1972. This trend increased significantly following zebra mussel invasion.

The article reports that water clarity in the western basin increased by 85% following explosion of the zebra mussel population. Considering that each adult mussel is capable of filtering a

liter of water each day, it is no surprise that the suspended particulate matter in Lake Erie has been reduced.

Under the conditions of clearer water, rooted vegetation increased dramatically. Such species as eel grass, milfoil, pondweed, coontail and even water lily are spreading in the Lake's shallower waters. According to the report, this has produced habitat for expanding populations of largemouth bass and bluegills.

Unfortunately, the growth of weeds, combined with careless boating activities, is creating a new and serious means of distributing zebra mussels to new waters. Zebra mussels readily attach to submerged aquatic vegetation and thereby obtain a new means of transport.



For example, observations at Lake St. Clair demonstrated that boats being trailered frequently left mussel-covered aquatic plants clinging to the trailers. Visual inspections at boat ramps at Catawba State Park revealed that infested clumps of weeds were commonly left in the boat ramp area.

The *Twine Line* article cautions that since zebra mussels can live for several days out of water, boats used in several lakes within days could contribute to the spread of zebra mussels to new water bodies.

Source: ASA Bulletin, No. 454, August/September 1994

Property Rights Setback

Opposition to the burgeoning private property rights movement exhibited new signs of organization before the end of this year's Congressional session. A widely-circulated letter, signed by a majority of state attorneys general, asked lawmakers "to oppose the 'takings' bills currently pending in Congress." Also, more than 70 organizations representing organized

labor, civil rights, consumers, public health, and conservation interests sent the same message in their own letters to Congress.

And, on October 5, in a major set-back for private property rights advocates, the House gutted takings amendments attached to H.R. 5044, a bill establishing the American Heritage Areas Partnership Program. The takings amendments, sponsored by Reps. Billy Tauzin (D/LA) and Rod Grams (R/MN), would have required both owner consent and compensation for any restrictions on land use resulting from the act. But Reps. Ralph Regula (R/OH) and Nick Rahall (D-WV) stripped the key provisions of the takings amendments with their own secondary amendments. "This is a new watermark," said a House Natural Resources committee staff member. "Members have really become educated on the takings issue." Although the heritage bill did not reach the floor in the Senate, supporters are optimistic about its prospects in the next Congress.

The attorneys general, in their letter, said takings bills "purport to implement constitutional property rights protections, but in fact they promote a radical new takings theory that would severely constrain the government's ability to protect the environment and public health and safety." But property rights advocates attacked the letter's core premise. "It's an ill-advised letter," said Nancy Marzulla of Defenders of Property Rights. "They're saying it's fine and acceptable to destroy someone's civil rights."

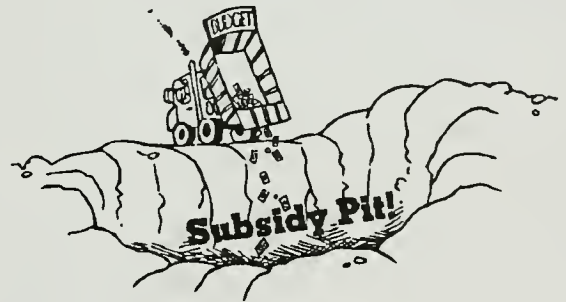
Environmentalists hope their letter to Congress made inroads for next session's anticipated battles over property rights. "The letter illustrates the diverse coalition of interests that have united to oppose takings bills and amendments," said John Echeverria, attorney for the National Audubon Society. "The public interest community is catching-up."

Source: Land Letter, Vol.13, No. 28, October 20, 1994

Federal Subsidy Program Report

A new Congressional report calls for review of federal subsidy programs involving minerals, irrigation water, hydropower, timber, grazing, and recreation. In outlining the abundance of unsound federal subsidies presently provided to private companies that develop natural resources on federal land, the report's author, House Natural Resources Committee Chairman George Miller (D/CA), argues that numerous price supports, tax breaks, and low cost loans, intended to develop the western United States, have outlived their original function and now create private profits that should be shared with American taxpayers.

"We're not advocating the elimination of all subsidies," said Miller. Rather, he proposed "examining them with a critical eye and eliminating the ones which no longer make sense." The report, entitled "Taking from the Taxpayer: Public Subsidies for Natural Resource Development," is especially critical of mining, irrigation, and timber



interests who utilize multiple and overlapping subsidies. For example, a typical farmer can obtain low-cost loans to improve irrigation systems and Bureau of Reclamation water contracts far below the cost of providing it, as well as pest control assistance and crop subsidies through the Department of Agriculture.

