



PENNSYLVANIA LANDOWNER

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WINTER 2003

In remembrance of our dear friend and fellow Board Member here at the PLA, who has passed away, we are dedicating this issue of the Newsletter and the several following additions to Henry McConnell Ingram, Esquire. Throughout these issues you will find articles Hank submitted to the Newsletter over the years. Please take the time to remember...

Henry McConnell Ingram

(1939-2003)

A Professional, a Comrade...a Friend

"One Man I Will Never Forget"

Many years have passed since I came to know Henry Ingram. He became a profound part of my life, my family's life and the Pennsylvania Landowners' Association (PLA).

It wasn't long after my battle with the Government had begun, that I met Hank...

I was at a point in the proceedings where I realized that winning the case on the Farming Exemption would be a hollow victory due to the Government accusing me of building a golf course, without a permit.

Doug Foster, of the Atlantic Legal Foundation from New York, came to speak with me about the Environmental Laws. It was at this time he suggested that I make contact with a firm by the name of Buchanan-Ingersol out of Pittsburgh, Pennsylvania. In his opinion, with all probability, they were best suited for me. I contacted the firm immediately and awaited their response.

It was approximately a day or two later when an attorney and his associate from the firm came to our home. The gentlemen introduced themselves as, Henry Ingram (Hank) and John Ward. We sat down and began discussing the matters at hand. After 3 (three) or 4 (four) hours of conversing around the kitchen table between family members and these gentlemen, we became aware of the Un-American way that the Environmental Laws are being enforced.

Hank and I found that we had many beliefs in common pertaining to issues such as, wetlands, Scenic River, exceptional value streams, cold water fishery and

just plain Property Rights in Pennsylvania, as well as the Country.

At this point the PLA had already been established and it wasn't long until Hank and I became friends. He also took on the task of legal council, representing the Organization. Hank also became a Member of the Board, who, from day one, became active in our Organization and published at least one article in nearly every Newsletter. Hank was able to remain on top of the many issues that brought us together, not only as friends, but as fellow Board Members in the PLA. We were in contact more and more often, discussing the many concerns we both shared. We became very close in our thoughts and ambitions.

Hank was a staunch advocate of Property Rights and I am sure that anyone involved in the issues at hand will miss Hank, more than I can put to words. He was determined and focused. There were times when fatigue would attempt to get the best of Hank, but he pushed on. He pushed for you...he pushed for me and anyone else who extended themselves in need, with questions and concerns. He went out of his way to offer advice and guidance. He stood up for what he believed and he stood firm.

I remember early in our friendship Hank said he went along to get along, but as time passed, he had realized that the 'go along to get along' approach was destroying our American way of life.

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Pennsylvania Landowner

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A Message From the President

Keith Klingler

CLEAN AND GREEN

"A Feel Good Failure"

When Clean and Green was enacted in 1974, it was seen as a measure to curb development of forest and farmland, while giving tax relief to landowners who had no intention of developing.

Most counties still have not implemented this state law because typically they wait for a re-assessment to be sure of accurate values for vacant lands. Re-assessments are usually few and far between, but one by one, counties are implementing Clean and Green.

My first experience with Clean and Green came a few years back with a property I purchased in Warren County, which was one of the earliest counties to implement the law. This 60 (sixty) acre tract was part of a 500 (five hundred) acre farm which was made up of 5 (five) separate parcels, all of which were placed on the same Clean and Green application, to save filing fees.

My initial thoughts were to get my parcel out of Clean and Green. I quickly found out that it would not be economically feasible. In order to do so, I would have had to pay back taxes and penalties on the entire tract. I then checked with the Assessment Office to find out what I could and/or could not do, under the Program.

First; the lots subdivided out must be over 10 (ten) acres or under 2 (two) acres, while allowing only the sale of one smaller lot per year. I felt this would be a stumbling block to my plans, but I would have to take the project loss and proceed. After obtaining approvals (verbal from the Planning Commission, Assessment Office and Sewage Officer), I proceeded with my plans, which included selling a 7 (seven) acre parcel that was across the road from the rest of the tract. I was told (remember the 2 (two) and 10 (ten) acre rule), that the seven acre sale would be fine because the buyer's land was also in Clean and Green, therefore, it would never be a separate lot, it would simply be an addition to their 200 (two hundred) acre farm.

