

The Watt Protest — Dec. 11 in Charleston



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THE HIGHLANDS VOICE

Vol. 13, No. 12 — December, 1981

JACKSON'S MILL

Callaghan's A-Comin'!

The Conservancy schedules the director of the state's Department of Natural Resources — and an election — into its annual mid-winter workshop.

David C. Callaghan, director of the W. Va. Department of Natural Resources, will be the featured speaker at the Highlands Conservancy's annual mid-winter workshop, Jan. 15-17 at Jacksons Mill.

Callaghan will speak at 10 a.m. Saturday, Jan. 16 and is expected to address a wide range of issues of concern to the environmental community including mining, water pollution, acid rain, and budget and regulatory changes.

Areas of West Virginia where these policies are implemented — and where the Conservancy has maintained an interest — include the Monongahela National Forest, Shavers Fork, the

headwaters area of the Little Kanawha, Tygart and Buckhannon Rivers, Canaan Valley, and other parts of the highlands.

A lively question and answer period is scheduled to follow Callaghan's talk.

During the afternoon session that same day, Conservancy vice president and West Virginia Citizen Action Group environmental coordinator Perry Bryant will lead a workshop entitled "Working With the State Legislature."

Bryant has been an active public interest lobbyist in Charleston for several years, and will share some of what he has learned during that time

with Conservancy members in an legislative session. participation of the upcoming 1982

Later during the afternoon the Con-

servancy's annual meeting will be (Please turn to page 2)

AROUND THE STATE

Battling for Clean Air

West Virginia's environmental mainstream launches itself into the fight to prevent gutting of the Clean Air Act.

Environmentalists around West Virginia and throughout the nation are gearing up to prevent administration and business interests from gutting the Clean Air Act.

In the Mountain State, interested groups have joined to form the W. Va. Clean Air Coalition. Members presently include the W. Va. Lung Association, W. Va. Common Cause,

the Coalition on Legislation for the Elderly (COLE), the W. Va. Sierra Club, the W. Va. Citizen Action Group, Citizens Holding on to a Klean Environment (CHOKe) in Fairmont, the Monongahela Alliance for Community Protection (MACP), and the W. Va. Highlands Conservancy.

All other interested groups have been invited to participate.

West Virginia groups may play a particularly influential part in the battle to protect the Clean Air Act, since Senator Jennings Randolph (D-WV) is the ranking Democrat on the U.S. Senate Environment and Public Works Committee which is marking up the Clean Air Act. Randolph's stature on the committee puts him in what is generally agreed to be a pivotal position in determining what is to become of the act.

Acid Rain Proposal

In part, the state group is working to back up proposals already put forth by national organizations. For example, the National Wildlife Federation — on behalf of the National Clean Air Coalition — has proposed a four-point plan to reduce sulfur dioxide emissions in 31 states in order to begin solving the nation's growing acid rain problem.

The plan was outlined by Dr. Jay D. Hair, executive vice president of the NWF, at a House Energy and Commerce Committee hearing on acid rain. The NWF is a member of the National Clean Air Coalition, whose members include conservation, health, labor and consumer groups interested in educating the public about the dangers of air pollution.

The Coalition plan recommends that Congress mandate a 10 million ton per year reduction in sulfur dioxide emissions in 31 eastern states by 1990. Hair noted that sulfur dioxide emissions should be dealt with first because they are responsible for "up to 80 percent of the acid precipitation in the northeast."

When sulfur dioxide emissions — mainly generated by coal-burning power plants — combine with rain or snow, they form an acid which is often blown hundreds of miles from its actual source before it falls to earth.

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Covering a 55-acre mountaintop with 20 mil plastic — that's five times as thick as a "Hefty" plastic bag — are workers for the DLM Coal Corporation. The project is an attempt by the company to stop the production of acid seeps which are fed by rainwater

seeping through the toxic overburden. DLM's operations are in the three-county area where the W. Va. Rivers Coalition has asked the state to pro-

hibit coal mining until effective reclamation techniques can be developed to successfully reclaim the land.