To eliminate such overlapping benefits, the report suggests a six-step process: (1) inventory all programs supporting

use of natural resources; (2) determine whether they serve current public policy purposes; (3) evaluate and eliminate inconsistent policies; (4) obtain a fair return on sales of federal natural resources; (5) prevent cash payments of subsidies; and (6) require recipients to report all federal programs in which they are involved.

Miller's report outlines other government practices that he claims "take from the taxpayers," including the 1872 Mining Law, which allows mining companies to purchase government land for as little as \$2.50 an acre; below cost federal timber sales to private timber companies; exemptions from reporting routine toxic discharges for oil and gas companies; and funding hydropower through irrigation subsidies.

While mining reform advocates and environmentalists hailed the report, industry representatives downplayed its significance. "The report is just a rehash of stuff we've already heard about. There is nothing new in there," said a spokesperson for the American Mining Congress. Mining interests want reform that will not compromise benefits that have contributed jobs and revenues to the economy on a national, regional, and local level, according to the group.

The large number of natural resource subsidies allotted to single private interests also were criticized within Miller's report. The 1872 Mining Law, originally intended to encourage pioneers to settle the West, now faces a reality where patent applicants "are more likely to be large mining companies than the individuals envisaged in 1872." The report also contends that poor management, combined with anachronistic federal laws, facilitate single-interest accumulation of benefits from multiple federal programs.

Overlapping federal subsidies were major issues of debate during the White House review of floodplain management policies in the aftermath of the 1993 flood. Many contend that the only way farming can exist on some floodplains is through massive,

overlapping federal subsidies which should be eliminated or drastically reduced.

Source: Land Letter, Vol. 13, No. 25, September 20, 1994

"Wake" Declared on Mining Reform

For at least another year the multi-billion dollar mining industry will operate under the 1872 Mining Law that requires no royalty payments on minerals extracted from federal lands and includes provisions for the sale of government-owned land to mining companies for a few dollars an acre.

As the legislative session drew to a close, compromise talks between House and Senate conferees broke down September 29, sealing the fate of mining reform legislation in the 103rd Congress. Negotiations reached an impasse after the Clinton administration, industry, and environmentalists worked fervently with conferees for weeks, hoping to remedy points of contention. Despite a series of offers and counteroffers, committee staff said, ultimately mining industry lobbying was too potent a force to overcome.

Conferees were trying to reconcile widely disparate bills passed earlier this year by each chamber. The House-passed bill would have imposed an 8% royalty, given the federal government control of groundwater pollution standards, and granted the Interior Secretary authority to deny mining permits to companies failing to comply with current environmental regulations. The industry-backed Senate bill, in contrast, called for a 2% royalty and no federal standards or Interior Department veto power.

In August, Senate Energy Committee Chairman J. Bennett Johnston (D/LA) drafted a compromise bill containing a 3.5% royalty, deference to states for groundwater regulations, and reduced environmental requirements in the Interior permit process. The bill was opposed by both House and Senate conferees.

Although mining interests blamed House negotiators for the death of mining reform, House staffers tell a different story. In the final days, conferees and staff members were meeting daily, and the House even conceded to the 3.5% royalty—the bottom-line for Senate Republicans—as long as the Senate would agree to tighten royalty-relief loopholes that exempted many mining interests from royalty assessments. According to staffers, Senate conferees then withdrew their earlier baseline and demanded a 3% royalty. Meanwhile, the Alliance sent out an urgent alert to industry CEOs, who stepped up their lobbying efforts, staff members said.

Johnston and Interior Secretary Bruce Babbitt denounced the mining industry for its intransigence. "This administration extended its hand to the industry and its congressional supporters. They had their chance at reasonable reform, but chose to block it," said Babbitt, who accused special interests of ignoring wide-spread support for reform by the House, Senate, and the American people.

Babbitt pledged to reform the industry through administrative regulatory reforms, while seeking a new legislative effort next year. Declaring "a wake for mining reform," Johnston also promised to renew the reform push. "We will be looking for every conceivable legislative opportunity in the next Congress to reform this industry," he said.

Proponents of reform did achieve a one-year moratorium on the patenting of new claims through an Interior Department appropriations bill rider, but they want the administration to use its discretion to impose new restrictions on mining. Specifically, they want Babbitt to withdraw federal lands from further mining operations, a move not unlike the actions taken by presidents William Howard Taft and Theodore Roosevelt, who withdrew land from consideration by coal, oil, and gas companies while the government devised a royalty system. Babbitt said the Interior Department is considering both a tax on mining companies and stricter environmental regulations on their operations. A massive federal land

withdrawal is among the options, but Babbitt has yet to endorse the idea.

