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# the Highlands Voice

Vol. 7 No. 10

October 1975

## West Virginia Highlands Conservancy Board Meeting

October 19, 1975

President Charles Carlson called to order the fall board meeting of the West Virginia Highland Conservancy at 10:00 A. M. October 19, 1975 at the Chamber of Commerce Building at Richwood.

The weekend review activities were held the previous day and consisted of hikes to various scenic and environmental points of interest around Richwood, and concluded with after-dinner talks by Art Wright of the Wilderness Society and Tom Fortney of the Nature Conservancy.

The secretary read the minutes of the previous meeting and they were approved.

The treasurer, Arthur Foley, presented a treasurer's report, which was also approved.

Nick Zveginzov presented the following resolution: the West Virginia Highland Conservancy, recognizing the need to separate the benefits of mankind's use of energy from the damages of mankind's wastage, supports the following positions on utility pricing:

## Clean Air Amendments Scheduled for Action

After eight months of effort, the Subcommittee on Health and the environment of the House Interstate and Foreign Commerce Committee is about to report the Clean Air Act Amendments of 1975 to the full Committee.

The Subcommittee bill includes important improvements in the 1970 Act, as well as troublesome compromises. The full Committee will be under pressure from environmentalists to revise some of these compromises; but at the same time, industry and the Administration will be offering a series of amendments designed to reverse many of the positive steps taken by the Subcommittee, and to weaken further key sections of the Clean Air Act.

Consideration in the Commerce Committee of the Clean Air Act Amendments of 1975 will begin in late October (or early November). Before those discussions, your Congressman needs to hear from you, to know your position on air pollution, and on the following key issues:

I. Significant Deterioration (A Policy for Clean Air Regions)

The Subcommittee has proposed to classify the clean air regions of the country into three classes. National Parks and Wilderness areas would be placed in Class I, where present air purity will be strictly preserved. National Monuments, Wildlife Refuges, and other critical environmental areas are to be considered for Class I status. Other areas will be designated Class II and Class III, where some

(1): for domestic users, the lifetime concept of minimal cost for minimal use, with progressive rates for use beyond the minimum.

(2): for industrial users, a "peak pricing" structure requiring higher costs for use at peak load periods.

The West Virginia Highland Conservancy offers its support all individuals and organizations working for these policies in utility pricing. (end of resolution).

Nick Zveginzov made a motion that the resolution be approved. The motion passed. He agreed to do the work on the resolution, in the form of correspondence.

Charles Carlson reported that Ray Ratliff, a conservancy attorney, was now doing research on the deed of the coal company which owns the mineral rights of the Cranberry Wilderness Study area. Mr. Ratliff hopes to learn when the deed was obtained, and whether the level of construction could be required to be con current with the time the deed was obtained. A similar situation did occur

deterioration will be allowed. In no case would a clean air region be allowed to deteriorate to the level of the national ambient air quality standards. The biggest debate in Committee on this provision will be over the mandatory Class I designation for Parks and Wilderness. Utilities would like to build massive, uncontrolled coal-fired power plants at the edge of such national treasures as Bryce Canyon National Park. Mandatory Class I designation is essential to preserve the wilderness qualities of our great outdoor wonders.

Urge your Congressman to insure protection of our national parks, wilderness areas, and other areas of critical environmental concern by supporting the Subcommittee approach to the prevention of significant deterioration.

II. Statutory Sources

Private Utilities and industrial lobbyists will try to get the full Committee to approve two of their pet schemes to avoid cleaning up their emissions of pollutants. First, utilities will again ask for permission to use so-called intermittent controls instead of purchasing anti-pollution equipment. Intermittent controls, which rely upon tall stacks to disperse pollutants during favorable weather, and on a reduced level of operation when weather

at Otter Creek several years ago. A task force or committee which would tentatively replace the presently disbanded Wilderness Committee, was set up to work on the various field problems in the Cranberry Wilderness Study area, and persist in seeing the study area through to Wilderness status, if at all possible. The committee is composed of Ron Hardway, Charles Carlson, Nick Lozano, and Dave Elkinton.

There was discussion in regard to the brochure advertising the Fall Review weekend. The brochure was not done this year, and this is generally regarded as a mistake. All efforts will be made to have it again next year.

Dave Elkinton reported on the White House Conference at Knoxville, Tennessee in October, 1975, which he, Geoff Green, and Lowell Markey attended. President Ford and a number of cabinet level people were there. The president received questioning on strip mine legislation and other related matters. A motion was made by Nick Zveginzov that the expenses of these three people be paid by the conservancy, not to exceed \$150.00. The motion passes.