BUCKHANNON

Reclamation: Making It Work First

A public hearing will seek comments on a petition to designate hundreds of square miles of prime coal lands off-limit to new strip mining.

A public hearing on a petition that would designate a vast portion of central West Virginia's unfolding coal reserves as unsuitable for mining will be held Tuesday, Dec. 8, at 3 p.m. on the campus of W. Va. Wesleyan College in Buckhannon — a hearing that is being viewed by the coal industry with as much apprehension as there is expectation on the part of the state's environmental groups.

A spokesman for the Consolidated Coal Company — Consol — indicated at a recent public hearing on the Holly Grove Coal Company's plans for a strip job near Canaan in Upshur County, that his firm viewed the petition

very seriously. In fact, he said it was viewed so seriously that they were devoting substantial resources of their own to an examination of the petition and expected to make — if not a major verbal statement at the hearing itself — then elaborate and substantive comments in writing.

Added to such serious rebuttal of the contentions of the unsuitability petition is expected to be much brouhaha as well. Advance indications have been that at least several hundred coal miners — among them the anti-environmentalist, foot-stomping, handclapping, catcalling members

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Judy Frank, P.O. Box 1121, Elkins, WV 26241 (636-1622)

Callaghan

(Continued from page 1)

held, and during that time period members will elect a board of directors and consider other items of current business.

An opportunity for less formal recreation and socializing will occur that evening, when Sayre and Jean Rodman of Pittsburgh will present a selection of photographs they have taken.

Conservancy members are urged to bring musical instruments and other items of interest to the informal recreational gatherings.

As usual, the board of directors will meet Sunday morning to discuss various issues in which the group is now involved.

All sessions - including the board of directors meeting - are open to all members and visitors. Reservations for overnight accommodations should be made directly with Jacksons Mill State 4-H Camp, Weston, W.Va. (PHONE: 1-304-269-5100).

The Conservancy nominating committee is seeking nominations for the five director-at-large seats on the board of directors with two year terms, which start in January, 1982 and expire in January, 1984.

Nominations may be submitted by both individual and organizational members of the Conservancy and must be received no later than Friday, Jan. 15, 1982.

Members may nominate up to five individuals, including themselves, and must determine and indicate that they are willing to serve as a director-at-large. All nominees must presently be Conservancy members or submit a membership application prior to the certification of candidates by the nominating committee on Jan. 15.

The election will be held during the Conservancy's annual meeting on Saturday, Jan. 16, 1982 at Jackson's Mill 4-H Camp in Weston.

All individual and organizational members may participate in the election by casting one vote for each candidate (approval system voting), with the five candidates receiving the largest number of votes being elected. Ties will be broken by lot.

No individual may vote twice for one candidate, ie., vote on behalf of both himself and an organizational member.

Nominations should be mailed to: Larry W. George, Chairman WVHC Nominating Committee 9 Crestridge Drive Huntington, W.Va. 25705 1-304-736-1325

Individuals whose nominations are submitted prior to Dec. 20, 1981 should mail a photo, biographical paragraph, and policy statement (300 word limit) to be published in the January edition of the Highlands Voice.

Nominated candidates should mail these items directly to:

Judy Frank, Editor The Highlands Voice Box 1121 Elkins, W.Va. 26241

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Don't Miss

Reclamation Hearing - Dec. 8
Watt Protest - Dec. 11
Conservancy Workshop - Jan 15-17

MORGANTOWN

Scenic Trails Meeting

The West Virginia Scenic Trails Association will hold its winter meeting Jan. 8-10 at Chestnut Ridge Regional Park, which is east of Morgantown (off U.S. Rt. 48).

The meeting will serve as the group's 1982 annual planning meeting, and all interested persons are urged to attend.

When not in meetings, WVSTA

members will be able to indulge in cross country skiing, downhill skiing, ice skating, and sled riding.