According to a U.S. Public Interest Research Group (PIRG) report, released on October 6 political action committees representing hard-rock mining and related industries contributed \$17 million to



Congressional candidates from January 1987 until March of this year. The report found that the industry extracted minerals worth \$26 billion, representing a "1500 to one return on their investment." Details on specific contributions to legislators and their subsequent voting records on mining reform also are available in the report, entitled "Mining the Congress" and can be obtained through PIRG at 202-546-9707.

A nationwide public opinion poll, released September 14 by the Mineral Policy Center, indicates broad-based support for reform of the 1872 Mining Law. "This poll clearly demonstrates that all Americans, Democrats, Republicans, and Independents, in small towns and big cities, and in all regions of the country want the mining law's giveaways to be stopped," said Philip Hocker, the center's president.

The poll found that 57% of the 800 respondents favored stopping the controversial mine patenting program, 65% favored giving the Interior Secretary the power to deny permits for mines in environmentally sensitive areas, and 74% supported giving the federal government, rather than the states, the responsibility for setting reclamation and environmental standards.

In response to the poll, the mining industry's Mineral Resource Alliance, dismissed the poll saying they would rather "achieve real progress" than issue press releases. The alliance said it is concentrating on passing mining

reform legislation sponsored by Sen. J. Bennett Johnston (D/LA), not relying on what they termed "contrived surveys that reach obvious conclusions."

Source: Land Letter, Vol. 13, No. 25, September 20, 1994, No. 26, October 21, 1994, and No. 28, October 20, 1994

Georgia River Care 2000 Plan

On September 8, two months after an investigation by the Atlanta Journal and CNN found "unchecked development" to be the major cause of pollution in the Chattahoochee River Basin, Georgia Gov. Zell Miller (D) announced the "River Care 2000" conservation initiative. The new plan has received wide praise from conservationists for its use of state and private funds to obtain sensitive lands along state rivers to help insulate the areas from environmentally damaging waterfront development.

Source: Land Letter, Vol. 13, No. 25, September 20, 1994

Northwest Hydropower Decision

In a far-reaching decision that could have implications for federal clean water and endangered species laws, an appeals court has ruled that electric power planning authorities contributed to the decline of salmon runs in the Columbia River Basin.



The Ninth Circuit Court on Sept. 9 ruled that the Pacific Northwest Electric Power and Conservation Planning Council failed to comply with fish and wildlife provisions of the Northwest Power Act in adopting its 1993 Strategy for Salmon. In deciding the case (Northwest Resource Information Center v. Northwest Power Planning Council, No. 92-70191, Court of Appeals for the Ninth Circuit) a three judge panel found

that the Council failed to explain its rejection of fishery manager recommendations regarding biological objectives and increased river flows.

According to the decision, the Council owes "heavy deference" to the expertise and recommendations of the state and federal fish agencies and the Yakima Indian Nation.

Congress enacted the Northwest Power Act in 1980 to ensure the "equitable treatment" of fish and wildlife. It established a new obligation for the region and various federal agencies to protect fish and wildlife.

Congress also created the Pacific Northwest Electric Power and Conservation Planning Council, directing it to create a program to "protect, mitigate, and enhance" the Columbia River Basin's fish and wildlife "to the extent affected by the development and operation" of the basin's hydropower system. At the same time, the Act states that fish and wildlife protection measures cannot jeopardize "an adequate, efficient, economical and reliable power supply."

According to one Environmentalists, the Council has been "loath" to take on critical issues and has deferred to the "lowest common denominator". Pointing out that the decision makes it clear the Council failed to set biological objectives, the source says the Council also neglected to take steps to achieve mitigation and "did not listen to tribes."

Salmon runs are currently the lowest they have ever been, due to a combination of hydropower flows and drought conditions, the source says, stressing that salmon subpopulations in the Snake River will be extinct within five years if conditions do not improve.

In response to a petition for review filed by Direct Service Industries (DSIs) – mainly aluminum and chemical manufacturers that purchase power directly from the Bonneville Power Administration – the judges ruled that these industries failed to provide any evidence that the salmon strategy would threaten the economy or reliability of the region's power supply.

This is the only economic restraint in the fish and wildlife program. The Council does not have to conduct a cost-benefit analysis of particular measures in the salmon strategy, the court ruled, characterizing such an analysis as "antithetical to the purpose of the Act."

Drought conditions are more responsible for low salmon flows than hydropower, the industry source maintains. "Congress is transparent when it says hydro does not have to compensate for acts of God," this source maintains. The utility commission is "thinking strongly" about appealing the decision because the court failed to establish impacts to power suppliers, and "more than due weight" has been given to the fisheries and tribes, the source says. "The law says salmon will be protected if states and tribes are given management over the resource, but it does not say they should be given management over utilities," this source asserts. When Congress passed the Northwest Power Act, it said the Council must look at "tradeoffs" and evaluate all the needs of a multipurpose basin, the official says. "Congress said it must have a basis for trading off limited resources by ensuring the northwest has an adequate power supply."

