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President's Report

The following is a brief summary of the President's Report, provided by Gordon Petersen (GP) to the CCWC AGM held at Beauvais Lake on June 5.

In addition to CCWC's restoration work, two major campaign themes have occupied the Coalition in 2003–2004: our heightened focus on Strategic Collaboration with our conservation partners and the pursuit of protective remedies for the Castle through the courts.

Strategic Cooperation

This year saw enhanced collaboration with other ENGO groups: CPAWS, Sierra Club, Natural Resources Defence Council, WildCanada.net., Y2Y, AWA. The CPAWS advertising campaign reached the public at large through TV and theatre spots, including during TV coverage of the 2003 Grey Cup Game.

The NRDC Bio-Gem website and Bio-Gem Newsletter, Action Letter for the Castle generated over 43,000 faxes to Shell Canada and more than 27,000 to the Government of Alberta. Shell has responded with detailed letters and glossy brochures and newspaper ads/local inserts. Province responded to NRDC with a letter claiming that their faxes were "harassment."

Alberta Judicial and Regulatory Processes

Judicial Review (JR) of the Province's decision not to require an EIA for the CMR expansion took place in November and December 2003. (See accompanying article, *CCWC Wins Case*)

Alberta Environmental Appeals Board (EAB). The CCWC challenged the decision by the Director of Approvals, Alberta Environment, in the matter of CMR's Sewage Lagoon Approval that allowed CMR to amend their Approval, changing it from a residential-unit-based approval to a water-volume-based approval. CCWC position is that this has the potential to remove any publicly reviewable restriction on the size of the resort/townsite. James has taken the lead on this, and Mike Taylor is soliciting Affidavits from membership. GP thanked all members who prepared and submitted affidavits. CCWC has retained Lethbridge lawyer Cam Maclennan to act for us.

Alberta Energy and Utilities Board (EUB). Jeff has worked hard on preparing an intervention to the EUB on Shell's proposed activities in the Carbondale, and coordinating CCWC, NRDC and CPAWS activities on this matter.

Major Ongoing Projects for 2003 and into 2004

2003 Lost Creek Fire, Salvage Logging. There has been very restricted access to information on current salvage logging operations and ORV trail closures/access. Jeff is persevering with this and also with the C5 Forestry Plan and the proposed review of the Castle Access Management Plan.

Restoration work. Chris Wutzke is maintaining good relations with staff in SRD to achieve some results in the field this summer, supported by the Government of Canada Ecoaction program funding. Website under construction and Restoration Kick Off on July 24. GP made an on-going call for volunteers to help with this proactive protective work for the Castle.

Grizzly Bear Habitat Report. Dr. Brian Horejsi's report on grizzly bear recovery potential in the Castle is now completed and will be circulated shortly. Brian spoke at the AGM after the business meeting concluded. (The May 2004 CCWC newsletter contains a synopsis of the report, written by CCWC Director Jillian Lynn Lawson.)

Hikes and Stewardship. GP noted that Chris Wutzke is coordinating these activities for the summer, and that the Hiking Schedule is up on the website.

Media Coverage of the Castle. This year has seen a fair bit of coverage locally and regionally, including Pincher Creek Echo, Calgary Herald, Lethbridge Herald, Global TV, CFCN. Issues have included CMR's activities, Judicial Review, Environmental Appeal Board, local Grizzly Bears being killed, the Garner country residential development outside Waterton. Jeff and James have handled most of this.

Academic Print Media. Lawyer Steve Kennett's piece *Spinning Wheels in the Castle: A Lost decade for Sustainability in Southwestern Alberta*, is available from the Canadian Institute for Resource Law at the University of Calgary, or the CCWC office. •



CASTLE-CROWN WILDERNESS COALITION

Box 2621, Pincher Creek, Alberta T0K 1W0
Telephone 403 627 5059

e-mail: office@ccwc.ab.ca
website: www.ccwc.ab.ca
off-road website: www.canuck.com/off-road/

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Staff

Jeff Emmett, Executive Director
(address/phone/e-mail as above)

Chris Wutzke, Field Programs Coordinator
(address/phone/e-mail as above)

James Tweedie, Conservation Director
403 628 2422
e-mail: tweedie@telusplanet.net

Upcoming Meeting

All are welcome at the next board meeting; contact the office for details.
Sept 18 and 19, Castle Falls campground, restoration and gathering with elders.

Newsletter

Editor: Judy Huntley.
This newsletter welcomes comments and/or submissions from members and others. Please send submissions by mail or e-mail to the office. Please check with the office for submission deadlines.

The opinions, evaluations, claims and assertions contained in articles appearing in the Castle Wilderness News are the responsibility of their authors, and may not reflect the policies of the Castle-Crown Wilderness Coalition. The office takes responsibility for articles, notices, etc., for which an author is not identified.

Production: Murray Coppold. Thanks to Rosemary Coppold, who addresses, stamps, stuffs and mails the newsletter to you.

***Donations to CCWC are tax creditable
and greatly appreciated.***

Thanks to all the members who have contributed to the recent extraordinary expenses.

