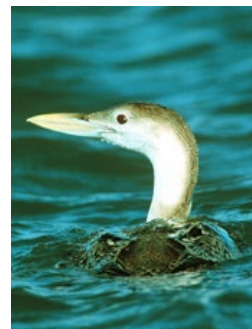




The Cactus Wren•Dition

Summer 2002 • Volume L, No. 2



Yellow-billed Loon
photographed by **Jim Burns** at
Lake Havasu on the Colorado
River 3/02 with Canon 400 mm
f/2.3 lens and Fujichrome Velvia
film.

CONTENTS:

Events & Programs • From the Editor • Notes & Announcements • Conservation - Fighting Forest Fires • Photo Quiz • Book Review - Sparrow of the United States & Canada, The Photographic Guide • FYI - West Nile Virus: It's Headed Our Way • Carefree Christmas Bird Count Summary, December 28, 2001 • In Memoriam - Lillian Diven 1920-2002 • Field Trips • Photo Quiz Answers • AZ Special Species - Broad-Billed Hummingbird • Sightings • FYI - Earth Justice: Because the Earth Needs a Good Lawyer

PROGRAMS

Meetings are held the first Tuesday of each month, September-April, at the Phoenix Zoo Auditorium. Meetings start at 7:30, and feature a speaker, book sales, refreshments, and a chance to socialize with fellow MAS members. Non-members welcome!

Join us for a pre-meeting dinner at Pete's 19th Tee, 1405 N Mill Avenue, Tempe (at the Rolling Hills Golf Course) starting at 6:00 p.m. Except for the May Banquet which will be held at the Shalimar Country Club in Tempe (one block north of Southern, midway between McClintock and Price).

PROGRAM TOPICS

May 7: Annual Banquet-Dr. Bob Ohmart, Professor of Biology at ASU will Speak on the Buenos Aires National Wildlife Refuge - Tantalizing and Undiscovered Jewel.

September 3: David Reeser - TBA

October 1: Dr. David Pearson, A.S.U. biology professor - "Why are there more bird species some places than others? The use of bird watching skills in science."

November 5: Kevin McCoughlin from Adventure Camera in PA - Belize and Central America.

December 3: Southwest Forest Alliance, a non-profit coalition of more than 60 environmental organizations in the Southwest, working to protect forest

ecosystems through systematic reform - presents Old Growth Forever! highlighting the urgent need to protect the remaining stands of old growth forests in the Southwest and concentrating on the North Rim of the Grand Canyon, where the Forest Service still allows the logging of old growth and the subsequent destruction of species habitat. Eventually, we hope to create an Old Growth Preserve to Protect this unique biological area

January 7, 03: Doug Alexander - TBA

Speakers wanted: If you have ideas for speakers, or if you would like to make a presentation yourself, please contact Laurie Nessel, Program Chair, at (480) 968-5614 or laurienessel@hotmail.com

From The Editor

By Deva Burns

COMMITTEES/SUPPORT

Activist Alert:

Shawn Bauer
602-828-3607
shawnbauer@hotmail.com

Arizona Audubon Council Rep:

Herb Fibel
408-966-5246
herbertsfibel@aol.com

Bird Alert

Warmer weather induces much more activity on my part. Whereas in the winter I prefer to snuggle in front of the fire and read, when spring starts I clean - windows, closets, drawers, yard, whatever. Jim doesn't understand this. He's sure it's a gender thing. I am sure he is hoping this extends to all the boxes I have lying around from my old job. I have taken some things to the new office but I just haven't been able to throw anything away yet. Why I mention this? Because I'm ahead on cleaning but

NOTES & ANNOUNCEMENTS

Annual Board Elections - It's that time of year again. Our annual board elections will be held at the Annual Banquet and Meeting on May 7th, and, as provided by our bylaws, a nominating committee has been named by our president. If you are interested in stepping forward and in assuming a leadership role in your chapter in the coming fiscal year which begins June 1st, please call on of the following Nominating Committee members and let him or her know of your interest

Harvey Beatty, Chairman
(480) 990-0415

Olga Harbour
(480) 503-9291

Charlotte Norrid
(480) 967-4957

Southwest Forest Alliance: will be leading field trips to the North Rim this summer, and would love to have folks join them if they are so inclined. Check their webpage for more information. It is located at www.swfa.org.

Annual ABA Convention - In Duluth, NM, June 10-16, 2002. If you are interested in attending, please call the ABA at 800-850-2473 x 233 and request a convention booklet. The Duluth area offers an exciting mix of habitats and birding possibilities.

Annual White Mountain Campout: June 14-16. See Field Trips for information.

Flycatchers: ABA's Institute for Field Ornithology (IFO) - July 20-25 in Sierra Vista, AZ with Chris Benesh. Appropriate for birders of all levels and emphasizing the flycatcher species that breed in southeastern AZ. Limited to 10. For information contact IFO Coordinator Kimberly Lynn at 800-850-2473 x235 orifo@aba.org. You can also visit the IFO pages on the ABA site, www.americanbirding.org.

West Coast Seabirds: ABA's Institute for Field Ornithology (IFO)—another workshop to be held August 3-8 with Debi Shearwater and Peter Pyle. See above item for further information.

Southwest Wings Birding Festival: August 7-11 in Bisbee. See Field Trips for information.

Sparrows of the United States and Canada: The Photographic Guide (Academic Press) - This superb identification guide by James Rising has just recently been released. MAS photographers Jim Burns and Rich Ditch were contributors to this book and Rich will be reviewing the book in a future Wren•dition.

Al Anderson from Sierra Vista - Sends some interesting pieces of information. Audubon has a new gift-membership program now. If you give a membership (and Magazine subscription) as a gift, you chapter gets all of the 15 dollars the first year. Secondly, our Arizona State Legislature has re-offered for 2001, the School Tax Credits program. With this program, you can give up to \$200 per person (\$250 per couple) to the public school (K-12) of your choice (you can give even more to private schools), and have the amount you give taken off your Arizona State income tax. The State allows an exemption, dollar for dollar, up to, but not exceeding your state tax for this year, 2001. The contribution can be extended over five taxable years if your state tax is less than the contribution. Where else can you designate your tax dollars for the public good, and not have it cost you a cent? You give the money directly to the school of your choice (K-12), where it must be used for (1) character education programs, or (2) extra curricular activities. These are very broad categories indeed, and you can designate within them what your contribution will be used for: band uniforms, field trips, etc. The school can almost always find a program/activity which is compatible with your wishes. The problem is that may not be renewed for 2002 and in order to take advantage for 2001 you had to contact the school before December 31, 2001. But keep it in mind to encourage the legislature to renew again - just think if all Audubon members made that contribution, what an impact it could have on you youth and on the birds.

More birding and nature festivals.
www.americanbirding.org

Notes & Announcements

Book Store

Richard & Karen Kaiser
602-276-3312

Field Observations

Janet Witzeman
602-840-6089

Hospitality

Cynthia Donald (Coffee)
Sherry Celine (Cookies)

Web Page

Michell Fulton
480-968-5141

webmaster@maricopaaudubon.org

Maricopa Audubon Web Site

www.maricopaaudubon.org

AN INVESTMENT IN THE FUTURE

Bequests are an important source of support for the Maricopa Audubon Society. Your chapter has dedicated itself to the protection of natural world through public education and advocacy for the wiser use and preservation of our land, water, air and other irreplaceable natural resources.

You can invest in the future of our natural world by making a bequest in your will to the Maricopa Audubon Society. Talk to your attorney for more information on how this can be accomplished.

behind on editing!

