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ETSI Pipeline

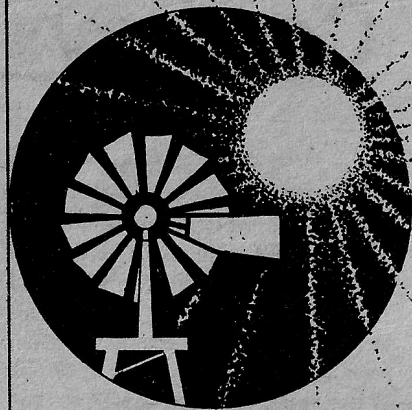
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Volume III



BLACK HILLS PAHA SAPA REPORT

Number I



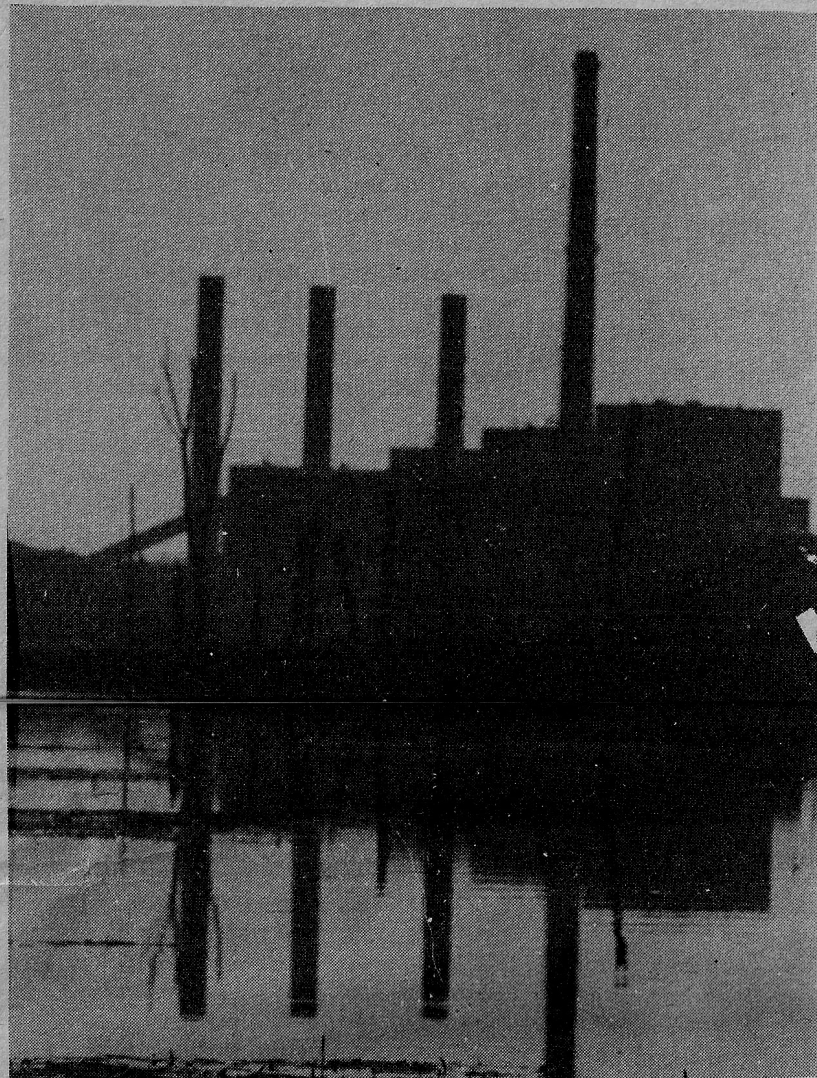
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The Newspaper of the Black Hills Alliance

Complimentary Copy

March — April 1982

Special Water Issue



Tom Gammion

"I see in the future a crisis approaching that unnerves me... And causes me to tremble for the safety of my country... Corporations have been enthroned... An era of corruption in high places will follow and the money power of the country will endeavor to prolong its reign by working on the prejudices of the people... Until the wealth is aggregated in a few hands... and the Republic is destroyed."

—Abraham Lincoln, 1863

"The earth is not his brother, but his enemy, and when he has conquered it, he moves on. He leaves his fathers' graves behind, and he does not care. He kidnaps the earth from his children. He does not care. His fathers' graves and his children's birthright are forgotten. He treats his mother, the earth, and his brother, the sky, as things to be bought, plundered, sold like sheep or bright beads. His appetite will devour the earth and leave behind only a desert."

—Chief Seattle, 1854



Tom Gammion



Dear Friends:

Dear Friends:

This February, the Black Hills Alliance celebrates its third year of our growing strength and continued resistance. 1981 was a year of triumph on the front lines for the Black Hills Alliance to stop the corporate land grab here in South Dakota. April 4th, 1982 will mark the first year of freedom for the people of Yellow Thunder Camp.

"When we live through four seasons, one small cycle of life, we will be indestructable and unconquerable." April 4, 1981. Russell Means.

Our triumphs are the foothold to our future struggles. In 1981, we witnessed:

State Supreme Court reverses a Circuit Court judge's decision. A victory for the people—Union Carbide out of the Black Hills.

Forest Service concedes to reclamation plan for Craven Canyon.

Black Hills Alliance wins the right to discovery in lawsuit against Forest Service.

Black Hills Alliance is granted Freedom of Information Act.

Yellow Thunder victories in court for their fight to stay on their land.

Keystone To Survival, a report on the 1980 International Survival Gathering, is published.

Willie Nelson and Family benefit concert for the Black Hills Alliance's water campaign and Yellow Thunder Camp.

The efforts of the corporations to make the Black Hills the national sacrifice area are alive and well. Union Carbide Corporation pulls out, the ETSI Corporation rides in, as they have found a state where officials can

be lured into uncertain agreements, which are full of "good-neighbor-trust-us" policies. A thorough examination of ETSI's water plans reveals blatant dishonesty on the part of this multinational conglomerate. We are faced with one of the most serious situations threatening our existence: the theft of our water.

Governor Janklow proudly calls South Dakota's most precious resource "the second most expensive water in the world" as he and the legislature sell the life blood of our state to ETSI.

We are preparing a lawsuit against ETSI, a joint venture of Bechtel, Atlantic Richfield, Lehman Brothers Kuhn Loeb, Texas Eastern and Kansas Nebraska Natural Gas, making it one of the largest corporate conglomerates in the world. But we do not place completely the fate of our water in the court system. The lawsuit is only our next step. We do not put faith in ourselves, the people, to control our resources.

With our current financial situation, we found it impossible to publish this paper any earlier. Within the pages of this issue you will find the details of our work and the truth of the ETSI siege. On the last page you will find an envelope providing you with a chance to participate in this fight.

We the people, not outside corporations and their friends in government, have to fight for and have the duty to fully control our resources forever.

Our resistance to corporate theft of our scarce resources and way of life will be total. Individuals fighting separately are powerless but together in unity we are an effective force.

In struggle,
The Black Hills Alliance

Cowboys and Indians

By Russell Means

The myth of Cowboys and Indians being natural enemies has served racism and prejudice for too long now.

The myth began in the late nineteenth century with the nickel paperback books about the west so popular in the eastern United States at the time.

The myth, coupled with the continuing United States Government's attitude and treatment of Indians and reinforced by Christian missionaries fostered the animosity prevalent between the Indian People and the non-Indians of today.

With the government's policy of "out of sight, out of mind", education's total abdication of American Indian history, the Christian's condescending, paternalistic attitudes of "Lo—the poor Indian" and politicians allowing the media to implant the stereotype that Indian people are on the government dole has now set the stage for the last act of Genocide. Only this time, the genocide will include the Cowboy.

Since the advent of the Industrial revolution People of the Land have been under attack. First, the indigenous People of the Land have to be moved and shoved into an undesirable land area. Second, settlers have to be encouraged to occupy the land through enticements of small parcels to anyone willing to work. After the settler policy is in place industrialization and technology take over.

As technology improves and industrialization requires more production, the small landholder has to acquire more machinery and more land or sell out to a larger interest.

—THE NEW INDIAN—

A century after the first removal of American Indians from the land, history is repeating itself. With the final removal of Indian People beginning to take place in the United States of America, the family farmer and rancher find themselves to be included. The family farmer and rancher are now the new Indians.

History has and is proving the industrial process does not have room for the rugged individualists of the west. The industrial appetite for more—and then still more requires larger more efficient production. The small landholders cannot and do not fit into the industrial machine of progress.

The American Indian was and is moved aside in the name of progress. The new Indians are now being moved aside, albeit in a more sophisticated manner, but the results are the same. The People of the Land are being moved.

It is time for the Cowboy and Indian to join forces. Rather than continue with inane arguments over jurisdiction, ownership, and who has what with whomever, the American Indian and the new Indians should reshuffle our priorities. Every family farmer and rancher will tell you he does not control the land, the land controls him. Larger Corporate interests believe, actually believe, machinery and chemicals control the land!

—ALL the INDIANS (OLD & NEW)—

We are People of the Land. We share a common love for the Earth. That is the basis for which we have to come together. Our concerns are the same, our strategies should be shared, after all survival is what we are fighting for.

The myth can not be permitted to prevail. The divide and conquer techniques of colonial America, being used to perfection against and among the American Indian, can not be allowed to continue between the non-Indians and the Indians.

The land serves our commonality of world view, it should serve as our reason for cooperation.

For reasons too lengthy to go into here, I do not believe it should be the American Indian who initiates and provides a forum for joining together with the new Indians. Therefore, I submit the new Indians should approach every Tribal Council and Indian organization (relevant to land issues) and initiate dialogue.

The natural next step would be to develop a forum where every one could come together to share viewpoints and concerns. Finally, based on the previous shared experiences, responsible People can join together for mutually beneficial strategy planning and implementation for our survival as People of the Land.

Failure to destroy the myth of Cowboys and Indians will only allow history to repeat itself for the total benefit of corporate interests.

If we listen carefully to history we will not only recognize what is happening to all of us, we can learn what to do about it.

