



The Upper Peninsula ENVIRONMENT

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UPEC RECAPS SUCCESSFUL YEAR

Continuing into our 20th year as an all-volunteer watchdog of the Upper Peninsula, UPEC enjoyed another successful year. The year's highlights are briefly listed below:

Sylvania Wilderness Protection: The District Court and Court of Appeals have both ruled the Forest Service has the right to implement restriction that protect the wilderness values of Sylvania. Motorboat restrictions go into effect in April of this year. The battle is not over yet, but we're winning so far.

Pictured Rocks Road: UPEC and other groups alerted our memberships and the general public and over 600 comments were received on the proposal to gouge a new road through the heart of the Pictured Rocks National Lakeshore. Over 95% of the comments opposed the road. The Park Service has yet to rule.

Isle Royale Incinerators: UPEC continued the fight to keep new incinerators out of Isle Royale National Park and to shut down the existing incinerators.

Forest Protection: Working with other groups, UPEC was successful in getting the Hiawatha National Forest to finally designate 52,000 acres of old growth forest, as promised in 1986. UPEC is also working on both state and national forests for better

surveying and monitoring of plants and animals and protection of white pine and hemlock.

U.P. Conservation Plan: UPEC is aiding Northwoods Wilderness Recovery to design a system of protected areas in the Upper Peninsula to protect plants and animal species and their habitats. Northwoods Wilderness Recovery staffers were the guest speakers at UPEC's annual meeting in May.

Wise Use Debate: UPEC co-sponsored a debate on private property rights and whether private landowners should be allowed to do anything they want on their land or whether they have some responsibilities to protect common values, like clean air and water and habitat. Alden Lind of the Conservation Legacy Alliance debated Stephen Dresch of the Great Lakes Private Property Rights League.

International Joint Commission meeting: UPEC members attended the IJC meeting in Duluth and added their voices to those demanding that the governments phase out the use and discharge of persistent toxic substances.

Lake Superior Alliance: UPEC continues to be an active participant in the Lake Superior Alliance, a

coalition of groups concerned with Lake Superior protection. UPEC's voice is now added to dozens of other groups to watchdog the governments' Lake Superior Binational Program and demand that Lake Superior receive special protection.

APPEALS COURT RULES IN UPEC'S FAVOR -- NO GASOLINE MOTORS IN THE SYLVANIA WILDERNESS

By Bill Malmsten, UPEC President

The United States Court of Appeals for the Sixth Circuit has issued a decision favorable to wilderness protection in the long-running battle to protect the Sylvania wilderness. Motorboat proponent plaintiffs Kathy Stupak-Thrall and Michael and Bodil Gajewski had filed suit to ask the Court of Appeals to overturn the District Court's decision which upheld Forest Service Amendment No. 1, which contained restrictions on activities with the Sylvania Wilderness. The lengthy decision is in accord with UPEC's friend of the court brief and is favorable to UPEC's position on management of the Sylvania wilderness.

In addition to affirming the District Court's decision, the Appeals Court denied the motorboat proponents request for a stay of

Forest Service Amendment No. 5, which provides for the elimination of gasoline boat motor use in Sylvania. Effective April 1, 1996, only electric motors will be permitted on Big Bateau, Crooked and Devil's Head lakes within the Sylvania Wilderness. Also, all watercraft will be restricted to a no-wake speed. Other Sylvania lakes remain closed to all boat motors including electric motors.

The motorboat proponents apparently appealed Amendment No. 1 in an attempt to establish a legal precedent that would prevent the Forest Service from issuing regulations restricting motorboat use. Amendment No. 1 prohibits, among other things, the use of sailboats, houseboats, and nonburnable disposable food and beverage containers in the wilderness. The Appeals Court judges indicated their understanding of the plaintiffs motives on page 18 of their decision: "If sailboats and houseboats have indeed never been used on Crooked Lake, one could justifiably ask why this action was even brought in the first place. The answer, it appears, is that plaintiffs are going after a bigger fish - Amendment No. 5, which regulates motorboat use on wilderness lakes."

Although the judges declined to rule on the motorboat issue at this time because the issue has not been properly brought before the court, they effectively disposed of the plaintiffs' arguments. UPEC believes that a similar appeal of Amendment No. 5 would have little chance of success.

If the Appeals Court had ruled in favor of the motorboat proponents, the effect would have been devastating not only to the Sylvania Wilderness, but the precedent could have been used by anti-wilderness areas all over the country.

UPEC has been working actively on the Sylvania motorboat

issues since 1989. In May of 1991, the Forest Service released a decision to allow motorboat use to continue on Crooked Lake with no restrictions on speed except on the extreme southern end of the lake. Boat motors with greater than 25 horsepower would have been prohibited from launching at the Forest Service boat ramp, but there would have been no horsepower restrictions on boats launched at other locations. This plan was overturned by an administrative appeal filed jointly by UPEC, the Mackinac Chapter Sierra Club and Crooked Land landowner Thomas Church. Although the current plan does not contain everything UPEC would have liked, we have come a long way from the original plan.