Total cost for the weekend is just \$10. Two comfortable cabins have been reserved, and everyone attending is urged to "bring your own food and sleeping bag."

For more information, contact George Rosier (296-5158).

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THE W. VA. HIGHLANDS CONSERVANCY

Description of membership categories.

Individual membership:

Regular-\$10 from the rank and file who can give time and interest to the conservancy.
Associate-\$20 from those who can afford a small extra gift in addition to their interest in West Virginia's outdoors.
Sustaining-\$50 from those able and willing to give larger amounts necessary to underwrite our programs.
Senior-\$8 from conservationists over 65 years of age.

Organizational membership:

Regular-\$20 from a small organization anxious to help the Conservancy score conservation gains in the Mountain State.
Associate-\$30 from a larger organization whose membership approves the efforts of the Conservancy.
Sustaining-\$60 from a large national organization which appreciates the importance of a highlands area to the people of the eastern seaboard.

New

Renewal

Name
Address
City State Zip
Organization you represent(if any)

Membership category (see descriptions opposite)

Individual

\$10 Regular
 \$20 Associate
 \$50 Sustaining
 \$ 8 Senior

Organizational

\$20 Regular
 \$30 Associate
 \$60 Sustaining

Brief statement of present position, interest, or activities in conservation activities (optional)

Make checks payable to The West Virginia Highlands Conservancy.

PARSONS AND FRENCH CREEK

Precipitous Mathematica

Proof of soil destruction by acid rainfall is offered by a Conservancy committee chairman.

By DON GASPER

Last month, it was reported that over 500 net metric tons of acid per year fell above every 35-foot wide streambed along the face of the Alleghenies. This is an enormous amount, and several people wondered if this could be true — and how it was calculated.

It is calculated in a way unfamiliar to hydrologists. They say one kg per ha of hydrogen ion per year is the acid atmospheric input now in West Virginia and New Hampshire.

However, it has more meaning for us "in a coal state" if it is calculated as though it were acid mine drainage that, unfortunately, many scientists are familiar with.

The acid is assumed to be 100 per cent sulfuric acid, though 30 per cent is nitric acid. The average, year-round pH is 4.5 using data from nearly ten stations for nearly ten years in and near the Monongahela National Forest. A more recent pH average based on only the last two years would be pH 4.1 for rain and pH 4.5 for snow — considerably more acid. The pH of 4.5 was used, however.

This pH corresponds to an average cold total acid value of ten parts per million (ppm) in the Monongahela data. Contrasting limited hot total acid (HTA) with cold total acid (CTA) tests indicates the HTA would be 11 ppm when the CTA is 10 ppm. Metric tons was used because it is 1000 kilograms and because it is definite. (The 2,000 pound ton can be called "ton" or "short ton"). I used 60 inches of precipitation (rain and snow) because the western face of the Alleghenies gets this much at its higher elevations. The 35-foot wide streambed has about 7,000 acres above it. The 500 net metric tons figure is a little conservative and expected to be within ten per cent of being accurate.

Since the HTA at even pH 4.5 is 11 ppm, and the pH today is probably lower than 4.4, there are surely 500 net metric tons of sulfuric acid at pH 4.5 above every 35-foot wide streambed. (Using 11 ppm and pH 4.4 would yield about 60 more tons)

Also noted last month was the fact that soil impoverishment is occurring from the neutralization of all this acid

by infertile forest soils. As alkalinity reserves are used up on the watershed, dissolved out and carried away, these can be measured in the streamflow by the conductance reading.

The latest evidence for this is furnished by the five-foot wide undisturbed watershed on the U. S. Forest Service's Fernow Experimental Forest at Parsons where the conductance has increased from 16 to 20 mhos per cm

since 1958. This is a statistically significant increase in conductance.

This proof is displayed in the figure. Note that every monthly average conductance for the early period is less than the same months in the last ten-

year period. This is proof that it is happened here on West Virginia watersheds where over one-quarter of the state's trout streams are so pure that soil impoverishment means their loss forever.