Source: WATER POLICY REPORT, Vol. III, No. 20 - September 28, 1994

New England Hydropower Agreement

In return for permission to continue generating electricity from its dams, the New England Power Company agreed to pay \$25-30 million for environmental improvements along the Deerfield River. Company officials, activist groups, and government regulators drafted the plan, which requires the company to increase water flow over its dams for the next 40 years to aid Atlantic salmon habitat recovery in Vermont and Massachusetts.

Also, the company will protect a reservoir for loons and an 18,000 acre piece of wilderness near the Green Mountain National Forest.

Source: Land Letter, Vol. 13, No. 28, October 20, 1994

PL-566 Program Evaluation

The SCS Watershed Protection and Flood Prevention (Small Watershed) PL-566 program will be undergoing a thorough program evaluation according to SCS Chief Paul Johnson. A complete program evaluation started in September 1994 and is to be completed about February 1996.

The last complete PL-566 program evaluation was completed in July 1987. Normally such evaluations are designed to help gauge the success of a program in addressing conservation priorities outlined in the National Conservation Program (NCP). The evaluations measure the program effects in solving the identified problems, describe the benefits and costs, and provide USDA leaders with suggestions for program improvement. The 1987 evaluation showed that more benefits had been obtained by the program than had been originally claimed.

According to the 1987 evaluation sample, actual adjusted economic benefits accruing in 1984 exceeded the planned benefits by 34% overall. The implied actual ratio of benefit to cost, based on the annual benefits accruing in 1984, was approximately 2.2:1. The evaluation also discovered that the average cost for projects completed as planned exceeded planned costs by 10%.

The evaluation also raised a concern about the federal unfunded commitment, that some refer to as the "backlog." Addressing that "backlog" will be a second activity that SCS will undertake. This state-specific review will include looking at commitments made and attempt to eliminate any unfeasible work (economically or environmentally unfeasible) remaining in project plans. This review will be conducted in each state with sponsor involvement. First, sponsors and SCS specialists will screen all projects for any unfeasible elements. After that, a more rigorous analysis will look at any remaining elements that are to be

constructed.

A proliferation of P.L. 566 projects is expected by some observers in the aftermath of the 1993 flood. This could spell disaster for some small river species such as the Topeka shiner and the Neosho madtom, already



madtom

threatened by disruptions in natural flows. In fact, the Topeka shiner is believed to rely on flash flooding to maintain its natural habitats (small stream scour holes).

Source: Watershed News, Vol. 4, Issue 4, September 1994

Natural Resource Budgets for Fiscal 1995

Congressional appropriators settled on FY95 spending levels for the four land management agencies, while managing to avoid a nasty floor fight on the Clinton administration's grazing and mining reform efforts. Beyond the mining issue, Interior conferees generally agreed with the administration's spending emphasis on natural resource programs, although at lower levels in most cases.

Among the exceptions were funding for construction projects, which in some cases received substantially more money than the administration wanted. Clinton also called for \$240 million for the Agriculture Department's wetlands reserve program, but Congress agreed to \$148 million less. Compared to FY94 spending, the Environmental Protection Agency was the biggest gainer, while the Fish and Wildlife Service, National Park Service, and Soil Conservation Service lost ground. The Bureau of Land Management and the Forest Service received modest increases, much of which is directed to maintenance and repair backlogs, as well as ecosystem, watershed and

riparian work. Significant funding in the Forest Service budget remains aimed at countering economic effects of the logging cutbacks in the Northwest.

The tables below display spending for selected natural resource programs, including actual spending for FY94 and the amount agreed to for FY95 by the House-Senate conference (i.e. the amounts shown are either signed or awaiting President Clinton's signature):

Land and Water Cons. Fund (\$000)		
	<u>FY94</u>	<u>FY95</u>
BLM	12,122	14,785
FWS	82,655	67,410
FS	64,250	65,436
NPS	67,197	59,936
State Grants (minus adm. exp.)	<u>24,750</u>	<u>28,000</u>
Total	250,974	235,567

ASCS (\$000)		
	<u>FY94</u>	<u>FY95</u>
Ag Conserv	194,650	100,000
H ₂ O Qual Incent	18,500	15,000
Forstry Incent	12,820	6,625
Water Bank	8,000	--
Emerg Conserv	25,000	--
CO River Salinity	13,783	4,500
Cons Reserv	1,743,274	1,743,274
Wetlands Reserv	<u>66,675</u>	<u>93,200</u>
Total Agency	2,064,202	1,947,599