Karen Bird made a motion that the Conservancy give the Citizens Action Group in Charleston \$300.00 for use in a utility rate study. David Grubb is chairman of this organization. The motion passed.

(Continued on Page 6)

## New River Update

The battle over the fate of the New River on the border of Virginia and North Carolina continues unabated. At present, the focus of attention rests upon the Department of Interior and the courts, as both are in the position of making decisions that could have great impact on determining whether the river is dammed to create two reservoirs totalling 40,000 acres to be used for energy storage or is left in its present condition, flowing free through wooded hills and productive farmland.

The North Carolina state legislature took a key step recently when it amended its New River scenic river law to include an additional 22 miles of the South Fork of the New, bringing the total length of designated river to 26 miles. This means that their request that the Secretary of Interior designate the stretch of river a component of the National Wild and Scenic Rivers System need not be rejected simply because too few miles had been protected by the state. Governor Holshouser of North Carolina





Ecology Not a New Word

Overlook  
By Bob Barrell

This month we are overlooking a young biology teacher, fresh out of training, who is finishing up his first year of teaching college biology to a group of sophomores from primarily urban backgrounds. All year he has faced the problem of trying to use familiar examples of life forms from his long experience in the out-of-doors, but most were unfamiliar to these city bred students. He realized that these students would be the citizens of tomorrow, that their lives would be shaped by natural events, and that they indeed would be influencing nature by their very activities and decisions.

Slowly he had realized how to reach these students so different from his own background and as the two semester sequence came to an end, here was the last chance to illustrate all of the principles he had been exposing them to all year and how they all fit together in defining that thing we call life. Like most biology courses then and now, the final topics dealt with the relationship of populations and communities to the environment.

These students might not be able to relate to such well known events as the severe range destruction that followed removal of natural predators of deer on the Kaibab Plateau in Arizona or climax successions in forests, but they could understand what Malthus and Darwin had to say. It became a matter of simply using species as an example with which they were most familiar, the human or, as he is scientifically known, *Homo the sap!*

After having discussed growth curves, factors that limit population control, food chains, and the laws of conservation of energy, these students were ready to be shown how such seemingly abstract subjects as thermodynamics had any bearing on day to day life. Numbers frequently interest everyone, so the young instructor started off with a few basic statistics. He pointed out that comparatively speaking, U. S. soils were very young, those in the western states having really been used less than 100 years in many instances. Citing a round figure of 2 billion acres of land in the U. S., he pointed out how 500 million acres were under cultivation now, 250 million had been seriously damaged, while another 125 million could be considered damaged even simply.

He then moved to the findings from the U. S. Soil Conservation Service who estimate that we are losing the top soil from 500,000 acres. He then told about the amazing electric display seen in the U. S. Department of Commerce building lobby. One light blinks with each new birth in the country and another light blinks every time someone dies. Additional lights blink when

a new person enters the U. S. permanently and so on. Overseeing this is an electronic tally which records the net gain per day - at that time it was 8,000 new Americans each day! Now then if we are losing soil that fast and if there are only so many acres available and if that many new mouths need to be fed, why Golly!

He is ready for his clincher. He tells this largely affluent class of students that he assumes all of them are happy with their present standard of living, and that, if anything, they would like to see it improved. Who in the class was ready to give up how soft they had it and was willing to drop back to a lower standard of living? Silence. He then informed this group that under conditions existing that day under the best system of agriculture and technology known to man, that to keep them at the average American standard of living (which in many of their cases was far lower than their own), each person in the U. S. required 2½ acres for food production, 1 acre for fibre, and 6 acres for grazing land. Since the arable acreage of the U. S. was finite and since the population was soaring, what was going to

give first? He had made his point and it was not lost on this class. There then followed a most exuberant discussion, one of the best generated all year.

The subject was ecology and the year was 1959. That's right, the word is not a new one nor was the instructor a Johnny-come-lately as far as the subject went. Today these students are scattered across the face of the nation. Most have families of their own and are shepherding their own children through junior high school. A few have died causing that light in the Commerce Department to dutifully take note. A few others have become teachers themselves and maybe, just maybe they are using some of the same material in their own classrooms. A few, a very few perhaps, might even be in some decision making position - sitting on this board or serving in that legislature, where hopefully they have on some occasion drawn from their sophomore year in bio class.

What of the college instructor? He aged too. He moved to West Virginia and became an overlooker.

## Hell-Hole Moves Closer to Extinction

by Mike Dyes

Mid-1975 has seen attention re-focused on the impact of a large limestone quarry on Pendleton County, West Virginia's scenic Germany Valley and caves which underlie it. Conservationists' concerns were sharpened by an application filed with the state Department of Natural Resources by the Germany Valley Limestone Company (subsidiary of Greer Steel, Inc.) to enlarge its operation near Riverton by approximately 75 acres.