Two years had passed, since I finished the project, when a notice arrived in the mail. It notified me that I was liable for \$7,000.00 in fines and penalties for breaking the Clean and Green law, due to the sale of the 7 (seven) acre tract.

To make a long story short, after a year of legal wrangling, I won my appeal, but not without \$2,000.00 in legal fees and a lot of grief. This is just one of many Clean and Green problems, as I see it.

In Pennsylvania, in order to subdivide property, you need to have sewage tests done on each parcel to prove, on lot sewage is possible. If you think about the purpose of Clean and Green, you will realize that a large percentage of land in Pennsylvania has no development potential, due to current regulation. However, these lands can still be enrolled in Clean and Green. Can you guess who makes up the difference for these lost tax revenues?

Let's think about it...millions of acres in Pennsylvania cannot be developed due to sewage and wetland regulations, slope and terrain, endangered species laws and a host of other reasons, yet these lands qualify for Clean and Green.

Second; a game that some counties are playing is that, when a re-assessment happens, the company in charge will intentionally assess some vacant land much higher than its worth, knowing full well that a certain percentage of landowners won't appeal the assessment. The problems this creates are that, these landowners (mostly absent landowners), will enroll in Clean and Green because they may not see any other alternative. So, the counties and school districts make out like bandits on the parcels that weren't appealed, while losing money on the Clean and Green parcels.

Remember the moment you enroll your property in Clean and Green, you have lost value in your land. I have heard people say, "I'll never sell, so it doesn't matter". But remember, never is a long time and none of us will be around forever. If you were a prospective land buyer and were looking at two identical tracts, one in Clean and Green and the other not, which would you buy? Obviously the land is worth less, with added restrictions. Most people fail to weigh the few dollars they receive in the way of tax relief, to the amount of lost value in the land. Landowners must put principal ahead of profit, when it comes to this type of program, or we simply cannot win the battle.

Clean and Green creates an illusion of protecting open space under the 'dangling carrot' theory, but in reality, it's another flawed 'feel good' Program. Just like Forest Legacy, landowners are being subsidized with our tax dollars for worthless development rights. It's time to scrap Clean and Green and either start over or eliminate real estate tax all together.

AMERICAN VALUES

By:

Henry Ingram, Esquire

Except for sports, and C-Span, and some political talk shows like Hannity & Colmes, I don't watch very much television. As a consequence, I miss a lot of what the networks palm off on their viewers as news and entertainment. Obviously what goes up on the screen is a reflection of our popular culture. It also reveals a level of our shared or common understanding as a nation and our whole value system. My sense from sporadic tube watching is that the big boys in New York and Los Angeles think we're all a little stupid, immune to poor taste and lacking what we used to call American values. At the risk of offending some readers who may be avid viewers, when I do catch network shows, it all seems pretty tasteless, unnecessarily vulgar and not particularly stimulating (as in "does it make you think about anything of importance?"). The same goes for the "News." I get the impression that the lead guys are chosen for their looks and unctuous preachiness. They give 30 seconds or so of World or National news (skewed toward the left if you believe Rush or Michael Reagan) and then switch you over to some breathless, on the scene reporter who provides, a shallow, pre-investigation of the facts, analysis of some tragic occurrence or act of human stupidity or evil which usually is blown out-of-proportion, brayed on and on about and repeated well beyond the point of being news.

What results is a reduction in the level of discourse to trivia. We spend hours hearing yak about Al Gore's new hairstyle or George W. in his early days as a hell raiser. Some reporter is probably investigating how many iced teas Mr. Gore had when he missed all the talk about political fundraising at the Buddhist Temple in Los Angeles. What bothers me is that the mainstream press, or the media, whatever you want to call it or them, and their editors, always seem to let politicians get away with deflecting any serious discussion of issues such as: "Who would you appoint to the Supreme Court?" Or "Why shouldn't you cut taxes if we (!) are generating a surplus for the government?"