Bureau of Land Management (\$000)		
	<u>FY94</u>	<u>FY95</u>
Lands/Res Mgmt	599,860	598,449
Enrgy & Minerals	70,876	68,479
Range Mgmt	44,249	52,242
Maintenance	32,809	32,930
Recreation	39,564	40,891
Cultural Res	11,801	12,082
Wilderness Mgmt	12,998	13,443
Recr Resources	25,104	25,986
Res Mgmt Plans	9,834	9,578
Soil/Water/Air	15,356	18,500
Wild Hrses/Burros	16,703	17,234
Wildl Habitat	23,250	25,250
Land Acquisition	12,122	14,785
Acquisition Mgmt	1,277	3,600
Forest Ecosystems	7,007	6,779
Range Improvmt	10,025	10,350
O&C Grant Lands	82,052	97,550
Payments		
in Lieu of Taxes	104,108	104,108
Firefighting	117,143	114,968
Emergency DOI		
Firefighting	<u>116,674</u>	<u>121,176</u>
Total Agency	1,072,888	1,103,417

FY95 figures do not reflect a 0.191% decrease for all programs imposed to meet spending caps.

Bureau of Reclamation (\$000)		
	<u>FY94</u>	<u>FY95</u>
General Invest	13,819	14,190
Construction	464,423	432,727
O&M	<u>282,898</u>	<u>284,300</u>
Total Agency	901,527	892,486

Despite the administration's proposal to decrease the bureau's budget by 5%, the agency will receive level funding in FY95. With the bureau's traditional dam-building activities drawing to a close, the agency is expected to assist the National Park Service in removing several dams in the Seattle Olympic Peninsula region.

EPA (\$000)		
	<u>FY94</u>	<u>FY95</u>
Operating Prgms	2,541,861	2,689,000
Res & Devlpmt	338,701	350,000
State Grants		
Clean Lakes	5,000	3,142
Wat Treat Const	2,477,000	2,962,000
State Loans	1,218,000	1,235,200
Drking Wat Loans	599,000	700,000
Spec Proj Grants	558,000	834,300
Non-point Source	80,000	100,000
Coop Agreements	22,000	22,500
Superfund	1,464,575	1,435,000
Lking Undgrnd Trnks	<u>74,709</u>	<u>69,331</u>
Total Agency	6,619,980	7,240,887

Congress matched the Administration's \$100 million request to beef up non-point source pollution grants that are aimed at helping states develop and implement plans to control wet weather runoff from cities and farmland.

Fish & Wildlife Service (\$000)		
	<u>FY94</u>	<u>FY95</u>
Resource Mgmt	481,623	511,555
Habitat Cons	42,425	56,416
End Species	58,703	74,264
Consultation	14,416	18,204
Listing	7,409	8,077
Prelisting	4,360	4,461
Permits	2,968	3,352
Recovery	29,550	40,166
Env Contam	8,969	9,516
Fisheries	67,320	66,032
Law Enforcmnt	34,687	35,419
Mig Bird Mgmt	15,234	15,469
Refuge O&M	165,977	168,904
Land Acquisition	82,655	67,410

Acquisit Mgmt	8,500	8,500
NWR Funds	12,000	11,977
N Am Wetl Cns Fnd	12,000	8,903
Coop End Sp Fnd	9,000	8,983
Const. & Anad. Fish	<u>73,565</u>	<u>53,811</u>
Total Agency	682,401	671,443

The Clinton administration proposed a 4.4% increase for FY95, but Congress instead sliced \$10 million off the agency's budget. Construction spending was cut 26.9% (\$20.3 million), but the \$53.8 million appropriated is still \$18.7 million more than the administration sought. Endangered species and habitat conservation funding got significant boosts over FY94 levels. Species recovery planning programs gained the most at 26.4% (\$10.6 million), with habitat conservation programs up 24.7% (\$14 million), and funding for consultations with other federal agencies to protect listed species up 20.8% (\$3.8 million). Wildlife refuge management funding increased slightly over 1994. Congress hacked \$15.2 million from the agency's land-buying account, approving 21.8% less money than the administration sought.

Forest Service (\$000)		
	<u>FY94</u>	<u>FY95</u>
Nat'l Forest Sys	1,308,823	1,345,112
Ecosystem Plans	147,846	150,100
Minerals & Lands	100,583	101,989
Range Mgmt	14,767	16,932
Recreation Use	209,769	216,958
Cultural Res	1,117	4,793
Recreation Mgmt	159,116	160,916
Wilderness Mgmt	49,535	51,249
Refor. & Timber Imp	62,339	56,900
Soil, Water & Air	36,250	48,435
Tmbr Sales Admin	189,199	181,392
Wildl & Fish Habitat	89,110	98,800
Land Acquisition	64,250	65,436
Acquisition Mgmt	8,500	8,491
Construction	252,802	203,186
Road Construction	97,345	99,101
Trail Construction	32,310	32,643
Forest Research	193,083	200,130
State/Priv Forestry	165,315	161,264
Emerg Pests	-15,000	-17,000
Firefighting	185,168	159,590
Emergncy Firefigting	<u>190,222</u>	<u>426,200</u>
Total Agency	2,345,207	2,574,053

FY 95 figures do not reflect a 0.191% decrease for all programs imposed to meet spending caps.