Charles Babbitt has written this month's conservation article and it should be required reading for all bureaucrats. He reemphasizes the fact that fire is a natural phenomenon and should be left alone (unless endangering human habitation). We should not be spending our scarce dollars on fighting fires. Elisabeth Lawaczek's article on West Nile Virus should be a wake up call to all of us. Please take note and help out if you find a newly dead bird. I found Buck Parker's article very intriguing and if you can't wait for the next installment, please do not hesitate to e-mail me and I will e-mail the article to you. Be sure to check out Rich Ditch's review of James Rising's new sparrow book. And of course, the regular articles are here - The Photo Quiz, Arizona's Special Species, Field Trips and Field observations.

How many of you thought that Phoenix was a birding "desert"? Read the Special Species article in this issue and realize that a real gem is right here. If you are interested in placing your name on the slate for a position on the MAS Board, please contact a member of the nominating committee listed in the Notes and Announcements section. Finally, come to the banquet on May 7 and vote for the coming year's board members. We will also have a wonderful dinner and a great speaker - ASU Biology Professor, Dr. Robert Ohmart.

Audubon Adventures: Give the gift of discovery and share your love of the environment. The program is designated for students in grades 4-6. Introduce an entire classroom (up to 32 students) to the wonders of nature for just \$35 (plus shipping charges). You can select your favorite school or let Audubon do it for you. For orders: call 800/813-5037.

Maricopa Audubon T-Shirts Available, contact Laurie Nessel at (480) 968-5614 or laurienessel@hotmail.com

Do you have an interesting story to tell about birding? Please forward your **submissions** to the Editor—Deva Burns. Check the back page for address/e-mail. Actually, attaching an article to an e-mail is the absolute easiest way to submit an article. If you have pictures or slides, you do need to send those to me directly. Remember, all articles may not be published the first month after receipt.

Wanted - A Graphic designer willing to design and produce the Cactus Wren edition. Unfortunately, this must be a labor of love because you have to be willing to donate much of your time. If you are interested, please contact the Editor. Please be prepared to put together a proposal for Board Review. We are losing our great designer, Peggy Wang, who has been with us for over 5 years. In a life-changing move, she is returning to school and hopes to get into medical school. Good luck, Peggy.

1

2



B) Good Photo, Difficult Bird

is why do we waste millions of taxpayer dollars and risk the lives of fire fighters trying to put them out.

Last year congress appropriated 1.6 billion dollars under the National Fire Plan to improve our firefighting efforts. Spending fire prevention money to protect communities at the urban-wildland interface is money well spent but it should not be spent on so called forest restoration or other logging - in-disguise projects away from communities in an attempt to fireproof our forests.

Instead of looking for excuses to put out fires, we need to look for reasons to let them burn. Deciding when and where to fight fires is complex, but we must do a better job picking our fights with nature.

Last summer many people were concerned that the Leroux Fire near Flagstaff might mar the scenic beauty of the San Francisco Peaks. We must remember, however, that it is not nature's job to provide us scenic views. On the other hand, go up to Escudilla mountain near Alpine next fall and marvel at the large stands of golden aspen on the high slopes and remember that it was a big forest fire in 1951 that made it all possible.

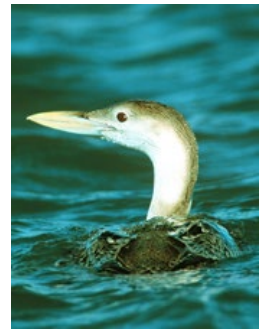


C) Bad Photo, Easy Bird



The Cactus Wren-Dition

Summer 2002 • Volume L, No. 2



Yellow-billed Loon
photographed by **Jim Burns** at
Lake Havasu on the Colorado
River 3/02 with Canon 400 mm
f/2.3 lens and Fujichrome Velvia
film.

CONTENTS:

Events & Programs • From the Editor • Notes & Announcements • Conservation - Fighting Forest Fires • Photo Quiz • Book Review - Sparrow of the United States & Canada, The Photographic Guide • FYI - West Nile Virus: It's Headed Our Way • Carefree Christmas Bird Count Summary, December 28, 2001 • In Memoriam - Lillian Diven 1920-2002 • Field Trips • Photo Quiz Answers • AZ Special Species - Broad-Billed Hummingbird • Sightings • FYI - Earth Justice: Because the Earth Needs a Good Lawyer

BOOK

SPARROWS OF THE UNITED STATES AND CANADA, THE PHOTOGRAPHIC GUIDE

Review by Richard Ditch

REVIEW

In 1996 Academic Press published "A Guide to the Identification and Natural History of The Sparrows of the United States and Canada," written by James D. Rising and illustrated by David D. Beadle. At the time I said this book should be in every Arizona birder's collection.

BOOK

Now six years later, Academic Press brings us "Sparrows of the United States and Canada, The Photographic Guide," by David Beadle and James Rising, calling the new book a companion to the previous book.

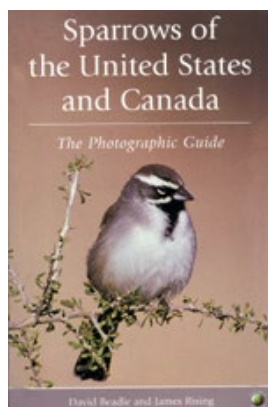
REVIEW

I was surprised when I found out this new book, by the same authors and covering the same subject, was in the works. I thought the 1996 effort was a great reference, with excellent information, good range maps, and quality drawing from Mr. Beadle. How could the authors, the publisher, and the consumer justify the new version?

BOOK

Not surprisingly, there is a lot of overlap in the information contained in both books. Beadle's drawings showing the topography of a typical sparrow is reused in the new volume. The range maps use similar colors, but have been redrawn to reflect the latest data. Text sections have been rewritten and rearranged.

REVIEW



BOOK

Thick-billed Fox Sparrow has been broken off from Slate-colored, and Yellow-throated Bunting has been added. Most birders have gotten used to these pending changes since 1996, but the AOU has yet to make them official. This may lead to some confusion for birders not aware of the research in this area.

The 2002 book has fewer pages, but is thicker. Page size is slightly smaller as well. Text accounts are shorter but still comprehensive. The authors state that the 2002 text is focused on identification, and that the 1996 book should be used for "the rest of the story." The interesting color maps showing breeding density have been dropped from the 2002 edition as well. The strength of the new version of course is the use of high quality photographs for each species. The authors have done a splendid job of collecting these and show an amazing variety of plumages for each species. There are 19 photos of Savannah Sparrow, for example. The photos are of good size, usually with 3 per page but often only 2 larger photos per page. Photo reproduction and printing are of high quality. Each photo lists information about the date and place taken, and the photographer's name with the image. Arizona birders will be glad to see the single page table comparing fall plumage Clay-colored, Chipping, and Brewer's Sparrows carried over from the 1996 book as Appendix 1 - it might be a good idea to make a photocopy of this page and keep it handy for quick access in the field. We are also provided with an extensive list of references running seven pages (which includes a suggestion to consult the 1996 book for even more references).

My one major complaint about the 1996 version (the lack of a direct list of page numbers for each species) has been addressed - the 2002 book has a quick index of all 64 species on the inside flap of the front cover.

So, should you buy this book? Certainly, if you don't already own

WEST NILE VIRUS: IT'S HEADED OUR WAY

By Elizabeth Lawaczek, DVM

Scientists have been surprised at the rate that West Nile virus (WNV) has been spreading across the United States. Primarily a wild bird disease, WNV has been found in more than 80 avian species and 9 mammalian species since its arrival in this country. In 1999, WNV was first identified in the U.S. in New York City as the cause of an outbreak of encephalitis (inflammation of the brain) in humans and the death of thousands of birds, especially crows. Previously, the virus had never been detected in the Western Hemisphere. By the end of 1999, WNV activity was detected in 4 states. Since then, the virus was detected in 12 states in 2000, and in 27 states and the District of Columbia in 2001. In 2001 a total of 4,604 crows and 1,497 other birds with WNV infection, the vast majority found dead, were reported from 27 states and the District of Columbia. The virus has also been confirmed in Canada and in the Cayman Islands, which are south of Cuba.