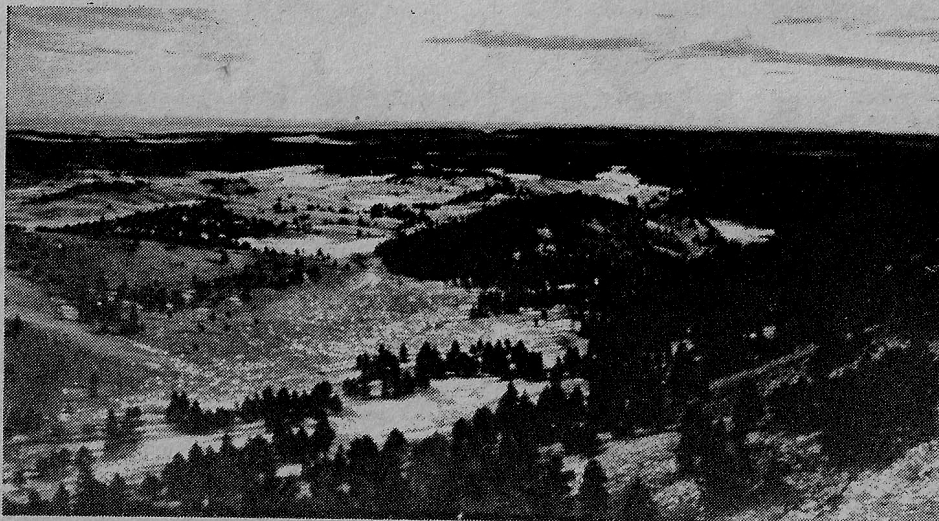
In every instance of recorded history, the success and continuation of a nation depended on the People of the Land. The continuing demise of the family farm and ranch and removal of Indian People signal the total disregard for the welfare and well being of the individual throughout this society. We, the Landlords of America, have the responsibility and the duty to come together for the benefit of the United States and our unborn generations.

May our Sacred Grandmother, the Mother Earth, endure her many sufferings.

Thank You

A special note of recognition for your expertise, time and support in getting this paper out: Susan Braunstein, Maxine McKeown, Evelyn Lifsey, Mike Garrity and Smokey.

As to the regulars—Ray, Kitty, Linda D., Karen, Tom, Paulette, Margaret, Shorty, Nancy, Kathy J., Marve, Phil, Russ, Jan, Mary Jo, Candy, Bruce, Mark, and Ms. Jones—Keep On.



Wintertime beauty can be found throughout the Black Hills

Tom Gammon

Letters to the Editor. . .

P. 3

Dear Editor,

The recent water permit application for 50,000 acre feet of water from the Oahe reservoir by ETSI, has moved with great speed through the hearing process. The result is that the South Dakota Conservancy District has within the last six weeks received the permit from the South Dakota Water Management Board to divert 50,000 acre feet per year from the Oahe reservoir. This permit has now been sold and assigned by SDWD to ETSI.

There are many serious concerns when scarce water resources are sold from an arid region. These concerns are heightened when some of the negotiations and transactions avoided adequate investigation and public discussion. For example:—

The original claim by ETSI that the water from the Madison Aquifer is brackish. On the basis of this assessment the State of Wyoming granted ETSI the right to withdraw 20,000 acre feet from the Madison formation, underlying parts of Wyoming, South Dakota, and Nebraska. It turned out that only certain volumes of the Madison were brackish. Most of the water is of the same quality used by local municipalities for drinking water. In the meantime the farmers and ranchers have had the State of Wyoming sell the rights for this water to a private company. The costs to the community, in terms of dry wells, the need to drill deeper wells, the pumping costs associated with the draw down resulting from the depletion of the Madison must be borne by the citizens of the three states affected.

ETSI's request from the Bureau of Reclamation for withdrawal of 50,000 acre feet. This request was not relayed to the Bureau of Land Management, the lead agency for the EIS. Only after the EIS comment period closed, was the intent to withdraw 50,000 acre feet from the Oahe reservoir published.

The governor of South Dakota announces that secret negotiations have been conducted with ETSI.

A special session of the South Dakota legislature convenes, and authorizes a bill granting 50,000 acre feet from the Oahe reservoir to ETSI, without having seen the contract being negotiated between ETSI and South Dakota.

The treaty rights granted to the Indians in the 1868 Ft. Laramie Treaty and by the U. S. Constitution have, of course, been conveniently overlooked.

Before the scarce resource of water is transported out of this arid region, at a rate of 31,000 gallons per minute, every minute of the year, a more thorough and more public review and discussion must take place. The real needs of the region, and the methods of transport of energy should be examined.

The use of water is for the slurring of coal to the Mid South region. Contracts for the delivery of coal from Wyoming of a "not to exceed" sulfur content and a certain minimum heating value have been signed. These plants will initially take rail delivery of the coal, and when the pipelines are completed, the utilities will switch over. Wyoming coal is strip mined, and hence is considerably less expensive than coal from underground mines. Because of drastic variations in the quality of coal, depending on mine location, careful blending is needed to meet contract requirements. The existing contracts are with "grandfathered" utilities, and when burning low sulfur coal, are not required to install flue gas desulfurization equipment. Future plants must meet EPA requirements presently on the books, and must install FGD equipment. This will reduce the economic advantages of Wyoming coal to the Mid South utilities.

The large capital required to build a pipe line, and current high cost for money, cast some doubt on ETSI's viability. The possibility that SDWD will end up being liable for costs incurred by ETSI in the construction of the West River Aqueduct should be considered.

Most fundamental is the concern of transporting water from an arid region. What is the real cost of water? Is it only the cost required to build intake structures and pipe lines? Or should the real cost include the benefits that are being denied to the people living in the area? What about farmers and ranchers who could grow larger and more varied crops, if water were made available? Isn't it also a question of selling a natural resource, a birthright if you will, to a private company, rather than using this scarce resource for the benefit of the people?

Sincerely,
Ernest Goitein,
Consulting Engineer,
former project
engineer, Bechtel.

Dear Editor

Governor Janklow alleges sale of Missouri River water to ETSI is protecting the Madison Formation. That concept is a smokescreen for Janklow and ETSI.

It is almost certain that in the future ETSI will demand and get more water or threaten to use Madison water. Has anyone seen anything in writing that prevents use of Madison water?

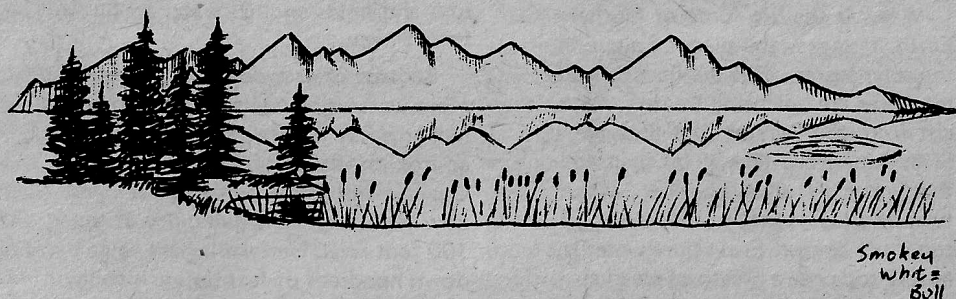
As I see it, ETSI can sell or use Madison water at any time because its word means nothing. ETSI people gave false information to the Wyoming legislature in 1974 when they said the Madison was brackish water.

Bechtel, one of the ETSI partners, was found guilty sometime back of bribing state officials in another state. Companies like this are not welcome in South Dakota.

I might also remind Janklow that those professional complainers he mentions were the people who caught Union Carbide breaking the law several times. Why didn't Janklow and Meierhenry find this out?

Maybe corporate influence dampens moral responsibility? Maybe, also, corporate power encourages our "gambling attorney general" to sue thousands of ranchers at state expense. To get their water rights for whom?

Marvin Kammerer
Rapid City



Dear Editor,

Wake up, South Dakota! The citizens of Montana and many other states have outlawed all water slurry projects, for a good reason. They know that massive areas of land would be irreparably harmed. For a semi-arid state to export its precious water so a few can grow rich makes no sense whatsoever. No wonder a heavily funded massive "persuasion program" has to be undertaken to convince us otherwise.

We, in Wyoming know ETSI, please take these points under consideration before it is too late. You may ask yourselves—Where is the big money coming from? Why the need to slip the "deal" through the legislature so quickly? Why the secret meetings?

First off—ETSI is a conglomerate of four huge corporations—some of the largest corporations in the world. In Wyoming ETSI has rudely refused to meet with the governor and flatly refused to attend any public meetings. They slipped a "deal" through our legislature in 1974 and now the truth has leaked out about their intentions and there is a public outcry by thousands of our citizens.

When their secretive deals began to be exposed, when concerned citizens found out how legislators were being coerced (private jets sent around for "cooperative officials", wine and dine treatment for lawmakers, etc.); when environmental impact statements revealed the pervasive danger to people and all living things in our Northern Great Plains region, there was a massive swing of public opinion.

Though the original agreement with ETSI stated that 15,000 acre feet of water would be used, ETSI now boldly states they intend to use twice that amount. A recent public opinion poll in Gillette showed that 71% of the people not only oppose the project, they also think Wyoming should renege on the legal pact we made, only 17% of the people think we should honor the agreement, even though it's the law.

ETSI's reaction to the outrage of the people? Total indifference and a flat refusal to meet with anyone including the governor of the state. Also, they just get a couple of yes men in South Dakota—Janklow and Neufeld—and pull the same thing over there—secret meetings, "emergency legislative sessions" (before anyone has the chance to find out the facts or study the issue), and a continued policy of refusing to meet with the public to answer questions.

What are they afraid of? They seem to avoid the democratic process where people are free to engage in open debate—they prefer meetings in the back room with cooperative officials. Why such fear of facing the public? I suspect that the facts speak for themselves and they simply have no way of answering people's concerns.

Their track record of pollution and destruction of other areas is undeniable, the light of day too harsh. The way to avoid answering all the embarrassing questions is simple—don't be there to face the questions.

Who are these folks? It's important to remember these huge multinational corporations are the largest, richest powers the world has ever known. They're riveted on one goal—maximum profit. They DO NOT LIVE HERE. They are not concerned with what's left once they've got their resources and moved on.

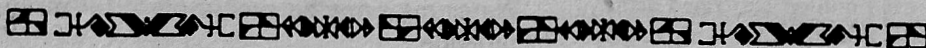
Their history of devastation of natural resources is repeated with monotonous regularity wherever on the globe they go (which is almost everywhere). The growth rate of global corporations in recent years is so spectacular that their annual sales are larger than the GNP of most advanced countries. With this kind of power and money at their fingertips, institutions like the South Dakota Legislature are chicken feed.

Already some communities in Kansas (where water formations are being tapped) have gone dry and become abandoned ghost towns. Thousands of citizens in Wyoming, South Dakota and Nebraska are frantic because environmental impact statements indicate that by pumping huge amounts of water from beneath the prairie, springs, wells and streams will dry up and this vast tri-state area could become a barren desert.

A "National Sacrifice Area" is what the multi-nationals call our Northern Great Plains—something to be destroyed so the rich can grow richer. Is this democracy? Or sophisticated manipulation by the super wealthy elite who want South Dakota's life blood? Don't buy it, South Dakota!

