



# The Upper Peninsula ENVIRONMENT



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## Sylvania Saga Continues: Judge Issues Injunction on Motorboat Restrictions

In a surprise ruling, United States District Judge Robert H. Bell issued a preliminary injunction preventing the Forest Service from restricting the use of gas powered motorboats by "plaintiffs and their guests" on Crooked Lake in the Sylvania Wilderness. Regulations had gone into effect April 1, 1996, prohibiting the use of gas motors and allowing only small electric motors. The preliminary injunction was issued May 15, 1996.

UPEC representatives are very disappointed with the ruling. Nine years after the passage of the Michigan Wilderness Act, Crooked Lake had finally received protection from the abusive use of powerful high speed motorboats, only to have the regulations withdrawn six weeks after going into effect. Although the injunction only applies to the plaintiffs Kathy Stupak-Thrall and Michael Gajewski and their guests, the term "guests" is being applied quite loosely and the roar of motorboats fills the air on Crooked Lake.

The Forest Service has filed a motion for reconsideration on the preliminary injunction with Judge Bell. UPEC has filed for intervenor status in the lawsuit and also filed a motion for reconsideration of the preliminary injunction.

However, there is some good news. We won on Amendment No. 1. The entire Court of Appeals had agreed to rehear the lawsuit on Amendment No. 1 (which included all the wilderness restrictions except motorboats). UPEC attorney Walter Kuhlmann submitted briefs for the rehearing. In their final ruling, the appeals court decision was split seven to seven. This means the lower court ruling stands and Amendment No. 1 is affirmed. We win on Amendment No. 1 -- however, by an uncomfortably close

margin. The separate judges' opinions have not yet been published, so we do not know their individual reasoning in the case.

The Appeals Court decision should compel Judge Bell to rule in our favor on the lawsuit concerning Amendment No. 5 and motorboat restrictions. We are hoping for the best -- that Judge Bell will lift his injunction and issue a ruling affirming Amendment No. 5 to the Forest Plan. However, the issue has taken so many bizarre twists over the years that we are not taking anything for granted.

The motorboat proponents continue to be represented by the Mountain States Legal Foundation. We have received information that this organization is at least partly funded by donations from industrial corporations. Their litigation resources seem to be unlimited. This case illustrates the difficulty that small grassroots groups have in dealing with natural resource issues in the courts. It seems clear that whatever side loses at the district court level, an appeal will be likely.

All of this additional unexpected legal activity is draining UPEC's Sylvania Defense Fund reserves. The briefs that our attorney Walter Kuhlmann and his staff prepare require exhaustive research and documentation. If we are accepted as intervenors, we may be able to present oral arguments, which will be a tremendous opportunity, but it will also be costly.

We are urgently seeking additional tax deductible donations to the Sylvania Defense Fund. Please send your donations to UPEC, Sylvania Defense Fund, P.O. Box 847, Marquette, MI 49855. Any amount you can afford to donate will be greatly appreciated.

## Isle Royale Environmental Assessment Steers Away from New Incinerators

In a welcome move, the Environmental Assessment (EA) for solid waste disposal at Isle Royale National Park did not choose building three new incinerators as its preferred alternative for dealing with its garbage. The preferred alternative is shipping/disposal off-site with an improved recycling program. The garbage would be shipped off the island and disposed of in a licensed landfill and recyclables would be marketed.

In its comments on the EA, UPEC supported the preferred alternative. However, we urged the Park Service to incorporate a waste minimization program through both an awareness campaign and increasingly-stringent regulations that addresses all users and staff on the island to keep waste to a minimum. We also strongly encouraged the Park Service to investigate recycling opportunities on the Minnesota side of the island, since Minnesota has much better recycling opportunities. We also urged the Park Service to implement a household hazardous waste program that prohibits household hazardous waste from mingling with solid waste.

In earlier communications, the Park Service stated it may or may not use the incinerators during the 1996 season. The Park Service has since decided not to operate the incinerators and plans to run a test program in 1996. The test program will include mandatory recycling for employees and the concessionaire; voluntary recycling for visitors; and removal off-site of all garbage generated on the island.

