



Rivers Quarterly

A Reservoir of Information About Ohio's Waterways

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COURT STRIKES DOWN ANTIDegradATION LAW *Ohio EPA defies the direction of the decision*

On March 3rd, 1997, the Franklin County Court of Common Pleas handed down one of the most important environmental decisions in Ohio's history. Judge Beverly Pfeiffer declared the state's "Antidegradation" law in violation of the federal Clean Water Act. In her decision, Judge Pfeiffer wrote: "Simply put, if the state could permit degradation without public notice and hearing..., it would render meaningless the comprehensive nature of the Federal Clean Water Act and its purposes and objectives both in relation to water pollution control efforts and public participation requirements."

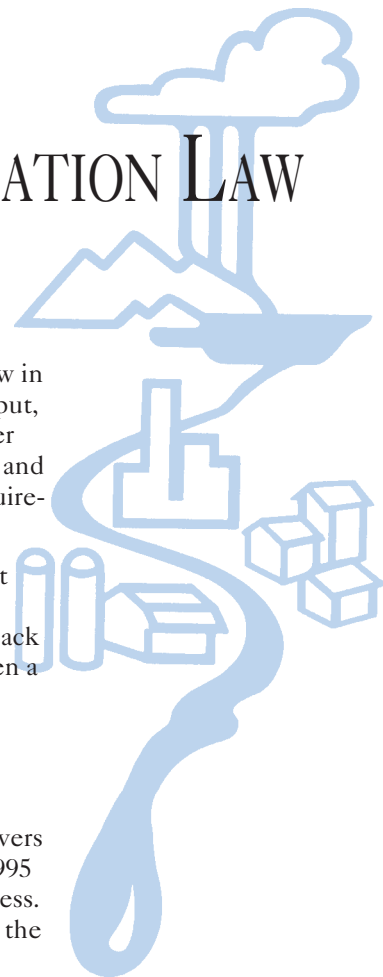
Judge Pfeiffer's decision preserves the rights of all Ohioans to challenge government decisions to permit increased pollution into public waterways. She also confirmed what Ohio's environmental community has asserted since the antidegradation debate began back in 1992: Ohio EPA must consider the social and economic implications of permitting even a single drop of additional pollution into Ohio's surface waters.

Under the law that was struck down, the Ohio EPA could approve water pollution permits in over 95% of Ohio's surface waters without conducting an "antidegradation review" or a public hearing. In those situations, the agency reasoned, pollution was not really pollution until it caused the standards that protected the river to be exceeded. Rivers Unlimited and eight other conservation and sportsmen organizations filed a lawsuit in 1995 to overturn the law asserting that any additional pollution should trigger the review process. Judge Pfeiffer agreed with us and upheld a 1992 Ohio Supreme Court decision that said the same thing.

Congratulations and a heartfelt appreciation is extended to the co-plaintiffs on the lawsuit: Ohio Environmental Council, Ohio Chapter of the Sierra Club, Friends of the Crooked River, Ohio Audubon Council, League of Ohio Sportsmen, Darby Creek Association, Izaak Walton League, and Little Miami, Inc.

Unfortunately, the fight goes on. Ohio EPA and the state Attorney General's office have intentionally twisted the language of the court ruling to protect the interests of polluters in Ohio. They claim the review and public hearing requirements apply only to a handful of polluters in Ohio. Everyone else can receive their permits without further review. No one understands their reasoning and Ohio EPA Director Donald Schregardus refused to respond to a letter requesting a public explanation of the agency's interpretation.

Rivers Unlimited is developing strategies to force the agency into compliance with the Franklin County Court decision. (See page 8 for more information.) In the meantime, river activists should carefully monitor any public notices they receive about projects along their rivers where additional pollution may be allowed. Make sure that Ohio EPA provides you with the opportunity to make public comments on the proposal and demand that Ohio EPA carefully and thoroughly weigh the economic and social implications of polluting your river before they make any decision on the permit. ❖



• Fall 1997 •

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STREAM of Thought

by Jeff Skelding

When I accepted the position of Executive Director of Rivers Unlimited in January I couldn't anticipate the flurry of activity that would soon demand my time and attention. In a few short months Rivers Unlimited has taken enormous strides in establishing itself as an increasingly influential political force in Ohio.

We won one of the most important legal battles in the history of Ohio's environmental movement when a Franklin County Court struck down the state's ill-conceived antidegradation law. We played a key role in coordinating a petition campaign to remove Ohio EPA's enforcement authority over a number of federal environmental laws due to the extensive secrecy provisions in Ohio's new "Environmental Audit Privilege" law. We led a campaign to secure a significant increase in funding for the Division of Natural Areas and Preserves and the scenic rivers program. In partnership with a local citizens group, we fought back against a powerful developer who wants to relocate Tinkers Creek near Twinsburg, Ohio to put up a parking lot and a shopping center. We took on the Ohio Department of Transportation when they ignored the conditions set forth in their permit and destroyed the sensitive headwaters of the Darby Creek. We hosted a very successful Greenways conference that brought together statewide leaders to develop strategies on promoting these important corridors of protected open spaces along Ohio's rivers and trails. Despite overwhelming odds, we came very close to defeating state rules that will severely weaken the ability of Ohio EPA to use biological criteria in measuring the health of rivers and watersheds. Rivers Unlimited is playing a key leadership role in the formation of the Ohio Natural Resources Coalition, an alliance of sportsmen and conservation organizations working together to protect Ohio's environment. With the



Jeff Skelding
Executive Director

impending designation of the Kokosing River, we continue to make progress with our Twenty in 2000 campaign to double the number of scenic rivers in Ohio by the turn of the century.

Rivers Unlimited, its staff, board of trustees, and members can hold their heads high and be proud that, in their 25th year, they continue to lead the way in the battle to protect Ohio's threatened waterways. A special thanks to my predecessors Todd Ambs and Jeff Brown who so ably constructed the program that set the stage for these significant accomplishments.