Inform yourselves, so we'll be able to stop the insane destruction of our beautiful land. History will remember those who took a stand against this greed-motivated devastation as the true heroes. History will not remember kindly those (like certain high level South Dakota officials) who sold out.

Sincerely,
V. B. Parham
Sheridan, Wyoming



ETSI—Pipe Dream or Nightmare?

Water is the life force of Mother Earth. It makes the planet unique in the solar system. But the Earth's water resources are not being treated as the gift from the Creator that they are. Most Americans take it for granted that water will always be there at the turn of a tap. It may not be that way too much longer. Fresh pure water is as rare today as a breath of clean air.

Through the accumulated abuse of the last four centuries, since the coming of European immigrants, the nation's supply of clean unpolluted water is running low. Since those first settlers came to the "New World" over two million dams of one sort or another have been built on the continent, 60 million acres have been put under irrigation. Over 100 million acres of vital wetlands have been drained (300,000 to 400,000 acres a year continue to disappear), millions and millions of water wells have been drilled, and thousands of miles of barge canals constructed.

Because of such tampering, the waters of the continent can no longer flow free to clean and purify themselves.

Today, the purest waters are found in the aquifers below the ground. Aquifers are the Earth's underground reservoirs of water that have percolated down from the surface. But the pollution of industrial and agribusiness America is reaching to this last refuge of clean water.

In many places around the nation aquifers nearest the surface are being fouled by nitrogen fertilizers (the use is up from 14 million tons in 1950 to 113 million tons in 1980) and chemical insecticides, herbicides and fungicides—staples of American agribusiness. Feed lots are also creating an unexpected source of pollution for underground water supplies.

"Rivers know no boundaries"

The combination of factors listed above seem to be responsible for the pollution of the Big Sioux aquifer of southeastern South Dakota. Tests are currently under way to see what the role of the aquifer is in abnormally high cancer rates in the area.

Something similar is happening on the Pine Ridge Reservation in the southwestern part of the state. There the ground and surface waters are all polluted. The list of pollutants compiled by Women of All Red Nations includes radon gas, nitrates, 2,4,5-T and 2,4-D and raw sewage. State and federal officials act as if the problem doesn't exist. It is seen as an "Indian problem" and one that they don't have to deal with.

A similar situation exists on the Navajo and Hopi lands where extensive uranium mining has left all surface and ground water hopelessly polluted. And as if all this wasn't bad enough, the vast Ogallala aquifer (156,000 square miles) that supports life and agriculture on the High Plains is running dry.

South Dakota sits atop the northernmost point of that giant water system which is currently supplying water to ten million cultivated acres. It stretches 800 miles from top to bot-

tom and holds enough water to fill Lake Huron.

Because of drawdown for irrigation, more water is being used than can be recharged by natural forces. There are approximately 150,000 wells into the Ogallala and farmers in Nebraska are now reporting wells going dry at the 100 foot level. New wells have to go down hundreds of feet before hitting water.

These water problems are not going to just go away. They are going to get worse as corporations and government continue to pollute ground and surface waters. The nation's streams, rivers and lakes are little more than open sewers for the dumping of urban America's industrial waste and sewage.

"Company officials are smart enough to approach a poor state with an aggressive, cooperative governor"

South Dakota is not immune to the national disease of pollution and wasting water resources. The ETSI pipeline is a perfect example.

Energy Transportation Systems, Inc. (ETSI) is made up of five large corporations, Bechtel, Atlantic Richfield, Lehman Brothers-Kuhn Loeb, Texas Eastern, and Kansas-Nebraska Natural Gas.

The ETSI Project will consist of crushing 25 million tons of coal a year from Wyoming's Powder River Basin, mixing the sugar-granule sized coal with water, and sending it south in a buried steel pipeline.

The mixture will travel 1400 miles to Arkansas, with some dropped off in Oklahoma. When built, this pipeline will be the largest in the United States.

ETSI Corporation has sold the project by saying it will help reduce this nation's dependence on foreign oil.

ETSI, however, now states that this coal may be going to Europe.

The ETSI pipeline has been on the drawing board for ten years. ETSI began working with the Bureau of Reclamation, the Bureau of Land Management, and the state governments of Wyoming and South Dakota to find the best deal.

In 1974, Cole McClure, ETSI Geologist, sold the project to the Wyoming legislature saying that the water needed would be taken from the Madison formation 3000 feet below the surface and that geological studies showed the water to be too poor for human consumption or livestock use. Later, independent geological surveys showed the opposite to be true.

"The water can be used for any energy-related industry"

Bechtel, one of ETSI's founders, functioned as a consultant on the Environmental Impact Statement (EIS). The 1981 EIS stated that the Madison was the best source of water for the ETSI project. The same day, South Dakota Governor Janklow announced he had been conducting secret negotiations with ETSI over the use of Missouri River water from Oahe reservoir and without a signed contract he called for a special legislative session during which laws were amended so the state could constitutionally sell water to an energy corporation.

"This is one time [the trust] had to be used without a lot of input from home" —Gov. William Janklow

Janklow has justified his actions by saying, "I guess there's just some times when the public trusts those people they've sent to do their business. This

is one time [the trust] had to be used without a lot of input from home."

"I've never met anyone like them (ETSI). They know what they want done" —Bob Neufeld

However, his was not a universal opinion. Roger McKellips, state senator from Alcester, thought it ridiculous that the legislature "can do something of this magnitude in one week, I don't know what kind of deal [Janklow] made in private that couldn't have been made in the sunshine." "It's almost like a bribe," Doris Minor, legislator from Gregory, said in caucus.

The legislators, the people's representatives, were asked to trust the word of a governor who up to that time had not even discussed the proposal with them or the general populace of the state.

Three months after the special legislative session the contract was signed and about six weeks later ETSI's permit for 50,000 acre feet of water was approved by the South Dakota Water Management Board.

Bob Neufeld, Secretary of Department of Water and Natural Resources who helped to conduct many of these negotiations, summed up the situation accurately when he said, "I've never met anyone like them. They know what they want done and if they put somebody with enough expertise on it, it will get done."

One of the major justifications that the governor and his supporters use for the sale of Missouri River water to ETSI is to save the Madison. The aquifer

"I don't know what kind of deal [Janklow] made in private that could not have been made in the sunshine" —Roger McKellips

is a large one underlying eastern Wyoming and S.D. and, contrary to ETSI's tests which revealed it to be brackish, it is high quality water used by many ranchers and municipalities.

The effects of withdrawal of 20,000 acre feet per year from this formation would be severe, not only to other Madison water users, but also to those using other water sources. ETSI's estimated drawdowns were understated in the EIS according to geologists from the University of Wyoming and S.D. School of Mines and Technology.

Governor Janklow repeatedly threatened to go to court to protect the Madison, but chose instead to sell our water and leave the Madison issue totally unresolved and the state vulnerable to other corporations. For example, the contract between South Dakota and ETSI allows ETSI to retain its

"The Madison Formation is not protected"

permits to the Madison and to pump from the aquifer whenever Oahe water is not available for any reason, in the next 50 years. Landowners and tribes who have valid water rights have been put in a position where a corporation can secure a large water right, the use of which could potentially damage or

(ETSI cont. on page 5)



Water may not be such a plentiful resource if ETSI builds their pipeline.

Tom Gammon

(ETSI cont. from page 4)

totally dry up every water user in the area. Though ETSI has offered token compensation should this occur, the burden of proof lies with the landowner.

The ETSI Corporation offered to give the towns and rural cooperatives along the pipeline route in South Dakota "free" water with only one catch—they simply have to secure the water through the permit process dealing with the state and Bureau of Reclamation, and build the lateral facilities. It

"Free water with only one catch"

was impossible for the state or ETSI, the largest construction company in the world, to come up with estimated costs for the lateral system before the contract was signed. However, an August 1981 study by the West River Conservancy Subdistrict reports Hakon, Stanley, Jackson and eastern Pennington would be \$23.1 million if the town tapped into the ETSI West River aqueduct and \$29.5 million if they were to build their own line from Oahe. This would be a minimum cost of \$365.00 per month to rural users.

"How do we get water for water-short western South Dakota?"

When asked if he had seen other estimates, Jerry Rhodes, head of the West River Conservancy Subdistrict, testified at the Water Management Board hearing that other estimated costs were "higher". These estimates were based on the Highline Route, the route ETSI plans to use.

once required by law, now discretionary, the cost estimates for these laterals is \$45 million if the Highline route is used and \$25 million if the I-90 is used. Though the report states these estimates are not to be used for accurate cost analysis, they can be used for comparison.

In essence, this report says that if the I-90 route were used, the lateral costs would be cut in half.

ETSI's contract states that they will provide at least 4,300 acre feet a year free to communities and rural water systems that build their own lines to the aqueduct.

Rapid City consumed about 7,600 acre feet last year, according to the city water department. Mayor LaCroix has stated the city's current water supply from Lake Pactola will be sufficient into the next century, but he wants the city to be looking into the future for more water sources such as the pipeline. Whether Rapid City wants any of the water and how much they want will play a large role in determining how much is left for other towns to obtain.

"Landowners have little room to negotiate for a fair price"

A West River Aqueduct study, done for the West River Study Management Team, estimates the water needs of western South Dakota will be 17,000 acre feet by the year 2000, whereas this pipeline, if subsidized by tax free bonding, will only provide up to 5000 acre feet. Our needs for water will not

"The state will end up subsidizing the major cost of the lateral system"

even be covered by this pipeline—and the state is left with the same problem, "How do we get water for water-short Western South Dakota?"

One major concern of this project is the state's deeming it a beneficial use of the water, which, in turn, gives the state the ability to grant ETSI eminent domain over the land the pipeline will cross. This move leaves the landowners little room to negotiate for a fair price.

Beneficial use in this state cannot be proven when the lateral costs will be prohibitive and there will be no "free water" for the citizens of South Dakota.

Beneficial use is also applied to the concept of transporting coal through a slurry pipeline. When most of the Western United States is a semi-arid area and the water resources of this country are becoming scarce, the thought of slurrying this water in a coal slurry line is ludicrous to some.

The question of whether there is even a market for transported slurry coal has also been raised.

Oklahoma, a potential market for Wyoming coal, according to ETSI, does not even have a coal demand. The railroads are operating at 75% capacity because the supply is greater than the need.

ETSI has no firm contracts from coal buyers at this time and exporting coal to Europe seems to be a good possibility.