WNV is transmitted through the bite of mosquitoes, with birds being the primary reservoir. The virus multiplies well in the blood of certain species of birds. Mosquitoes become infected with WNV while feeding on infected birds, and then transmit WNV to humans and other animals while biting them to take blood. Species most susceptible to WNV

include the Corvid family, raptors, and certain exotic avian species such as those at zoos. Arizona has a large number and variety of migratory birds, which may play a role in the geographic spread of WNV. Migration patterns of several bird species in eastern and western states overlap during winter migrations into Central and South America, thus creating the potential for WNV introduction into western avian species. Experts estimate that WNV will reach the western U.S. in the next one or two years. The Arizona Department of Health Services has partnered with the Arizona Veterinary Diagnostic Laboratory, county health departments, and other agencies in conducting surveillance for WNV infection in birds. You can assist public health officials in surveillance for WNV by reporting dead or dying birds to your local or state health department, preferably from April through October. The most important criteria for submission of a bird for WNV testing, is freshness; necropsy results are best when the bird has been dead less than 24 hours. For further information please contact the Arizona Department of Health Services, Vector-Borne & Zoonotic Diseases at (602) 230-5932, or visit the following websites:

Centers for Disease Control and Prevention-
<http://www.cdc.gov/ncidod/dvbid/westnile/index.htm>

New York State Department of Health West Nile Virus Page-
<http://www.health.state.ny.us/nysdoh/westnile/index.htm>

U.S. Geological Survey, National Wildlife Health Center-
<http://www.nwhc.usgs.gov>

CAREFREE CHRISTMAS BIRD COUNT SUMMARY DECEMBER 28, 01

FYI

FYI

FYI

FYI

FYI

FYI

The 1996 book covered 62 "species" of towhees, sparrows, juncos, longspurs, and buntings, and even includes a seedeater and two grassquits. All the familiar Arizona birds are here. The Bell's form of the Sage Sparrow was treated as a separate species, and the Fox Sparrow complex was broken into three distinct species (which Rising called Red, Sooty, and Slate-colored). For 2002, the order of the species has been altered, and we now have 64 entries instead of 62. The

the 1996 version. Of course, if you enjoy quality photography. Yes, if you found the placement of color plates at the back of the 1996 version away from the text a problem. List price is \$29.95.

Disclaimer: the Spotted Towhee photograph on page 33 was taken by me, at Boyce Thompson Arboretum. I hope I've been unbiased in this review in spite of that. I feel privileged to have one of my photos included, along with some from Maricopa Audubon's own Jim Burns, and other first rate bird photographers from around the country.

By Walter Thurber

The tenth annual Carefree Christmas Bird Count was held on Friday, December 28, 2001. We were right on average with respect to species (101) but our individual bird tally (12,930) set a record! Also we had more observers (85) than ever before.

New species for the count were Common Loon, Dusky Flycatcher, Swamp Sparrow and White-throated Sparrow. Record high totals were set for 23 returning species, among them Mourning Dove, Green-tailed Towhee, Vesper Sparrow, Lark Sparrow and House Sparrow. The dramatic increase in birds this year was likely related to higher rainfall amounts in 2001 as well as more observers.

Our compilation dinner was held at the Satisfied Frog Restaurant in Cave Creek. We enjoyed great food and the Old West atmosphere there. Once again I am thankful for the support of Maricopa Audubon members.

.....

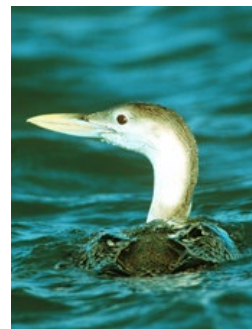
In Memoriam Lillian Diven 1920-2002

MAS was saddened to learn of the death of Lillian Diven January 16. Lillian, and her husband Liscum, were two of the original members of the Maricopa Audubon Society. Lillian served as the second editor of the MAS newsletter, *The Roadrunner*, for three years from 1956 to 1959. She was also in charge of publications at the Desert Botanical Garden for many years. We extend our sympathy to Liscum.. Memorial contributions can be made to The Nature Conservancy of Arizona .



The Cactus Wren-Dition

Summer 2002 • Volume 2, No. 2



Yellow-billed Loon
photographed by **Jim Burns** at Lake Havasu on the Colorado River 3/02 with Canon 400 mm f/2.3 lens and Fujichrome Velvia film.

CONTENTS:

Events & Programs • From the Editor • Notes & Announcements • Conservation - Fighting Forest Fires • Photo Quiz • Book Review - Sparrow of the United States & Canada, The Photographic Guide • FYI - West Nile Virus: It's Headed Our Way • Carefree Christmas Bird Count Summary, December 28, 2001 • In Memoriam - Lillian Diven 1920-2002 • Field Trips • Photo Quiz Answers • AZ Special Species - Broad-Billed Hummingbird • Sightings • FYI - Earth Justice: Because the Earth Needs a Good Lawyer

MARICOPA AUDUBON SOCIETY FIELD TRIPS - MAY, JUNE, JULY AND AUGUST

By Mark Horlings

Car Pooling:

Maricopa Audubon Strongly encourages carpooling on filed trips. Please make every effort to organize your own carpool; consolidate vehicles at meeting places; and/or contact leaders for car pooling assistance. It is recommended that passengers reimburse drivers 5 to 10 cents per mile.

Legend:

Limit: Maximum number of participants per filed trip. Please call early to make your reservations.

Difficulty Levels 1 through 5: 1 equals very low level of exertion, short wading distance, considerable birding from vehicle and possible multiple birding stops. 5 equals very high level of difficulty with respect to exertion. Longer hiking distances are expected with possible steep trails.

Reminders:

- Wear neutral colored clothing and sturdy walking shoes.
- bring sunscreen, sunglasses, head protection and water
- Avoid wearing bright colors
- bring your binoculars
- don't forget to have FUN!!

Wednesday, May 8 Seven Springs & Camp Creek -

Join us as we search for riparian birdlife in the Tonto National Forest near Carefree. Camp Creek and Cave Creek feature flowing water, mature vegetation, and rich concentrations of birds. Golden Eagle, Bridled and Juniper Titmouse, Rufous-crowned and Black chinned Sparrow are possibilities. There is a campground entrance fee. Bring a lunch. Difficulty: 2 (some rough walking). Contact leader for information.

Leader: Russ Widner
480-595-2977
rwidner@attglobal.net

Saturday, May 25

Slate Creek Divide - Possibilities include Rufous-crowned, Blackchinned Sparrow, Scott's Oriole, Virginia's, Olive, Red-faced, Black-throated, Gray, Grace's Warblers, Painted Restart, Gray Vireo, Warbling Vireo, Warbling Vireo, Hairy Woodpecker, two nuthatches, Western Tanager. Four wheel drive needed. Steep, 7 mile dirt road. Bring a lunch. Limit: 15. Difficulty: 1. Call leader for information and reservations.

Leader: Bob Witzeman
602-840-0052

June, July and August - the three best reasons to choose a career in teaching - but hot in Phoenix, All the scheduled trips involve some travel to higher elevations. They should be worth the effort.