Progress is being made. However, the EA still contained building

new incinerators as an alternative. UPEC will continue to watchdog this issue until the EA is finalized and funds are in place for the alternative system.

### MEC Gives UPEC Land Stewardship Grant

The Michigan Environmental Council (MEC) has awarded UPEC a \$3,500 mini-grant to participate in its Land Stewardship Initiative Program. Funded by the C.S. Mott Foundation, the Initiative supports projects that:

- \*Perpetuate natural environments and sensitive habitats;

- \*Restores and heals degraded environments and natural resources;

- \*Links people to the places they live in and know in a way that sustains and productive and healthy relationship.

UPEC will use its mini-grant to pursue a Land Conservation Outreach Project in conjunction with three U.P. land conservancies -- Yellow Dog Watershed Preserve; North Woods Conservancy, and Keweenaw Land Trust. The grant will help each conservancy produce publicity materials, including brochures and newsletters. It will also fund at least one workshop or educational event about land use planning and land conservation.

The League of Women Voters of the Copper Country received a \$3,500 grant as well, and UPEC will cooperate with the League in putting on the workshop/educational event, probably sometime this fall. The League will also use its grant to perform a land use planning survey in Houghton County.

Planning committee meetings have begun, with representatives from UPEC, the conservancies, and the League brainstorming about the workshop. Anyone interested in participating can call 906-482-4364 for more information.

Thanks to MEC for this grant to help UPEC foster a land stewardship ethic in the western U.P.!

### Decision in Timber Appeal Explained by Forest Service

In a recent victory on a timber sale appeal on the Hiawatha National Forest, UPEC and fellow appellants Sierra Club, Northwoods Wilderness Recovery and Michigan Biodiversity Project were

unclear why only one appeal point was addressed and the decision was silent on the other eleven appeal points. The point that was addressed was an inadequate cumulative effects analysis (what happens over time to forest plants and animals due to additional timber harvesting in nearby areas).

In a telephone conversation, Tom Peterson, the appeal reviewing officer for the Regional Forester, stated that the cumulative effects analysis was an over-riding issue and there was no way he could address the other issues until an adequate cumulative effects analysis was done. This was curious since some of our appeal points addressed alleged falsified and misrepresented survey information and it seems those points could have been investigated.

It could be, however, that the decision is really due to a recent lawsuit victory in Indiana based on an inadequate cumulative effects analysis. In that case, the court ruled the timber sale could not go forward.

Hiawatha Forest Supervisor Bill Spinner has assured us that the Forest Service intends to address all our appeal points when it revises the Environmental Assessment. We hope that the Forest Service takes our issues seriously, particularly our long-standing concern

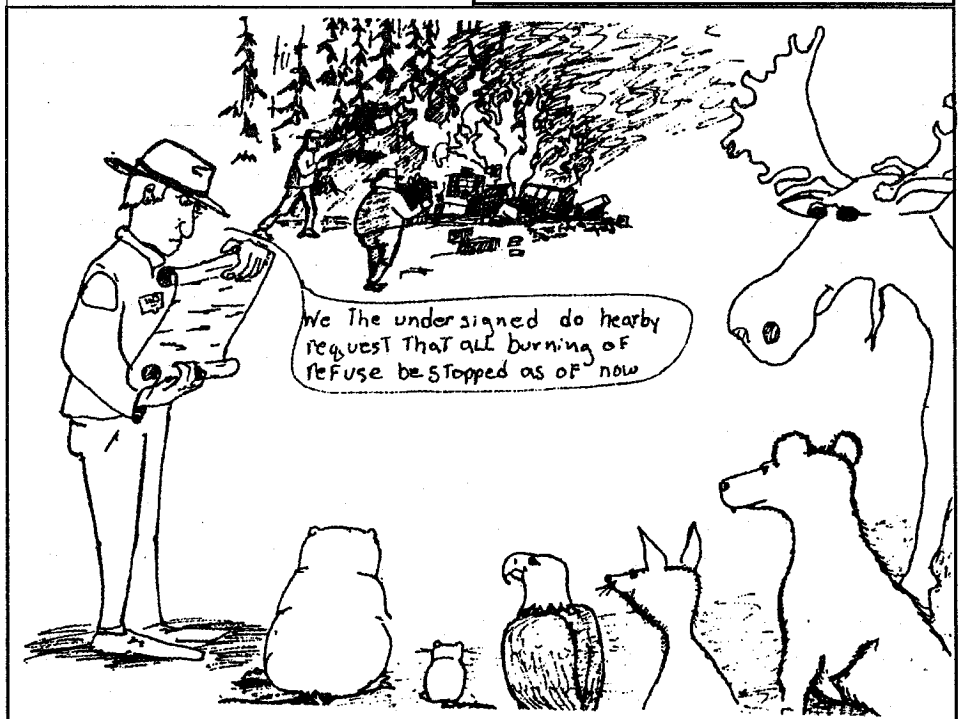
that plants and animals are not adequately surveyed for and that the trends of these species are not understood. We do not want to be in a position where we have to appeal this timber sale again.