This is the second such expansion requested since 1973. The application that year drew over 200 protests from National Speleological Society members to the DNR, concerning the quarry's effect on the Valley, and particularly a large cave near the quarry known as Hell-Hole. That cave, regarded as the most significant in Germany Valley and the home of a large number of bats, would stand to be partially destroyed if the GVLC moved to the east. An agreement was finally reached between the Company, the DNR, and NSS, whereby Hell-Hole would be treated as a "dwelling place", and thus preserved from outright destruction.

Subsequent studies by Dr. John S. Hall, a biologist from Albright College, Pennsylvania, working under auspices of the U.S. Forest Service, confirmed that Hell-Hole shelters the largest hibernating colonies in the east of the Indiana bat (*Myotis sodalis*) and the eastern long-eared bat (*Plecotus townsendii virginianus*), both on the federal list of endangered wildlife. To protect these sensitive populations from disturbance by the increasing numbers of persons visiting the well-known cave, the NSS called a year-round voluntary moratorium on entering Hell-Hole. With traffic to the cave considerably reduced, Dr. Hall has continued studies to determine bat usage during the summer.

1973 was also the year that the northern half of Germany Valley - including Hell-Hole and several other notable caves, as well as the quarry site - was designated a Natural Landmark by the National Park Service. This area adjoins a portion of the Monongahela National Forest's Spruce Knob-Seneca Rocks National Recreation Area.

The pending quarry expansion would effect land to the north of the present operation. Known passages of incompletely-explored Hell-Hole don't underlie this tract; however, small but interesting Warner's ("Broken Dome") Cave would probably be obliterated.

The NSS and friends have filed exceptions to GVLC's pending surface-mining application and retained an attorney, with the aim of obtaining a full hearing of all concerned parties prior to approval of the quarry's expansion. The NSS desires to reaffirm and clarify the 1973 agreement protecting Hell-Hole and minimize the environmental and visual damage to Germany Valley caused by the quarry. It is not the Society's goal to put GVLC, with its some 55 employees, out of business. However, the NSS hopes to obtain the DNR's promise to exclude future surface mining from the Valley under existing West Virginia law. The limestone under Germany Valley is a very pure, high calcium variety, and it is known that one major limestone firm has recently acquired land in the Valley along the Harper Gap "Scenic road", which forms the boundary of the National Recreation Area.

Simultaneously, efforts continue to interest the U. S. Fish & Wildlife Service, the Nature Conservancy, or other appropriate group in acquiring Hell-Hole (at present privately owned), so as to more effectively protect that cave and its highly important bat colonies.



# the Readers' Voice



## LANDSAT Valuable Conservation Tool

September 24, 1975

The Highlands Voice  
206 Union Street  
Webster Springs, WV 26288

Dear Sirs:

I am responding to Gordon Hamrick's technically accurate description of the NASA/LANDSAT (ERTS) satellite remote sensing capabilities in the May issue of the Highlands Voice. Being both a member of NASA's Office of Applications and a member of WVHC, I have an interest in the use of space to benefit man as well as a deep concern for the well being of our environment.

I take exception to the negative tone in which Mr. Hamrick's article was written, casting LANDSAT in the light of a "scientific innovation that threatens, for better or worse, to revolutionize man's relationship with his environment." The intelligent management of our natural resources for conservation or for use by man requires timely and accurate earth surface cover information. Advances in Space Technology have brought with it the ability to obtain this data on a routine basis. In an age where environment conservation, water, food, land use, and energy are clashing head-on, it is most fortunate that this space remote sensing capability is available to provide the data with which to make intelligent and informed decisions. This capability is, of course, not a panacea. It is complementary to existing techniques of ground survey, aircraft survey, and communications with the affected constituency.

Mr. Hamrick is obviously grossly overstating the LANDSAT capability when he indicates that the computer processed imagery literally "...cry out, dig here, cut here, drill here." The use of timely ground truth data with multi-spectrally analyzed imagery can give indications of possible areas where mineral deposits are present; but as also pointed out, it can indicate stressed or diseased crops, water pollution, flood plain areas, and stripped land. In any event, the data can be very helpful, but extraction of the proper information with which to make resource decision is still an involved process where research is leading to constant improvements.