LEWIS COUNTY

Whoops! There Goes ...

A Supreme Court victory pumps hope into the Upper West Fork River Watershed Association even as the land is being condemned from beneath them.

Opponents of the proposed Stonewall Jackson dam project in Lewis County won a victory in the state supreme court on Thursday, Nov. 12, which will cause more delay for the Corps of Engineers.

The Upper West Fork River Watershed Association filed suit against David Callaghan, director of the W.Va. Department of Natural Resources, when Callaghan refused to hold a public hearing before issuing a state "401" dredge and fill permit needed by the Corps for the first phase of its relocation of U.S. Rt. 219 in conjunction with the \$200 million dam project.

The association argued that the permitting process created by the Clean Water Act requires that their request for a public hearing be granted before the permit can be issued. In an opinion written by Justice Darrell McGraw, Jr., the court unanimously agreed.

Secretary of the 1,600-member Association, Peg Ormsby, explained that "while this is not a major blow to the project as a whole, it is the first time that any court or regulatory agency has come down on the dam's promoters for skirting the requirements of the law. In the past, if a law got in the way of this project, the law was simply ignored; or the project was exempted or grandfathered from it."

The decision sets certain

precedents favoring West Virginia landowners and citizen groups faced with construction activity requiring the placement of fill materials into waters of the United States. It states that downstream landowners, tenants on downstream land, and organizations representing such affected landowners have standing to object to the issuance of state permits.

"The next group won't have to sue for their right to a hearing," Ms. Ormsby stated.

DNR Director Callaghan originally had issued to 'go ahead' permit in December of 1979. The Association, through its Legal Services attorney John Purbaugh of Charleston, objected because the DNR had as yet failed to promulgate any regulations or procedures governing the permitting process.

Callaghan withdrew the certification in March of 1980, filed emergency temporary regulations, and reissued the permit in July.

The Corps of Engineers has been trying for two years to begin construction of the first major road relocation for the project. After a second unrelated suit concerning this same roadwork was settled last month, the Corps announced its intention to begin work the first of the coming year, believing it had the "401" permit in hand.

In Washington, D.C. Congressman Toby Moffett's (D-Conn.) Subcommit-

ACID DEPOSITION CALCULATION

1" precip per acre → 27,154 gals
 1 gal weighs 8.3 lbs → 225,378 lbs
 60" of precip per year → 13,572,192 lbs water per yr

$\frac{13,572,192 \text{ lbs water}}{1,000,000} \times \frac{x \text{ lbs acid}}{10 \text{ ppm HTA}} = 135 \text{ lbs per acre per yr acid}$

7,000 acres → 945,000 lbs acid

2,205 lbs per metric ton
 material in rain & snow - 100 tons
 fallout acid material - 250 tons
 fallout material - 100 tons

WET ACID 428 metric tons per yr
 WET ALKALINE 328 metric tons per yr
 DRY ACID 578 metric tons per yr
 DRY ALKALINE 478 metric tons per yr

costs.

To date, the Corps has acquired approximately 13,000 of the 20,000 acres scheduled to be taken, about a third of this through condemnation. No major construction or road relocation has begun.

"Farmland is still being used as it has always been used," Ms. Ormsby said. "There is no dam at Brownsville, there is no dam construction at Brownsville — and we are determined that there never will be."

tee on Environment, Energy and Natural Resources has scheduled a hearing on the Stonewall Jackson dam project for Dec. 9. The emphasis will reportedly be on the cost-benefit claims for the water quality, recreation dam.

The Corps claims that for every dollar spent, \$1.30 in benefits will accrue. Opponents believe that even this marginal ratio greatly exaggerates benefits and underrepresents

WASHINGTON, DC

Speciation Contemplation

The U. S. Fish and Wildlife Service ponders revisions and streamlining of the Endangered Species Act.