"Impacts to railroads and those who depend on them could be severe"

The impacts to railroads and those who depend on them could potentially be severe. Some railroads are heavily dependent on revenues from hauling coal and these revenues help keep the price lower on transportation of other necessary goods, such as grain and cattle.

The contract between the state and ETSI allows the water to be used for any energy related industry. We may not be only talking about coal slurry at all.

"South Dakotans will sue themselves when ETSI gets sued"

The money the state receives from a company like Bechtel, founder of ETSI, is small when compared to the billions they have invested throughout the world. The company officials are smart enough to approach a poor state with an aggressive, cooperative governor and residents searching for ways to fund worthwhile water projects for rural areas.

ETSI demands bonding. The state will have no legal obligation to pay off the bonds issued for this project, should the project default. It does have a moral obligation which means that if the state does not pay the bonds back, our bond rating will drop making it difficult to get other bonds for schools, alternative industry and other beneficial projects.

Another twist in the contract with

ETSI makes S. D. an equal partner if ETSI is sued. South Dakotans must share in the litigation costs if the conglomerates are sued, without having any say in the management of the pipeline's operation.

South Dakotans will most likely end up subsidizing the major cost of the lateral system because we have pledged our support to get ETSI's line built and made a financial commitment. When one considers the variables, it seems an unrealistic expectation to assume we will make a profit from the ETSI pipeline when \$1.5 billion is spread over the next 50 years.

Although an EIS on the entire coal slurry project has been completed and approved by the Bureau of Land Management, the West River Aqueduct itself was covered on a very limited basis in 17 pages.

"West River Aqueduct was covered in only 17 pages of the EIS"

Clearly, this 288 mile project going the entire length of western South Dakota cannot be covered adequately in only 17 pages.

Many questions involving the actual availability of Missouri River water and the possibility of benefit to South Dakota citizens should be addressed more sufficiently. The additional concerns of downstream states must be considered as well, in order to comply with the regulations of the National Environmental Policy Act.

The published EIS deals with only one route of the West River Aqueduct, the Highline route, which would be most beneficial to ETSI. This route

(ETSI cont. on page 6)

Battle Begins

Landowners Fight ETSI

Henry Bruch is a rancher in the Bear Butte area near Sturgis, South Dakota, who discovered from his friend's map that ETSI's West River Aqueduct is slated to go under his land if they follow their presently established route. It was confirmed when he visited the local ETSI office in Rapid City seeking more information. The pipeline is slated to go beneath one and one-half miles of his property, including some of his best sub-irrigated land.

Henry appeared at hearings before the Water Management Board, consistently raising his concern regarding the granting of eminent domain to the ETSI corporation along with their water right. "The total concept of private property ownership is in jeopardy due to the granting of eminent domain to a private corporation," he stated.

The World Book Encyclopedia says that "the use of eminent domain by governments originated in the Middle Ages. It once meant the right an overlord (ruler) had over the land farmed by his vassal (tenant)." Henry wonders if the patents to the land indicate real ownership, or only rental. "Are we just vassals and the state the

Henry has recently been attending numerous landowner meetings in Meade and Lawrence counties, where landowners are fighting to get some input into wording of the easement contract and to the location of the pipeline. These landowners also hope that ETSI will relinquish its permits to the Madison formation.

One area landowner said, "People believe what is real. And what is real is that if they (ETSI/state) want something to go through, they will proceed according to the degree that people will not resist. They try to exhaust you physically, emotionally and financially, knowing full well that they have the resources to continue with their own program."

ETSI has paid the state two million dollars thus far for their water right of 50,000 acre feet. Landowners can't help but be dismayed and angry that eminent domain, the right to cross private land, was sold for dollars alone.

Janklow has repeatedly stated this water sale is a one-shot deal. However, area landowners do not feel that this justifies usurping individual people's rights. Landowners think the state should protect the rights of its individual citizens against more powerful interests. "The proper function of the government is to protect the rights of people, not to circumvent them by coercion, bluff or any other way," comments one area rancher.

The easement agreement asked to be signed for the ETSI corporation states the use to be for "transportation of water, oil, gas, coal slurry or any other substances which can be transported through pipelines on, over, under and through certain lands..." although they secured the right of eminent domain only under a water rights law.

In January, legal notices appeared in western South Dakota newspapers, informing people they were to appear before the Water Management Board on February 4th with proof they were still making use of their riparian water rights on their land, the assumption being that the rights of those who did not appear would be in jeopardy.

However, in addition to being illegally filed without proper notice, the notices were published by land description and contained only the names of the original landowner, many in the 1800's. Consequently, many individuals remain unaware that their water rights are subject to removal.

Ironically, the very same day that the Water Management Board planned to debate individual citizens' water rights, they made official their decision to grant the ETSI corporation 50,000 acre feet of water.

Henry and others see a direct correlation between these two Board actions and are afraid that the state is taking away water rights from citizens to sell it to large energy corporations.

As one landowner stated, "Citizens assume what the government is doing is legal. They can operate without legal benefit knowing the citizen is limited in terms of resources to combat it and often lacking in knowledge of the legal process."

(ETSI cont. from page 5)

cleanly bypasses all federal land within the state and all Indian lands.

There is no discussion of costs/benefits relating to the basis behind particular choice of this route. There is no in-depth discussion of the impacts to wildlife or cultural/historical sites along the route.

Dr. Perry Rahn, hydrologist at the South Dakota School of Mines and Technology, has stated that the project demands an EIS to adequately address the many concerns and questions which have been raised.

In the face of evidence presented before them, the South Dakota Water Management Board feels a decision requiring an EIS is outside of their jurisdiction. We question their function if this Board is unable to review the only document which is required to substantially assess the entire project.

The question of Indian Treaty Rights has also not been addressed adequately in any of the hearings or the ETSI contract itself.

The 1868 Fort Laramie Treaty guaranteed land from the east bank of the Missouri River westward. This in turn guaranteed that the Lakotas were to claim the Missouri River itself. This treaty, an agreement between sovereign nations, is an international agreement which, in article 6 of the US Constitution, is said to be part of the supreme law of the land on par with the constitution itself. Some have argued that the 1868 Ft. Laramie Treaty was undercut with the passage of the Indian Appropriations Act which said that the US will no longer make treaties with Indian nations, specifically stated that the law would not affect in any way treaties that were duly ratified before 1871. Other laws which attempted to steal lands and rights failed to measure up to the conditions of obtaining the approval of three-fourths of the adult Lakota males which the 1868 Treaty, an international agreement, specified.

"Lakota Nation legally owns the water is the issue, not whether they use it for industrial pumping"

There were no legal notices of any of the three Water Management Board hearings on Indian reservations in South Dakota. Not one Indian newspaper was given the notice to be printed.

"The 1868 Fort Laramie Treaty has not been addressed adequately"

There are those who would argue that since the Lakota have not exercised their prior right to the water and therefore it is fair game for the state. This is exactly the argument that was used to steal the people's land in the past. The fact that the Lakota Nation legally owns the water is the issue, not whether they use it for industrial pumping. They can simply let the Missouri River maintain its relationship with the rest of creation around it if they wish, just as other legal land and water owners may do what they wish with their property.

Like those of the Indians, states rights and needs are being ignored. We must not look at this solely as a South Dakota problem.

Gary Halloway, public affairs officer of the Corps of Engineers, comments of the water sale, "It presents questions of national scope that require national answers". This sale is a precedent setting endeavor where the scales of the fight over our scarce water will be tilted toward those who can pay the highest rate, INDUSTRY.

Rivers know no boundaries. What steps South Dakota takes to deplete the Missouri River will affect downstream states. To this date, there has been no study to determine how much water can be taken out of the Missouri River before marked effects are shown.

"We find the program has been rushed into implementation" —John Ashcroft

In a letter from John Ashcroft, Attorney General of Missouri, to the Bureau of Reclamation, he addresses some of the concerns:

This importance is not based upon the withdrawal of twenty or fifty thousand acre-feet from the Missouri River, but rather that this is the beginning of wholesale withdrawals of one million acre-feet or more. The program of one million acre-feet was originally designed in 1977 by the Bureau of Reclamation for energy development.

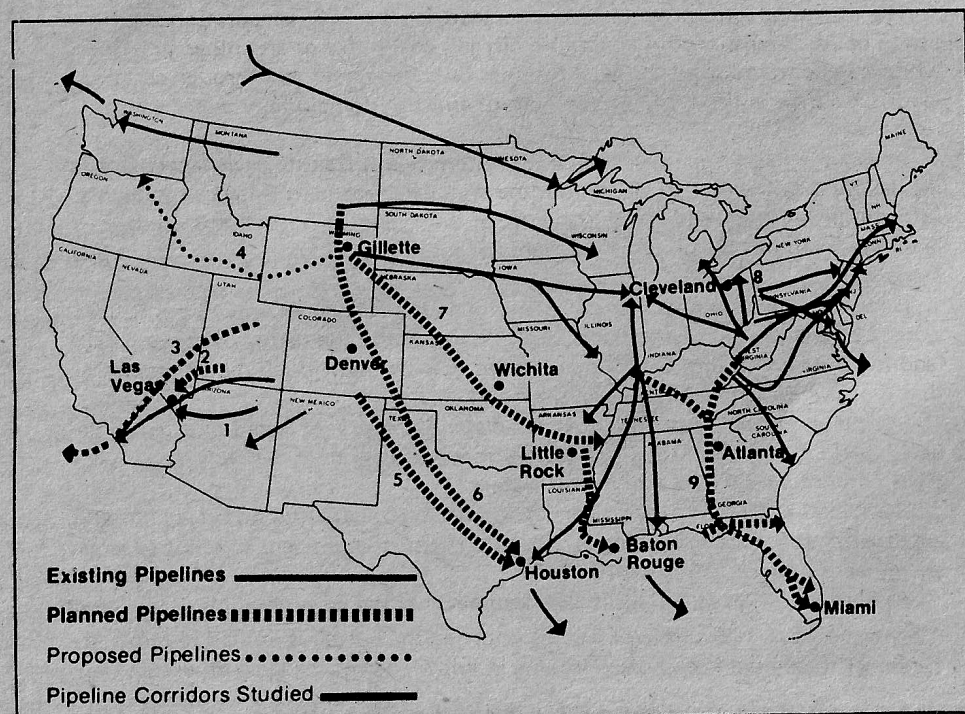
Now, in fulfillment of that

original program, we see this contract for water to be transported out of the basin for a coal slurry pipeline. In addition to this one million acre-feet for coal production, there are possibilities of even larger water sales in the future for huge oil shale projects.

Legitimate demands for indus-

trial use of Missouri River water must, of course, be considered. Such use cannot be justified under the hurried, unilateral, even secretive, conditions that have characterized the beginning of this program. Less than half a year ago this program was only a matter of planning and superficially discussed alternatives.