National Biological Survey (\$000)

	<u>FY94</u>	<u>FY95</u>
Research	82,796	81,883
Species Biology	20,974	19,835
Popn Dynamics	13,843	13,713
Ecosystems	47,979	48,338
Invntry/Mnitring	21,561	21,645
Tech Dev/Transf	13,783	13,916
Coop Res Units	15,349	15,214
Facilities O&M	15,603	16,568
Administration	<u>16,698</u>	<u>17,364</u>
Total Agency	167,209	166,890

FY95 figures do not reflect a 0.191% decrease for all programs imposed to meet spending caps. In FY95 the year-old National Biological Survey plans to develop biological data sharing partnerships with EPA, NOAA, the Forest Service, USGS and the Nature Conservancy. Reacting to growing concerns over the survey's potential effect on private property, conferees once again included language denying the use of funds for surveys on private property without the landowner's written consent. Due to property rights issues and lawmakers' continued resistance, Congress has never approved a bill authorizing creation of the agency.

National Park Service (\$000)

	<u>FY94</u>	<u>FY95</u>
Park Sys Oper	1,061,823	1,079,963
Res Stewardship	191,041	199,489
Visitor Services	230,057	242,976
Maintenance	396,082	383,526
Park Support	161,350	165,125
Land Acquis (total)	95,250	87,936
Park Svc Acquis	58,950	59,936
Acquisition Mgmt	8,247	8,800
State LWCF Grants	24,750	24,750
State Admin Exp	3,250	3,250
Construction	201,724	184,941
Nat'l Rec & Pres	42,585	43,023
Historic Pres Fund	40,000	41,500
Urbn Prk & Rec Fund	<u>5,000</u>	<u>7,500</u>
Total Agency	1,437,261	1,412,103

FY95 figures do not reflect a 0.191% decrease for all programs imposed to meet spending caps. While the Park Service lists a backlog of more than 335,000 acres, valued at \$1.1 billion, the FY95 budget slashed land acquisition funds by 22% compared with 1994 levels.

Soil Conservation Service (\$000)

	<u>FY94</u>	<u>FY95</u>
Conserv Opers	591,049	556,062
River Srvys/Invest	13,482	12,970
Watershed Planning	10,921	10,546
W'shed & Flood Prev	241,965	70,000
Res. Conserv & Dev	32,945	32,845
Grt Plains Cons Prog	<u>25,658</u>	<u>15,172</u>
Total Agency	1,235,362	697,595

Funding for the Soil Conservation Service was cut the most dramatically (43.5%) of any other natural resource agency. The decline in funding reflects the proposed reorganization of the SCS and the ASCS within the Agriculture Department. The administration proposed eliminating the SCS watershed and flood prevention program and requested just enough funds to shut it down. While rejecting the program's elimination, Congress did reduce its funding by more than two-thirds.

U.S. Army Corps of Engineers (\$000)

	<u>FY94</u>	<u>FY95</u>
Construction	1,400,875	983,668
O&M	1,668,990	1,646,535
Wetl Res Prog	5,283	-
Gen Invest	207,540	181,199
Regulatory Prog	<u>92,000</u>	<u>101,000</u>
Total Agency	3,907,130	3,408,919

The Army Corps civil works budget was sharply reduced for FY95. While Congress didn't go as far as the Clinton Administration proposed, construction spending was cut by almost 30% (\$417 million). No money was provided for Corps reorganization, although work continues on scaling down the agency.

Source: Land Letter, Special Report, Vol. 13, No. 26, October 1, 1994

**Staff/Program Cuts
Planned at FWS**

The Fish and Wildlife Service (FWS) will have to cut its headquarters and central control staff by 50%, and reduce its workforce by as many as 900 full time equivalents (FTEs) by 1999, according to an internal agency memorandum obtained by *Land Letter*. The memo, dated September 20, was sent by FWS Deputy Director Bruce Blanchard to the FWS directorate focusing on the

agency's "efforts to meet the Administration's national performance review goal to streamline administrative functions and downsize organizational layers." But Blanchard, himself, expressed concerns that the planned cuts reflect political priorities and could come at the expense of the resources the agency is charged with protecting.