The crux of the issue then is, how and by whom will the data be used? NASA from the beginning of the LANDSAT program decided that all of the imagery obtained should be made available to all people and all countries. To this end, every image obtained worldwide is put into the public domain. It is available at a nominal cost to any person through the Department of the Interior's Earth Resources Data Center (EROS) at Sioux Falls, South Dakota. (You may write to the EROS Data Center for more details on how to purchase a LANDSAT image.) It was always believed that the greatest benefits from this space tool would be achieved by maximum participation of many different sectors - universities, government, private organizations, individual, etc. This space tool threatens to revolutionize man's relationship with his environment, I agree, but only for the better. Yes, mineral and oil companies are using the data to aid their exploration work. However, state, regional, and federal organizations are also using the data to predict water runoff from snow cover in the west, making agricultural yield predictions, policing water pollution sources and strip mining extent and restoration, and mapping areas on a more timely basis for all important "land use" considerations.

At the present time, automated strip mine and reclamation mapping from LANDSAT is being performed in nearby Western Maryland and Eastern Ohio. Efforts are presently underway to extend these demonstration activities to the entire Appalachian Region. Monthly assessments of acreage by category (e.g., stripped earth, reclaimed earth, dirty water, etc.) are being made. Enclosed are two technical papers on this subject by Mr. Art Anderson of the Earth Resources Branch at the Goddard Space Flight Center in Greenbelt, Maryland.

LANDSAT does offer something for everyone including industry and conservation. It is up to us, the informed public, to encourage more use of LANDSAT data by the environmental community at all levels.

Sincerely,

Michael A. Calabrese  
2406 North Lexington St.  
Arlington, VA 22207

## Rich Mountain Again Threatened by Stripping

8 October 1975

Charles Carlson  
President  
West Virginia Highlands Conservancy  
Box 151  
Charleston, W. V. 25321

Dear Mr. Carlson:

This past Monday I stopped by the Department of Natural Resources to discuss some matters and

read through the letters protesting Surface Mine Application No. 1657 which is being made by the Greer Steel Corporation. I noted that the Conservancy had not formally protested this application.

Greer hopes to strip mine property on Rich Mountain along Rt. 33 east of Elkins. This property is valuable for historical and scenic reasons. Located within the Monongahela National Forest, the strip mine site is close to several recreation areas and was at one time designated by the Department of Commerce as one of West Virginia's most important winter recreation potential developments.

Mining this property could have an adverse effect on two streams, Dry Fork and Lower Gulf Run. The soil and topography I understand is not suitable for surface mining, especially reclamation.

Rich Mountain lies within site of Haines Knob where a traveler along Rt. 33 can clearly see an ugly high wall. The operator who mined this Knob recently forfeited his bond, and although the Department of Natural Resources will receive \$40,000, more money will be needed to reclaim the land.

I hope the Conservancy will explore this mining scheme in more detail and publish a report in the Voice. According to Ben Green, the permit application has been advertised, but Greer has not submitted their engineering plan.

Sincerely yours,

Skip Deegans  
Meadow Bluff, W. V. 24958

## Playing the Game at Elkins

by Clish McCleever

At the recent Forest Festival in Elkins, the following words were heard as Queen Sylvia was crowned, "Look to you West Virginia Hills for substance, beauty, and inspiration. (It is the queen's duty) to uphold and promote all means of preservation of the wildlife of forests and streams, to foster reforestation of mountains, to aid in maintaining the purity of the streams, to protect our precious minerals in which we have great wealth, to proclaim the peerless grandeur of the West Virginia hills and to rule the 39th Forest Festival with gaiety, comeliness, and grace."

During the same Festival the man who spoke these noble words, Governor Arch Moore, also spoke to the citizens of Elkins that he was "bound and determined" to get on with the construction of Corridor H. "If we engage in a 10 year discussion of where the road is going, when the decision is made there will be no money." The governor went on to say, "Why don't we let the engineers build it?" He further explained to the Elkins community (and everybody else in the state via press releases) that the road was being held up by constant dialogue that finds fault with locations and that we might end up with no road.

The political staging of these remarks was excellent and show what a master craftsman of the

art the governor is. Spoken only days before what would assuredly be one of the most monumental traffic jams in the state when 150,000 people would be descending on Elkins to get a glimpse of President Ford, the governor's calculated remarks would certainly sink in to those trying to get into (or out of) Elkins that day.

Unfortunately, the people who run the Chambers of Commerce played right into the governor's hands by passing resolutions to get on with the construction. Adding further to their anguish was the governor's threat to use the money to build a highway elsewhere in the state. Earlier in the week the governor had met with Senator Jennings Randolph and the Appalachian Regional Commission to discuss this possibility. The thinly veiled threat of if you don't let me build the highway my way, I'll build it somewhere else was not lost on the provincial habits of West Virginians. Sensing that they were about to loose the golden egg, the C of C folks threw the goose in the pot. Unfortunately, these well meaning people have been used again because it is possible to have their highway and those things directly east of Elkins that make that city one of the most desirable cities in West Virginia. Without those attractions, it would be just another quite ordinary town.