Saturday, May 18

Ice House Campground - A favorite spot in Tonto National Forest, near Globe. Short hikes from a spring where we will spend most of our time should give us a variety of warblers, hummingbirds, and other forest residents. We will meet in Phoenix and carpool. Bring a lunch. Limit: 20. Difficulty: 2. Please contact leader for information and reservations.

Leader: Tara Hesselbrock
602-996-2281

Sunday, June 9

Hart Prairie Preserve - Flagstaff. We will meet at The Nature Conservancy headquarters, 2601 N. Fort Valley Road (which is also Hwy 180) in Flagstaff at 10:00 a.m. and carpool to the preserve. Expected late migrants are Orange-crowned, Black-throated Gray, and Virginia Warblers. Three-toed Woodpeckers, Sharp-shinned Hawks, and Prairie Falcons are in the area. Limit 20. Difficulty 2 (Easy nature trail-about one and a half miles around). Bring a lunch and \$5 fee for non-TNC members. Fire danger may force cancellation, so be sure to call.

Phoenix Contact: Mark Horlings
MHorlings@aol.com

Field Trips

(continued from page 7)
By Mark Horlings

Friday, June 14 through Sunday, June 16

White Mountain Campout at Burnt Mill Springs. Orientation Friday night, then birdwalks starting at the (primitive) campsite on Saturday and Sunday. Walks and programs in the afternoon and evening. Bring your own food and water. Non-campers can stay in Springerville, Alpine (closest) or Pinetop. Preregistration will get you a map to the campsite. Fee to White Mountain Audubon is \$20 or \$18 if received by deadline.

Call leader for information and reservations.

Leader: Jim Videle
(928) 337-2466
Moonrise@wmonline.com

Sunday, June 30 Buenos Aires National Wildlife

Refuge, Brown Canyon & Arivaca Cienega-we should see nesting Sulfur-bellied Flycatchers, Mexican Jays, Painted Redstart and a variety of hummingbirds. A refuge naturalist will lead us on a morning hike (5 miles round trip) through a sycamore canyon, ending at a 47-foot natural bridge. The canyon is at 4000' elevation. After lunch, we'll visit the riparian area at Arivaca Cienega. There is a fee of \$5 per person. Meet at 8:00 a.m. Bring walking shoes, sunscreen, lunch, water, and a poncho. Please contact leader for information and reservations.

Limit: 20
Difficulty: 3

Leader Bonnie Swarbrick
(520) 823-4251

Phoenix Contact: Mark Horlings
Mhorlings@aol.com

Wednesday, August 7 through Sunday, August 11 Southwest Wings Birding Festival

will be held in Bisbee.

Call 1-800 946-4777
for information.

Friday, August 16 through Sunday, August 18

Grand Canyon North Rim - Gorgeous scenery and great birds. Migrating warblers, Blue Grouse, Three-toed Woodpecker, Cassin's Finch and many more. We will drive and make camp Friday, bird all day Saturday and Sunday Morning, then return. Stay at D. Mott Campground, Jacob's Lake, the North Rim or Kaibab Lodge. Must Contact leader for details and reservation before August 1, 2002.

Limit 15

Leader: Charles Babbitt
(602) 840-1772

Saturday, August 24
Ramsay Canyon-Sierra Vista. August is a great month for fledglings, early migrants, and hummingbirds. We will meet at noon at the Nature Conservancy parking lot. Non-TNC members should bring \$5 for entrance. Expect temperatures in the 80's. Bring a lunch, water, and a poncho or raincoat. We will return in the early afternoon. Difficulty 2. Limit 20. Call leader for information.

Phoenix Contact: Mark Horlings
MHorlings@aol.com

Leader: Mark Pretti
(520) 378-2640

Leader: Todd Barnell
(928) 774-8892
[\(continued on page 8\)](#)

.....

7

.....

Are you dying to lead a trip and it is not on the list? Please contact Mark Horlings with your information.

.....

8

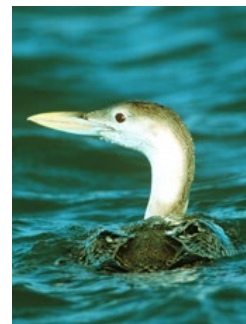


The Cactus Wren-Dition

Summer 2002 • Volume 2, No. 2

CONTENTS:

[Events & Programs](#) • [From the Editor](#) • [Notes & Announcements](#) • [Conservation - Fighting Forest Fires](#) • [Photo Quiz](#) • [Book Review - Sparrow of the United States & Canada, The Photographic Guide](#) • [FYI - West Nile Virus: It's Headed Our Way](#) • [Carefree Christmas Bird Count Summary, December 28, 2001](#) • [In Memoriam - Lillian Diven 1920-2002](#) • [Field Trips](#) • [Photo Quiz Answers](#) • [AZ Special Species - Broad-Billed Hummingbird](#) • [Sightings](#) • [FYI - Earth Justice: Because the Earth Needs a Good Lawyer](#)



Yellow-billed Loon
photographed by **Jim Burns** at Lake Havasu on the Colorado River 3/02 with Canon 400 mm f/2.3 lens and Fujichrome Velvia film.

Photo Quiz Answers

By Jim Burns

One of the birding joys of living in a metro area out west is the great variety of possibilities. If you have a weekend, you can get out to the high country and expect birds that just don't mix with people. If you have only a few hours, you can drive around town looking for SKPs that the influx of people has brought with it. And then there are always those introduced species that seem to gravitate to metro areas first for the same reasons we did - the living is easy. Our summer quiz spotlights a family of birds, Columbidæ, which runs this continuum for "Wow, that is a cool bird" to "I ain't looking for no stinking exotics" to "Damn, we're being invaded again."

A) Good Photo, Easy Bird

The most salient feature on our first quiz bird is the striking white collar. If we could start all over again and redo all our bird's common names, this would have to be a Collared Dove. But this is a white-collar bird, a "desirable" bird if you will, and the Eurasian Collared-Dove now sweeping our country has a black collar which somehow befits the dirty work it may be doing to our native species and their habitats.

Our quiz bird does share one field mark with Eurasian Collared-Dove-dark primaries contrasting with paler wing coverts-but the similarities end there. This bird is much darker overall, appears to have a patch of iridescence below its collar, and has an outstanding two-toned bill. Without the collar and that bill it might pass for a Feral Pigeon, but Rock Dove, variegated as they are, never have a complete and obvious collar and will show a white cere (bare skin covering the base of the upper mandible).

Of course we'd like to redo all those common names because we haven't quite reconciled with the fact that the physical trait for which many species are named is not very evident, either in the field or in good photographs. Check out the tail area of our quiz bird, above the fly and just to the right of the wing tips. That is neither shadow nor dirt, but the edge of the dark feathering which covers the entire upper half of the tail and

The latter species has been escaping its cages and living in the "wild" in southern California and south Florida since early in the twentieth century, but for reasons not fully understood the Ringed Turtle-Dove population have never exploded like that of the Eurasian Collared-Dove. Ringed Turtle-Dove has, in fact, recently declined in most areas, particularly south Florida where it may be losing habitat to its spectacularly more successful congener.

Though the Eurasian Collared-Dove is typically a plumper, darker bird than the delicate and very pale Ringed Turtle-Dove, this is largely indiscernible without the birds side by side, and there is some variation in color in both species. There are, however, three defining differences, two of them visible on our second quiz bird. First, though the sun-light is dappled, there appears to be no great contrast between the color of the primaries and the rest of this bird's wing and back. Secondly, this bird's undertail coverts are white, lighter than the rest of this bird's pale plumage.

