REPORT

OF THE

GREENWAYS ADVISORY COMMISSION

"WHEREAS, the greenways concept of establishing linear corridors of private and public recreation lands and waters, providing access to open space and recreational activities and linking rural and urban spaces has enjoyed success in hundreds of areas across the nation; and

WHEREAS, the outstanding efforts of the Virginia Trails Association and other concerned citizens in the planning, developing and management of trails throughout the Commonwealth could be utilized in the development of greenways in Virginia; and

WHEREAS, utility corridors, scenic roads and highways, and abandoned railroad rights-of-way could be utilized effectively as greenways while still serving their original intended purposes; and

WHEREAS, The President's Commission Studying the Nation's Recreation Policy and Resources recommended that greenways be utilized to provide significant environmental protection, improved landscape aesthetics, enhanced community pride and identity, more effective use of limited land area for conservation, concurrent uses by compatible industries, more diverse local economies from tourism, enhanced awareness and appreciation of wildlands, and water table recharge in wetlands and healthy riparians, now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, that the Department of Conservation and Historic Resources shall form an advisory commission composed of one or more representatives from, and in cooperation with, the State Corporation Commission, Department of Transportation, the major telephone and electric utility companies and railroads doing business in Virginia, local government, and members of the public and shall promote the growth and expansion of greenways and trails in the Commonwealth."

This is the resolution that created the Greenways Advisory Commission. It was introduced by Delegate Glenn B. McClanan as the result of a meeting he called between Virginia Parks' Commissioner Ronald Sutton, Judge Shannon of the State

the economic wellbeing of a community for it is amenities such as greenways that attract and keep jobs and the people to fill them.

The commission was asked to prepare a preliminary report that could be included as an addendum to the Virginia Outdoors Plan which was to be distributed in January 1989. This State Comprehensive Outdoor Recreation Plan is prepared by each state that wishes to qualify for funds from the Land and Water Conservation Fund. It reviews the supply and demand for recreational facilities in each region of the state.

Since to meet this printing deadline gave the commission very little time, it was decided this first report should contain only a few substantive recommendations and consist mainly of the identification of problems which its Maps, Railroad Abandonment, Liability Law, Transportation and Education Committees should address and find solutions for.

This was to be followed by a second report to be presented to the Director of the Department of Conservation and Historic Resources in time so that those recommendations which were approved could be incorporated in his work plan for the department or included in the governor's legislative package.

This plan was followed and a first report submitted. However, the Virginia Outdoors Plan has not yet been distributed, so this second report also includes the substantive recommendations from the first report.

Our recommendations are as follows:

1. We recommend that the accompanying map [see Appendix 1] showing, 1) existing greenway routes of considerable length, 2) routes under development or in an advanced planning state, 3) major existing off-road bicycle routes, 4) the existing abandoned railroad rights-of-way still potentially available for a greenway, and 5) railroad rights-of-way that may become available for conversion to greenways sometime in the next 50 years be included in the Virginia Outdoors Plan.

2. We recommend that this map be amended as soon as possible to include powerlines, pipelines and other corridors potentially suitable for greenway use and that it be regularly updated as new opportunities occur, can be foreseen or when the Virginia Outdoors plan is updated.

3. We recommend the Division of Parks consider that 2 of the new state parks it plans to acquire before the year 2000 should be greenway corridors similar to the New River Trail State Park.

9. We recommend the Director ask the General Assembly to amend the Virginia Income Tax law so that all taxpayers, not just those with refunds, may use the check-off to contribute to the Open Space, Recreation and Conservation Fund and we further recommend that the Director continue his efforts to publicize this opportunity for residents to contribute to this fund.

10. We recommend that if the Udall Bill, the American Heritage Trust Act of 1989, HR 876, is enacted by Congress with the State Trust Provision, the Director urge the Governor to establish a Virginia Trust so that Virginia may participate in the State Trust Program initiated by the American Heritage Trust Act of 1989.