It is obvious that the media companies, publishers, producers, networks and studios bringing us the news and cultural stimulation

(a fancy term I coined for a level of entertainment just a little more edifying than WWF) are satisfied to dumb us all down and pitch everything to the lowest common denominator. What is even more astonishing and galling is when some intellectual thug like Al Sharpton or some vacuous, air-head entertainer is interviewed on some public issue, purportedly to get the perspective of some imagined constituency-for balance I suppose. They have to have a pretty low impression of the audience when a network puts on some dippy TV personality to interview Puff Daddy on evolving trends and minority education.

Our legislators and other elected officials, as a whole, aren't much better. How many times have you seen a supposedly serious political figure flip-flop on an issue; like Elian Goes or Elian Stays or "Now we need relief from wetlands regulation and compensation for takings and now we don't." "The media lets the politicians get away with it and they know a lot of us are too dumb or lazy to think it through and will soon forget the flips and flops. As long as they look good and sound good, they can slide by and keep on saying whatever they think will curry favor (and votes and contributions) from whatever group or constituency they're proselytizing at that particular moment. Politicians must really believe that the public believes that consistency is the Hobgoblin of small minds. Don't even mention tired old notions such as keeping campaign promises!

How many times have you seen or heard some "all smiles" Congressman-Dick Gephardt comes to mind-try to pull the wool over our eyes. They tell us we can't have a tax cut because they can't figure out how "to pay for it." "I have seen people start to scratch their heads and begin to think about that one. "Hmm ..." goes the thought. "How will they pay for it?" but they forget-"we" are paying for it. All Gephardt and his cronies are doing is moving your tax money around and, in basest political terms, using your money to buy votes for them. If something as obvious as that doesn't bother us, how can we cope with some real complex issues that the politicians scam us on?

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CONSERVATION DISTRICT NOTES

“Forest News”

By: Douglas E. Carlson

Congressman Peterson recently praised the passage of the Healthy Forests Restoration Act on Friday, November 21, 2003. The bill is designed to reduce the amount of bureaucratic red tape and lawsuits from the radical activists. Congressman Peterson wants to allow professional scientists room for the proper management of our nation's forests. This is good news in some ways. Environmental studies will still have to be done before any management practices are applied to the forest, but it is hoped that administrative and legal challenges can be managed so that the process of management doesn't take years to accomplish.

This past summer over \$50 million in timber was blown down. This fallen timber could and should be harvested before it deteriorates beyond marketability. Red maple that was blown down at that time is already likely stained and not of timber value, black cherry and oak will also begin to slip in quality as the trees lay in the forest rather than in a lumber yard.

The issue is not just the utter waste of millions of dollars in fallen timber; it remains an issue of forest management. Due to the administrative boondoggle and legal challenges allowed to proliferate, forest management strategies now take several years prior to any real on-the-ground work being done. If immediate problems ever occur, the window of opportunity for forest maintenance is such that valuable resources become squandered before work can be done.

Private woodlot owners' who sustained downed trees this past summer, had private foresters or others immediately assess the damage and act in order to save the value of the trees. While it may not have been timely in respect to a forest management schedule, salvage of fallen timber did help these private landowners ability to recoup some of the loss they sustained.

The Forest Service, under law, rules and regulations seems unable to move quickly in response to catastrophic events. Radical environmentalists will block the harvest of any tree on government land, just because they do not want these forests to have any true value beyond a perceived "natural value", which is not measurable in real dollars. Even if the environmentalists do not want to look at the forest as having value, they still must admit that it costs every American tax dollars to pay salaries to those given responsibility to manage that forest resource, for the rest of us. Even though National Forest across this nation has been 'shut down' by radical activists, little reduction has occurred in the Forest Service budget.

If the Healthy Forest Restoration Act can be applied to the Allegheny National Forest, we may all be able to observe a new dedication to proper forest management on this forest. If decision makers and supervisory persons ignore it, it may be years before forest management will result in the conservation of the ANF. There are places that may not have years; forest management is needed now. Constant vigilance is a key factor in management of any natural resource.

Questions??

Comments!!

Contact the Forest County Conservation District & Planning Office @ Box 456, Tionesta, PA 16353 or call 1-814-755-3450.

PLA

It's No Time to RELAX...



March 1995 Hank Ingram

This issue of *The Landowner* is full of very illuminating information and news - some of it good but much of it bad and disheartening.