I am excited about the opportunity of leading this organization into the 21st century and combatting the destructive forces that threaten Ohio's waterways. One of the most important objectives for Rivers Unlimited today is to build our membership into a strong, cohesive force that can carry influence at the Statehouse and in every local government in Ohio. A strong membership can also provide a stable funding source for Rivers Unlimited and allow us maximum flexibility in addressing the pressing problems facing Ohio's rivers. I firmly believe that thousands of Ohioans are willing to join this organization and support its work. A second critical objective is to develop a systematic approach to support more than 50 local river protection organizations that are fighting hard to protect their home waters. Some of the most important battles are fought and won at the local level. I believe one of our most critical functions is to make sure these grassroots groups have every tool at their disposal to protect their

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rivers. Finally, we will continue to be a forceful presence in state government. Our victory in the legal battle over antidegradation reverberated loudly through the Statehouse, the Attorney General's office, and the Ohio EPA. The message to government was clear: Rivers Unlimited and all of Ohio's environmental community will strike back against these dangerous policies and laws that continue to degrade Ohio's natural environment.

Thank you for the opportunity to serve as your Executive Director. ❖

Concentrated animal feeding operations are moving into Union County and into the Darby watershed. Facilities housing 1,000 or more animals, waste lagoons and pits holding hundreds of thousands of gallons of manure, and animals raised indoors in cramped quarters, sometimes without room even to turn around, characterize a form of livestock management being employed by today's agri-businessman. Sometimes corporate owned, often farmer contracted, these operations are touted as state-of-the-art. But, beware! State-of-the-art does not mean they are environmentally friendly.

In Hardin County, northwest Ohio, a landowner has built two 1,000-head hog facilities and has had a manure spill which contaminated the Little Tymochtee Creek. Gene Logsdon, an environmental farm writer, described the creek as "running black with liquid hog feces, so black you could hardly see the silvery dead fish in it. It had been running like this for three days and at least thirteen miles. At times, the smell of the hog waste was enough to sicken a person." (Tribulations of an Environmental Farm Writer", Whole Terrain 1996/1997, Volume 5)

Threats from the concentration of manure and its land application are not always visible. Streams are at risk from excess nutrients and heavy metals that cannot be absorbed by the soil and either leach into tiles or run off into the waterways. Ammonia rising from lagoons and pits returns to earth as acid rain, altering the vegetation and degrading stream quality.

Two 1,200-head hog facilities have recently been sighted along the Little Darby and Treacle Creeks within a mile and a half of each other. In addition, one owner has raised the possibility of expansion. If he erects a similar facility, it would bring 2,400 hogs to his location alone. As hogs defecate at a rate of 2 to 4 times of humans, it would be as though a city of 10,000 people suddenly arose within 180 feet of the Darby. His current building is approximate 200 feet west of a historic covered bridge, obscuring its view to those approaching on Route 161. Perfectly

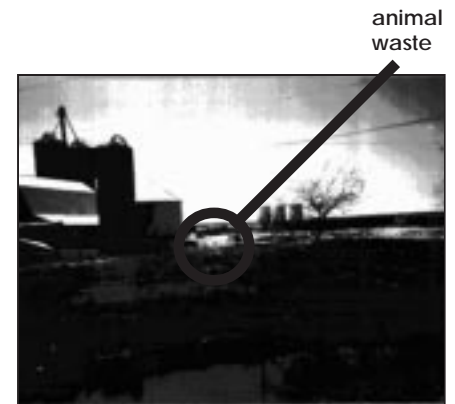
visible from the bridge are his dead animal compost piles, which sit much closer than the recommended 300 feet distance from a waterway. (Composting Swine Mortality in Ohio, OSU Extension) [See photo at right.]

Designated a "Last Great Place" by The Nature Conservancy, the Darby Creek watershed is a source of biodiversity and scenic beauty, where people make their homes, earn their incomes, enjoy recreational activities and learn their cultural heritage. How we use the land - the respect we show the habitat needs of all creatures and our own diverse use of this area - will determine the future quality and character of the watershed. Will we be sensitive to our actions and their impacts? Or will our individual economic concerns take priority over environmental and community welfare?

Under current Ohio law, agriculture is exempt from zoning. But concentrated animal feeding operations bear no resemblance to the traditional farms of the period when this legislation was enacted. They introduce new issues both for neighbors, the environment, the animals confined and the rural community. Perhaps it is time we reassess their unrestricted status. Perhaps it is time to make site selection of concentrated animal feeding operations subject to setbacks from environmentally sensitive areas and a review by community members. ❖

Concentrated Animal Waste Threatens Darby Creeks

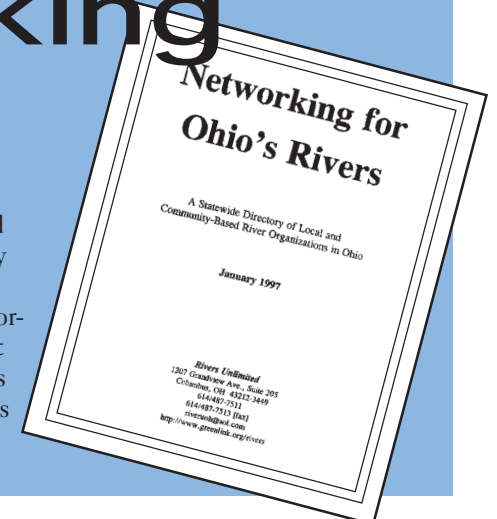
by Christine A. Harmon



Shown above is a hog farm along Little Darby Creek. Note the close proximity of an animal waste pile to the creek. Darby Creek survived a near disaster when recent high flood waters fell short of the waste pile.