Comparing these two features with those of our final quiz birds, the differences are noticeable. In our third photo we see decidedly darker primaries which greatly contrast with the rest of the bird's dorsal plumage, and gray undertail coverts which are decidedly darker than the rest of the bird's ventral plumage. The non-contrasting primaries and white undertail coverts of our second bird add to the overall delicate jizz of this Ringed Turtle-Dove, on of a pair found by Laurie Nesse at the Goldfield Recreation Area along the Salt River in November, 2001 and photographed there later that month.

We observed a pair of these beautiful doves in metro Phoenix as long ago as 1980 near the Papago Buttes, and we have occasionally seen pairs more recently along the Scottsdale Greenbelt, but because their population has not expanded and they are no longer "countable," Phoenix birders seem unaware of their presence or maybe they just don't care. "I ain't looking for no stinking exotics."

C) Bad Photo, Easy Bird

ARIZONA'S SPECIAL SPECIES - BROAD-BILLED HUMMINGBIRD

By Jim Burns

There are nine hummingbirds that may be considered Arizona special species, species found only here or more easily here than in any other state. The real gem amongst them is *Cyananthus latirostris*, our Broad-billed, yet this species is often taken for granted or overlooked because it is not uncommon (Violet-crowned), not hard to find (Lucifer), and not structurally unique (Costa's). It is simply stunningly beautiful.

The rather pedestrian common name, Broad-billed, is derived from the species name, *latirostris*, which literally translates from the Latin as "wide beak." It has been suggested that the wonderful black tipped red bill is relatively broad at its base to facilitate the capture of insects which make up a larger proportion of the Broad-billed's diet than that of most other hummingbirds.

Broad-billeds, like many of our state's special species, reach the northern limits of their breeding range in southern Arizona, migrating south into Mexico for the winter where the species is resident year round from sea level to over 7,000 feet. In Arizona they nest in desert washes, foothill riparian, and lower mountain canyons to just over 5,000 feet. Nesting has also been recorded in southwestern New Mexico and in Big Bend and the Davis Mountains of west Texas. Two new distribution trends have come to light in recent years: Broad-billeds are now being banded in fall and winter on the Gulf Coast, and some now overwinter in the Tucson and Nogales suburbs around residential nectar feeders.

Favored natural nectar sources are ocotillo, chuparosa, paintbrush, and tree tobacco, and Broad-billeds will take insects as large as spiders and wasps. Nests are built by females, often in sycamore or mesquite, 4 to 7 feet off the ground on small branches. Grasses, plant down, and bits of bark are the common materials but, unlike other hummers, Broad-billeds do not use lichens on the exterior of their nests. Two white eggs are laid, and two broods are raised each year.

In Arizona Broad-billeds can be found

Baboquivaris. They are easily seen in the lower reaches of Madera Canyon and are typically the most common hummingbird at the Santa Rita Lodge feeders at an elevation of 5,000 feet. They are not common at all, however, around the feeders in Miller and Ramsey Canyons, apparently because the hummingbird stations there are at least 500 feet higher.

In a family of birds known for its aggressiveness, Broad-billeds are among the least combative species. They are characterized by nearly habitual wagging of the frequently fanned tail, steel blue and notched on the males which have the inner rectrices tipped with gray, steel blue and rounded on the females which have the outer rectrices tipped with white.

No discussion of Broad-billed Hummingbird is complete without a cautionary note regarding the visual similarity between juveniles and females of this species and those of the White-eared Hummingbird. Both species have black-tipped red bills and a white postocular (behind the eye) stripe, and undoubtedly many overzealous birders have ticked White-eared on their lists after seeing young Broad-billeds, particularly in the Huachuca canyons where wandering, post-breeding juveniles may be the only Broad-billeds and White-eared is an eagerly sought rarity. The White-eared is a smaller, plumper hummer with a short, straight bill. The Broad-billed is longer and leaner with a longer, decurved bill. White-eared, as its common name implies, has a wide, striking, and very obvious white postocular stripe, while that of juvenile and adult female Broad-billeds is thin, dirty white, and often indistinct.

But make no mistake. You haven't seen a Broad-billed until you've seen an adult male in full sunlight-iridescent blue gorget on shimmering emerald body. Indeed, this jewel is closely related to the Emeralds of Mexico and its common name could have more imaginatively been taken from its genus name, *Cyananthus*, which literally translates from the Greek as "bright blue." When you find your sunlit male, walk slowly around it and watch the colors change with the angle of light. Watch the blues and

contrast with the light band which is all we're seeing at the tail's tip. The banded aspect of the tail is most noticeable when this bird is in flight.

This Band-tailed Pigeon was photographed at Comfort Springs in the Huachuca Mountains in June, 1996, but Band-taileds can be found in the pine/oak habitat atop Mt. Ord in extreme northeast Maricopa County. They are the largest member of our dove family, swift of flight, handsome, and typically very shy. When you see band-taileds, you'll know you've escaped the city. "Wow, that's a cool bird."

B) Good Photo, Difficult Bird

Here's a pale dove with a black collar. From our discussion this far this would seem like an easy bird identification, but if you've been following the Eurasian Collared-Dove's march across America in the literature and on the internet you know there is one problem. Eurasian Collared-Dove is very similar in size and appearance to Ringed Turtle-Dove, a bird of the same genus domesticated in Africa and brought to this country as a cage bird.

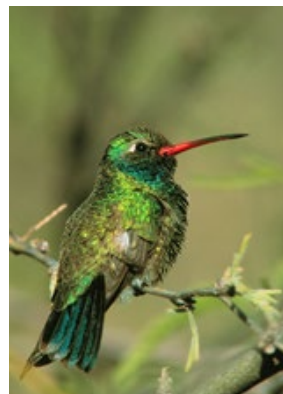
If I could only photograph birds on wires from below, I'd rather drive a truck. Shooting up distorts perspective, underexposes the ventral features or overexposed the dorsal features, and renders sharp focus along the entire length of the bird difficult to achieve. That said, at least this scenario allowed the presentation here of the third and best diagnostic feature of Eurasian Collared-Dove. Notice that the outer webbing of the undertail is dark on this bird. Unfortunately I was not able to photograph the Goldfield Ringed Turtle-Doves from below to show the all white outer tail characteristic of that species.

This Eurasian Collared-Dove was photographed in May, 2001. It is one of the birds discovered by Paul Lehman in Palo Verde, Arizona, west of Phoenix. This was either the second or third sighting in the state, but there have been several since then and you can be sure in a few years no one is going to have to look very hard to find these birds. Nor will they want to. "Damn, we're being invaded again."

9

from April through August in the creekbeds and washes of our southern mountains, from the Huachucas west to the

greens suffuse and merge and throw off glints of gold. This is a breathtaking light show which no other hummingbird in Arizona can produce.



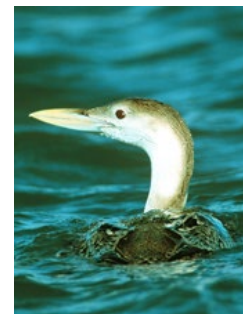
This Broad-billed male was photographed along the Continental Wash below Madera Canyon in April, 2001

10



The Cactus Wren-Dition

Summer 2002 • Volume L, No. 2



Yellow-billed Loon

photographed by **Jim Burns** at Lake Havasu on the Colorado River 3/02 with Canon 400 mm f/2.3 lens and Fujichrome Velvia film.