Devastating blow struck to the Brace family by the Third Circuit Court of Appeals, which deferred to counter-intuitive, regulatory finagling by unelected bureaucrats with the agricultural exemption over common sense, is discouraging. But the Braces refusal to knuckle under and resolve to continue their fight for their property rights is encouraging.

The reiteration of the enormous financial power and influence of the large anti-development, environmentalist advocacy groups that are arrayed against volunteer organizations with limited resources such as PLA is disheartening. And as discussed later, so are the continuing, disingenuous attacks on PLA which are sponsored and supported by some of these same groups.

We can take some encouragement in the 1994 Elections which seem to demonstrate that ordinary citizens have rejected big, intrusive government in many of its manifestations. You begin to think it may finally be possible to get EPA, the Army Corps of Engineers and Fish & Wildlife Service out of our backyards. Think about it-three, maybe four, huge, federal executive agencies (not to mention our old friends, the D E R, the Game Commission and the Fish and Boat Commission) looking over your shoulders when you clean a drainage ditch! Have we lost our minds?!

Is also encouraging to read the clearly enunciated the statement of PLA Mission, Philosophy and Agenda and realize that many newly elected officials have a similar philosophy, support PLA views and are willing and may at last be able to help landowners. Nevertheless, the imbalance of resources between PLA and the organizations are rate against it, and the ongoing influence of such groups in government and the media, is disheartening.

Despite all the bad and disheartening news, is reason for cautious optimism.

Nationally, the people have fired a shot across the bow of the big command and control government armada and it is dead in the water for the moment. Clearly there is now an opportunity to restore reason and balance in environmental regulation, perhaps even to pare back some of the more ludicrous mandates emanating from inside the Beltway.

Closer to home, the extreme, anti-development advocacy groups and their enviro-police allies are feeling the heat and you can take pride in the fact that it was PLA that turned up the flame! This last point was amply demonstrated when recently the self-proclaimed leaders of the Pennsylvania environmental community said this about PLA:

Over the past several years, a potent environmental backlash movement has emerged. This backlash which originated in the West and spread nationwide, has adopted the reasonable sounding name of the "Wise Use Movement."

However, the stated aims of the various organizations attached to the "Wise Use Movement" are to dismantle legislation and regulations which protect public health and guide the management of our natural resources.

The most visible Pennsylvania "Wise Use" group is the Pennsylvania Landowners Association (PLA) based in Waterford, Erie County. According to its literature, the PLA opposes: Current wetlands and endangered species programs; designation of scenic rivers, prime watersheds, historical and archaeological sites; and information gathering processes such as natural heritage inventories is and the Pennsylvania Natural Diversity Index.

When you strip away the overblown rhetoric and outright distortion of PLA positions by These so-called leaders of the Pennsylvania environmental community, you realize that they recognize that they are beginning to lose their vise-like grip on public opinion and that the tide of such opinion is shifting. Look at what else they say in the handout when instructing their followers on how to counter the Wise Use Movement:

ENHANCING THE IMAGE OF "CONSERVATIONISTS"

In addition to carefully crafting pro-environment, pro-property rights messages, environmentalists and conservationists should work on improving an already-positive public image. The following recommendations and observations can be applied to any issue and can be useful in any forum where one is making the case for environmental protection.

Continues on next page

ENVIRONMENTALIST OR CONSERVATIONIST?

Some people perceive “environmentalists” to be groups with non-local, even global concerns and a clear political agenda.

I don't have to tell you that the strategy advanced here is to mislead and try to dupe the public on environmental and property rights issues. Next, they'll be talking about apple pie and motherhood!

The point is that the environmental community appears to be prepared to use all the tricks-innuendo, distortion and mischaracterization-to stifle the message and influence of organizations such as PLA. Sadly, they seem to get away with it.

A truly classic example of their double standard is found in the admonition to “Take The High Road” quoted previously. There, environmentalists are advised to avoid name-calling and labeling those who disagree with their position. However, in the very same handout, the environmental leaders label over 35 trade associations, businesses and civic organizations as “Misuse” and “Wetlands Destruction” groups.

They even slam the Pennsylvania Building and Construction Trades Council! We all know that many of the members of these mainstream, constructive and responsible statewide organizations have supported many of the environmental advocacy groups which are responsible for this handout.