Networking for Ohio's Rivers

At the beginning of this year Rivers Unlimited put together a statewide directory of local and community-based river organizations in Ohio. This handy reference tool is designed to help link groups regionally as well as provide information to individuals looking to protect their "home waters". These directories are available free of charge for as long as supplies last. Simply contact our office and we will send you a directory.



Ohio Greenways Conference a Huge Success

Over 200 Ohioans learn greenways message

by Elaine Marsh,
Greenways Coordinator

By every definition, the second annual Ohio Greenways Conference was a huge success.

The conference was sponsored by Rivers Unlimited, The National Park Service/Rivers Trails and Conservation Assistance Program, Rails to Trails Conservancy, Ohio Department of Natural Resources, Ohio to Erie Trail Fund and The Conservation Fund. Conference Partners included the All Ohio Chapter of Soil and Water Conservation Society and the Water Management Association of Ohio. Corporate Sponsorship came from the Rock & Roll Hall of Fame and Museum. The conference was also cosponsored by 37 organizations.

On May 16-18, over 200 Ohioans and other greenway advocates flocked to Akron's Ramada Plaza Hotel for the 1997 Greenway Conference.

Greenways benefits, their definition, their possibilities and their current realities here in Ohio were examined for the beginning, intermediate and advanced greenway advocates.

Sixty speakers, representing fifty-four organizations and agencies, lent their expertise and enthusiasm to the proceedings. *The conference's message was a clear endorsement of the environmental, economic and quality of life benefits of greenways.* Other common

themes included: public-private partnerships, the need for both diverse and dedicated funding, sprawling development and the urgency of protecting greenways, and recreational greenways and their role in promoting public and family safety.

Three distinguished greenway champions were inducted into the Greenways Hall of Fame: Ralph Ramey, Fred Deering, and Charles E. (Ed) Dressler received recognition for lifetime achievements. All three contributed significantly to local, regional and statewide river and trail greenway issues.

The public forum on the Ohio Department of Natural Resources (ODNR) strategic initiative was a central focus of the conference. Conference participants joined members of the public to respond to the recreational priorities of the state. Jim Morris, Deputy Director of ODNR, presented the goals and questions of the department's priority initiative.

Chief planners Elaine Marsh of Ohio Greenways and Jill Evans of ODNR are looking forward to '98's conference. ❖



(L-R) Fred Deering, Charles "Ed" Dressler, and Ralph Ramey, 1997 Greenways Hall of Fame awardees.

Ohio Greenways Sponsors Four Meetings for Greenway Planning

Cosponsored by Ohio Parks and Recreation Association, ODNR, Rails to Trails Conservancy, the National Park Service and many other groups, four regional meetings will be held this fall, beginning with a definition of greenway concepts and an overview of the status of greenways in Ohio.

Preliminary maps and definitions of current, planned and potential greenway corridors and linkages will be presented. All participants will identify opportunities for greenway development in their region. Greenway planners and advocates of all persuasions are encouraged to attend this opportunity of a lifetime!

All meetings begin at 9:30 a.m. and conclude by 12:30 p.m.:

Northeast Region Tues., Oct. 22
Southwest Region Tues., Nov. 11
Southeast Region Tues., Nov. 18
Northwest Region Tues., Dec. 2

Call Elaine Marsh at (216) 657-2055 for further information; exact locations will be forwarded with registration information.

Little Miami Greenway Study

Economic study of Little Miami's Greenway is underway. The Ohio, Kentucky, and Indiana Regional Council of Governments have joined forces with the Ohio Greenways project in studying the impacts and benefits of the Little Miami trail. Over the next few months, trail users of all varieties will be beamed by laser counters and interviewed by survey crews. Commercial establishments, realtors and tourism professionals will be polled for perceptions.

When the project is completed, Ohio will have information on the benefits and economic impacts of the trail. That information will assist other Ohio trails and greenways. It will provide information that can be compared to similar studies in other states, and it will serve as a basis for the Blueprint for Action, the document that will provide the basis for Ohio Greenways recommendation to state leadership. ❖

ODH Issues Fish Consumption Advisories

Last month the Ohio Department of Health issued fish consumption advisories for dozens of rivers and lakes in Ohio. Mercury was detected in nearly every sample taken by the agency suggesting the universal presence of this persistent toxin in waterways throughout Ohio. As a result, the state issued fish consumption warnings for sensitive populations such as children and women of child bearing age to restrict their dietary intake of fish to one per week. The mercury testing also led to 27 new or upgraded advisories for the general population. For example, Rock bass should not be eaten more than once a month if they are caught in certain stretches of the Scioto River.

There is strong evidence to suggest that a substantial percentage of mercury and PCB contamination in Lake Erie and many of the rivers in our state is a result of air deposition. The primary source of these pollutants in Ohio appears to be smokestacks, particularly coal fired electric plants. If utility deregulation leads to increased emissions of these airborne toxins, then government must step to the plate and exercise its authority to protect public health and the environment.

Regulatory agencies, both federal and state, have been slow to respond to this problem of airborne deposition of mercury and PCBs. Traditionally, they have concentrated on direct discharges of these pollutants into our waterways as prescribed by the Clean Water Act. The recently adopted U.S. EPA health standards address soot and smog but they do not deal with airborne toxins like mercury and PCBs. Rivers Unlimited has joined other environmental organizations around the country in calling on Congress to get tough with these deadly pollutants that threaten public health, water quality, and our future.

In Ohio, Governor Voinovich has an important opportunity to protect citizens from the dangers of mercury and PCBs in our waters. Rules to implement the Great Lakes Initiative (GLI) in our state are about to be finalized. The GLI identifies mercury as a persistent, bioaccumulative and toxic pollutant. Although we agree that the Ohio EPA has constructed a reasonably strong GLI for point source discharges of toxins, they are weak when it comes to power plants and the airborne pollutants they emit that eventually fall into the ground and waters of Ohio.