# CRANBERRY CANDIDS

Photos by  
Sayre and Jean Rodman

After a misty beginning Friday night's rain turned to Saturday's sunshine, and Conservancy members who attended the Weekend Review tours were rewarded with a memorable afternoon of some of West Virginia's finest scenery, best known landmarks, and threatened wilderness.

The following snapshots reveal many smiling faces, some pensive expressions and an outdoor auro which typified the weekend. If you missed the Weekend Review this year, reserve the third weekend in October, 1976, for next year's Review.



Back Country tour comes from the top of Black Mountain.



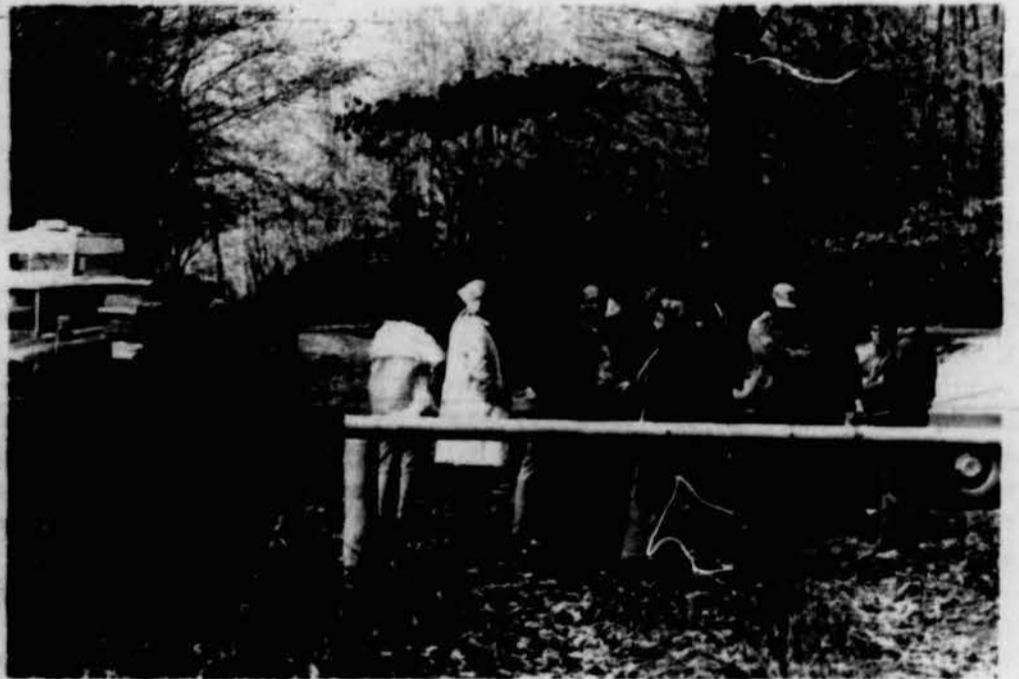
Pearl Buck's birthplace is admired by the landmark tour



As dry as the autumn fallings were the week before, the Falls of Hill Creek responded to two days of rainfall and gave the landmark tour justification for opposing Eagle Lake.



The mysterious rock formations of Beartown make a formidable backdrop for serious conversation.



At Three Forks of Williams River, the Back Country tour ponders the incongruity of heavy tire ruts proceeding under the sign which loudly prohibits motorized traffic in the Cranberry Back Country.



The high point of the Back Country tour comes as the tour participants struggle up the 60 foot high Red Oak Hatch tower for a spectacular view of the Back Country and surrounding areas.





by Lowell Markey

"No good news for the environment." That about sums up the comments of three West Virginia Highlands Conservancy members on their way home from the White House Conference on Mid-Appalachian Domestic and Economic Affairs held early in October in Knoxville, Tennessee.

A total of 19 organizations - AFL-CIO Appalachian Council, American Public Health Association, Greater Knoxville Chamber of Commerce, Knoxville NAACP, National Coal Association, The Grange, the UMWA, and others - were responsible for inviting the participants. The Sierra Club was asked to invite those that might represent environmental interests.

Twelve key federal officials took part in the proceedings, including President Ford, Secretary of Labor John Dunlop, Environmental Protection Agency Administrator Russell Train, Federal Energy Administrator Frank Zarb, Office of Management and Budget Director James Lynn, U.S.D.A. Director of Agricultural Economics Donald Paarlberg, and others. Each speaker had an opportunity to make brief opening remarks concerning his field of administration, then the conference participants posed questions for about forty-five minutes.