Why should these mainstream organizations be labeled “Wetlands Destruction” groups when, from the environmentalist perspective, being accused of wetlands destruction, is the equivalent of being accused of a mortal sin? Sadly, the environmentalists seem to be able to get away with such name-calling.

Environmentalists are not seen as elitist, but some people think of them as alarmist dedicated to their own agenda. On the other hand, people think of “conservationists” as more locally-oriented and less political than environmentalists.

BE BELIEVABLE AND BE BALANCED

People will gravitate toward those who espouse balanced approaches to resolving environmental disputes. To communicate pro-environmental messages beyond core supporters, take care to avoid extreme, absolute language. Use of extreme language plays to people's preconceptions of environmentalists as alarmists.

BE PATRIOTIC

Property rights are among our basic American rights-they protect each individual home. Environmentalists share this value 100 percent and affirm that it is one of our precious constitutional protections. Never use the term “property rights” to describe what anti-environmental activists support. Environmentalists should begin to describe themselves as property rights advocates and our opponents as supporters of “Takings.”

TAKE THE HIGH ROAD

Avoid name-calling and labeling those who disagree with your position. Do not personalize this issue-hate the position, respect the opponent. State your arguments in positive terms. The environmental community has the moral high ground on this issue.

An earlier issue of *The Landowner* pointed out the irony of having the Pennsylvania Environmental Council, once the leading voice of reasoned debate and consideration of multiple interests in environmental issues, allying itself with more radical, anti-development groups. Now, by signing onto the agenda of the First Environmental Congress, PEC participates in and promotes “name-calling” and “labeling” of many of its longstanding and loyal supporters. I don't really understand this one.

Most all of these trade associations, which the “environmental leaders” now vilify as “Misuse” or “Wetlands Destruction” Groups have done nothing more than seek balance in wetlands regulation and try to cooperate with the environmental community. For that they get a slap in the face. It does bother me that no one calls a foul when a double standard is used.

Although we have come a long way, there is much, much more to do. Ordinary citizens finally have the attention of the politicians and the bureaucrats and their anti-development advocacy group allies. The environmentalists are running scared and have launched a counter attack on PLA and other organizations which are seeking to restore reason and balance in environmental regulation. But as is amply revealed elsewhere in this issue, the playing field is not level. Volunteer, grass-roots groups are outgunned in terms of financial and technical resources and public opinion is still being influenced by the media, which continue to plow the same old ground with blinders on.

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In thinking about it, I blame the erosion of our fundamental values on our own intellectual laziness accelerated by the lack of clarity and gravitas in our public discourse. There is very little serious discussion-it's all entertainment. Some editor writes something that we know is wrong but we shrug it off. It's time to go to work or switch to the NASCAR series on the tube. But as the fallen Angel, Newt Gingrich, puts it: "Words are important. "The way we talk about American values tells us who and what we are and where we're going. Let's think about some of these American values. Take, for example, in the takings clause, the concept of "public use. " It used to mean something. How about the concept or value of "multiple use" in the context of publicly owned lands. Or how about "wetlands?" over time, the words haven't changed but the values underlying them have.

Let me give you some examples.

First, here is a press release from the Allegheny Defense Project:

Responding to a public call for forest protection, today representatives Jim Leach (R-PA) and Cynthia McKinney (D-GA) along with 44 co-sponsors, re-introduced the bi-partisan National Forest Protection and Restoration Act (NFPRA) in the U.S. Congress. NFPRA would end the National Forest commercial timber sale program, save taxpayer dollars, and re-direct funds to create jobs in critically-needed forest restoration, worker retaining, and businesses, and religious groups (including the Christian Environmental Council,) who have formed the National Forest Protection Alliance, a national grass-roots coalition whose mission is to protect America's public lands from commercial exploitation.

"Our national forests were reserved for the people of the U.S. over 100 years ago, and they should remain that way. The forests have provided clean drinking water for our communities, outstanding recreation for families, and unexcelled wildlife and fish habitat," said Congresswoman McKinney.

If you stop thinking right there, it probably sounds OK and you move on. That's wrong, however. National Forests weren't set up like National Parks. When Congress used your money to "do" The Forests, the "Multiple use" concept was embedded in the legislation.