The memo also concerns many regional officials who fear programs will have to be cut and resources left unmanaged as a result of decreased staff. "The target number has been set, but there's been no guidance as to what work is to be left undone," said one regional official who asked not be identified. Some of the cuts will be realized through attrition and through restructuring procurement and management operations, but that alone will not amount to 50%. The FWS employs roughly 7,500 people nationwide.

Exactly how many people, and which programs, will be affected by the cuts is not clear because the definition of "headquarters staff" and "central control staff" is flexible, but the impact could be significant, Blanchard says. Although the memo says the Interior Department recommended a reduction goal of 600 by 1999, Blanchard said the number of positions cut could reach 900.

The agency will not have any trouble meeting target reductions this year or next, but after that the belt tightening certainly will affect agency operations, he said. Planning for the 1997 budget cycle begins this winter, and draft recommendations will be submitted to OMB in May.

Agency watchers have reason to wonder how all this will affect the FWS's ability to manage refuges and wildlife, endangered species and ecological services programs. "They have to realize we're going to do less with less," Blanchard said. "You can't keep saying we're going to do more, when on the other hand, you reduce the resources and assets. You can't have both."

Source: Land Letter, Vol. 13, No. 29, November 1, 1994

Meetings of Interest

February 23-24, Water, Nitrogen, and People: An International Conference, Everett, WA. Contact Craig MacConnell, Washington State University Extension, Whatcom County, 1000 North Forest St., Suite 201, Bellingham, WA 98225-5594, (206) 676-6736. Sponsored by WSU Cooperative Extension, Washington State Department of Health, BC Environment, and U.S. EPA. Focuses on sustainability of the water resources and understanding the effect of nitrogen on water. Targets health officers, land use planners, public policy makers, agricultural commodity groups, environmental groups, tribes, local governments, conservation districts, and agricultural and water quality professionals.

February 28-March 3, International Erosion Control Association's 26th Annual Conference and Trade Exposition, Atlanta, GA. Contact John T. Price, IECA Program Chair, Price & Company, Inc., 425 36th Street, SW, Wyoming, MI 49548, (616) 530-8230. FAX: 530-2317. Topics include policy and management practices, methods and techniques, case histories, research and development, product introduction, and special topics.

April 3-7: "National Wetlands Workshop", Clarion Hotel, New Orleans, LA. Contact U.S. Army Engineer Waterways Experiment Station, Wetlands Research & Technology Center, Attn: CEWES-EP-

W, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199, (601) 634-2569/4217; FAX (601) 634-3664.

May 14-18, Water Resources at Risk - 1995 Annual Meeting of the American Institute of Hydrology, Denver, CO. Contact James R. Kunkel, Advanced Sciences, Inc., 405 Urban Street, Suite 401, Lakewood, CO 80228. (303) 980-0036. FAX: (303) 980-1206. Purpose: describe issues, management strategies, and technologies in hydrology, hydrogeology, and mining hydrology. Conference will feature sessions on subjects of current concern in hydrology, poster sessions, short courses, and field trips.

May 31-June 2: "East Coast Trout Management and Culture Workshop II", Penn State University, State College, PA. Contact Marty Marcinko, 450 Robinson Lane, Pennsylvania Fish Commission, Bellefonte, PA 16823, (814) 359-5223. Theme of the workshop is "Looking to the Future: How Can We Meet the Need?", Co-sponsored by the American Fisheries Society's Northeastern Division and Southern Division's Trout Committee, Duke Power Co., National Park Service, Pennsylvania Fish Commission, and Tennessee Valley Authority.

June 5-9, 1995: "Sustainable Forests: Integrating the Experience International Conference", Sault Ste. Marie, MI, and Sault Ste. Marie, Ont.

Contact Joan Jaffit, Conference Manager; (705) 759-2554; FAX (705) 256-6156.

June 12-14, 1995: "Third Reservoir Fisheries Symposium", Chattanooga Marriott at the Convention Center, Chattanooga, TN. Contact Steve Miranda, Chair, Third Reservoir Fisheries Symposium, Mississippi Cooperative Fish and Wildlife Research Unit, P.O. Drawer BX, Mississippi State, MS 39762; FAX (601) 325-8726.

July 16-19, Interdisciplinary Conference on Animal Waste and the Land-Water Interface, Fayetteville, AR. Contact Patti Snodgrass, Arkansas Water Resource Center, 113 Ozark Hall University of Arkansas, Fayetteville, AR 72701. (501) 575-4403. FAX: (501) 575-3846. The purpose of the conference is to provide a forum for interdisciplinary, holistic discussion of animal waste, soil and water interactions. Proposed topics: waste characteristics and edge-of-field losses, impact on stream and lake ecology, watershed management, BMPs, alternative uses, regulatory vs. voluntary programs, and socio-economic considerations.