President Ford was asked how his veto of two strip mining bills benefitted the people of Appalachia. He replied that he does not condone reckless stripping, but "in the legislation I vetoed, there would be a substantial loss of jobs. We wouldn't have been able to meet supply requirements under the legislation sent to me." He also said, "The federal government is not the only level of strip mine regulation. There is no reason why your states cannot be affirmative in this area."

Ford was told by a representative of the Commission on Religion in Appalachia that "no other issue in Appalachia has come from the grass roots more than strip-mining."

In an earlier time period, Frank Zarb,

Federal Energy Administrator, was asked if the administration would support a strip mining bill. He responded that "there's no question that we need regulations, but the regulations need to be in line with our energy needs." Zarb said the Governor of West Virginia told President Ford that people would be unemployed needlessly by the latest vetoed bill.

Ric McDowell of Lincoln County, West Virginia, representing Save Our Mountains, told Zarb that he was familiar with the statistics Governor Moore sent to President Ford and he hoped that Zarb could find a source of more reliable statistics in relation to coal mining in the future.

## Quote of the Conference

"We have more coal than the Middle East has oil."

-Federal Energy Administrator Frank Zarb, replying to a question from an eastern Kentucky UMWA official.

A coal mine owner/operator from Drift, Kentucky, told President Ford that he and others had trouble complying with the Clean Air Act. Ford said that the Senate did not approve the changes he recommended, and suggested that the coal operator visit his Senators and Congressmen.

Russell Train said that we will probably see legislation that will provide flexibility, but hopefully not weaken, present regulations in air and water quality. Train also dealt with the issue of installing scrubbers on 12 Tennessee Valley Authority (TVA) coal-fired power plants. Apparently a TVA official wondered whether one federal agency had enforcement powers over another. Train stated he had "no doubts about our (EPA's) legal grounds in forcing TVA to install

scrubbers." Citing an independent survey, Train said power production costs rose 30% in 1974, but only five percent of the increased plant construction or operation costs come from environmental protection costs.

The three Highlands Conservancy representatives - Dave Elkinton, of Canaan Valley and Morgantown, and Geoff Green and Lowell Markey, both of Keyser - noted that although environmentalists were clearly in the minority among conference participants, they asked more than their share of questions. The trio also noted the message from Ford, OMB head James Lynn and others seemed to be that the administration was very much interested in cutting back federal spending in the so-called "social programs", and surmised that this includes all the environmental programs in various agencies such as protection, regulation and water treatment funds from EPA, improvements in the National Park System, etc.

The group also registered disappointment in Ford's general attitude displayed in his question and answer period. Although he claims to be a fan of Harry Truman, Ford clearly demonstrated that the buck does not stop on his desk. For example, when the Sierra Club's Carl Holcomb asked Ford about a nomination to the TVA Board of Directors, Ford told the audience that the decision was out of his hands and that the Senate would have to make the decision. Apparently the President thought the audience did not understand that he made the decision on the nomination and sent his decision to the Senate for confirmation. As indicated previously, Ford also passed the buck on strip mining legislation to the states. Where, we wonder, would Blacks and other minorities be today if the federal government had failed to issue national civil rights legislation?

## Board Meeting

(Continued from Page 1)

Lowell Markey volunteered to re-design the Conservancy membership brochure. Dave Elkinton made a motion that Lowell Markey be authorized to re-design the brochure and also bring to the next meeting ideas for a membership drive. The motion passed.

Nick Lozana reported on the Allegheny Trail. He said the Scenic Trails Association has secured approval to take the trail through parts of Jefferson National Forest, George Washington National Forest, Seneca State Forest, Cass Railroad property, and Blackwater Falls State Park. The only public approval they lack is that on Monongahela National Forest.

Nick Lozano made the suggestion that all regional vice presidents of the Conservancy be given membership lists so they can learn of the Conservancy members living in their area.

Don Gaspar, a DNR fisheries biologist, gave a report on stream chemistry. It was suggested he write an article on the subject for insertion in the Voice.

Dave Elkinton, Linda Elkinton, Karen Bird, and Kathy Lively will comprise a committee to work on arrangements for the mid-winter workshop. The tentative date is January 31-February 1, tentative subject matter is mining, and tentative location is Jackson's Mill.

A nominating committee of Geoff Hechtman, Linda Elkinton, and Nick Zvegintzov was named. Election will be held at the next meeting.

The meeting adjourned at 12:30 P.M.