What you can do:

1 *Become more informed.* The Environmental Law and Policy Center and the Campaign for an Energy Efficient Ohio are concerned about the impacts of future utility deregulation on increased air pollution. They offer solutions to clean energy production in Ohio in their brochure titled "Power Plant Pollution: Ohio's Dirty Secret". Please contact Jack Shaner at the Campaign for Energy Efficiency, (614) 487-7506.

For more information on fish advisories contact the Ohio Department of Health at 246 North High Street, P.O. Box 118, Columbus, Ohio 43266, www.ohio.gov/health, (614) 644-8562.

2 *Contact your state legislator.* Let them know about the impact of coal burning power plants on mercury in our waters. Let them know that you support policies that will require full disclosure about each power source's pollution profile, so consumers will be able to choose clean energy. Also, let them know that you support policies that will require all power plants to meet the same environmental standards that protect the health of Ohio's citizens and their environment. To contact your legislator, call or write them at 1 (800) 282-0253; The Statehouse, Columbus, OH 43215. To identify your state senator or representative, call your county board of elections. ❖

Water Quality Goals Have Not Been Met

Ohio EPA's "report card" on water quality in Ohio, the 305(b) report, was recently released and the results are not encouraging. 1996 figures show a 2.7% improvement in river quality since 1994. Overall only 49.3% of Ohio's rivers are meeting the fishable and swimmable goals of the federal Clean Water Act. The deadline to achieve those goals was 1983.

In 1994, Ohio EPA Director Donald Schregardus set a goal of 75% attainment for water quality in Ohio by the year 2000. At the current rate of improvement the agency will fall far short of that goal. This comes as no surprise given some of the recent water quality policy decisions made by Ohio EPA:

- ❖ Director Schregardus approved a water quality permit to allow a developer to physically relocate 1,000 feet of Tinkers Creek near Twinsburg, Ohio for a parking lot and shopping mall.
- ❖ Ohio EPA failed to enforce the conditions of a general stormwater permit issued to the Ohio Department of Transportation (ODOT) for a roadway project on the sensitive headwaters of the Darby Creek, a National and State Scenic River.
- ❖ Approximately one-half of Ohio's surface waters have never been monitored or assessed to determine their water quality. These waters are treated as Limited Resource Waters (LRW), a category Ohio EPA uses to write off degraded waters and regard them as open sewers with little or no hope for restoration.

LOCAL RIVERS


 A blue stamp with the word "UPDATE" in white, slanted upwards to the right, with a drop shadow.

There are over 50 local organizations working to protect the 61,000 miles of rivers and streams in Ohio. In each issue of Rivers Quarterly, we provide brief updates on activities of a few of these local river groups. As you'll notice, volunteers are the cornerstone of river protection efforts in this state.

❖ BLACK RIVER – Decision on Scenic Designation Due in the Fall

For two years Rivers Unlimited Board trustee Doug Hill has dedicated untold hours working to secure scenic designation for the Black River in Lorain County. He personally gathered resolutions of support from local governments in the area endorsing his effort. Doug has encouraged Russ Gibson, Northwest Ohio Scenic Rivers Coordinator, to paddle with him on the East Branch of the Black to personally witness the scenic qualities of that segment. The Division of Natural Areas and Preserves is concluding a study of the Black River with special focus on the East Branch to determine if it meets the criteria for scenic designation. If water quality shows improvement over 1992 data and there is evidence that landowners and other stakeholders in the area demonstrate a commitment towards restoration efforts, it is likely that the Black will join the Kokosing River as new rivers in the scenic program in 1997.

❖ KOKOSING RIVER – Newest State Scenic River

On August 27, Governor Voinovich held a press conference and announced that 48 miles of the Kokosing River in Knox, Morrow, and Coshocton Counties will be the eleventh waterway added to the state Scenic Rivers Program. The Kokosing is the first river to be designated as scenic in 13 years. Congratulations to the Kokosing Scenic River Association (KSRA) and their leaders, Doug McLarnan and Ray Heithaus for their dedication and perseverance in their two-year campaign to achieve scenic status for the river. They began the process on Earth Day 1995 by surveying people such as landowners along the Kokosing River, people at canoe liveries, and other individuals and organizations in the community to identify existing support. The survey showed overwhelming support for scenic designation!

With this base of support, KSRA approached local government agencies for resolutions of support, including the Soil and Water Conservation Districts who have established interest in preserving the riparian forests along the rivers and have a relationship with farmers who tend to be skeptical of government programs. Soil and Water Conservation helped ease the fears of the farmers and informed them of the benefits of the program. Resolutions of support were then sought from townships, municipalities, school boards, and a variety of other government units along the river.

The time and talents of many people resulted in the designation of the Kokosing and their commitment continues. The KSRA plans to continually educate the public about the value of their river to keep the Kokosing a community priority.

❖ DARBY CREEK LAND TRUST

After serving four years as president of the Darby Creek Association, Bob Carl, a board trustee of Rivers Unlimited,

has been working with a group of volunteers to establish a land trust – one of the key elements necessary in preservation – in Big Darby Creek.

Land Trusts are another tool every watershed should have at its disposal. The Darby Creek Land Trust will be an independent non-profit, member organization, in partnership with the Darby Partners. The land trust will work with agents and landowners to secure agreements that will prevent development and preserve greenways in the river corridor. This new organization will be an exciting addition to the Darby Creek watershed.

The Darby Creek Association and Rivers Unlimited are both celebrating their 25th anniversary this year. For more information contact Bob Carl at (614) 529-9974.