### Bill to Ban Pictured Rocks Road Passes House of Representatives

Representative Bart Stupak succeeded in passing legislation that would ban a new road through the heart of the Pictured Rocks National Lakeshore. Mr. Stupak cited as one of his reasons for opposition is that the road could harm the lakeshore's endangered species, such as wolves. Mr. Stupak has not expressed concern about endangered species before, so it's nice to see him use this as a reason not to build the road. He also stated the road would destroy beautiful acres of forest.

Before it could become law, a companion bill would still need to be passed in the Senate. There's not many days left in this Congressional session. But who knows, it may happen yet that the road will die once and for all.

Fresh air reigns once more on Isle Royale since all use of unpermitted incinerators has been halted. Drawn by Wayne Stanley of Manistique.



The Upper Peninsula Environmental Coalition was organized on December 6, 1975. The goals of UPEC are to protect and maintain the unique environmental quality of the U.P. of Michigan; to evaluate and promote planning and sound management decisions for all the resources of the U.P.; and to work toward these goals through coordination of member groups, individual members, and public information.

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Membership in UPEC is open to all individuals and groups who wish to support the goals of the Coalition. Applications for membership should be sent to PO Box 847, Marquette MI 49855. News items and submissions to the newsletter should be sent to the same address. UPEC is a nonprofit organization [IRS 501(c)(3)] and dues and contributions are U.S. tax deductible to the extent allowed by law.

## Groups Tours Shelter Bay Forests

It was a lovely Sunday morning when folks from the North Country Trail Hikers, the Sierra Club, UPEC and assorted other individuals attended a tour of Shelter Bay Forests. We first had a tour of their headquarters, followed by a lively question and answer session. We got to ask questions about all the rumors we'd heard about the company (like has Kevin Kostner bought a bunch of lots in the Laughing Whitefish Point subdivision -- not true)

The real story is that Benson Forests became Shelter Bay Forests in 1994 when the Kamehameha Trust of Hawaii bought out Ben Benson. Shelter Bay Forests owns 300,000 acres of land it bought from Cleveland Cliffs International (CCI) and 100,000 acres from Connor Forest Products. The company no longer sells land for development and no longer holds the timber rights to additional CCI land. It also paid its way out of a contract that forced it to harvest four times its growing stock for a period of time.

Marty Wilk, President and CEO, explained that the company will be in a stage of restoration forestry for a long time to come as it focuses on growing mature saw timber instead of the clearcutting practices that were used by both previous owners of the land. The company harvests about 7 million board feet of saw timber and 100,000 cords of pulp per year right now. The long-term objective is to have a more even age class distribution throughout its lands.

Then the field tour commenced. We viewed several sites adjacent to Pictured Rocks National Lakeshore. The company is focusing on lessening the visual impact of logging. Slash is spread around, there are required setbacks from lakes and streams, tops are chopped and left on the ground, and soil compaction seemed minimal -- very naturally-appearing sites. Indeed, there

was a family camping right in the middle of an recently logged site.