11. We recommend the Director take such action as is needed to sensitize Virginia Department of Transportation VDOT) to the needs of greenways when roads and bridges are built, upgraded or maintained.

12. We recommend the Director take such action as is needed to remind government agencies of the services VDOT can perform for the benefit of greenways when roads and bridges are built, upgraded or maintained.

13. We recommend the Director take such action as is needed to acquaint outing clubs with what VDOT can do to preserve their trails when roads and bridges are built, upgraded or maintained and of the steps these clubs need to take in order to take advantage of what VDOT can do.

14. We recommend that, when it becomes likely that an opportunity for a greenway will occur that will traverse several counties, cities or towns, particularly those without a park or recreation department, the Director acquaint the governing bodies of these jurisdictions with the advantages to be gained from creating a Park Authority or a Recreational Facilities Authority and help them identify ways in which they can cooperate to provide amenities.

15. We recommend the Director request the governor to sponsor a workshop at Reston to which elected officials, planners and representatives of chambers of commerce, taxpayers' associations and real estate and developers' associations will be invited to learn of the benefits of including greenways in subdivision planning, hear how this is being accomplished in Fairfax County and see actual examples of such greenways.

16. We recommend the Director ask the Virginia Association of Counties, the Virginia Municipal League, the Virginia Association of Planning District Commissions, the Virginia Recreation and Parks Society, the representatives of the railroads, utilities,

commission and now included in the 1989 Plan will have three beneficial uses:

1. For communities not along the main routes, it will provide guidance as to how their greenways could join up with these main routes.

2. Many of the communities traversed by the main routes of the network will see little need for a greenway. The map will inform them that the conversion of a right-of-way about to be abandoned is not just a matter of importance to them, but that it would be a link in a network of regional or statewide importance.

3. Such a map will alert regional and state authorities to the fact that their assistance and leadership may be needed when opportunities to obtain greenways arise.

The reason for the inclusion of existing routes and those under construction or in an advanced planning stage is obvious. The on-road bicycle routes are included because for many years they may be needed as links between greenways. Abandoned railroad routes, those currently with low tonnage and therefore potential candidates for abandonment, as well as suitable utility corridors, all represent potential opportunities or draw attention to needed links between routes.

It should be clearly understood that the potential abandonments may never occur, or, if they occur, may not be available for a greenway. The routes shown in this category are those with low tonnages. As industries have moved or gone out of business, those remaining or new industries replacing them currently are generating more marginal tonages. But demand for rail services may increase the tonnage or other methods of rail operation may be more cost effective and abandonment of these lines may never occur. Even if it does, traffic gridlock may induce localities or the state to acquire these rights-of-way for a technologically new mass transit system or the state may need portions of these routes to widen or create highways.

Pipelines and powerlines will only be put on the map if they traverse terrain suitable for a greenway. However, before they could be converted to a greenway, the concurrence of both the utility company which only has a right-of-way for its lines and the individual or corporation that owns the land would be needed.

While most greenways will be planned, built, maintained and managed by individual counties, cities or towns or a group of jurisdictions, there will be some that for one reason or another could more appropriately be managed as a state park. Furthermore, we note that the 1989 Virginia Outdoors Plan

companies open parts of their land to hunting and charge the hunters a nominal fee to cover the cost of the maps and instructions as to where and how they could hunt. A wording change was suggested to make it plain that this fee did not constitute a charge for the right to hunt or pursue any recreational activity. The wording of the law was also reviewed to make sure that each time a new recreational activity was developed, the law did not have to be amended to include it. This would be accomplished by adding "or, any other recreational use."

The suggested amendments were not ready for inclusion in our first report. Fortunately for Virginians, Delegate McClanan, as chairman of the House Committee on Agriculture, proposed amending the landowner liability law. Charles Finley, the chairman of the Commission's Liability Law Committee testified at the hearing. The commission believes that the law as now amended provides the landowner with adequate protection on these points.