❖ LITTLE MIAMI RIVER / Quality of Water Way Compromised

Lake Isabella is a small, pleasant, pay-for-fishing lake, formed from a former worked-out gravel quarry. It lies adjacent to the Little Miami River, a national and state scenic river, which is naturally eroding the levee separating lake from river. The Hamilton County Park District is preparing to armor 850 feet of river bank with rocks to a depth of 6+ feet below normal pool level and 5+ feet above it, and use bioengineering materials above the rocks for a total reengineered constant-slope river bank area of 85,000 square feet. The impacts of such invasive measures include wiping out the natural habitat from the creek bottom to the bank and changing riverflow causing erosion downstream.

This is a serious offense against the National Scenic Rivers Law. It is surprising that it was approved by ODNr's Scenic Rivers Division. We understand that ODNr approved this project after Senator Richard Finan, who controls ODNr's budget, gave his approval. Senator Finan denies knowledge of it. The Ohio EPA and the National Park Service (NPS) also approved of this environmental destruction.

This affair is one of total failure by the "protective" agencies to do their job. The message to our readers is *never, ever, under any circumstances*, have faith in these agencies to act in the public interest.

We are telling the NPS headquarters that it should be their policy to protect the rivers in their charge, not sell them out. If they haven't the expertise, back away, and don't pontificate about "what's best for society" and make terribly difficult decisions to sacrifice the nation's natural resource.

If that's the treatment our rivers get, we don't need this branch of NPS, and we don't want them in Ohio. It's not the first time! Don't forget Darby Creeks!

For more information contact Mike Fremont, president of Rivers Unlimited, at (513) 771-5087.

RIVERS (cont. from page 6)

❖ DARBY CREEK – ODOT Destroys Sensitive Headwaters of Darby Creek

Most published accounts of Ohio's Darby Creek system point to the beauty and integrity of what the Nature Conservancy has labeled as one of the "Last Great Places" in the country. The Darby system has also been placed in both the state and national scenic river systems. Unfortunately the ecological importance of the Darby watershed went unnoticed by the Ohio Department of Transportation (ODOT) last spring when they ignored the conditions in their permit and proceeded to bulldoze over the sensitive headwaters of the creek in Logan County. What remained resembled a moonscape and left in its wake were serious impairments to water quality habitat and fish populations as a result of erosion and sedimentation. ODOT has a long history of destroying wetlands, streams and rivers in a constant quest to build and upgrade Ohio's roadways. Rivers Unlimited and members of the Darby Creek Association, with assistance from State Representative William Schuck (R-Columbus), are actively pursuing strategies to curb ODOT's destruction of Ohio's wetlands, rivers and streams. If you have any examples where ODOT activities have impaired water ways in your area, please contact the Rivers Unlimited office and/or the Darby Creek Assn. This will help to secure strong state policies that prevent negligence in the future.

❖ SCIOTO and OLENTANGY RIVERS

The city of Columbus is developing a Riverfront Vision plan for the six mile stretch of the Olentangy and Scioto Rivers that runs through the downtown area. Rivers Unlimited is leading an impressive alliance of neighborhood organizations and conservation groups, called the Urban Oasis Coalition (UOC), to promote the development of parks, trails, and riparian buffers to protect the river and create enhanced recreational opportunities for citizens of Columbus. More than 700 people turned out for three public forums last fall and expressed overwhelming support for more green spaces and public access to the rivers. UOC is working to make sure government leaders adhere to the wishes of the people rather than powerful private developers. The Vision plan was unveiled on September 10, and public comments are now being received. For a copy of the Vision Plan, contact Riverfront Commons Corporation, (614) 228-3368.

❖ TINKERS CREEK – Hearing Illustrates Negative Impact in Moving Waters

Active Citizens of Twinsburg (ACT) and Rivers Unlimited, opponents of the proposed relocation of Tinkers Creek, took their case to Columbus in July before the Environmental Review Appeals Commission (ERAC). The groups filed an appeal to a permit approved by the Ohio EPA that would allow Whitlatch and Company of Twinsburg, Ohio to physically move 1,000 feet of Tinkers Creek to build a parking lot and an as yet unnamed "large box" retail store.

Expert testimony revealed that, contrary to Whitlatch's assertions, there would likely be long term negative water quality impacts to Tinkers Creek if the permit was not rescinded. Additional testimony revealed that an expert on stream restoration, David Rosgen, described the project as

Guidebook for the State Scenic Rivers

Thanks to the efforts of Jeff Flege, our summer intern from Ohio State University, we are about to complete *A Citizens Guide to the State Scenic Rivers Program*. The Citizens Guide is a first of its kind document designed to educate citizens and river enthusiasts about the scenic river designation process. It is sure to stimulate interest in the program and help us achieve our goal of doubling the number of state scenic rivers by the year 2000. Please contact Jennifer Fish at Rivers Unlimited's Columbus office for a copy.

the "height of arrogance" referring to Whitlatch's assumptions that they could improve upon the conditions of the existing stream by building a new stream.

Testimony also revealed that Whitlatch and Company has a demonstrated history of non-compliance with storm-water control safeguards at both the Town Center development in Twinsburg and the work that has already commenced on the proposed Creekside project. Evidence provided by the Summit County Soil and Water Conservation District demonstrated Whitlatch's failure to adequately protect Tinkers Creek from the impacts of their projects.

The groups were also critical of the project's approval by the Ohio EPA which is responsible for weighing the social and economic benefits of development projects that degrade water quality before approving any permit. It is ludicrous to suggest that the citizens of Twinsburg need their river moved so that Whitlatch can build them a Wal-Mart. Ohio EPA made a clear choice to protect the influential and well heeled developer at the expense of Tinkers Creek and the citizens of Twinsburg. EPA's approval of this permit set a dangerous precedent: if ERAC rules in favor of Whitlatch, developers throughout the state will be lining up for permits to move rivers. ERAC will likely take several weeks to issue their decision.