- July 26, 1973 Bechtel forms Energy Transportation Systems, Inc. (ETSI), a joint venture whose first proposal is to build a coal slurry pipeline from Gillette, Wyoming to Arkansas.
- July 27, 1973 Bechtel receives a \$418,000 government research contract to study coal transportation methods, without mentioning the existence of ETSI Corp.
- December 5, 1973 ETSI applies to the Bureau of Reclamation for 75,000 acre feet of water from the Oahe Reservoir. The Bureau was still working on this permit application as of November 4, 1974.
- February 21, 1974 Cole McClure, ETSI geologist, claimed that Madison aquifer water was "too poor quality to use domestically or for agriculture". ETSI receives a groundwater permit for the Madison
- April 4, 1974 ETSI applies to the Bureau of Reclamation for 19,000 acre feet of water from Shadehill Reservoir in the Missouri river basin. A letter from Ed Wasp (ETSI executive vice-president) states, "We believe that the state of South Dakota has no interest or jurisdiction in the matter".
- 1977 ETSI tries to get water from Oahe reservoir from the state of South Dakota. The bill, however, was vetoed by the then Governor, Richard Kneip, who stated, "I believe it is neither constitutionally correct nor wise policy for the state of South Dakota to legislate valuable property rights and business advantages to private corporations".
- June 22, 1981 One month before the Final Environmental Impact Statement was published, ETSI requested from the Bureau of Reclamation that water be removed from Oahe reservoir, rather than the Madison aquifer. This request was purposefully delayed until after the EIS was published. The Bureau knew that the EIS was, at that point, inaccurate but did not pass on that information to the Bureau of Land Management, the lead government agency for the EIS.
- July 17, 1981 The EIS was published—stating that the Madison aquifer would be the primary water source.
- September 16, 1981 The EIS comment period closed. The Bureau of Reclamation received the go-ahead from ETSI to publicize their intent to draw water from the Oahe. On this same day, Gov. Janklow announced that the state had been conducting secret negotiations with ETSI and called for a special session of the legislature.
- September 23, 1981 The Special Session convenes and in two days authorizes three new bills, one of them granting 50,000 acre feet of water to ETSI.
- December 10, 1981 Public hearings held before the Bureau of Reclamation, even though the necessary water permit from the state had not yet been granted (from the Water Management Board) and no contract had been signed. Sec. of Interior, James Watt, is expected to give his final OK in March.
- December 23, 1981 The contract between ETSI and the state is signed.
- January 5, 1982 Hearings conducted before the Water Management Board. A continuance was asked for by the Alliance and granted. Additional hearings were held January 14 and 21, 1982. Approval for the 50,000 acre feet water permit to ETSI was given.
- February 4, 1982 The Black Hills Alliance announces its intention to file a lawsuit against the ETSI Corp.
- February 6, 1982 The Water Management Board issues its official approval of the water permit.



This map was published by the Slurry Transport Association

We're Talking About Survival

The near future still looks bright for most comfortable Americans because they are accustomed to living only for the present, giving little if any thought to what waits in the years ahead.

Future generations may inherit an Earth environmentally devastated by corporate greed and governmental mismanagement and indifference to the natural world. Even the oceans are polluted with the wastes of industry

and agriculture.

If we care about Mother Earth and the kind of world our children will inherit then we must fight to protect what is left of the natural world. There is really no choice left in the matter; either you fight the forces of waste and pollution or you participate in that waste and pollution. South Dakota has as much to lose as any other state.

The pollution of the underground waters must stop and the rivers must be cleaned up. Janklow must not be allowed to take billions of gallons of the Missouri River and turn it over to Bechtel and their corporate friends so they can make a few extra dollars while depriving South Dakota's children of the water they need to survive.

Water is the essence of life and it is time the people of this continent started treating it as such.

Thank You

The Alliance Needs Your Help

In the mid-1970's, Union Carbide Corporation announced plans and secured permits to develop uranium on Sacred Indian land in the southern Black Hills.

In 1979, the Black Hills Alliance organized in response to Union Carbide's work and the proposed uranium development of some two dozen other energy companies, and began massive public outreach on the true nature and dangerous consequences of uranium exploration, mining, milling and transport.

We also initiated many legal actions against Union Carbide, Kerr-McGee, Tennessee Valley Authority and others. In 1981, Union Carbide abandoned its Craven Canyon uranium project, transferred their corporate representative out of South Dakota and closed their local office.

Exploration plans of other companies were similarly abandoned. The battle against uranium development in the Black Hills has been won temporarily.

Now ETSI has secured permits to mine South Dakota water to use for a coal slurry pipeline from Wyoming to Arkansas. The precious water of this semi-arid region—upon which ranchers, farmers, other landholders and downstream states are heavily dependent—will be used to transport western coal reserves which may well end up on freighters to Europe.

The Alliance has initiated a massive information campaign exposing the wantonness and long term destructive effects of the ETSI pipeline project.

Thousands of people throughout the state are frustrated by the way the state government played right into the hands of ETSI—a subsidiary of four of the largest energy companies and one huge investment firm. Area landowners are organizing in response to ETSI's contractual rights to use the power of eminent domain to cross private land with their pipeline. Indian people are witnessing another massive theft of their resources because the Missouri River was guaranteed to the

Lakota in the 1868 Fort Laramie Treaty.

The Black Hills Alliance is preparing a lawsuit against ETSI and the state of South Dakota to expose the irresponsibility of the pipeline project. It will do more than attempt to halt pipeline construction before it begins: it will unite coalitions of diverse people from throughout the state and the Missouri River Basin region in a joint effort to protect water—our most precious, irreplaceable resource.

We need your participation. Contributions to the Alliance are always used wisely and are stretched to accomplish the greatest amount of work.

Please help this work by contributing as much as you can to the Black Hills Water for Life Campaign. Your contributions are tax-deductible. Details of ETSI's project and the actions of the state government are documented throughout this special water issue.

The people of this region, our children and grandchildren, will be the ultimate beneficiaries.

"The most accurate comparison for a Bechtel project in some of these remote places is the Allied invasion of Normandy in 1944. Assuming civilization doesn't bomb itself into ruins and assuming it continues to consume raw materials in a voracious way, the next generation of Bechtels have their work cut out for them—a quintessentially American clan of dam builders, mine diggers and openers-up of the wilderness." —Forbes Magazine

"Corporate created manipulation of economics and recession is just another way of attempting to still the voice of the people." —John Trudell

"We are going to be the Saudi Arabians of water...." —Gov. Janklow

"This is the beginning of wholesale withdrawals of one million acre-feet or more." —John Ashcroft, Attorney General of Missouri

"We hope to have other projects once we get this underway and the keystone for other projects would be the water rights for 30,000 acre-feet." —E. J. Wasp, ETSI Vice President

"The ETSI contract, made behind closed doors is a well-orchestrated plan to allow for the corporate theft of Indian water rights in South Dakota." —Pat McLaughlin, Standing Rock Tribal Chairman

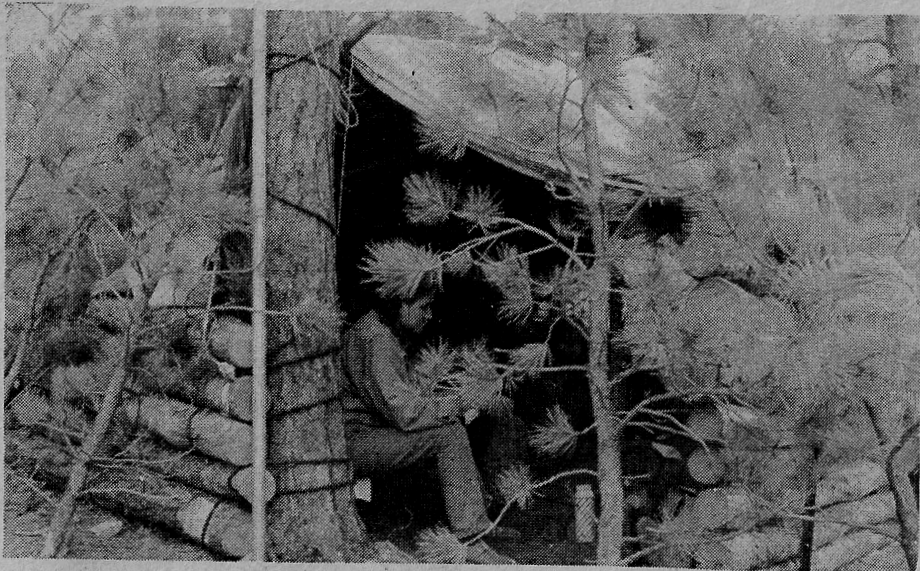
"I think the governor (Janklow) pulled off a brilliant and creative suggestion." —James Watt

"They (ETSI) will proceed according to the degree that people will not resist. They try to exhaust you physically, emotionally and financially, knowing full well that they have the resources to continue with their own program."

"The one thing we've got to understand is, we're in the fastest race we've ever been in, in our lives. It's called he who puts the water to first use is the one who gets it." —Governor Janklow

"This shining water that moves in the streams and rivers is not just water but the blood of our ancestors. If we sell you land you must remember that it is sacred and that each ghostly reflection in the clear water of the lakes tells of events and memories in the life of my people. The water's murmur is the voice of my father's father."