September 28-30, Watersheds '94 Expo, Bellevue, Washington. Contact Andrea Lindsay, U.S. Environmental Protection Agency WD-125, 1200 Sixth Ave., Seattle, WA 98101; (800) 424-4EPA.



Merry Christmas!

Agriculture

H.R. 5053 (Pomeroy, D/ND) expands eligibility for the Wetlands Reserve Program to lands covered by expiring agreements under the Water Bank Act.

Fish & Wildlife

Senate Environment Committee concluded hearings September 29 on **S. 1521**, which aims to authorize funds and improve programs under the Endangered Species Act.

H.R. 5073 (Smith, R/TX) and S. 2451 (Hutchison, R/TX) aim to ensure that private property rights are not infringed by implementation of the Endangered Species Act by requiring compensation for economic losses stemming from critical habitat designations.

H.R. 5144 (Edwards, D/TX) would prohibit the new listing of species or the designating of critical habitat under the Endangered Species Act until the law is reauthorized.

S. 2553 (Boxer, D/CA) amends the Endangered Species Act to authorize the Interior Secretary to enter into cooperative agreements with states and localities to assist in habitat acquisition and carry out conservation plans.

Government Affairs

On October 7, the House passed **S. 455** to increase federal payment-in-lieu-of-taxes payments to local governments for entitlement lands, clearing the measure for the President.

Public Lands

On October 7, the House passed **H.R. 4946** to establish the Midewin National Tallgrass Prairie in Illinois.

On September 20, House Agriculture, Natural Resources, and Merchant Marine panels held a joint hearing on the use of ecosystem management techniques on public lands.

S. 2543 (Boren, D/OK) amends the Forest and Rangeland Renewable Resources Planning Act of 1974, the Federal Land Policy and Management Act of 1976, the National Wildlife Refuge System Administration Act of 1966 and other laws to strengthen the protection of native biodiversity, prohibit extractive logging in designated areas, and limit the use of clearcutting and other techniques.

Refuges

House Merchant Marine panel on August 9 held a hearing on **H.R. 833, the National Wildlife Refuge System Management and Policy Act**

H.R. 4827 (Sensenbrenner, R-WI) prohibits acquisition of land or waters for the National Wildlife Refuge System if wildlife revenue sharing payments have not been made for the preceding fiscal year.

Water and Wetlands

On October 4, Senate passed **H.R. 4308** to authorize appropriations to carry out the North American Wetlands Conservation Act for fiscal years

1995-1998, clearing the measure for the President.

2490 (Pressler, R/SD) amends the Clean Water Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States.

S. 2506 (Johnston, D/LA) reforms the regulation of wetlands under the Clean Water Act by such means as establishing a ranking system for regulating wetlands.

Water Projects

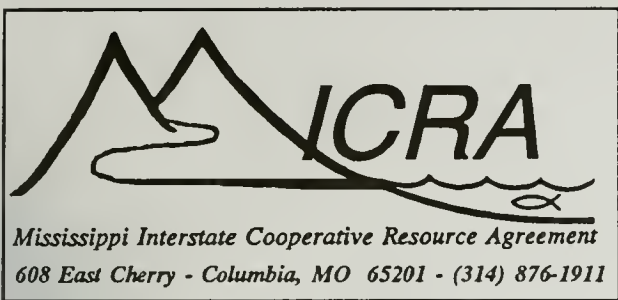
H.R. 4909 (Dicks, D/WA) promotes increased flexibility for the use of funds allocated to hydropower projects.

Wild and Scenic Rivers

H.R. 5107 (Williams, D/MT) to provide for the study of Rock Creek in Montana for potential inclusion in the wild and scenic river system.

Source: Land Letter, Source: Land Letter, Status Report, Vol. 13, No. 27, October 15, 1994





READER'S SURVEY

This "Reader's Survey" is an effort to identify our regular readers, to streamline our mailing list in order to reduce printing and postage costs, and to better serve our readers by soliciting their views. In order to ensure that your name remains on our mailing list, please answer the questions below and return this form to our office at your earliest convenience (preferably before January 15, 1995 in order to make the mailing deadline for our next issue). If you do not respond we will assume that "River Crossings" is not being read, and your name may be dropped from our mailing list. We look forward to hearing from you, and especially appreciate receiving your written comments.

_____ I enjoy reading "River Crossings", and wish to remain on your mailing list.

_____ I do not wish to remain on the "River Crossings" mailing list.

_____ I know that printing costs and postage continue to escalate. In order to help defray those costs, and to ensure that I continue to receive *River Crossings* I would be willing to help offset those costs by paying an annual subscription rate of _____ \$0.00, _____ \$5.00, _____ \$10.00, _____ \$15.00, or _____ \$20.00.

Additional Comments:

Thank you for your assistance and continued interest in river issues.

Sincerely,

Jerry L. Rasmussen
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