CONTENTS:

Events & Programs • From the Editor • Notes & Announcements • Conservation - Fighting Forest Fires • Photo Quiz • Book Review - Sparrow of the United States & Canada, The Photographic Guide • FYI - West Nile Virus: It's Headed Our Way • Carefree Christmas Bird Count Summary, December 28, 2001 • In Memoriam - Lillian Diven 1920-2002 • Field Trips • Photo Quiz Answers • AZ Special Species - Broad-Billed Hummingbird • Sightings • FYI - Earth Justice: Because the Earth Needs a Good Lawyer

DECEMBER 2001, JANUARY, & FEBRUARY 2002

By Janet Witzeman

A Yellow-Billed Loon, discovered on the Colorado River at Lake Havasu City Feb. 1 (MS, photos Rd, JIB) represented only the third record for Arizona and the second at that location. It remained at least until Mar. 15 (m.ob.). A Com. Loon, found at Desert Mountain in Carefree Des. 28 (DB, MLS *et al.*), provided a new species for the Carefree Christmas Birds Count (hereafter CBC).

A Red-necked Grebe was discovered at a pond n.w. of Palo Verde Dec. 29 (PM, CD) and added a new species to the Maricopa County List. There were eight previous records for the state. A high number of 350+ Western Grebes were counted on Saguaro Lake Feb. 17 (TC). Seven Am. White Pelicans were seen flying down the Gila River during the Tres Rios CBC Dec 19 (m.ob.) and 27, observed flying over the Gila River, w. of Buckeye Dec. 26, represented a new species for the Gila River CBC (BG). Five more were seen flying above Phoenix high rises Jan 13 (MP). Numbers of Neotropic Cormorants continued to increase, with up to 25 observed during the period along the Salt and Gila Rivers s.w. of Phoenix (TC, SG); four were recorded on the Gila River CBC (fide TC). Six Double-crested Cormorants were reported on Chaparral Lake in Scottsdale Dec. 16 (AF) and more than 100 continued to be seen in s.w. Phoenix along the Salt and Gila Rivers (m.ob.).

An Am. Bittern was found Dec. 26 during the Gila River CBX (CK). More than ten Least Bitterns were recorded between 91st and 115th Avenues Dec. 19 and numbers were still present at 115th Ave. and the Gila River Jan 17 (SG). Ten counted along the Gila River w. of Buckeye Dec. 26, was a new high number for the Gila River CBC (TC *et al.*). Great Blue Herons have been found nesting at McCormick Ranch Golf Course - at least six nests were observed there a year ago and at least two nests were seen there Feb 22 (MB).

at El Mirage Pond Dec. 2 and a high number of seven were observed at Estrella Mountain Ranch Dec. 16 (TC), on was seen at the Gilbert Water Ranch Ponds Dec. 15 at least to Jan 19 (PD *et al.*), and up to four were observed at the McCormick Ranch Golf Course and in fields along Pima Rd. Jan 10-29 (AS).

Four adult male Greater Scaup were found at the ASU Research Park Lake Jan 13 (TC); two were still present there Feb. 23 (KG). A female **Long-tailed Duck** was discovered below Parker Dam Jan. 10 and remained at least until Mar. 3 (B&BC, fide DS, m.ob.). Between two and twelve Barrow's Goldeneyes were present below Parker Dam during February (m.ob.). Numbers of wintering Hooded Mergansers were up: five were reported in Fountain Hills during December (JS), up to nine were counted at the Pavilions Shopping Center Ponds Jan 10-Feb. 17 (AS, TC), four were seen at Estrella Mountain Ranch Feb. 23 (TC), and three were seen along the Gila River at Estrella Parkway Feb. 23 (TC). There were many more Common Mergansers than usual: 500+ were counted at McCormick Ranch Jan. 13 and another 500 were counted on a small lake near Thunderbird Park Jan. 27 (TC).

A N. Goshawk, a rare winter visitor, was observed in Cave Creek during December (ER) and one (perhaps the same one) was reported at Seven Springs Feb. 18 (TC). A Harris's Hawk was seen at a mid-city location near 7th St. and Thomas Jan. 11 (MP). Two Zone-tailed Hawks were observed on the early date of Jan. 5 on Queen Creek Rd. in Chandler (RD). Individual Merlins (more than usual) were reported along the Verde River Dec. 14 (CM, MC, JW), at the Water Ranch Ponds Dec 17 (JS, ES), at Fountain Hills Jan. 27 & Feb. 2 (JS), on the Tres Rios CBC (fide DY), on the Gila River CBC (fide TC), and all winter in Tonto Hills (ML).

Fifty-seven Sandhill Cranes were counted near Arlington during the Gila River CBC Dec. 26 (MC, JW *et al.*) and 25 were still present there

Sightings

(continued from page 11)

was found in s.w. Phoenix Dec. (TH) and two were found s.w. of Buckeye during the Gila River CBC Dec. 26 (JBa). A common Poorwill was heard calling in Fountain Hills Feb. 14 (JS). A male Rufous Hummingbird, uncommon in spring, was observed at a feeder in Yuma on the early date of Feb. 25 (HD).

A Gray Flycatcher was seen at Coon Fluff Jan. 17 (SG). A Dusky Flycatcher was seen and heard along Lower Camp Creek Dec. 27 (TC). Individual Eastern Phoebees were observed at 115th Ave. and the Gila River Dec. 16 (TC) and along Cave Creek in Desert Foothills Dec. 31 (HB, WT). Six Ash-Throated Flycatchers (uncommon in winter) were recorded on the Gila River CBC Dec. 26 and one was found along the effluent channel, w. of 99th Ave. Jan. 27 (TC).

A Cassin's Vireo (uncommon in winter) was observed during the Gila River CBC Dec. 26 (NS). More than the usual number of Hutton's Vireos (at least four and possibly six) were seen at BTA Jan. 20 (PM, CD). A **Warbling Vireo**, discovered along the Salt River w. of 99th Ave. Dec. 18, provided only the third winter record for Maricopa County. Tree Swallows are not usually observed before early March, so unusual were four along the Verde River Jan. 29 (JS) two in fields s. of Arlington Feb. 19 (NM), and many at Picacho Reservoir Feb. 20 (RP). Cliff Swallows also do not usually return before early March so 50+, observed over the Estrella Parkway Bridge Feb. 23, was unusual for such a large group.

Interesting was the report of two or three Gray Catbirds wintering in the Parker area (B&BC, fide DE). Gray Catbird is a rare visitor in winter to s.e. Arizona; there is only one previous record for a w. Arizona ant that was in September. The Brown Thrasher at BTA since Nov. 17, continued to be seen at least until Feb. 15 (m.ob.).

Individual N. Parulas were found near the confluence of the Salt and Verde Rivers Dec. 14 (DY *et al.*), along the Gila River w. of Buckeye Dec. 24 (NS, TC), and at the Cobble Ponds Feb. 11 (JoB). The Yellow Warbler that was recorded at the Cobble Ponds in the fall, remained over

uncommon winter visitors) were recorded: one was found along the Gila River at 115th Ave. Dec. 8 (TC) and was still present Jan. 17 (SG); four were found along the Gila River n.w. of Robbins Butte Dec. 24-26 (TC); one was heard calling and tape recorded along Cave Creek Dec. 28 (GC) and was still present Jan. 13 (TP); and one was found at the Water Ranch Ponds Jan. 21 (TC).

The White-throated Sparrow at BTA was joined by a second one Jan. 16 and then a third one Jan. 23 (TG); one was still present Feb. 15 (RP). A Golden-crowned Sparrow was found near the Gila River n.w. of Robbins Butte Dec. 24-26 (TC, NS). The **McCown's Longspurs** continued to be seen at the sod farm e. of Scottsdale and the numbers gradually increased to nine on Jan. 26 (JS); decreased to two on Feb. 14 (SG), and were gone by Feb. 17 (TC).