The Supreme Court recognized that there exists a significant legislative difference between national forests and national parks. National forests "Are not parks set aside for non-use," they were "Established for economic reasons," 438 U.S. at 708. National forests, and like National Parks, are not wholly dedicated to recreational and environmental values.

This save the Forests stuff sounds good and makes "Good press. " but I don't have to tell readers of the *Landowner* about the devastation of our communities and disruption of the economy in Northwestern Pennsylvania if the ANF were to be locked up as a nature preserve. So far, no Pennsylvania Congressman has signed on to this legislation, but don't be surprised if one or two (no doubt from the "Sprawl" areas) do sign on. How do you think the media will play that one? Most of them probably believe "Multiple use" is a disease!

Let's take another one. *We talk about it all the time. It's the bedrock constitutional principle: "... nor shall private property be taken for public use without just compensation." There was a time when we all knew what the last clause of the Fifth Amendment meant. If the government has some [legitimate] use for your property, it could take it and pay you for it. Highways, schools, parks-we understood that. Without going into a history of constitutional evolution brought on by the incredible growth of government regulation, suffice it to say the Courts had to step in to prevent the complete evisceration of the Fifth Amendment by excessive government regulation at all levels. Pennsylvania Coal v. Mahon, Lucas, Whitney Benefits and Dolan and Nollan stand out as beacons, even if somewhat faint ones, in the fog surrounding the Fifth Amendment. If Government goes too far or goes about it too irrationally, the Fifth Amendment may protect you ... if you live long enough and have enough money to fight a major war against the Leviathan. Regrettably, just like environmentalism, the Fifth Amendment is a rich man's game.*

But let's take a look at what's going on around the edges of the Fifth Amendment. Lo and behold, politicians are using it as a tool-some would say the tool is a bludgeon. Here is the way it works.

Conclusion on next page

A politician says to himself "I can take private property if I (meaning the taxpayers) pay for it. No problem. I have the money. Now all I have to do is conjure up a little public use. Make it sound like a highway, school or park-you know-the real public stuff. "

For example, in Pittsburgh, the City wants Heinz to expand. Why shouldn't the City want that? It is a wonderful company which contributes greatly to all aspects of the community. But can the government take a neighbor's (*the little guy's*) private property to make it available to a multi-national corporation? Ketchup, pickles, jobs-sounds like public good although it may be not quite the same as public use, but us dim bulbs out there that the Mayor is dealing with may not recognize or care about the difference.

Or how about buying up a bunch of small businesses in downtown Pittsburgh so some out-of-town investors can develop the site and the Mayor will get a lot of credit for saving Pittsburgh. You could argue public good but it's a little harder to see public use in "Take A's property and give it to B's at taxpayers' expense."

"The solution: drag out the old "blighted area" designation. A "blighted area" designation supplies the public use and the politicians are off to the races. Talk about us being dumbed down. We may buy into that one but think about that third generation businessman whose family worked hard, provided jobs, paid taxes and in return gets the old "your property is in a blighted area" scam thrown in his face.

The same game seems to be starting at Presque Isle. Some swell Conservancy group gets a little edgy when the common man (do they refer to us as Joe SixPack and family?) begins to "over use" the park. "Better slow down ... too much habitat fragmentation (watch out when you hear that one ... it's like "Blight!") going on. " and by the way, all those businesses near Waldameer are drawing people like flies. Maybe we better try to use some more politically correct flypaper-like a fancy new Visitors' Center. Let's make people focus on the better things-talk about habitat preservation, the DCNR, Rachel Carson, our natural heritage etc., etc. You can really do a lot if you just slip your hand into the cookie jar through "Growing Greener" and "Key 93" money and various other sundry grants. At the end the taxpayer pays.

Let's see how this plays out. Have you ever seen a politician who didn't want to cut the ribbon on a new Visitors' Center? All you have to do is steamroll over some small business owners. And-as would please Gephardt and his pals-we (meaning you, the tax payer) can pay for it. Public use, public good ... who cares? The public is asleep and if it wakes, it will be to the sound of some TV reporter gushing over how good we all feel about a brand new Visitors' Center.

All you have to do is look at the wetlands issue to see how we can be manipulated out of our fundamental American values which, after all is said and done, provide the underpinnings for our personal freedom and individual liberty. As the Virginia Slims people say it: "We've come a long way, Baby!"