While the law may protect the landowner from liability, it cannot protect him from being sued. Defending an unjustified suit can be costly in both time and money. We considered whether it would be possible to deter suits by requiring that if this landowner liability law were found to be an adequate defense, then the person bringing the frivolous or unwarranted suit would have to pay the costs. However, we decided such a suggestion would not be feasible.

Fortunately, Delegate Wilson introduced Section E to the Liability Law which goes a long way to protecting the landowner against the costs of such a suit. Now if the Commonwealth or any of its agencies enters into a lease agreement for the use of the owners land, then the Commonwealth shall provide or pay all necessary legal assistance. However as amended, Section E applies only to the Commonwealth or its agencies. It does not cover the much more prevalent situation where it is a county, city or town or its agencies which leases the land. Therefore we are recommending that Section E be amended to include these jurisdictions.

Another problem was brought to the Commission's attention. It was reported that several landowners were proposing to close the trails on their land because they had been told by their insurance agents that they should either close these trails or greatly increase their insurance against liability. We felt this was due to a lack of knowledge on the part of the landowner of the existence of this law and to a misunderstanding on the part of the insurance companies and agents of the extent of the protection given by the law. Therefore, we are proposing that both the landowners and the insurance companies and agents be informed of the protection given by this law.

exceptions we did not address this problem. First was the case of the check-off on the Virginia Income Tax return for the Open Space, Recreation and Conservation Fund. Under the current law only those with refunds may contribute. They probably constitute only half of those filing returns and probably the half least likely or able to contribute. So we have recommended that all those filing returns should be offered the opportunity to make this check-off.

The second involves recommendation 10 which calls for action to enable Virginia to take advantage of a provision of the Udall Bill, HR 876 should it be passed by congress. This bill turns the Land and Water Conservation Fund into a real trust--one where the corpus is invested in public securities and only the income may be spent. If this is done, then whatever happens to the source from which the fund now comes, there will always be income available for recreational and open space purposes. The Udall Bill further specified how the income is to be allocated. One of its provisions is that for 10 years 10% of the income will be set aside to encourage states to do likewise, with this money only going to those states that have such real trusts. During the past few years, several states have created such funds and more are proposing to do so. We are recommending that Virginia do so too, not only to participate in the federal distribution but because it is a good idea.

VIRGINIA DEPARTMENT OF TRANSPORTATION - RECOMMENDATIONS 11-12-13

Currently, pedestrians and horsemen using local trails safely cross roads with little traffic or may even walk, run or ride along such roads for a short distance. As suburbia spreads into the country such roads may be replaced by 4-lane commuter roads and the trails are lost unless provision is made for a separate grade crossing.

Many canoers, walkers and fishermen get access to a river or river paths at bridges. When these bridges are improved or replaced, this access and existing parking space may be lost unless the highway engineer preserves them in his plans.

In highly developed areas which grew without much thought being given to the amenities, the only opportunity for the greenways that people are coming to expect may be in connection with new expressways. The model for these could be the trail along I66 through Arlington County.

In summary, procedures exist by which trail continuity can be preserved when roads are upgraded, access and parking space ensured when bridges are rebuilt, urban paths, such as I66, can be incorporated in the building of expressways. But these

part of that assistance should be information about the advantages of park authorities in acquiring and managing long distance greenways.

STUDIES, WORKSHOPS, EDUCATION - RECOMMENDATIONS 15-16-17

To get a greenways network three conditions are essential: Motivation, authority and the knowledge of how to go about it. These require studies, workshops and education.