The Pyrrhuloxia, that was found at the Desert Botanical Garden in early November, remained through the winter and was still present in mid-March (SB, AT). A male Rose-breasted Grosbeak was found near 115th Ave. and the Gila River Dec. 16-19 (TC); another individual was reported at a feeder in Ahwatukee Feb. 6-9 (DC).

An **Orchard Oriole** was discovered at the Water Ranch Ponds Dec. 25 (DP) and was seen there again Jan. 26 (PD). There have been twelve previous county records. Many Cassin's Finches (irregular winter visitors) were reported on Mt. Ord Feb. 14 (SG).

In southeast Arizona, an immature male **Prairie Warbler** was discovered at Roper Lake State Park in Safford Jan. 5 and remained at least to Jan. 12 (BM *et al.*). There have been nine previous state records.

Abbreviations: Boyce Thompson Arboretum (BTA), Christmas Bird Count (CBC), many observers (m.ob.).

Sightings Sightings Sightings Sightings Sightings Sightings Sightings Sightings Sightings Sightings

Sightings Sightings Sightings Sightings Sightings Sightings Sightings Sightings Sightings Sightings

Jan. Plove
Farm
Janu-
et al
winte
Phoe
Dec.
billec
were
8 (EE
consi
in wi
winte
Mira
pres
foun
23 (T
near

At lea
conti
Verde
Two
to be
until
eare
Ranc
were
Dec.
there
Saw
lower
near
and
anoth
Thom
BTA)

A Les
e

Jan. Plove
Farm
Janu-
et al
winte
Phoe
Dec.
billec
were
8 (EE
consi
in wi
winte
Mira
pres
foun
23 (T
near

At lea
conti
Verde
Two
to be
until
eare
Ranc
were
Dec.
there
Saw
lower
near
and
anoth
Thom
BTA)

A Les
e

Jan. Plove
Farm
Janu-
et al
winte
Phoe
Dec.
billec
were
8 (EE
consi
in wi
winte
Mira
pres
foun
23 (T
near

At lea
conti
Verde
Two
to be
until
eare
Ranc
were
Dec.
there
Saw
lower
near
and
anoth
Thom
BTA)

A Les
e

Jan. Plove
Farm
Janu-
et al
winte
Phoe
Dec.
billec
were
8 (EE
consi
in wi
winte
Mira
pres
foun
23 (T
near

At lea
conti
Verde
Two
to be
until
eare
Ranc
were
Dec.
there
Saw
lower
near
and
anoth
Thom
BTA)

A Les
e

the w
al.).
Warb
near
least
throa
the S
one v
Wilso
Gila
fema
winte
Ave.
Two
BTA,
obse
and
race)
Seve
rare

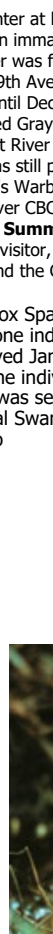
the w
al.).
Warb
near
least
throa
the S
one v
Wilso
Gila
fema
winte
Ave.
Two
BTA,
obse
and
race)
Seve
rare

Obs
Babc
Harv
Boyc
Chew
Troy
Dew
Cynt
Fisch
Tony
Gros
Chuc
Lattu
Cind
Mille
Richa
Peyt
Elean
Shoc
Andy
Stejs
Tarb
Robe

Pleas
sight
ilwiltz.com
6089

Obs
Babc
Harv
Boyc
Chew
Troy
Dew
Cynt
Fisch
Tony
Gros
Chuc
Lattu
Cind
Mille
Richa
Peyt
Elean
Shoc
Andy
Stejs
Tarb
Robe

Pleas
sight
ilwiltz.com
6089

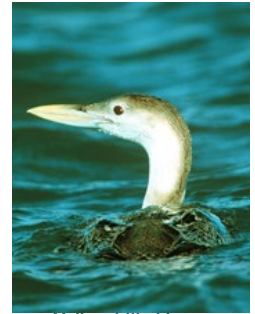


the w
al.).
Warb
near
least
throa
the S
one v
Wilso
Gila
fema
winte
Ave.
Two
BTA,
obse
and
race)
Seve
rare



The Cactus Wren•Dition

Summer 2002 • Volume L, No. 2



Yellow-billed Loon

photographed by **Jim Burns** at Lake Havasu on the Colorado River 3/02 with Canon 400 mm f/2.3 lens and Fujichrome Velvia film.

CONTENTS:

[Events & Programs](#) • [From the Editor](#) • [Notes & Announcements](#) • [Conservation - Fighting Forest Fires](#) • [Photo Quiz](#) • [Book Review - Sparrow of the United States & Canada](#) • [The Photographic Guide](#) • [FYI - West Nile Virus: It's Headed Our Way](#) • [Carefree Christmas Bird Count Summary, December 28, 2001](#) • [In Memoriam - Lillian Diven 1920-2002](#) • [Field Trips](#) • [Photo Quiz Answers](#) • [AZ Special Species - Broad-Billed Hummingbird](#) • [Sightings](#) • [FYI - Earth Justice: Because the Earth Needs a Good Lawyer](#)

EARTH JUSTICE: BECAUSE THE EARTH NEEDS A GOOD LAWYER

By Buck Parker

No administration has a perfect record of complying with environmental laws. Throughout its 31 years Earthjustice staff attorneys have always had to bring suits on behalf of citizen groups to hold Cabinet officers and government agencies accountable to the laws that protect our natural resources, air and water. Whether the reigning administration is Democratic or Republican, left, center or right, pro-environment, anti-environment or indifferent, lawsuits and court orders are always needed.

Nevertheless, the current administration is in a class by itself. It's not just that it is hostile to government measures to protect the environment. It's that the administration is staffed at the Cabinet and sub-Cabinet level by a host of people whose primary qualification is that they have worked as lobbyists, lawyers and employees of the industries they now regulate and whose primary purpose is to *roll back* the environmental laws, regulations and programs they are now charged with implementing. Other administrations have been lax in enforcing environmental laws or have themselves run afoul of them, but these appointees have set out to weaken or eliminate the very laws themselves so that neither they, subsequent administrations, nor citizen groups can ever enforce them. In this, they are aiming at the very heart of Earthjustice's mission.

Repealing environmental statutes would require Congressional action. That would be very public and would be politically damaging to many of the administration's friends in the House and Senate. So instead, the administration has chosen to go after the regulations necessary to effectuate the laws, preferably undercutting them in ways that mask its hand and prevent its being held accountable. And the best way it has found to do that is to feebly defend or settle lawsuits brought by one industry or another challenging the validity of environmental regulations.

It is this subversion of the judicial process, a process that assumes a truly adversarial position between litigants,

themselves of the Roadless Area Conservation Rule adopted by the Forest Service just before President Bush took office. If left standing, the rule would protect the remaining 58.5 million acres of undeveloped national forest lands. The administration has put the right people in place to try to do the job. Its Undersecretary for Natural Resources and Environment in the Department of Agriculture, in charge of the Forest Service, is Mark Rey, who from 1976 to 1994 was an employee and lobbyist for a number of timber trade associations, including the National Forest Products Association, the American Paper Institute, and the American Forest Resources Alliance. Rey has an ally in the Justice Department, where the Assistant Attorney General for Environment and Natural Resources, charged with defending Forest Service regulations and all other public lands, is Thomas Sansonetti, a member of the Federalist Society, a staunch opponent of environmental regulations, and former lobbyist for the mining industry.