Please write a letter to Director Schregardus and let him know of your disapproval of the permit. A letter may influence decisions made on similar projects in the future. In your letter, note that the stream restoration and ecology experts believe that the impacts of moving Tinkers Creek will degrade the quality of the river for many years to come; that the economic and social benefits were not adequately weighed; that retail stores do not bring high paying jobs or a large tax base to a community; and that the economic benefits will be marginal at best and do not outweigh the benefits of a healthy and intact river.

By approving the permit the Ohio EPA encourages similar projects to be proposed in the future. We should be looking at alternatives to destroying our valuable rivers.

Ohio EPA Proposed New Rules Under the Great Lakes Initiative

The Great Lakes Initiative (GLI) is a new regulatory standard proposed by the U.S. EPA, to be adopted by each state, that will help limit the amount of toxic substances discharged into the Great Lakes Basin. Specifically, the GLI will limit the discharge of bioaccumulative, persistent toxins such as PCBs, dioxin and mercury into the Great Lakes and the Lake Erie Basin.

In Ohio, the GLI can lead to cleaner rivers, fewer fish advisories, improved economic development due to stronger fishing and water recreation industry, and reduced cancer and endocrine system risks, increased life expectancy and savings in health care costs for everyone who eats Great Lakes region fish!

Rivers Unlimited served on the Great Lakes Water Quality Initiative External Advisory Committee for the Ohio EPA this past year. The External Advisory Group was a collection of individuals from industry, environmental organizations, waste water treatment facilities, and citizens that gathered once a month for 15 months to hammer out an agreed approach to implementing the GLI in Ohio. The final review and comments on the GLI rules by the committee took place in May of this year.

In May and June the Ohio EPA presented the proposed rules to the citizens of Ohio and hearings were held across the state. There are several changes being proposed for the current water quality standards set by Ohio EPA. Many of these changes will result in more restrictive requirements in the Lake Erie Basin. Although the GLI is a step in the right direction, many people voiced their concern that Ohio is not going far enough to protect water quality and public health. Specifically:

- ▶ Ohio's rules should set a more stringent cancer risk standard. Currently the federal guidance for the GLI requires a standard of 1 in 100,000 cancer cases. This

standard of 1 in 100,000 uses a healthy adult male to determine the amount of allowable risk. Ohio should set the maximum acceptable number of cancer cases from exposure to toxins at 1 in 1,000,000. This tighter standard will take into consideration the additional risk to more vulnerable individuals and is the standard currently in the Food Quality Protection Act of 1996.

- ▶ Ohio should not go to a less restrictive criteria on metals in the water. Currently the criteria are based on the total recoverable metals in a water column and the proposed criteria change would measure only the dissolved metals in a water column. The less restrictive standard would not account for metals attached to soil particles which can later be released into the water.
- ▶ The proposed rule changes should apply to the entire state of Ohio, not just the Lake Erie Basin. Why should the waters and citizens in the northern part of Ohio receive more protection than the rest of the state?
- ▶ This year Ohio was ranked third worst in the nation for the release of potentially poisonous pollution from manufacturing plants. For these reasons it is important for Ohio to adopt the strongest GLI possible.

Antidegradation Rules Hidden in GLI

A legislative hearing was held before the Joint Committee on Agency Rule Review (JCARR) on September 23rd. The rules must then be approved by the USEPA before they are formally adopted. The rules that were constructed by the GLI External Advisory Group were reasonably strong. However, there is a section in the rules that severely weakens the prospects for a strong state

antidegradation rule as prescribed by the March 3rd Franklin County Common Pleas Court decision which declared the current law in violation of the Federal Clean Water Act.

For months, the Ohio EPA has been silent on the outcome of the lawsuit. Ohio EPA Director Donald Schregardus refuses to speak with Ohio's environmental community even though the agency appears to have arrived at some very definitive conclusions regarding the directives of the court ruling. In an attempt to close the book without any further discussions, Ohio EPA has quietly inserted their interpretation of the court ruling into the draft GLI rules as an unrelated matter. Subsequent approval of the rules will make it

Although the GLI is a step in the right direction, many people voiced their concern that Ohio is not going far enough to protect water quality and public health.

more difficult to open up a dialogue on antidegradation and ensure that the strongest possible rule be adopted and implemented.

Rivers Unlimited has repeatedly called for a separate discussion on antidegradation as it relates to the lawsuit. The Ohio EPA has reduced the court ruling to an overly simplistic interpretation and has shut the public out of the discussion. If the GLI rules are ultimately adopted it is likely that further legal strategies will need to be implemented to combat Ohio EPA's willingness to protect water quality and public health in Ohio.

For more information on antidegradation and the GLI, please contact the Rivers Unlimited office. ❖

Funding for Transportation Projects Assists Greenways

The Intermodal Surface Transportation Efficiency Act, known as ISTEA (pronounced “ice tea”), will be reauthorized by Congress soon. Numerous bikeways have been or are currently being developed in Ohio because of funding from a section of this program called Enhancements. Enhancements provide funding for historic preservation, scenic improvements, and pedestrian and bicycle transportation. Since these types of projects are often developed along river corridors, they can enhance opportunities to establish greenways. ISTEA funding has provided over \$65,233,745 to Ohio since its inception in 1991.

Some Ohio projects created or planned with Enhancement funds include portions of the Little Miami Scenic Trail, The University Park Trail in Toledo, North Coast Harbor projects in Cleveland, Ohio, Erie Trail projects in Stark County, and numerous other projects. [Call (216) 657-2055 for the complete list.]

It is little wonder that these projects are very popular with Ohio families. They offer safe pedestrian and bicycle transportation and recreation, aesthetic enjoyment of Ohio’s cultural and natural resources, as well as health and fitness benefits. ISTEA Enhancements have provided an important source of funding to Ohio trail projects. Now Congress must reauthorize the Highway Bill. Here are some reasons why Enhancements should be a strong portion of that legislation.