—Chief Joseph



Solitude found at Yellow Thunder Camp

Konstantine Sautier

CHRONOLOGY OF EVENTS

- APRIL 4, 1981 Dakota American Indian Movement establishes Yellow Thunder Camp.
- APRIL 6, 1981 Yellow Thunder Camp files claim for 800 acres of U.S. Forest Service land with Pennington County, S.D. officials and with the U.S. Forest Service.
- APRIL 22, 1981 Yellow Thunder Camp files Special Use Application with the U.S. Forest Service to build permanent structures.
- MAY 1, 1981 Yellow Thunder Camp requests meeting between traditional spiritual leaders and Secretary of Agriculture.
- MAY 29, 1981 Yellow Thunder Camp files amended Special Use Application along with detailed report.
- JULY 8, 1981 U.S. Forest Service conducts hearing on Special Use Application. Majority of participants testify in favor of Special Use Application.
- JULY 23, 1981 38 members of the U.S. House of Representatives ask the U.S. Forest Service to approve the Special Use Application.
- AUGUST 11, 1981 Yellow Thunder Camp submits application to the Secretary of Agriculture and Secretary of Interior for the withdrawal of the 800 acres of Yellow Thunder Camp from the public domain.
- AUGUST 25, 1981 James Mathers, Black Hills National Forest Supervisor, denies the Special Use Application and orders an eviction of residents of Yellow Thunder Camp by September 8, 1981. Mathers' denial was based on an Environmental Assessment of Yellow Thunder Camp and the Special Use Application.
- SEPTEMBER 7, 1981 The International Indian Treaty Council submits documentation on Yellow Thunder Camp to the Sub-Committee on Racism, Decolonization and Apartheid of the United Nations Commission on Human Rights, which responded with a resolution of support.
- SEPTEMBER 8, 1981 Yellow Thunder Camp appeals order to evacuate present site to Chief Peterson.
- SEPTEMBER 16, 1981 Chief Peterson denies appeal of evacuation order.
- SEPTEMBER 24, 1981 Attorney for Yellow Thunder renews request for meeting between traditional spiritual leaders and the Supervisor, Black Hills National Forest.
- SEPTEMBER 28, 1981 Mathers denies request for meeting with traditional spiritual leaders.
- OCTOBER 5, 1981 Hearing was held in Federal District Court in Pierre, S.D. U.S. Government agrees to seek a Court Order before taking forced removal action against Yellow Thunder Camp.
- NOVEMBER 3, 1981 The Bureau of Land Management denies the Special Use Application for withdrawal of 800 acres from the public domain.
- NOVEMBER 19, 1981 Chief Peterson denies request to meet with traditional spiritual leaders.
- DECEMBER 4, 1981 U.S. Government places an injunction stopping construction of the temporary geodesic dome. Hearing was held in Federal Court, Pierre, S.D. where the Court agrees to completion of the dome.
- JANUARY 18, 21, 1982 Yellow Thunder, A.I.D. and the International Indian Treaty Council object to the Proposed Draft Environmental Impact Statement and Plan for the Black Hills National Forest on the basis of no notification, disregard for cultural resources, and lack of input from traditional spiritual leaders despite their availability and opportunity to do so.
- FEBRUARY 1, 1982 The International Indian Treaty Council, on behalf of Indian people in the Western Hemisphere and for the 6th straight year, participates in the United Nations 38th Commission on Human Rights presenting documentation of violations including the case of Yellow Thunder.
- FEBRUARY 18, 1982 Representative Shirley Chisholm elects to sponsor legislation for the protection and continuation of Yellow Thunder Camp.

On the Rough Road to Yellow Thunder

Smokey, from Standing Rock runs the sweats which are held most mornings and evenings. He is often the one to offer prayers and food to the spirits before meals.

"When I was on the reservation I did the usual thing, got drunk," explains Smokey. "When I joined Dakota AIM, I quit drinking. We don't drink here. And, we're not on the reservation and forced to receive handouts. I feel rich here, even though I have no money," he added.

There are no elections at Yellow Thunder. "We want to get back to traditional ways," Smokey said, "where the chief is a servant of the people." The intent is to make decisions through the traditional means of discussion and consensus.

At 51, Eugene from Pine Ridge is the oldest resident, although tribal elders like Matthew King and Frank Kills Enemy visit the camp. "There's nothing to do on the reservation. You can't get no job. It's just drunks fighting each other," Eugene said.

Alberta agrees. She brought her three children to Yellow Thunder to give them a better life than they could ever have on Pine Ridge. "I was afraid to let them go outside down there. There were always cars speeding past. Fights. People breaking windows. Down there the yards are made of broken bottles," Alberta said.

The "yard" at Yellow Thunder is very different. It is made of pine and ash, hickory and aspen, a silver creek, a multi-hued emerald lake, and towering canyon walls. Looking down at Yellow Thunder from the Ridge rising above it, "is like a view from an eagle's nest. I can see that is one of several non-Indians staying at the camp.

"It's good to have wasicus learning about how we really are." "People back east think we still wear buckskins," according to the camp's residents.

What Yellow Thunder's residents most want was summarized by George, "We want to set an example of self-sufficiency, to show Indian people it can be done," George said. "We don't want tribal governments or the BIA. We just want to be left alone."

To get to Yellow Thunder Camp, you take the highway a few miles,

then turn down a narrow road consisting of potholes, ruts and a little dirt.

Camp resident Scott believes this is as it should be. "White society is a highway," Scott says. "It's paved, easy. Our road is bumpy. It's a hard road. The colors of a highway are black, white and yellow. The only red you see is when it's our blood."

Life at Yellow Thunder is certainly no super highway. People who live there have forsaken houses for tipis and tents, furnaces for homemade wood stoves fashioned from barrels, faucets for creeks, telephones and stereos for birds and coyotes. They have turned off Chips, The New FBI and Love Boat for stories around a campfire.

Why?

"I wanted to do something for my people," explains one Yellow Thunder resident of Fort Totten Reservation in North Dakota. "You can't on the reservation because there's so many people trying to stop you. Here we are getting back to our heritage, letting ourselves be Indians."

A central part of that heritage is language, and there are daily Lakota classes for adults as well as children. "It scared me on the reservation when I found I couldn't pronounce my own words anymore," says Jeanette. "Once you forget your language, you forget yourself."

Yellow Thunder residents work throughout the day preparing for the coming seasons. In the morning, three or four women cook a large breakfast such as pancakes, eggs, rice, potatoes, oatmeal or beans. Two or three others clean the camp's other meal, a dinner which usually consists of a meat and vegetable soup with fry bread.

During the day the women teach the children, sew quilts and vests, or prepare tipi poles. Single women take turns at the communications shack. Men chop and haul firewood, cut and strip tipi poles, build barrel stoves, stand security, build fires, and winterize tents and tipis.

"It's not a vacation. This isn't an R.V. campground with television, electric shavers, and can openers," James said.



Overview of Yellow Thunder Camp

Konstantine Sautier

★ ★ 10,000 People Evicted ★ ★

The Traditional Diné of Big Mountain and the Traditional Hopi are still facing eviction from their ancestral homelands. As of this date, 10,000 Indian people will be affected by the U.S. Government PL 93-531. This law will force Indian people to relocate from their ancestral homelands, reduce their livestock, fence their homeland, and force the elders into a life-estate program.

The Senate Subcommittee on Indian Affairs are authorized by Public Law 93-531 to carry out the law of the land. The Hopi-Navajo Relocation Commission is just another apparatus of the federal government to complete their genocide and ethnocide against Indian people of this region.

Of course, the real reason lies under the Joint Use Area (JUA). Oil, coal, natural gas, and uranium have been discovered to this date. Peabody Coal

Company and other multi-national corporations with the cooperation of the federal courts have used divide and conquer methods to manipulate laws in their favor.

As of October 29, 1981, Senator Goldwater, R-Arizona, introduced the following bill into the 97th Congress, 1st Session, S. 1975, to exchange certain land of the Hopi Tribe for certain lands of the Navajo Tribe. This land exchange bill will once again bring a federal mediator to achieve negotiations between the tribes.

This bill is directed to solve the Big Mountain matter, but they don't understand that this land exchange would also affect other Diné living in the joint use area (JUA). Because other Diné communities in the joint use area (JUA) are against the proposed land exchange.

The U.S. government and the multi-

national corporations will continue to discriminate and continue their acts of genocide and ethnocide against Indian people of this region. The acts include the brutal colonization to open the way for the plunder of their land and resources by commercial interests seeking maximum profits; the massacres of millions of native peoples for centuries and the continuous grabbing of their land which deprives them of the possibility of developing their own resources and means of livelihood.

Also, the denial of self-determination of indigenous nations and peoples, destroying their traditional value system and their social and cultural fabric. The continuation of this oppression, resulting in the further destruction of the indigenous nations and peoples.

For more information, contact: Larry Anderson, P.O. Box 948, Fort Defiance, AZ 86504 (602) 729-5104

(Butler cont. from page 10)

P. 9

in his cell so that he "might pray with them to Our Creator anytime of the day and night". As a result of this fast, they won the right to their own religious ceremonies, a right which had long been denied to all Native prisoners.

However, this recognition did not carry over into the court process. The jury panel was composed of 59 white people and one East Indian. The selection process of taking names from the voters' list excludes transient populations such as young people and Indians and is not representative, but a motion to that effect was denied. A motion to allow the Pipe, symbolizing truth and connection with God, to be allowed in the courtroom was also denied. Following the denial of these motions, the Butlers dismissed their attorney and declined to actively participate further in the legal proceedings. John Trudell stated, "We're tired of 400 years of being denied this right to talk to white people honestly. It's like as if you've been accused of crimes and they wouldn't give you the Bible to tell the truth on. It's freedom of religion."

Although conflicting evidence was presented by the prosecution, the Butlers held firm to their conviction that they were entitled to a fair, just trial with their symbol of Truth present and declined to defend themselves throughout the trial process.

In a closing statement Dino speaks, telling the court he is a Pipe Carrier of the Tuney tribe of Oregon's Siletz Indians.

"The voice you hear coming from me today is not my voice alone: it is the voice of generations before me and generations to come. Because I was denied my right to have my Pipe in this courtroom I felt I was not all here, a part of me was not here."

He told the court they had only heard half the truth.

"I am not a criminal," he said. "[In jail] I prayed hard, really hard, that I would not hate my enemy that tries to suppress my spirit. We still believe that we still have our shackles by being denied our religion in this courtroom. My brother and I, we begin to feel a little bit like Jesus Christ when he was nailed to the cross. It is not a good feeling."

Dino explained the situation when he would not raise his head for Reilly to identify him. Standing with arms outstretched, he said he lifts his head to the sky and the wind to pray, "and I could not lift my head to that hypocrite who was lying after he swore on the Bible."

Gary asked to have John Trudell, his people's Pipe carrier, address the jury. The request was denied on the basis that Trudell is not a member of the Bar in British Columbia.

The jury deliberated less than two and one-half hours and returned a verdict of guilty, although they reduced the charge from attempted murder to attempt to wound. Gary and Dino were returned to jail and are awaiting sentencing. And the struggle goes on, aided by The Society of the People Struggling to be Free, Station K, P.O. Box 69092, Vancouver, B.C., Canada.

Freedom of Information Act Threatened

By Susan Braunstein

The Freedom of Information Act has helped investigative reporters and the general public obtain information on the government and corporations for several years.

The Reagan administration is frightened of criticism and accurate reporting, much of which has taken place with the help of this particular act.

Some of the stories which have been reported due to records obtained through the Freedom of Information Act include the army's testing of biological and chemical warfare techniques on whole cities, the FBI's illegal activities in the COINTELPRO program and the CIA's drug experiments in the MK-ULTRA program.

In order to dismantle the power of the act, Senate Bill 1751 has been proposed. One of the bill's sections includes charging for the process of reviewing what is in the files, a free procedure now. The government has been charging for the cost of searching and copying documents.