CCWC Fall Gathering

Saturday September 18. A restoration work day—restore a marsh, help control weeds, and close unlawful Off Road Vehicle Trails

Sunday September 19. Spend the day with spiritual leaders from the Piikani Nation and other faith backgrounds to share our common connection with the environment. This day is a collaborative effort of the CCWC and the Calgary Interfaith Action Committee.

Meals are provided so please pre-register!
Further info: 403 627 5059; www.ccwc.ab.ca



Restoration Wrap-up Event

by Chris Wutzke

The restoration field season is well underway and good progress has been made throughout the summer. With the weather being great for restoration work, visits into the Castle Wilderness have taken place on a regular basis and have been successful at locating and correcting problems like weeds, erosion and illegal trails. However, some projects are just too large to deal with individually or even with a small group of volunteers.

The Restoration Celebration Weekend of September 18–19 gives anyone who wants to get involved in active restoration the opportunity to help out the Castle Wilderness. The weekend will start on Friday with volunteers able to camp at the Syncline B group camp if they'd like. Food will be provided for the weekend, giving volunteers the chance to sit by the river and enjoy the scenery while they have breakfast before they go out and complete some important ecological restoration projects.

The largest project this year would see volunteers working to preserve the health of the O'Hagen Marsh area, an area important to water quality, and species diversity. On Sunday we will welcome elders from the Piikani Nation, and speakers from the Calgary Interfaith Group talking about our connection to nature. If you are interested in joining us for the weekend please help us out by registering at the office either by phone at (403) 627-5059 or by email at office@ccwc.ab.ca.

I hope to see you out, be it for the whole weekend or even if you're only able to make it for the restoration work on Saturday, or the speakers on Sunday. It should be a fun and meaningful weekend. •



Lost Creek Hike

by James Tweedie

In striking contrast to the weather conditions at this time last year, when forest fires were raging in Lost Creek, a morning of pouring rain greeted the handful of stalwart CCWC hikers who joined me on August 7 this year in our trek up the North Lost Creek valley to the jewel of a subalpine basin that lies nestled under the cliffs of Mt. Darragh, at around 6,500 ft elevation.

As nominal Steward for this area of the Castle, I was interested to see the extent of the 2003 fire from the ground, and particularly the state of this high basin under the rocks which is surrounded on its lower approaches by a small remnant of mature second growth and some original old growth forest. Flying over the lower valley in 2003, smoke and wind conditions had prevented Chris Wutzke and me from seeing into the head of the valley. I feared that this beautiful refugium might have been torched, as appeared to be the case for much of the valley.

The hike up the valley confirmed that the burn was extreme on the drier south, southwest and west facing slopes, less intense on the north and east slopes, particularly in the slowly regenerating cutblocks from the Johnson's Brothers Sawmill operations in the 1970s, with some untouched islands in moister areas, and that the valley floor was almost completely razed throughout. But to our delight, the high shoulder of forest at the head of the valley that encloses the subalpine basin was untouched.

Previous hikes to this area have always revealed the pervasive presence of over-summering elk in the high timber, without necessarily allowing us the sight of any animals. This year we were rewarded by the sight of a herd of approximately fifty elk, mostly cows and calves, grazing on an old cutblock slope at around 6,200 ft. They quickly made their escape from us up their well-worn trail to disappear into the old growth forest around the basin.

Unfortunately our time to enjoy this beautiful spot in the Castle was cut short by the weather that day that allowed only restricted visibility of the surrounding peaks and upper slopes and ledges, where we have usually been able to watch goats and eagles, and that muted the brilliance of the wildflowers carpeting the slopes above the two ponds in their usual profusion.

Although such a soggy cold day made for poor hiking, this summer's mild and moist weather has created ideal conditions for the natural regeneration of the valley's biodiversity, with acres of fireweed, meadowsweet, yarrow, fleabane and a host of other flowers declaring their presence enhanced by the transitory but defining incident of the "2003 Lost Creek Fire." •



CCWC Joins Waterton HUMS Committee

by Lea Clearwater

CCWC accepted an invitation from Peter Lamb, Superintendent of Waterton Lakes National Park, to participate in an External Advisory Group for the Human Use Management Strategy (HUMS).

The purpose of the Group is to advise the Superintendent on how best to accomplish the Park's strategic goals, which have been outlined in the Waterton Lakes National Park Management Plan. These objectives are: integrating ecological and visitor experience goals; providing opportunities for high quality, appropriate wilderness experiences; and coordinating human use management strategies with other neighbouring jurisdictions. The Management Plan divided the Park into a number of Landscape Management Units, each having ecological goals and habitat effectiveness targets. Two Landscape Management Units border and provide access to the Castle Wilderness.

We are pleased to participate because we were initially the only conservation group invited, and we want to ensure that the Park's objectives regarding ecosystem health and biological diversity are primary when considering current and future human activities.

The External Advisory Group has members from the Waterton business and resident communities, and the Executive Director for the Association for Mountain Parks Protection and Enjoyment. The facilitator is a Senior Park Planner based in Banff National Park. Various staff from Waterton attend the meetings as resource persons. A broad range of statistics, studies and existing strategies on human use have been made available to the Group, including the Final Commercial Services Plan and Final Environmental Impact Statement for Glacier National Park.