## Environmental Movement at Standstill

by Geoff Green and Lowell Markey

"The environmental movement is at a standstill," said John Quarles, Deputy Administrator of the Environmental Protection Agency, in a speech to a small group of Sierra Club members and other environmentalists gathered in Knoxville, Tennessee, to attend the White House Conference on Appalachian Domestic and Economic Affairs.

Quarles stated that he was "scared" by the present situation in the environmental movement. He saw great strides being made in the 1960's, culminating in important federal statutes in the early 1970's such as the Clean Air Act and the Water Quality Act. Although he saw no effort to soften the effect of this legislation, he did detect substantial resistance to further legislation in such areas as pesticides and herbicides, throw-away beverage containers, toxic substances and other vital environmental problems.

The missing element, according to Quarles, is the "environmental activism" of the late 1960's. He cited the non-returnable beverage container as an example: The issue is clear-cut; elimination of non-returnable containers would save energy and natural resources, and contribute to the solution of

our solid waste problems; but, he sees no campaign emerging from environmentalists; to the contrary a strong and active beverage container industry lobby has emerged to oppose such legislation.

Quarles felt that these issues, beverage containers, pesticides, etc., should be the focus of more grass-roots campaigning in order to gain accomplishments in eliminating or controlling the problems. He tried to instill in the audience an enthusiasm for trying to "get the ball rolling again" to encourage strict enforcement of existing regulations and for new legislation on the remaining problem areas.

The EPA Administrator from the Atlanta region, who also attended the meeting, echoed Quarles' remarks and added that the activists of the past who appeared as "sign carriers in front of bulldozers" must be replaced by professionals with rational reasoning backed by facts. "Economics will be a key measurement," he said.

The Conservancy was represented at the meeting by Geoff Green and Lowell Markey of Keyser, Mineral County.



# Stripping Suits Still Before Courts

by Penny Saker  
Charlotte Gazette

Nearly half of the legal issues raised in suits involving surface mining since 1969 are still pending in circuit courts or before the Reclamation Board of Review, according to information assembled by the attorney general's office.

Only one of the suits was filed prior to 1971 when the latest strip mining law was enacted. In some cases, coal has been mined, and the questions raised in the pending suits are now moot.

In one of the cases resolved, Deputy Atty. Gen. Frank Ellison said a key legal issue was won by his office. One victory, he noted, was in Lincoln County where the constitutionality of the present strip mine moratorium was tested. Had that suit been lost, Ellison said, the 22 counties under the moratorium would have been opened to mining.

While the attorney general's office was successful in representing the Department of Natural Resources in the first round of a 1969 case which tested whether aesthetics was a sufficient reason to deny a strip mining permit, the suit still hasn't been resolved. It's pending in Fayette County Circuit Court where the Royal Sparks Mining Co. appealed the Reclamation Board of Review's ruling.

THE BOARD had held that aesthetics-natural beauty was sufficient for denial of a permit. Ellison said his office has tried to get the company to move the suit, but it won't.

A majority of the pending suits are in Kanawha County Circuit Court.

A 1971 case that still awaits a decision in Kanawha Circuit Court, but which is a moot issue, is the H.L. Kennedy surface mining operation on Laurel Run near Cooper's Rock State Forest. The mining has long been completed, and the reclamation at the site has been proclaimed as among the best in the state.

Ellison said the Reclamation Board ruled for H. L. Kennedy, but in spite of the actual legal loss. "We

## Striping Update

### More on Sugar Lane and John Straton

In the July issue we reported on the fight by the Sugar Lane Improvement Association to keep W. & S., Inc. from stripping in their area. They were rebuffed first by the Department of Natural Resources and then by the Reclamation Board of Review.

On October 7 a sedimentation pond on the strip burst and flooded the Sunday School room on the basement of the Morganland Chapel. The DNR suspended further mining activities for 30 days.

Meanwhile the Sugar Lane Lawyers are attempting to get agreement between the Reclamation Board of Review, the DNR, and themselves as to the facts established at the Board's hearing. This is a step toward appealing the Board's decision in the Circuit Court of Marion County.

John Straton of Beckley, Executive Vice-President of Gates Engineering, was Chairman of the Reclamation Board at the time of the Sugar Lane hearing. His term expired and he was renominated by the Governor. In hearings before the Senate Confirmations Committee on October 12, as reported by Deborah Baker of the Raleigh Register, Straton denied any conflict of interest in his position on the Board, although he admitted "Most of our clients who operate in West Virginia do have some strip mining interest one way or another." He added that he has withdrawn from Board decisions "in two or three cases" because of possible conflicts. He also denied that the Board's hired lawyer, Charles Armatstead, of Morgantown asks all the questions, but he admitted that it was Armatstead that made a crucial decision on the Sugar Lane case - that the Improvement Association had no legal standing to appear before them.

think we saved Laurel Run." Because of the controversy, he said, Kennedy did a fine job.