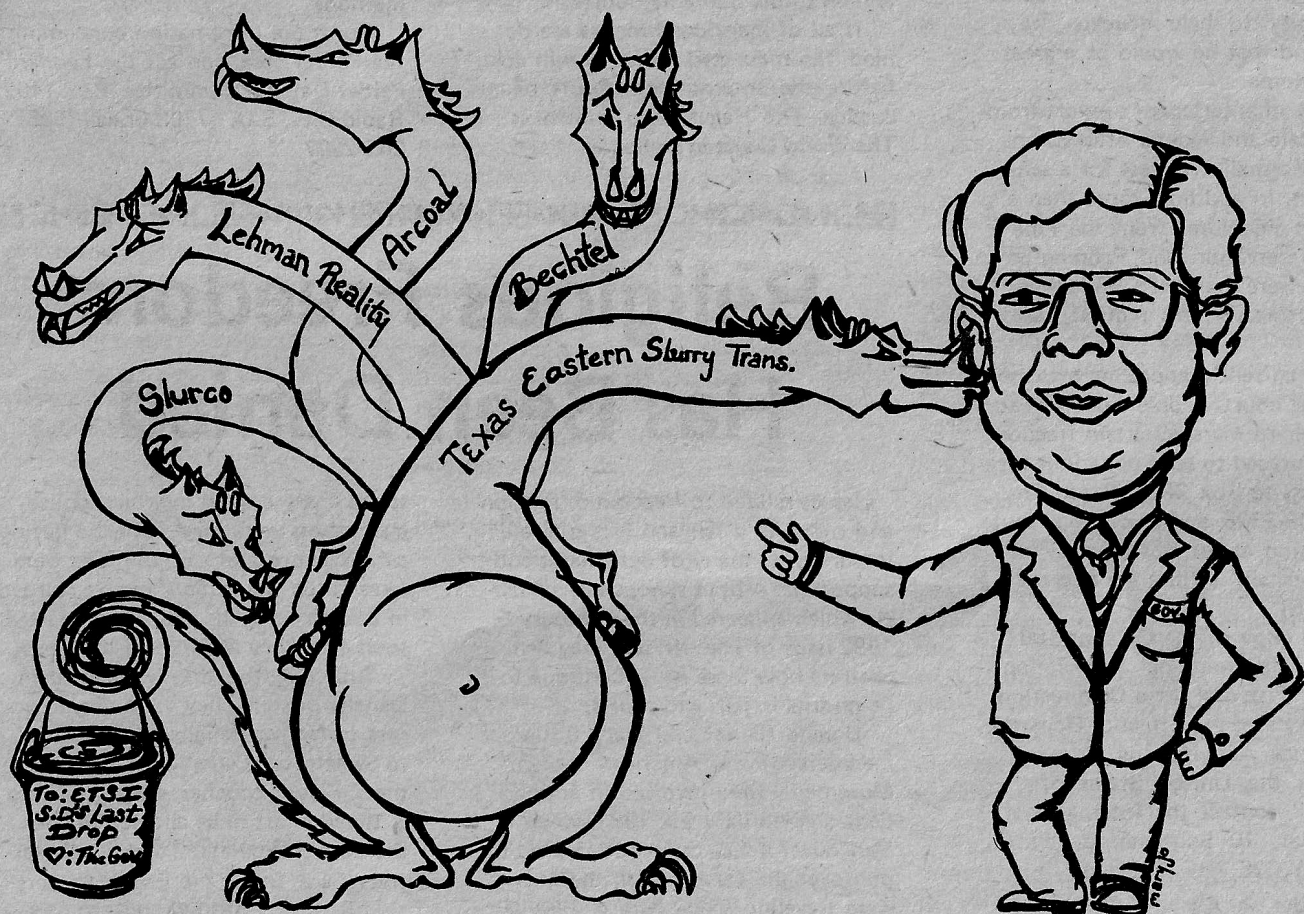
With the additional cost for review, most individuals and much of the media could not afford to look through the documents.

Also under the new bill, according to a report in Mother Jones, any law enforcement records could be withheld from an FOIA search. Information from "confidential sources" can already be withheld.

The proposed changes would expand the definition of "confidential sources" to cover any files provided by state, foreign or public agencies on a "confidential" basis.

In addition, entire categories of information could be exempted at the discretion of the attorney general if they are thought to have anything to do with terrorism, foreign counter-intelligence or organized crime.

If anyone wants to learn more about how to defend the Freedom of Information Act, they can contact the Campaign for Political Rights, 201 Massachusetts Avenue, N.E., Washington, D.C. 20002.



Marshall is Victim

By Evelyn Lifsey

Richard Marshall, a 31-year-old Oglala Lakota from the Pine Ridge Reservation was recently one of two men identified by the worldwide human right groups, Amnesty International, as a victim of injustice in the U.S. court system.

Amnesty International, a London-based group, identifies political prisoners in countries throughout the world. This is the first time they have focused on prisoners in the United States.

In a 144-page document issued October 1981, Amnesty International (AI) states that evidence exists to show that the Federal Bureau of Investigation obstructed justice in cases involving human rights activists Geronimo Pratt, of California, and Richard Marshall.

Richard Marshall had long been active in the struggle for land rights in Indian country and was a founding member of the Oglala Sioux Civil Rights Organization which started in response to Pine Ridge Tribal Chairman Dick Wilson's terrorist regime.

In 1975, Marshall was arrested, along with Russell Means, in connection with the shooting of a man named Martin Montileaux, who was found wounded in the restroom of the Longhorn Bar in Scenic, S.D. (See BHPS Report 12/80). When Montileaux died in Rapid City Regional Hospital six days later, Marshall and Means were charged with his murder.

Means and Marshall were tried separately. Marshall was convicted in April 1976. Means was acquitted in August that same year. The crucial difference in their trials was the testimony of a young woman named Myrtle Poor Bear.

Myrtle Poor Bear was supplied by FBI Special Agents David A. Price and William B. Wood to the state seven days before Richard Marshall's trial began. She was a surprise witness, and requests by the defense to delay the trial to find out more about Ms. Poor Bear were denied. Additional requests for Poor Bear's medical records were also denied.

Poor Bear testified that Marshall confessed the shooting of Montileaux to her. It was not learned until after the trial that her testimony was completely false.

For several periods between January and March 1976, Agents Price and Wood kept Myrtle Poor Bear in various motels throughout the Black Hills area. In addition to making a false statement about Richard Marshall, she signed three contradictory and completely false documents concerning Leonard Peltier, an Indian activist currently serving two life sentences at Marion Federal Penitentiary in Illinois.

Ms. Poor Bear later admitted that all her testimony concerning both Marshall and Peltier was false, and that the agents threatened her and the life of her child. She also stated that Agents Price and Wood showed her pictures of the body of Anna Mae Aquash who had been found murdered on the Pine Ridge in February 1976, and told the same thing would happen to her. Agent David Price admitted in court that he did show Poor Bear

pictures of Aquash's corpse.

In addition to the fabricated statements, it was discovered that Myrtle Poor Bear had a long history of mental disturbance and drug abuse. In a post-conviction hearing in 1979, members of Myrtle's family testified that she had trouble telling fact from fantasy since childhood.

The FBI was criticized for its misconduct in federal court, and a U.S. prosecutor before the Eight Circuit U.S. Court of Appeals called Poor Bear "utterly incompetent" as a witness.

The Amnesty International report details the behavior of Special Agents Price and Wood with regards to Myrtle Poor Bear and indicates that this could be a sign that similar FBI misconduct took place in other criminal cases involving human rights activists.

Richard Marshall has had an excellent prison record for the nearly six years he has been behind the walls. He is the first Indian serving a life sentence to receive full trustee status, and has worked successfully to reduce drug use in the prison, and to increase cooperation among different racial groups.

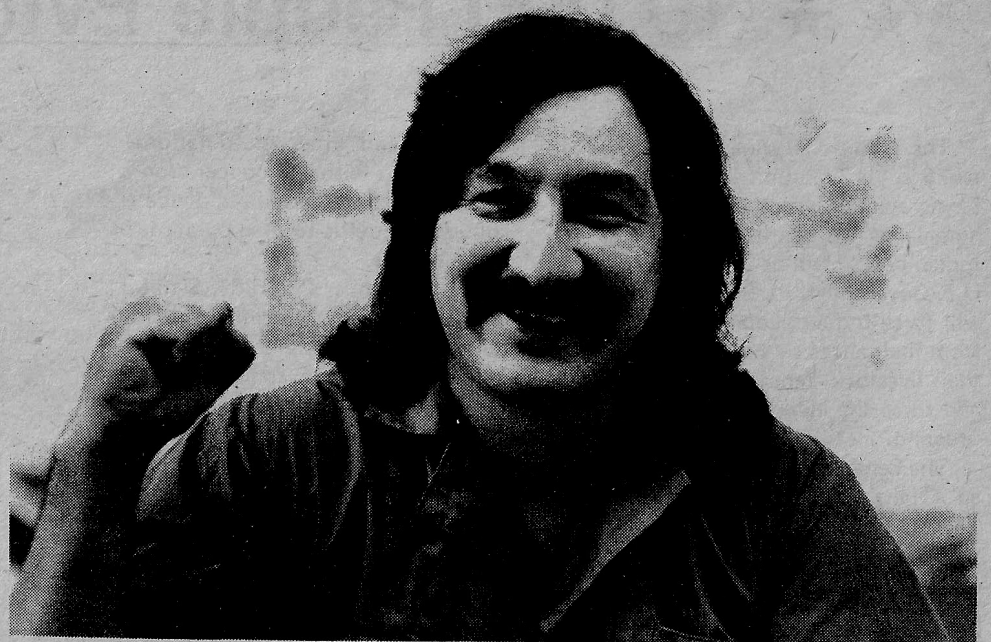
He has been appealing his conviction for several years. The South Dakota Supreme Court recently ruled against a new trial in a 4-1 decision. However, Chief Justice Wolman dissented, saying: "It is my opinion that [Poor Bear's] credibility would have been rendered far more suspect, if indeed that State would even have called her as a witness had [the defense] at the murder trial been aware of the information that has come to light since the trial."

In September 1981, Marshall appealed to the State Board of Pardons and Paroles for a cut in sentence that would make him parole eligible. (There is no parole from a life sentence in this state, the mandatory sentence for a murder conviction.) At the hearing witnesses testified that Marshall is needed in the Indian community to help educate the youth and that he would be a great asset at home.