A dozen different major issues — as well as 16 minor issues — have been identified as needing to be addressed during a review of the United States' endangered species act now being conducted by the Interior Department's U. S. Fish and Wildlife Service. The announcement of the issues was made during November by Robert A. Jantzen, the new FWS director.

The study is being made as part of the government-wide regulatory review process required by a Presidential order and in preparation for Congressional reauthorization hearings next year. The Endangered Species Act of 1973 expires in September of 1982 unless re-

authorized by Congress.

Jantzen said some 400 comments were received on about 50 issues from state and federal agencies, private conservation groups, business and industry representatives, universities and individual members of the public. The Fish and Wildlife Service had requested public participation in a Sept. 18, 1981 notice in the "Federal Register" and had accepted comments through Oct. 16.

"Since the comment period closed," Jantzen said, "we're been evaluating the policies, procedures and problems we've identified with the public's help. Some can be resolved administratively, but others may have to be resolved through the legislative

process. We are now organizing these issues into more specific categories and assigning priorities for thorough review."

Jantzen said that preliminary efforts have identified 12 major issues as "first priority," while 16 other issues have been given "second priority."

Scheduled to be addressed in what the Fish and Wildlife Service described as a "full and detailed issue paper with a full range of options" have been:

- should the critical habitat designation be retained;
- should the act afford protection to "lower life forms" or to populations and subspecies?

- should additional economic considerations be added to the listing process?

- should an "experimental populations" category be added?

- should the "jeopardy standard" be modified?

- should the "biological assessment" requirement be dropped?

- should the exemption process be modified?

- should the International Convention Advisory Commission, established by Congress during 1979 amendments to the act, be abolished?

- should the act be modified to reduce the amount of control over captive wildlife?

- should a central clearinghouse

be established to streamline multi-agency issuance?

- and, on the issue of bobcats, should the act be changed to modify the Convention on International Trade in Endangered Species' (CITES) standard of "reliable population estimates" which resulted from litigation about bobcats?

Identified as second priority matters and requiring a paper containing a brief discussion of the issue along with several alternate solutions were:

- the consideration of alternate methods of dealing with hybrids;
- the affording to some protection of "candidate species;"

(Please turn to page 6)

ACROSS THE STATE

Tough Times for Soil and Water Conservation

A new ball game — with less money — is anticipated as a trio of traditional agencies prepare for an end to 'cafeteria' conservation programs.

A soon-to-be-implemented change in some of the nation's traditional soil and water conservation programs is expected to have a major impact in West Virginia — and not all of it is expected to be good, according to the best estimates of people who work in the field.

In fact, in the highland region of the state where energy development is proceeding rapidly and creating a multitude of both soil and water conservation problems, the changes are expected to severely cut back one what, over the years, had become a traditional and accepted method of encouraging environmental protection.

"I don't think there's any doubt but that there will be a reduction in money," commented Robin Harvey, a technician for the U. S. Department of Agriculture's Soil Conservation Service. Working out of an office in the headquarters building of the U. S. Forest Service in Elkins, Harvey is one of a cadre of 233 SCS employees who — as he does in a four-county region in and just west of the highland region — provide technical assistance to mountain farmers and others with problems that revolve around soil and water conservation. Harvey is one of 233 SCS employees scattered around the state. Of that number, 175 are "in the field" while the remainder perform administrative functions. Each is given their general direction by boards of district supervisors who aim their technical skills at conservation needs as perceived by the people of the area in which the SCS technicians work.

Joining in the effort at soil and water conservation over the years have been the U. S. Department of

Agriculture's ASCS — the Agricultural Stabilization and Conservation Service which provides cooperative loans and other financial assistance to those engaged in agriculture — and the nation's extension services which provide advice, counsel and some educational services.

Together, the three agencies have played a major role in the steward-

ship of the land and water resources of the nation as a whole — and of the state and the highland region in particular.

The change that is about to envelope the state, however, has to do with priorities. What's going to happen, Harvey and his co-workers believe, is that a national priority will be established "to redirect present programs to conserve soil and water in

those areas where needs are the greatest."