- *Benefits to local communities.* ISTEA provides a balanced approach to transportation spending. It provides funds for a variety of projects that directly benefit families and communities including bikepaths, mass transit, roads, pedestrian projects, rail and greenways.

- *Provides citizen input.* Local communities should have a say in how transportation dollars are spent. ISTEA insures that transportation investments provide a balanced mix of federal and local control on projects and a strong level of accountability.
- *Promotes safety.* ISTEA funds projects that improve transportation safety for everyone, particularly the elderly and children, who are especially vulnerable to accidents involving motorists.
- *Protects the environment.* ISTEA funds transportation projects that result in cleaner air, and, therefore, cleaner rivers. ISTEA projects often help communities maintain a sense of place by preserving natural, historic and scenic benefits. In metropolitan areas, environmental protection and transportation programs are required to be compatible.

ISTEA needs the support of river and greenway advocates. The roadbuilding industry has contributed millions of dollars to politicians in an attempt to gut ISTEA and mandate that federal transportation money be spent exclusively on building new roads. Rivers Unlimited encourages its constituents to write members of Congress and express support of preserving a strong ISTEA. We also encourage you to seek the support of local officials whose communities have benefited or could benefit from ISTEA funding ❖

Special Appeal Update

Last winter and this spring we put out a special appeal to our members for assistance on two separate projects. We had a great response from both appeals. The winter appeal was for financial assistance for our Twenty in 2000 program. With this money we have been able to hire a summer intern to assist us in writing a citizens guide to Ohio’s Scenic Rivers. The goal of the guide is to offer citizens the information and tools they need to get qualifying rivers designated under ODN’s Scenic River Program. The brochure should be finished and distributed this fall!

The spring appeal was for financial assistance to continue follow-up work on the Antidegradation Lawsuit. Although we won the lawsuit it looks like the Ohio EPA will make very few changes in response to the Court’s ruling. The money is being used for continuing legal fees and to cover additional staff expenses incurred by this ongoing battle.

OSU Lecture

The Ohio State University, School of Natural Resources Alumni Society and Water Resources Center is sponsoring a lecture and discussion on Agriculture and Water Resources on Thursday, November 13, at 1:30 p.m. Larry Libby, Ph.D., Professor of Agricultural Economics, will speak on “Soil, Water Quality, and Farmland: Resource Policy in an Urbanizing State”. At 3:30 p.m., a panel will begin on the related topic of “Agricultural Land and Water Resources in the Lake Erie Basin: Conditions, Trends, and Implications for Sustainable Management”. Both are free and open to the public, and will be held in room 103 Kottman Hall, 2021 Coffey Road at OSU. Contact Robert Vertrees at (614) 292-9797 or Vertrees.1@osu.edu for information.

Wetland Water Quality Standards Proposed

The Ohio Environmental Protection Agency (OEPA) has developed water quality standards to regulate wetland loss in Ohio. Proposed standards rank the state's wetlands into three categories. Category 1 wetlands are defined as low quality, isolated areas with predominantly non-native vegetation. Category 2 wetlands are medium quality wetlands, and Category 3 wetlands are high quality wetlands that are hard to replace. The Clean Water Act prescribes a process which first requires wetlands to be avoided where possible; second, destruction of wetlands must be minimized and; third, unavoidable destruction of wetlands has to be replaced.

According to Ohio EPA's proposed standards, developers seeking a permit to destroy a Category 1 wetland would no longer have to avoid wetlands or minimize their impacts. They are allowed to develop these "lower quality" wetlands at will, as long as they mitigate for destroyed wetlands at a 1.5 to 1 acre ratio. Mitigation requirements for Category 2 or 3 wetlands are set at slightly higher ratios and could be located anywhere within a large watershed unit or at a mitigation bank approved for that area.

RIVERS UNLIMITED WISH LIST

Rivers Unlimited is seeking a computer desk, printer, and computer consultation services. If you wish to donate any of the following please call our office at (614) 487-7511.

Destruction of Category 3 (highest quality) wetlands is allowed if they meet a "demonstrated public need".

We believe that the standards do not provide adequate protection for several reasons:

1. Avoidance and minimization are not required for Category 1 wetlands. These wetlands are allowed to be destroyed as long as mitigation takes place. Despite their use impairments, low quality wetlands can still provide important habitat, flood control and water filtration benefits.
2. Previous drafts contained a fourth category of wetlands, consisting of bogs and fens and mature wooded wetlands. These areas would have been placed off-limits to development due to their importance and irreplaceability. Although impacts to Category 3 wetlands would

(See "Wetland Rules" on page 12)

State Budget Assists Twenty in 2000 Campaign

For years, ODNR has maintained that adequate funds do not exist to designate additional qualifying rivers in the state scenic river program. This is because the Ohio General Assembly had been diverting state general funds away from the Division of Natural Areas and Preserves (DNAP) under the misguided notion that Tax Check-off dollars provided adequate funding for their programs. This meant that citizen donated Tax Check-off money was being used for administrative costs to keep the division afloat rather than for protecting scenic rivers or purchasing more natural areas. Last year, in preparation for the two-year budget cycle, DNAP managed to convince Governor Voinovich that the natural areas and scenic rivers programs required a sizable increase in state funding in order to function properly. Voinovich responded with a proposed \$1 million increase for the new budget.

In January of this year, Rivers Unlimited and the Great Lakes Regional Office of the Audubon Society held a citizen activist training conference in January and then coordinated a "lobby" day at the Ohio statehouse. One of the messages brought to state legislators was support for the Governor's proposed increase as well as the need for additional funding for DNAP's programs. A second message was one of public outrage over the mismanagement of funds received from the natural areas and scenic rivers Tax Check-off program.