The one thing the company has not addressed is an understanding of the plants and animals that make up the forest and how to lessen the impact of timber harvesting on these species. The chief forester, Russ Weisinger, told a story about how someone told him that it was good to leave 2-3 mature spruce per acre for golden-crowned kinglets and Blackburnian warblers. Russ related how he then saw the birds using the trees and the company now does this.

This is a great example of the type of management prescriptions that should and could be systematically incorporated into management plans -- instead of finding out this information by chance. UPEC's position is that it is possible to have sustainable timber harvesting -- but only if provision for the plants and animals who live in the forest are one of the foundation principles for forest management.

It was a good tour and it was much appreciated to see this kind of outreach from a timber company.

## Menominee River Frontage Up for Sale

Member Fred Walli of Powers alerted us that the Wisconsin Public Service Corp. proposes to sell 4,400 acres of land along the Menominee River it won't be needing. First consideration of purchase of the land is being given to the DNRs of both Michigan and Wisconsin. Both DNRs have stated they are interested.

These are beautiful, undeveloped stretches that may contain important Native American artifacts as well. UPEC certainly supports this type of purchase and will take steps to encourage the purchase. Fred stated it would be great if the Wisconsin Electric Power Company did the same with its land along the Menominee river system upstream.

**Yes! I want to protect the U.P.!!**

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/ \_\_\_\_\_

Zip \_\_\_\_\_ Phone \_\_\_\_\_

- ☐ I would like to support the goals of UPEC by becoming a member. My annual dues are enclosed (check one):

\_\_\_\_\_ Regular Member (\$15)  
 \_\_\_\_\_ Supporting Member (\$50)  
 \_\_\_\_\_ Student/Senior/Low Income (\$10)

- ☐ Here's an extra contribution of \$ \_\_\_\_\_.

- ☐ I want to protect Sylvania Wilderness by contributing \$ \_\_\_\_\_ to the Legal Defense Fund.

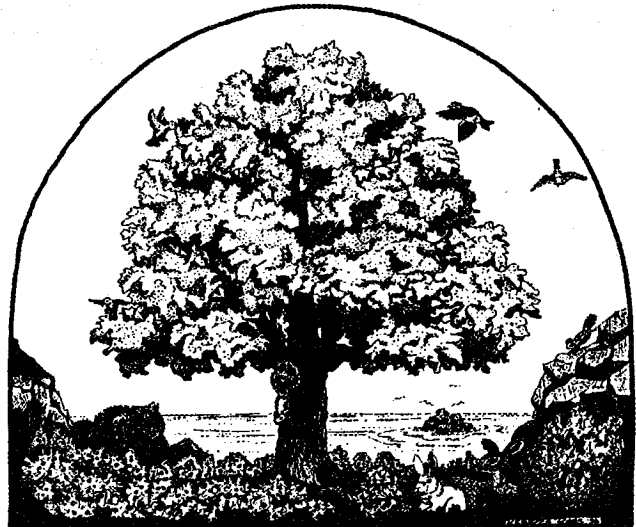
- ☐ I'd like to ensure the long-term viability of UPEC by contributing \$ \_\_\_\_\_ to the UPEC Endowment Fund. [For endowment checks only, if you make the check out to the Marquette Community Foundation (MCF) and put "UPEC Fund" on the memo line, you can take a 50% tax credit on your MI state income tax (up to \$200 for individuals, \$400 for couples). Mail to MCF, Attn: UPEC Fund, P.O. Box 185, Marquette, MI 49855. Or you can send your contribution directly to UPEC and take a regular tax deduction.]

**Exciting Field Trip Slated for August 10th**

The CUP Sierra Club group is inviting folks to join them on a field tour of the Shakey Lakes savanna, which is located north of Menominee. The Shakey Lakes savanna is one of the U.P.'s rarest and most threatened ecosystems. It should be peak flowering time for many native prairie species. DNR Wildlife Biologist Bob Doepker will be the guide. For trip details, contact Richard Posey at 906-226-7934.

**Final Dues Reminder**

For those of you who haven't sent in your 1996 dues, this will be your last newsletter unless you renew. Please respond -- we don't want to lose you!

**Upper Peninsula Environment**

**Upper Peninsula Environmental Coalition**  
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