That's what the state's chief conservationist, Craig Right of Morgantown, said last month in a news release that was part of a nationwide notice seeking comments on proposed changes in the nation's soil and water conservation programs.

That program is a result, Right said, of the Soil and Water Resources

Conservation Act of 1977. The program's basis is an appraisal of the conditions, trends and natural resource problems of the nation. Published in two volumes, that appraisal gave rise to the current volume upon which the USDA is seeking comments: the 1981 revised draft of the "Program Report and Environmental Impact Statement."

As proposed in the revised draft — and as outlined by state conservationist Right — emphasis will be on "reducing soil erosion to maintain the long-term productivity of farmland."

On the local level, technician Harvey says he's not convinced such a national re-direction is a bad thing — though he predicts the changes will mean less money for the Mountain State in general, the highlands in particular. But as a soil scientist, he says he's not convinced that directing available resources at the most critical problems is the proper avenue to follow.

That may not be good for West Virginia, however. "This is not an agricultural state," he points out. As a result, there is not the excessive soil erosion that for decades has characterized the vast farming belts of the American Midwest.

In West Virginia, he admitted, "we have had a tendency to shift the traditional activities" of the SCS and other agencies into other areas. As a result, for instance, he estimates that nearly two-thirds of his time is spent on non-soil erosion activities. In his Tygart Valley Soil Conservation District, for instance, there has been emphasis on gas well reclamation as well as drainage problems, while other assistance has run the gamut from grazing to helping everybody from homeowners to major industries take