To date the administration has relied largely on any of nine lawsuits brought by Western states and the timber industry to eviscerate the Roadless Rule. Because the Justice Department hopes to lose these suits, Earthjustice lawyers have intervened in all nine to make the strongest possible defense. In the only suit that has approached a ruling on the merits, a federal judge in Idaho held last year that there were procedural flaws in its adoption. Not surprisingly, the Justice Department, which was quite happy with the outcome, chose not to appeal. We and our clients did. The Ninth Circuit Court of Appeals heard the appeal in October, and a decision could come any day. In the meantime the administration has moved to weaken the rule administratively by giving local Forest Service officials greater discretion to authorize road construction and other activities in small roadless areas without public review.

We cannot predict what the outcome of the Ninth Circuit case will be. In all likelihood there will be continuing litigation over the rule itself, over attempts to change the rule, and over attempts to develop specific roadless

EARTH JUSTICE: BECAUSE THE EARTH NEEDS A GOOD LAWYER

(continued from page 13)

Salvage sales are sales of national forest timber that has been burned or infected by disease. Although the logging of burned and dead timber has a superficial appeal, burned-over lands are especially susceptible to the disturbance caused by logging equipment and to erosion, which in turn destroys streams and fish habitat. Moreover, the decaying timber, if left in place, provides the soil nutrients necessary to natural succession and forest regeneration.

The law requires that the Forest Service provide the public an opportunity to appeal decisions to sell timber from national forests, including salvage sales. In December the administration tried to evade that requirement by having Mark Rey, the Undersecretary of Agriculture, sign off directly on the largest timber salvage sale ever proposed, the 46,000-acre Bitterroot sale in Montana. In this way they could take the legal position that it was not a Forest Service decision but a Department of Agriculture decision to sell the timber and that the appeals requirement did not apply. Staff attorneys in Earthjustice's Bozeman office challenged the charade, and a judge in Montana quickly saw through it. The resulting court order should place some limits on the power of the administration to permit the logging of burned-over lands without providing the public with adequate information and an opportunity to appeal the decision.

Rocky Mountain Front. In 1997 the Forest Service imposed a 15-year moratorium on further oil and gas leasing on portions of the Lewis and Clark National Forest along Montana's Rocky Mountain Front. The moratorium was soon challenged by the oil and gas industry. We intervened to show support for the Forest Service when it does the right thing, but the stakes increased when the Bush administration took office and the litigation was still pending. Happily, we won the case before they could do much about it. All avenues in the courts have now been exhausted; what remains to be seen is whether the administration will now attempt to undo the moratorium as part of its National Energy Policy.

NATIONAL PARKS AND MONUMENTS.

The Everglades are also in trouble. Although Congress in 2000 passed legislation to implement a plan for restoring water flows to the Everglades, the administration has now proposed regulations that do not specify the goals of the program, measures of success, timetables for action or amounts of water to be dedicated to restoration — in short, the new regulations can be ignored at will and are designed not to be enforceable in the courts. Interior Secretary Gale Norton has also closed the federal office for Everglades restoration. We are working with client organizations to figure out how litigation might be used again to jump-start what appears to be a stalled restoration program.

Monuments. National parks are established by Congress; national monuments are established by executive orders of the President under the authority of the Antiquities Act of 1906. President Clinton established a number of new national monuments, primarily in the West, to protect natural and scenic areas and areas of scientific and archeological interest. Unfortunately, mining companies, energy companies, and off-road vehicle manufacturers have a financial interest in keeping some of these lands open to destruction.

Their chosen appointees in the administration had hardly unpacked before a number of industries brought suits challenging the legality of the new monument designations. Earthjustice moved to intervene and compensate for the lack of enthusiasm of the Justice Department in defending them. I'm pleased to report that in the two cases in which we have been active the courts have ruled that the executive orders are valid. We think that it is unlikely that any of the remaining challenges will be successful and that this particular issue is now behind us. Like the Bitterroot salvage sale and the Rocky Mountain Front litigation, this is a clear victory for environmentalists.

A second question was whether the incoming administration could still redraw the boundaries of national monuments to exclude especially coveted areas. Fortunately, lawyers within the Department of the Interior have

Y I F Y I F Y I F Y I that has become the defining characteristic of the administration's anti-environmental agenda. The purpose of this memo is to describe how that technique has been put to work and what Earthjustice, with your support, is doing about it. Although there are some environmental issues that have not yet wound up in the courts, the memo is almost a report card of where environmental issues stand at the end of the Bush administration's first year.

PUBLIC LANDS

Federal lands, primarily in Alaska and the West, fall into four categories: national forests, national parks and monuments, national wildlife refuges, and lands managed by the Bureau of Land Management. These categories are a convenient way of describing what is happening, so I will use it. Unfortunately, one could also organize a discussion of the public lands by the industry trying to lay hands on them: for starters, the timber industry, the oil industry, the natural gas industry, the mining industry, and the snowmobile manufacturers.

NATIONAL FORESTS: The Roadless Rule. An important goal of the timber, mining and oil and gas industries, and thus of the administration, is to rid

areas. One way or another, we will be waging the fight to protect roadless areas for as long as this administration is in office.

The Tongass. At 17 million acres, the Tongass National Forest in Southeast Alaska is by far the largest national forest in the country and contains the largest expanses of undisturbed temperate rainforest in the world. About 2.5 million acres of the Tongass are currently protected by the Roadless Rule (and not protected by it if it is repealed by the administration or held to be invalid by the courts). Of these 2.5 million acres, approximately 500,000 are protected independently of the Roadless Rule by restrictions in the current Tongass Land Management Plan. Unfortunately, the timber industry has also brought a suit challenging those restrictions. A federal judge in Alaska ruled in favor of the timber industry, and, as in the Idaho case, the Justice Department refused to appeal. Again, we did. Our hope is to reverse the district court and keep in place a layer of protection that will be critical to these 500,000 acres of virgin rainforest if the Roadless Rule is lost.

Salvage Sales and Public Review.

(continued on page 14)

13

Parks. During the presidential campaign the President promised that his administration would do more to protect national parks. That may not be true if the protective measures conflict with some corporations' economic interests.

Yellowstone National Park is, literally, a case in point. In 2000 the National Park Service adopted a rule that would phase out most individual snowmobile use in Yellowstone and Grand Teton national parks, thus ending an experiment in opening them to snowmobile use that had resulted, not surprisingly, in noise, disturbance of wildlife, and intense localized air pollution.

Once again, industry and the administration have sought the cover of the courts to accomplish industry's end. The International Snowmobile Manufacturers Association sued to overturn the ban, and the Bush administration, rather than fight the case, agreed to revisit the entire issue before the reduction in snowmobile use goes into effect. Earthjustice intervened in the suit to defend the existing phase-out; the administration's move to settle may pull the rug out from under that effort, but we will use our standing as intervenors to challenge any new rule that does not give priority to protecting the park and its wildlife.

concluded, as have we, that a successor President does not have that authority; any boundary line changes would require an act of Congress, and the votes simply aren't there.

The remaining question is what sorts of uses can be permitted in national monuments, since the law still allows a federal agency to permit commercial activities within a monument if they do not diminish the values the monument was intended to protect. We expect that we will still see attempts by the Bush administration to permit oil and gas development or off-road vehicle use in some monuments and are prepared to bring suit to block any activity that would undermine a monument's protective purpose.

NATIONAL WILDLIFE REFUGES.

The preeminent concern, of course, is the Arctic National Wildlife Refuge and the Bush administration's unwavering determination to open the Arctic coastal plain to oil and gas development. Although the issue is not (yet) before the courts, Earthjustice's legislative staff in Washington, D.C., is working very hard, along with many others, to ensure that Congress maintains the existing ban on oil development in the refuge. We expect a vote on the issue in the Senate as early as March and encourage all of our donors to make their voices heard. You can find current information and addresses on our web site, www.earthjustice.org, as well as on the web sites of many of our client organizations.

(To be continued in a future issue.)

14