Many other letters of support from tribal, state and federal officials endorsed Marshall's request for a sentence cut. In addition, more than a thousand signatures from the Pine Ridge Reservation and Pennington County were collected endorsing parole. However, his request was denied.

He is currently appealing his case in federal court. People who wish to help Richard Marshall attain freedom are encouraged to send donations for legal costs to Box 2398, Rapid City, SD 57709-2398, and to help distribute information about this case. "Free Dick Marshall" t-shirts are also available for \$7.

For a copy of the October 1981 Amnesty International publication entitled "Proposal for a Commission of Inquiry into the Effect of Domestic Intelligence Activities on Criminal Trials in the United States of America" contact the International Secretariat, 10 Southampton St., London WC2E 7HF, England.



Leonard Peltier's struggle continues in the court room

Bannon

New Trial Requested For Leonard Peltier

Attorneys for Leonard Peltier have reviewed thousands of F.B.I. files released to them through the Freedom of Information Act. These documents reveal that the government knowingly used false evidence to convict him. A new trial is being requested based on this new evidence.

Peltier was convicted and given two life sentences in Fargo, N.D. April, 1977 for aiding and abetting in the deaths of two F.B.I. agents June 26, 1976 in Oglala on the Pine Ridge Reservation in South Dakota.

He is presently in a maximum security federal prison in Marion, Ill.

The Peltier defense team hopes the new evidence can be utilized in a "writ of Habeas Corpus" in the request they plan to file with the U.S. Federal Court in Fargo, N.D.

If the U.S. Federal Judge Paul Benson denies the evidence, the writ will go through the appeals court process and on to the Supreme Court.

If all of mentioned means are denied, the requested new trial will go before the International Court of Justice—The Hague, also known as The World Court in Holland.

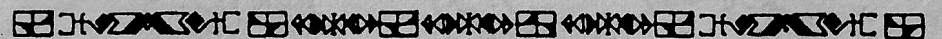
Since Peltier's sentencing, efforts have been made to help the public learn more about Peltier's plight and Native American concerns in many places.

One such event was the "People's Run for Leonard Peltier", a 710 mile run which originated in Buffalo, New York Sept. 2 and ended in New York City, Sept. 12, 1981.

"The People's Run" was carried out by runners in relays carrying Sacred Native objects, accompanied by a car caravan. Along the route, runners, organizers and supporters stopped for ceremonies, meetings and press conferences.

During the public meetings, runners told people about the threat to their reservation land and native ways in South Dakota where corporations are trying to obtain valuable mineral resources through unauthorized or illegal methods.

For more information concerning the Peltier case, contact the Leonard Peltier Defense Committee, Box 1492, Rapid City, S.D. 57709 or call (605) 341-2207.



Religious Freedom Has Been Denied

Issues related to freedom of religion and rights to a fair and just trial are important to many of our friends and supporters. A brief synopsis of an article which appeared in the February 5, 1982 issue of *The Ubysey* may demonstrate how these issues continue to be on trial in jails and courts.

Darelle (Dino) and Gary Butler, members of the American Indian Movement, were involved in an incident on February 23, 1981, when a Vancouver police cruiser attempted to pull over the car in which the men were traveling. They fled, and a high

speed chase ensued in which police claim shots were fired from the fleeing car. Weapons and ammunitions were seized after the Butlers' car overturned in Burnaby and the men were arrested soon after they abandoned the wreck.

Subsequently, they were held in Oahalla prison. They were denied access to Native Religious Ceremonies, to Sweetgrass, Cedar, Sage, Prayer Feathers, Prayer Pouches, etc., until Dino initiated a fast to be allowed to have the Sacred Pipe and Tobacco, Sweetgrass, Sage, Cedar and Eagle Feathers (Butler cont. to page 9)

Union Carbide Forced to Reclaim Canyon Land

Craven Canyon has been called by the Forest Service, "the most important wildlife area in the Black Hills". It is unique in its wildlife inhabitants. It has the highest concentration of Golden Eagles in South Dakota. It is the wintering place for Bald Eagles. Mountain lions are known to frequent this quiet paradise.

The Canyon was an important area of hunting for pre-Columbus day Indian bands. It is believed that this is the reason for the many cliff drawings in the area.

After a visit to this area by elder David Spotted Horse and other bands of the Lakota Nation, the significance of this area as a religious site was recognized.

The Alliance, working in conjunction with Indians and other local people, brought the attention of the sacrifice of this area by Union Carbide Corporation to the courts and the people. You, our supporters, responded, and we were able to continue our litigation.

July 22, 1981, the Supreme Court of South Dakota unanimously ruled to invalidate Union Carbide's uranium exploration permit. The Supreme Court decision overturned the Conservation Commission's and lower court's decision, ruling that the Alliance should be allowed to participate formally in the permit hearing process. Shortly thereafter Union Carbide announced that they would close their

operation in Craven Canyon. Their reasons for abandoning this project were the drop in the price of uranium, and the Supreme Court decision.

Union Carbide withdrew its operating plan before the court could rule as to whether a permit should be granted, leaving the Alliance case invalid. Federal District judge Donald Porter ruled on this matter. He states, "Small environmental groups such as the Black Hills Alliance, who are litigating in the public interest, should not be required to bear the brunt of lawsuits of this nature." He then ordered Union Carbide to pay restitution to the Alliance.

Although these were considered major victories, the battle was not over. The matter of reclamation was still at hand. The state law requires that the land be restored "as nearly as possible to the original condition". The U.S. Forest Service which oversees the area of Craven Canyon, only

recommended partial reclamation. The Forest Service felt that it was only necessary to partially restore the canyon wall, stating that it was infeasible to totally restore the adit site. They also proposed keeping the access road, the septic tank, dam, and culvert for future use. The State and the Black Hills Alliance felt that the law was to be followed.

The Board of Minerals and Environment had the last say in this decision, and agreed with the Alliance's conclusions of FULL RECLAMATION.

On Dec. 17, 1981, J. Phillip James of the U.S. Forest Service acknowledged the decision of full reclamation. Andy Reid's and Phyllis Girouard's exhausting effort as attorneys representing the Alliance, in conjunction with the support of the people, has shown that the destructive practices of the corporation can be stopped.

Mining Industry given Breaks in New S. D. Laws

by Donald Pay

Under laws recently enacted by the South Dakota Legislature, the permitting of mining and exploration within the state will be revamped. The overall effect of the new laws is to give the mineral industry a freer hand in development of the state's resources, while limiting scrutiny of mineral development by the state's regulatory agencies, local governments, and citizens.

The overhaul of exploration laws sets up two separate processes, one for uranium and one for non-uranium minerals. Exploration for non-uranium minerals will no longer require a permit from the Board of Minerals and Environment, nor be subject to a public hearing. The exploration operator must simply file a Notice of Intent to explore for minerals with the Department of Water and Natural Resources and abide by restrictions imposed by that agency, the Game, Fish and Parks Department, and the State Archeologist. Citizen input is not provided for and local governments are restricted to an advisory role. The exploration operator must begin drilling thirty days after filing the Notice of Intent.

Exploration for uranium will require a permit be issued by the Board of Minerals and Environment after public hearings. The permit is to extend for three years, rather than the one year prescribed by present law. Local ordinances which ban or restrict uranium exploration, such as those enacted by Bon Homme, Brown, and Day Counties, will be illegal under the new law.

The separate and somewhat more stringent permitting of uranium exploration is seen by some as a minor victory for environmental and citizen groups. However, there is little likelihood that an exploration company will admit to seeking uranium when it could circumvent tougher standards and a public hearing by claiming to be searching for other minerals. Citizen groups can counter such subterfuges by being aware of uranium "hot spots" and litigating in those cases where an exploration operator is trying to take advantage of this loophole in the law.

The exploration permits will allow for the construction of shafts and adits, test facilities, and waste impound-

ments under the definition of exploration. These structures are more properly considered a part of pre-mine development, rather than exploration. For non-uranium mineral development, these facilities can be constructed without public hearings and with only thirty days for consideration by state agencies.

The exploration laws do nothing to improve South Dakota's slipshod reclamation requirements. Exploration companies will be allowed to scatter potentially toxic drill cuttings and fluids on the land. Groundwater is supposedly "protected" by a monitoring scheme that has absolutely no basis in science. Bonding requirements will cover only about 10% of the cost of reclamation.

The new mining law codifies past reclamation practices and makes some procedural changes. A permit and a public hearing are mandatory for each new mining venture. However, the permit will be issued for "the life of the mine", rather than on the current "one year, renewable" basis. This change will restrict citizen participation to the initial permitting of a mine and preclude intervention in later years.

The new mining law is to apply to a broad spectrum of mining operations—from small sand and gravel excavations to huge gold and uranium mines. As a result, the law is a mishmash of simplistic and vague generalities that will not adequately regulate metallic and uranium mining. The consensus of the Board of Minerals and Environment is that much litigation will be forthcoming as the state attempts to implement this law.

The revised mining and exploration laws clarify and slightly extend the rights of the surface owner. However, land owners will still need expert witnesses and a good attorney to collect damages from the mining companies.

With typical stuffed-shirt hyperbole, State Senator Robert Williams (D-Aberdeen) touted the new mining and exploration laws as "model legislation which will be copied by other states." Not likely—unless other states wish to follow South Dakota into the poisoned wasteland of inadequately regulated mineral development.



Willie Nelson, Chief Frank Fools Crow, David Soul

Konstantine Sautier

Fundraising Concert Held

In the last three years, the Black Hills Alliance has brought in artists who are drawn here because they care about the welfare of our people, human rights and the protection of our Earth's resources. It is these rare occasions when the people of the Hills hear someone sing from their heart.

On November 27th Floyd Westerman, David Soul and Willie Nelson and Family sang their hearts out in a four hour benefit concert to protect our water. Willie Nelson sang for 2½ hours, including an unheard of 50 minute encore. The concert was more than a musical interlude. It was a coming together of people, not necessarily in a political manner, but because of common interests and heartwarming sharing.

Four thousand people came to this moving and enjoyable event despite the efforts of state officials and the

media to taint the integrity of this endeavor. For example, during concert promotion, the co-sponsors, Yellow Thunder Camp and the Black Hills Alliance, were made the issue by local media rather than the threat of depleting water resources, which was the advertised focus of the concert.

As Willie sang:

"I've been a lot of places in my life and time;

I've sung a lot of songs, I've made some bad rhymes.

I've acted out my love on stages, Ten thousand people watchin'

But we're alone now and I'm singin' my song for you."

the concert came to a close.

We thank the artists who sang to us, for their contribution to Yellow Thunder Camp and the Black Hills Alliance water campaign.

BLACK HILLS/PAHA SAPA REPORT

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