I keep on my desk to maps of the United States. One shows acreage of "Wetlands" declared by the United States in 1920 to be needed drainage. We spent years and years and millions and millions of dollars to subsidize improvement of poorly drained land to enhance it for farming. Surely that was done for public good. The other map shows the same areas-now referred to as "Artificially drained agricultural land," 87% of wetland losses (*you just have to accept a wetland loss is a bad thing because the media and the politicians say so*) were caused by government subsidized draining the "wet, swamp and overflowed lands," as a matter of public policy choice, beginning in the 1920's and continuing for 50 years.

Now we're going beyond the pale. We've come from "Drain the wetlands" through to "No Net Loss" (*and where do you start to count?*) and we're off to a goal of "Net Gain of Wetlands. " planners in their Gucci's or Birkenstock's are scrambling to come up with ideas and schemes to get more wetlands. If you follow all this to its logical conclusion (*and if you assume for the sake of rational discussion that creating even more wetlands is a good idea*), it all comes down to cleaning up a mess the Government created and we have to pay for it. And you wonder why some people still trust government programs!

The heck with it. Let's watch NASCAR pick up some pointers from Rosie O'Donnell.

PLA

Continued from cover

Hank and I frequently talked about the injustice. We talked about the “Tucker Act” and the difficulty going through the system in order to obtain compensation. The ordeal of waiting, 4...5...6 years before the Government sued the party involved...before the individual, business or corporation can file a claim against the Government. I believe the average waiting time is approximately 12-15 years and in some cases, have been in limbo for as much as 40 (forty) years, such as *Palazzolo v Rhode Island*. Without Hank, I don’t believe I could have gotten through the Tucker Act. Hank was very honest and he was always forthcoming with his expectations. He never pretended it would be easy, he was up-front with his anticipation of how long the process would take, how hard it would be to try to be heard in an unjust system.

Hank spent a lot of Pro-bono time on Property Right issues. For example, in my case, \$500,000.00 in attorney’s fees to get me through Local Federal Court; all lost because 3 (three) appellate Court Judges over-turned Judge Mencer’s Local Federal Court Decision. Then came hours and hours to Appeal to the Supreme Court, knowing that the chance of getting hit by lightning is greater than actually getting heard there, because of the Tucker Act. Then came Brief after Brief in Claims Court and because of Appeals, much more time and money were exhausted. Yet, through all of this, Hank never had an inclination to give up. He and I both knew the important changes that needed to be made. We knew and still know the overwhelming struggle it will take to get the Governmental Leaders to listen and change the unjust Regulations that keep landowners and property owners from using their property without compensation. Our Courts are saying that the Government can take 90%-95% of our land, without considering it a taking. What do you say?

Voice your opinions through email: info@palandowners.org

Hank knew our Constitutional Rights and that of the Fifth Amendment...we will miss him greatly.

Robert Brace/Vice President, PLA

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This is not time to relax and sit back to see what happens. This is the time to consolidate your gains, press the initiative and shove the pendulum back the other way. Contrary to the distorted rhetoric of some of the extremist groups opposing PLA, most ordinary citizens and landowners don’t want to dismantle legislation and regulation which protect public health (as PLA is accused of wanting to do!), but they do want to get government off their backs and out of their backyards.

To take the next step, PLA more than ever needs the support of its members. To carry its message, PLA has set a goal of having members in every municipality in Pennsylvania and to achieve an aggregate member base of 10,000 individuals and businesses. PLA must be able to demonstrate to not only long standing and new friends but also to foes that it has the resolve to take a stand and the resources to back up its friends and supporters. Expanded membership is absolutely critical if PLA is to fulfill its mission and its agenda.

Because PLA has limited financial resources, it can’t engage a marketing or PR consultant to help spread the word of its successes or to recruit new members. Thus, PLA needs the help of its membership in the very specific way. Each of you is being asked to get involved and to recruit at least five new members. If we all make that commitment and fulfill it, PLA can achieve its goal of having 10,000 members within a matter of weeks or a few months.

Please get in touch with your friends, acquaintances and other contacts, particularly in parts of Pennsylvania where PLA is not well known or strong and ask them to join PLA. Reach out to your suppliers and the businesses which benefit from your patronage and don’t let your friends and neighbors sit idle on the sidelines. Get them involved in PLA. Call the PLA office for informational materials you can use in recruiting. It is all part of working together to take a stand for your land! Your involvement can really help to restore reason and balance.