Motivation means that there is a desire on the part of citizens and officials to have greenways and a willingness to obtain them as part of the process of planning for the future. While hunting, fishing, playgrounds and ballfields are currently accepted and expected forms of recreation, recreational providers and planners and elected officials seem largely unaware of the huge demand for greenways and the steps they need to take to incorporate greenways into their plans. Yet you have only to visit the shopping malls before work or drive along the road before or after work to see the many people walking or running for health or pleasure. Or visit a greenway such as the W&OD in Northern Virginia and see how overcrowded it is. But these people are unorganized and largely unaware of how to ask for greenways. There are a few developers and government officials who are aware of the advantages of greenways and they advertise in TIME and National Geographic for businesses and residents by stressing their jogging and bridle paths. [See Appendix 4] More people need to hear about them.

Authority is particularly important in Virginia because Virginia follows the Dillon Rule which says that counties, cities and towns only have the authority granted them by the state. The commission had neither the time, the staff nor the legal expertise to do more than make a superficial review of the Virginia Code and the laws of a few states. The Commission was unable to find out to what extent advantage could or was being taken of the authority for comprehensive land use planning, subdivision and zoning ordinances, special tax assessments and many other laws which seemed to offer possibilities for developing greenways. Studies are needed to find out what is available or could be made available by taking advantage of the Virginia Code, recent federal legislation or by drawing on the experience of other states which have major greenway programs and are working closely with businesses using rights-of-way corridors.

Many studies will be needed but to be effective they will need to be coordinated. They also need to take advantage of work being done along similar lines by others with an interest in land use policy. For instance, much of the material needed for a

This report makes many recommendations to the Director of the Department of Conservation and Historic Resources. Several call for changes in existing laws or regulations. Some call for new laws. Many identify the need for more data, collection) analysis, and study.

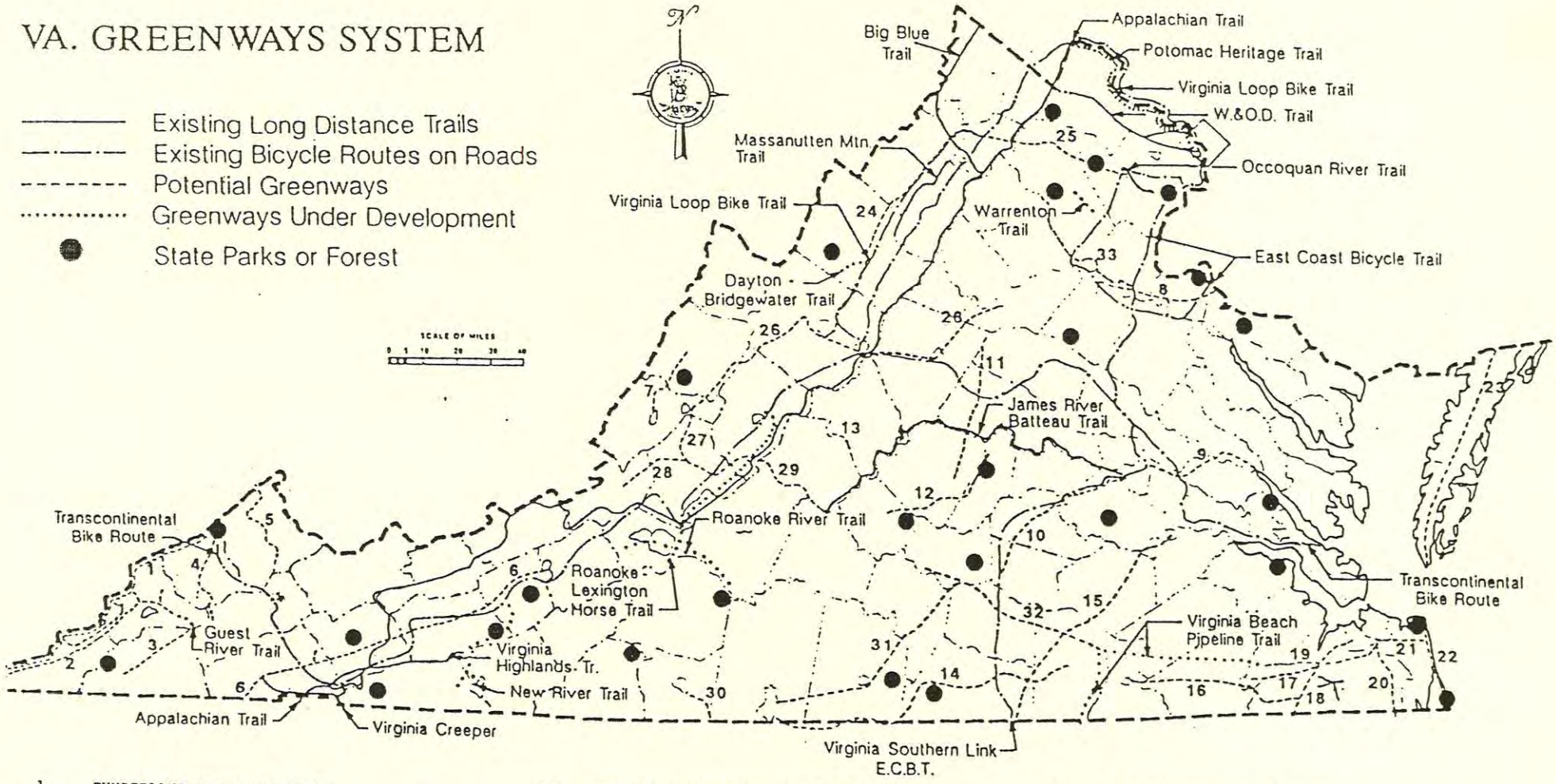
The development of the greenways system in Virginia will be an ongoing process requiring the continued support of the group represented on this Commission. This report is only the first step in this process.