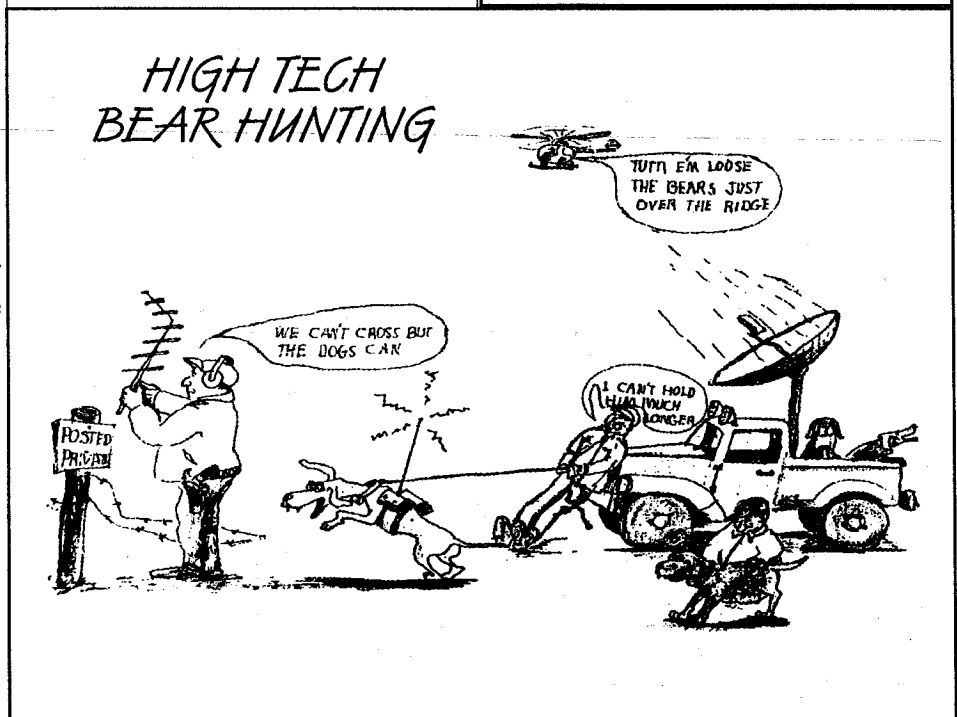
Unfortunately, the battle for Sylvania is not over. Since the District Court had not ruled on the plaintiffs' original takings claim, the plaintiffs dropped the claim at the time so that the Appeals Court case could be filed. The plaintiffs may now go back to the District Court to claim that their property has been

taken by the Forest Service without compensation.

Since our opponents seem to have inexhaustible litigation resources, we expect them to continue the battle. UPEC will continue to keep our members and readers informed on developments in the Sylvania Wilderness issue. We are continuing to seek tax deductible donations to the Sylvania Defense fund to help cover legal costs.

At this time, UPEC does not believe there is anything motorboat proponents can do to prevent motorboat restrictions from going into effect in the spring. Almost ten years after the passage of the Michigan Wilderness Act, we will finally have a Sylvania free from high speed motorboats. Enjoy.

Cartoon Note: *Once more we thank member Wayne Stanley for his cartoon contribution. The UPEC Board is still debating the question of bear baiting and hunting with dogs and we continue to welcome member input.*



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.

ACTIVIST UPDATE:

UPEC Receives Response from Isle Royale Superintendent

Superintendent Doug Barnard has responded to UPEC's contention that the Park Service should declare a solid waste emergency and make immediate plans to shut down its existing unpermitted incinerators and dispose of its solid waste off the island in 1996. In his response, Mr. Barnard said the Park would move ahead with its plans for an Environmental Assessment of its solid waste options. He stated that they are moving ahead with design specifications for recycling pavilions and Park staff have placed battery collection containers in "conspicuous locations" so batteries would no longer be incinerated. Mr. Barnard also frankly admitted that funding is going to be a problem.

What is not included in his letter is any assurance that the Park Service will not operate its toxic-spewing incinerators during the 1996 season. UPEC still maintains its position that the incinerators should be abandoned and not be allowed to operate anymore.

Bogus Document Calls for Increased Timber Harvesting in Three-State Region

UPEC joined other environmental groups in the region in December to dispute the findings of the Lake States Forest Resource Assessment released by the Lake States Forestry Alliance, a group dominated by the timber industry and natural resource agencies. The Forest

Assessment claims our region should move ahead to increase timber harvesting up to 35%, but does not examine any of the environmental, social or long-term economic impacts of such an increase. The original charge to the Alliance for the Forest Assessment mandated these analyses be part of the Forest Assessment.

The document originally included an environmental effects analysis that was so flawed that even industry representatives on the Alliance Board insisted it wasn't credible. So, instead of a bad environmental effects analysis, there is now no environmental effects analysis in a document that cost over a million dollars of taxpayers money and took six years to complete.

The groups claim that the Forest Assessment ignores threats facing our region's forests. The threats include overharvesting, decline of certain plant and animal populations, and loss of old growth forest ecosystems. The Forest Assessment ignores scientific evidence that we have to change the way our forests are being managed.

Copper Range Solution Mining Permit

The draft permit for the experimental solution mining at Copper Range still has not been issued. We're going to stop predicting when it will be issued!

UPEC has lost several Board members over the past year due to people moving out of the area or deciding to focus on other areas. We could really use some new Board members! If you are interested, please talk to President Bill Malmsten at 906-485-5909 or write to him at the UPEC address.

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.]

REMINDER TO ALL UPEC MEMBERS:

Membership renewal forms for 1996 will be sent out this month in the mail. Please remember to renew your UPEC membership promptly. If you can, please add an extra contribution for a specific issue or for general use. Memberships and contributions are what UPEC depends on to continue our work to protect the Upper Peninsula.

**Upper Peninsula Environment****Upper Peninsula Environmental Coalition**

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 Connie Julien
 Rte 1 Box 446
 Chassell MI 49916