1. The Department of Defense (Corps of Engineers), the Department of Interior (U.S. Fish and Wildlife Service), the Department of Agriculture (Soil Conservation Service), and the Environmental Protection Agency. This is
2. This is an excerpt from a handout distributed at the First Environmental Congress held in Harrisburg, Pennsylvania on October 2, 3, 1994, which was organized and sponsored by the Pennsylvania Conservation Network, the Chesapeake Bay Foundation, the Sierra Club, the Pennsylvania Environmental Council and others.
3. *The handout distributed at the First environmental Congress identifies (labels) as “misuse” and “wetlands destruction” groups the following: Pennsylvania Landowners Association; Allegheny Hardwood Utilization Group; PA Independent Petroleum Producers; Hardwood Lumber Manufacturers Association; PA Mining Professionals; PA Association of Realtors; PA Land Improvement Contractors; PA Builders Association, PA Chamber of Business & Industry; PA Farm Union; PA Farm Bureau (PA Farmers Association); PA Coal Association; PA Gas Association; PA Manufactured Housing Association; PA Manufacturers Association; PA Oil and Gas Association PA Rural Electric Association and others.*

PLA

UPDATE

"Little Juniata's Saga Continues"

The saga of the Espy property in Spruce Creek, PA continues. Early "PALandowner" readers will remember Herman Espy, who was attracted to PLA when DER and the Fish Commission lined up with some local agitators in 1992 and tried to force their way onto Mr. Espy's stretch of the Little Juniata.

After he became fed up with the irresponsible behavior of persons he had previously allowed to fish on his property, he closed his stretch of the stream, exercising his constitutionally protected right to exclude people who would seek to enter his property without permission. Mr. Espy made it stick for a decade.

Then, a ten years later, on March 27, 2002, the DEP, DCNR and Fish Commission launched a sneak attack on the Espy family and Spring Ridge Club (the lessee of the property) and declared unequivocally in a widely circulated, "official-looking" letter that the "Commonwealth owns the Little Juniata River and the associated submerged lands" and that the "public has the right to fish and otherwise enjoy the use of the Little Juniata."

Once DEP unilaterally (and as it turned out, illegally) declared the Little J "navigable," they went on to say that "attempts to interfere with the public's rights, including efforts to exclude the public from fishing the Little Juniata are unlawful...If attempts to interfere with the public's rights continue, the Commonwealth intends to initiate appropriate legal action to protect the public's rights."

Spring Ridge Club immediately filed an appeal and quickly obtained an order temporarily superseding DEP's action.

However, just prior to a hearing for a permanent stay of the action, DEP, to avoid an adverse decision, was forced to pull in the Commonwealth's horns by issuing on June 17, 2002 a letter rescinding the March 27 letter. This ploy divested the Environmental Hearing Board judges of jurisdiction over the appeal, allowed DEP to avoid scrutiny and put the whole situation in legal limbo.

Then in June 2003, the Commonwealth of PA through its Department of Environmental Protection and Department of Conservation and Natural Resources joined in with the Pennsylvania Fish and Boat Commission in a lawsuit aimed at confiscating the stream bed of the Little Juniata below the confluence of Spruce Creek from the Espy family and Spring Ridge Club.

At issue is the question of whether the Little Juniata fits the definition of a commercially navigable body of water as defined by Pennsylvania courts as to "whether the water is used or usable as a broad highroad for commerce and the transport in quantity of goods and people." *Lakeside Park Co. v. Forsmark*, 396 Pa. 389, 396, 153 A.2d 486, 489 (1959).

The suit was filed by the Commonwealth in the Court of Common Pleas of Huntingdon County in June 2003. The defendants filed preliminary objections in August, asking the court to dismiss the case. Arguments on the preliminary objections were heard by the court in December 2003. A ruling by the court is expected by February 2004.

Stay tuned to the "Landowner" for updates of this landmark case that will affect the rights of tens of thousands of riparian landowners throughout Pennsylvania. PLA

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**Just a Reminder! Our Annual Dinner will be scheduled soon and we
look forward to seeing YOU there!**

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