By participating in the Advisory Group we are endeavouring to make suggestions and advocate for activities that contribute to visitor understanding and appreciation of Park purpose and significance without negatively impacting on the maintenance of ecological integrity through the protection of natural resources, which is the first priority of Parks Canada.

If any CCWC members have any questions about our participation in this process, or any specific recommendations or related concerns, please contact the office. •



CCWC Wins Its Case

by James Tweedie

On July 3 Honourable Madam Justice Kenny rendered her decision in the Judicial Review of Alberta Environment's failure to order an Environmental Impact Assessment (EIA) report with respect to the year-round townsite proposed by CMR for the Westcastle Valley. She found that the decisions of both the Director and the Minister were "patently unreasonable."

Although local media focused on the delay that this creates for CMR's development, Justice Kenny's 20-page decision speaks as much to the legal roles and responsibilities of different decision-makers within Alberta Environment, including the Minister, and particularly the degree of discretion to be accorded to him, as it does to the facts of the case as they relate to CMR.

Prior to dealing with the substance of the CCWC's case, Justice Kenny had to establish the appropriate "standard of review" for dealing with the decisions made by the Director and the Minister. Legal counsel for both the government parties argued assertively that the highest degree of deference be shown to their decisions, with counsel for the Minister stating flatly that "the minister can do whatever he wants," and that therefore the test of "patent unreasonableness" be the appropriate standard for review. In her decision, Justice Kenny agreed on this test, and quoted the example provided by Minister's counsel: "the courts will intervene only if it is established that the minister's decision is patently unreasonable in the sense of irrational or perverse or ... so gratuitous and oppressive that no reasonable person could think it justified." Using this agreed standard, Justice Kenny found that the Director's decision that the proposed expansion was not a "proposed activity" and was "patently unreasonable."

Justice Kenny could not accept the argument promoted by CMR, and apparently accepted by the Director, that "because there were some buildings on the land, along with a ski hill that was in operation, that the activity had already commenced." "Taking that argument to its logical conclusion, any existing recreational or tourism facility could enlarge its facilities and thereby their use ... and their enlargement would never be subject to the environmental assessment process. This cannot possibly be the correct interpretation of the legislation ... which is the protection of the environment, the need to balance environmental protection with economic factors and to prevent and mitigate the environmental impact of development."

Notwithstanding that the development was not a "mandatory activity" under Alberta's Environmental Protection and Enhancement Act (EPEA), the decisions of the Minister and Director not to order an EIA were also "patently unreasonable." Their arguments that there would be a thorough review of potential environmental affects rang hollow with Justice Kenny: "What is striking about these comments is that they do not identify the jurisdiction for this 'review.' The only legislation that provides for that is EPEA and, in particular, the EIA process." Therefore she quashed those decisions (the remedy sought by the CCWC), and her decision requires them to re-open their

review of CMR's activities and to follow the provisions laid out under EPEA for the protection of the environment.

The clear message from this decision is that even a Minister is accountable to the legislation from which he derives his authority. This decision is more than a temporary setback for CMR's private development agenda, and it can be read as a refreshing reassertion of the purposes and intent of our environmental protection legislation. Local and regional field staff in Alberta Sustainable Resource Development who argued the need for an updated EIA for the Westcastle Valley should derive some confidence from this decision.

The CCWC owes a huge debt of gratitude to Dr. Sheilah Martin of Code Hunter LLP for her preparation of CCWC's case and her persuasive arguments before the Judge.

We anticipate that the Government will apply to appeal this decision. •



Middle Kootenay Pass Restoration

by Jeff Emmett

Over the weekend of August 14-15 CCWC volunteers did their best to remove illegal trails in Middle Kootenay Pass. The Pass is closed to motorized vehicles in the summer, as it is a very important pass for wildlife to move between B.C. and Alberta.

The Pass is beautiful, and just touches into the alpine. Standing on the continental divide you can gaze into the beautiful Rocky Mountain landscape of both Alberta and British Columbia. Ella moved rocks to block an illegal ORV trail. Matt and Lisa worked their way up the shale slope raking out the tracks of dirt bikes. Christy, Lisa, Matthew, Chris and I returned the next day to find most of Saturday's work undone. We had seen lots of motorized use the day before, and shown the restriction on the government access map to the people we could, but the use went on.

We re-focused our efforts on one trail that headed north off the main trail. It was used a lot less and so we decided that our efforts were less likely to be undone there. We dragged fallen logs from the trail's start to finish. We raked out deep ruts and made little pockets along the trail to catch moisture and seed to help the surrounding plants re-vegetate the quad tracks. It was a lot of work, but left us satisfied. When we hiked down to our truck below the pass, a Sustainable Resource Development employee told us that we had done a great job and that she had given out a couple of tickets and a lot of warnings for all the illegal motorized use we'd witnessed. It ended the weekend on a positive note.

Thanks to the volunteers who made the weekend possible. You are a special bunch. We'll be back to Middle Kootenay! •