Natural Resources Director Ira "Sandy" Lattner Jr. had ordered Kennedy to cease mining. Even while the board overruled the director, Ellison said, the board modified the permit to require Kennedy to change its method of mining.

There were other legal proceedings involving the mining, including a week-long trial in Preston County Circuit Court which Kennedy also won.

Three suits now in Kanawha Circuit Court attack the constitutionality of the 1971 surface

## Deep Mining on Infertile Watersheds

There is a group of infertile streams that contain so little alkalinity there is hardly any neutralization of acid possible. Many of our more important trout streams are in this category: Cranberry River, Shavers Fork, Otter Creek, Red Creek and Red Run, North and South Forks of Cherry, Mill Creek in Kumbrahaw State Forest and Laurel Fork in Holly River State Park, the head of the Little Kanawha, the Buckhannon and Middle Fork Rivers and their upper tributaries. Many small native brook trout streams are also in this category. It is vitally important that no acid be produced on these fragile, endangered streams.

The Department of Natural Resources clearly has been charged with the prevention of acid pollution of our streams. It can in conscience only authorize deep mining on these infertile watersheds conditionally.

Under present law, if acid pollution is detected, the operation must be halted until neutralization procedures are established. The operator is only too glad to neutralize immediately. He can actually neutralize the acid inside the mine by dusting with limestone without ever having an acid effluent leaving the mine opening; this he does not even have to report. When he goes out of business and his neutralization effort stops, we have an acid effluent resulting. The operator and/or the State will attempt to stop it with a mine air seal. This standard procedure is unacceptable on these infertile streams because we do not know if the mine seal will be entirely effective.

The Department of Natural Resources must inspect for acid production ahead of any attempts to neutralize it by the operator. Dusting must be suspended before checks are made. If acid is found, the operation must be stopped and the operator must put in a seal. If the seal is proven effective and the flow no longer carries mine acid (it may take one half to three years to tell) then the center of the seal may be opened and they could proceed to mine

mining law itself. Two suits were consolidated, and the remainder was continued pending a decision on the first two. Briefs were filed in June in the case which was originally brought in 1972.

A 1971 suit brought by the Coal River Improvement Assn. involving 67 surface mine operations is pending before the Reclamation Board.

A total of 16 suits-including some that were related-has required the attorney general's office to represent the Department of Natural Resources since 1969 in the area of surface mining, Ellison said.

through this seal.

If a breakout or breakthrough occurs, the experimentally proven seal would be violated and invalid. They would have to reseal the opening and all others and the seal would again have to be proven effective. If again the seal is effective in reducing mine acid, they may continue to mine.

As the operator in mining (through a proven, non-violated seal) he would be expected to neutralize his mine effluent. If, as mining progressed more and more acid was produced and the neutralization effort was considerable, the responsible Department of Natural Resources might feel uneasy and close the mining permanently in that strata in that area.

The operator must neutralize the acid while operating, put in an experimental seal, perhaps recheck it (with an additional sealing and closure for up to three years), and finally seal it permanently and neutralize while the final sealing is taking effect. The operator might get tired of checking and waiting for the acid to decrease and want to redo the final seal hoping to make it more effective. This could be done if the Department agreed, but still the operator must neutralize the acid until the seal is declared effective by the Department. The bond may then be refunded. This bond must be adequate to cover such measures.

This is the only kind of deep mine permit a responsible Department of Natural Resources can give on these infertile watersheds. With these safeguards the mining can be started and the claim "no acid will be produced" can be responsibly tested.

In justice to the operator he should know this is what he is getting into at the outset. He may not care to begin under these restraints. They are necessary on infertile watersheds. No one can afford to pollute Shavers Fork - the present administration, the coal industry, or this generation.

## Conservancy Patch Available

Every member of the West Virginia Highlands Conservancy needs a Conservancy arm patch as a means of identification while attending strip mine protest rallies, public hearings and meetings of the Water Resources Board. When worn on the sleeve of a khaki or green outdoor shirt and when viewed from a distance, one's resemblance to a forest ranger, a conservation officer or reclamation inspector is phenomenal. The patches are multicolored, predominantly green and gold, and can be sewn to anything capable of being penetrated by needle and thread. The sketch is actual size.

Conservancy patches cost \$1.10 and may be ordered from the Conservancy at Box 711, Webster Springs, WV 26228.