Respectfully submitted,

Jeannette Fitzwilliams, Chairman	Virginia Trails Association
Brian N. Regrut	C & P Telephone Co. of VA
R. Allan Wimbush	Norfolk Southern Corporation
Daniel Carson	Appalachian Power Company
Charles J. Davis, III	CSX Corporation
Christine J. Davis	CSX Corporation
John D. Farmer	Virginia Power
Paul R. Bigley	Commonwealth Gas Pipline Corp.
Charles Finely	Virginia Forestry Association
Margaret Vanderhay	Virginia Association of Planning District Commissions
Barry R. Lawrence	Virginia Association of Counties
Jim Stutts	VA Recreation and Park Society
Davis S. McDonald	Tidewater Striders
Steven Hawthorne	Greenways with Growth
David Lamb	Virginia Horse Council
S. Ellen Farham	Virginia Bicycling Federation
James A. Sharp	Virginia Dept. of Agriculture
William E. Elmore	State Corporation Commission
R. L. Hundley	Department of Transportation
R. Michael Amyx	Virginia Municipal League
Richard C. Lockwood	Department of Transportation

APPENDIX I

VA. GREENWAYS SYSTEM



1. CUMBERLAND MOUNTAIN TRAIL
2. CUMBERLAND GAP TO PENNINGTON GAP (CSXT)
3. SPEERS FERRY TO ST. PAUL (CSXT)
4. ELKHORN CITY TO CASTLEWOOD (CSXT)
5. THOMAS TO CORONET MINE #2 (N & W)
6. BRISTOL TO RADFORD (N & W)
7. COVINGTON TO WARM SPRINGS (PRIVATE)
8. DAHLGREN JUNCTION (RF & P)
9. WEST POINT BRANCH (SOU)
10. BURKEVILLE TO RICHMOND (SOU)
11. DILLWYN TO LINDSAY (CSXT)
12. WILLIS RIVER TRAIL EXTENSION
13. VIRGINIA BLUE RIDGE
14. DANVILLE TO LAWRENCEVILLE (N & W)
15. PETERSBURG TO BRACY (CSXT)
16. EMPORIA TO SUFFOLK (N & W)
17. FRANKLIN TO SUFFOLK (CSXT)
18. N.C. LINE TO COLLEGE PARK (CSXT)
19. WALTERS TO SUFFOLK (N & W)
20. N.C. LINE TO CHEASAPEAKE (C & NW)
21. TIDEWATER TO VIRGINIA BEACH (N & W)
22. CAPE HENRY TO CAPE HATTERAS TRAIL
23. EASTERN SHORE TRAIL (ESHR)
24. STAUNTON TO STPASBURG (SOU)
25. STRASBURG TO MANASSAS (SOU)
26. CLIFTON FORGE TO ORANGE (CSXT)
27. JAMES RIVER TRAIL (UPPER)
28. CRAIG CREEK TRAIL
29. JAMES RIVER TRAIL
30. LEAKSVILLE JCT. TO HILLTOP (N & W)
31. DANVILLE TO BURKEVILLE (SOU)
32. BRIERY TO PURDY (N & W)
33. RAPPAHANNOCK RIVER TRAIL

The Legislature further finds and declares that administering a program to aid private landowners, informing the public of recreation opportunities and evaluating the operation of the program would best be implemented by establishing an Open Lands Management Program, and by empowering the Department of Environmental Protection to provide financial assistance and in kind services to assist private landowners in maintaining and increasing public recreation opportunities, all as hereinafter provided.

13:1B-15.136. Open lands management program; establishment; purpose

There is established in the Division of Parks and Forestry in the Department of Environmental Protection the Open Lands Management Program.

The purpose of this program shall be to provide financial assistance and in kind services for the development and maintenance of privately owned land for recreational purposes in accordance with the provisions of this act. It shall further be the purpose of this program to evaluate the operation of State efforts to provide opportunities for recreational access to privately-owned open space.

13:1B-15.137. Rules and regulations

The commissioner is authorized to adopt and enforce, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act.

13:1B-138. Public meetings

The department shall undertake an informational and educational effort to acquaint landowners with the basic objectives and details of the program by conducting public meetings in the various geographical regions of the State.

13:1B-15.139. Projects by private landowners

a. Voluntary offers to undertake certain projects shall be solicited by the department from private landowners. The department may provide a landowner with any appropriate assistance and guidance in the development of recreational opportunity proposals particularly suited to the topographical characteristics of the land.

b. A landowner may file an application with the department, on forms prescribed by the commissioner, requesting financial assistance for a specific project or projects for public recreational access to his privately-owned open space. The department shall evaluate the application and, within 30 days of receipt of the application, either deny the application citing the reasons therefore or grant preliminary approval thereof.

The access covenant for recreational purposes shall not affect the assessment and taxation of agricultural land which is taxed pursuant to the "Farmland Assessment Act of 1964," P.L. 1964, c. 48 (C. 54:4-23.1 et seq.), nor shall it affect the assessment and taxation of vacant land or agricultural land which is not taxed pursuant to the "Farmland Assessment Act of 1964."

13:1B-15.143. Appointment of officers and employees

Subject to the provisions of Title 11 of the Revised Statutes, and within the limits of funds appropriated or otherwise made available, the commissioner may appoint any officer or employee to the department necessary to carry out the provisions of this act, fix and determine their qualifications, which may include a knowledge of and familiarity with the pinelands area and the residents thereof.