When state Senator Rhine McLin (D-Dayton) was informed by ODNR officials that virtually none of the Tax Check-off monies were being spent on their intended purpose, she requested an investigation by the Legislative Inspector General's office. When that report was released it alluded to illegal fiscal mismanagement on the part of the Voinovich administration. This came as no surprise to anyone who understood the original law creating the Tax Check-off program. It specifically prohibited these funds from being used for anything else but preserving natural areas and protecting scenic rivers. The Governor, gearing up for a United States Senate campaign, sensed the political trouble brewing and quickly called for an additional \$1.4 million for DNAP which was eventually enacted into law. Rivers Unlimited can now pursue designation of more scenic rivers with this significant budget increase in DNAP's budget.

Hats off to those citizen activists who effectively communicated this message to their legislators. It is important to note that, despite the substantial increase in funding, DNAP is still below the spending levels it had in 1986. When the next round of budget negotiations commence, Rivers Unlimited will be there demanding more funding for the Division and their important programs. ❖

Rivers Unlimited Membership Update

Rivers Unlimited wishes to extend thanks to the following new and renewing members. To become a member, see the back cover page.

New Members & Supporters

Sustainers (\$100 or more)

Todd Amb
Charles Clark, Jr.
Katherine Davidson

Sue Warden / Crabbe, Brown,
Jones, Potts & Schmidt
Griffin Communications
Torque Inc.
Jim Mack/ U.S. Canoe
Association, Ohio

Anne Fry
Joyce Garver Keller
Timothy Gilles
Christine Harmon
Mary Ellen Jenkins
Judith Leever
Rod Lubline
James Madgar
William McCoy
Diggitt McLaughlin
Patricai Rathman
Brewster Rhoads
Jon and Lydia Sally
Tom Seitzinger
Mary Jo Seyler
Jack Shaner
Tom Stratton
Jerry Wagner
Jim Wall
John Wargo, Jr.
Lois Whealey
Terry Wilson

General Members

David Andrews
James Andrix
Cheryl Brown
Alex and Mary Beth Chiv
Paul Culter
David Dietz
Michael Farmer
William Fike
John and Mary Fried

Rivers Unlimited wishes to extend special thanks to the following foundations and organizations for their financial assistance. Their grants have far-reaching effects, 61,000 miles to be exact, and we, along with those who treasure Ohio's streams, appreciate their support.

The George Gund Foundation
The Norcross Foundation
The Nord Family Foundation
Recreation Equipment, Inc.
River Network
The Fran and Warren Rupp Foundation
The George B. Storer Foundation

Starting up: A Handbook for New River and Watershed Organizations

Rivers Network has put together a handbook for those who are seriously thinking about starting a new organization to conserve a local river or already are involved in a river or watershed organization. This handbook has over 350 pages of valuable information, including choosing a name, developing your mission statement, recruiting your board of directors, fundraising, creating a budget, working with the media, producing a newsletter, and much more!! The cost is \$25 (including shipping). To order, please send your check to River Network Publications, P.O. Box 8787, Portland, Oregon 97207.

Jennifer Fish and volunteers share their knowledge and time during the Columbus Zoo's "Earth Days."



R.U.'s Volunteer Program

A group of volunteers interested in learning more about issues concerning Ohio's Rivers and assisting Rivers Unlimited in various activities has recently been organized. There are currently 10 active members. To date volunteers have participated in three river clean-ups, assisted with numerous mailing projects, organized a media database and fax program, assisted with Rivers Unlimited's greenways conference, assisted in database management, assisted in the editing of several articles and reports, and helped organize a canoe outing on the Hocking River. The goals of the volunteer program are to provide assistance to Rivers Unlimited in important program areas, to help individuals to appreciate and understand issues threatening the health of Ohio's rivers through hands-on experience, and to provide social opportunities for people interested in working to improve Ohio's rivers. If you are interested in joining the team, please call Jennifer Fish at (614) 487-7511.

Rivers Unlimited would like to give a special thanks to the following volunteers who put in considerable time and effort on several important projects: Loucile Powers, Christopher Minnich, August Froehlich, Craig Bickle, and Alyssa Berliner. ❖

Rivers Unlimited Annual Dinner and Auction

Rivers Unlimited will be holding its annual dinner and auction on Saturday, November 8 at the Fawcett Center on The Ohio State University Campus in Columbus. Tickets will be \$50 per person and we look forward to many great auction items this year. This is a great opportunity to show your support for Rivers Unlimited and our efforts while enjoying an evening with other supporters. Don't miss out on this great event; mark your calendars now! Last year's event was a hit, and this year will be even better. Contact our office for more details. If you have any items that would make attractive auction items and would like to donate them, please contact the Rivers Unlimited office. ❖

Yes, I want to help **Rivers Unlimited** protect the 61,000 miles of rivers and streams in Ohio from pollutants and other forms of degradation. Use my gift to help the nation's oldest statewide river protection organization continue to protect and restore these scenic waterways which are vital to the quality of life in our state. Here is my tax-deductible contribution of:

- \$35 Basic Membership
- \$50 Family Membership
- \$100 River Sustainer
- \$250 River Steward
- \$___ Other

Thanks for caring!

Wetland Rules continued

have to meet a "demonstrated public need," this threshold is loosely defined and many projects would probably qualify.

3. The standards allow mitigation to occur hundreds of miles away from wetlands that they are supposedly replacing.
4. An OEPA study stating that natural wetlands provide substantially better functions in the areas of flood control, water filtration and wildlife habitat was released after the public hearings. We know very little about the future of the mitigated wetlands. Natural wetlands are complicated systems that are hard to duplicate. Mitigation does not mean equal replacement.

If you are interested in learning more about the proposed standards, please contact Julie Sibbing of the Great Lakes Regional Office of the National Audubon Society at (614) 224-3303. ♦

NAME _____

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Please make your check payable to **Rivers Unlimited** and mail to:



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