13:1B-15.144. Report

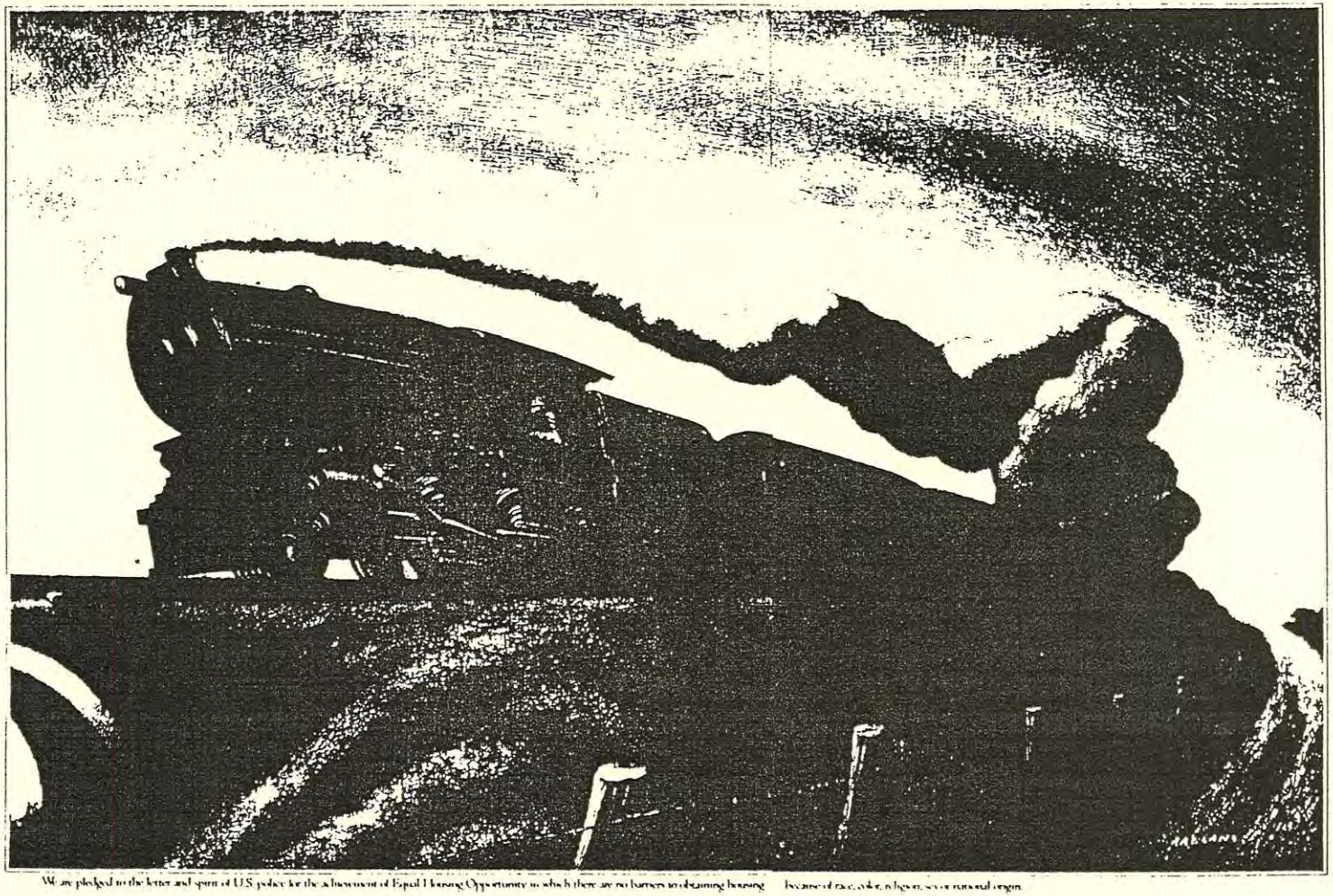
The commissioner shall submit a written report to the Governor and to the Legislature within one year of the effective date of this act. The report shall detail the effectiveness of the Open Lands Management Program in increasing recreational opportunities and the advisability of continuing the program at its current level, expanding the program Statewide or terminating the program.

13:1B-15.145. Application, acceptance and expenditure of funds

The department may apply for, accept and expend funds from any public or private source for the purposes of planning and implementing the program in accordance with the provisions of this act.

APPENDIX 4

TIME STOPS AT SULLY STATION.



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TIME Magazine- March 6, 1989