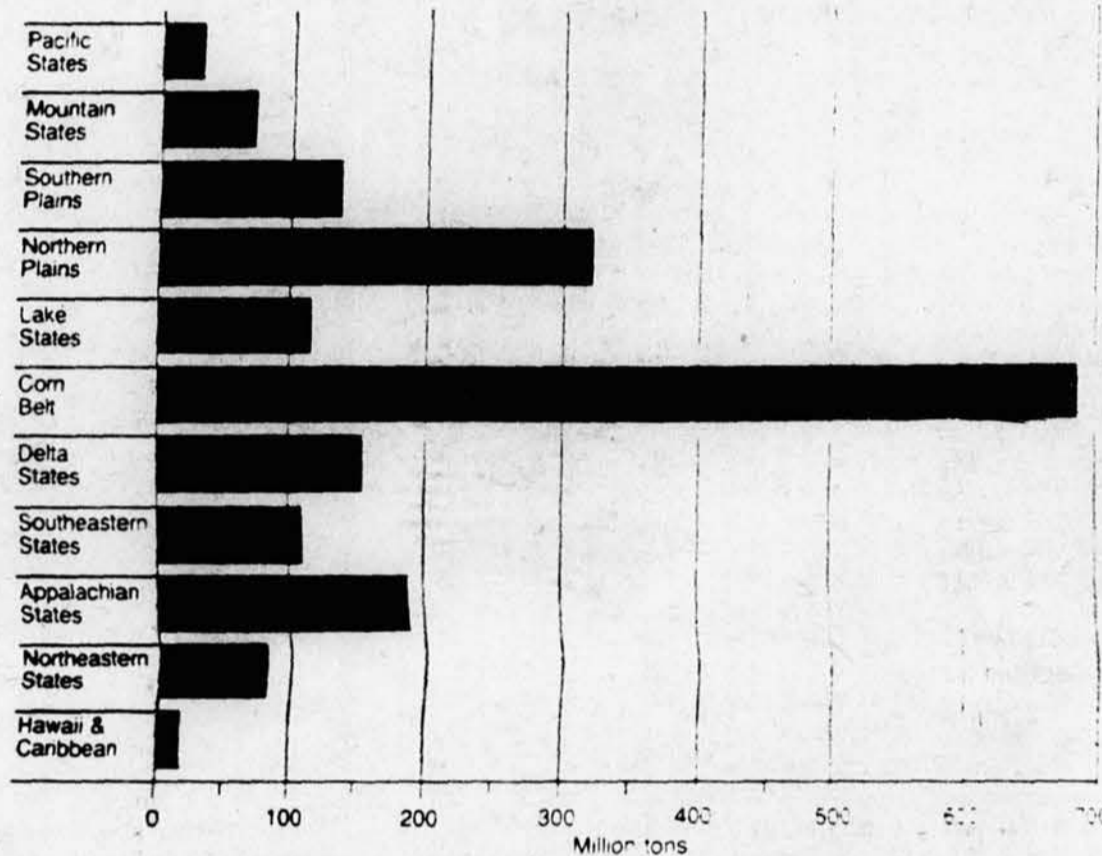


Figure 3-5.--Estimated total annual soil loss resulting from sheet and rill erosion on cropland, by crop production region, 1977 (3).

Congress, in its concern about the condition of the Nation's basic nonfederal resources, passed the Soil and Water Resources Conservation Act of 1977 (RCA). In the Act, Congress asked the Secretary of Agriculture three basic questions:

- What are the resource problems?
- How do you propose to solve these problems?
- What are the expected results of your solution?

The Problems

The Secretary conducted an appraisal to determine the status, condition, and trends of the Nation's soil, water, and related resources. The 1980 RCA Appraisal showed that conservation problems threaten to reduce agricultural productive capacity and increase production costs. Specific findings of the Appraisal include:

- Much agricultural land is eroding faster than the soil can rebuild itself through natural processes. Unless corrective actions are taken, the acreage of this excessively eroding land will increase further.
- Floods threaten human life, property, livestock, and crops in upstream watersheds. The likelihood is for greater damage in the future.
- Depletion of ground water threatens the continuation of irrigated agriculture in extensive areas of the West.

- Deterioration of water quality limits potential use of water for irrigation, municipal and industrial supply, fish and wildlife habitat, and other purposes.

The Solutions

Armed with appraisal data, analyses of resource condition, evaluations of existing programs, and the results of public participation activities, the Secretary set major objectives and established priorities for future soil and water conservation activities. He reviewed alternative ways for dealing with current and projected resource problems, and selected a preferred program.

The foundation of the preferred program is greater cooperation among local and state governments and the federal government in solving conservation problems and redirecting present programs. Cooperative solutions to conservation problems are not new. Local conservation districts and ASC and extension advisory committees have worked closely with their local USDA offices for years to provide assistance to land owners. The preferred program retains these existing organizations and relationships to recognize and solve conservation problems.

The program moves away from the "cafeteria," or "first come, first served," approach of the traditional USDA conservation programs. It addresses instead specific national resource priorities. It targets conservation activities, reducing the most serious erosion and correcting related resource problems that impair the Nation's agricultural productivity.

The preferred program—

- establishes clear national priorities for addressing problems associated with soil, water, and related resources over the next 5 years. The highest priority is reduction of soil erosion to maintain the long-term productivity of agricultural land. The next highest priority is reduction of flood damages where risks are highest in upstream areas. Water conservation and supply management, water quality improvement, and community-related conservation problems have next priority. Fish and wildlife habitat improvement and organic waste management are an integral part of solutions to these problems.
- strengthens the existing partnership among land owners and users, local and state governments, and the federal government. Through this partnership, the program—
 - provides federal matching block grants to states by reducing federal conservation program funds.
 - provides for a Local Conservation Coordinating Board made up of representatives of the conservation district, county ASC committee, extension advisory committee, and other interested parties. This board will appraise local conditions and needs and develop a program through existing local, state, and federal institutions. The local board will identify critical resource problem areas and set priorities for action to achieve program objectives.

terianism.

advantage of the physical condition of the land — to use it wisely and well.

Harvey points out that highland West Virginians — by nature, he believes — are inclined “to protect what we’re now using .. In general, the land is not seriously damaged.” Furthermore, he believes that despite the likely cutbacks in federal aid for soil and water conservation programs to West Virginia, West Virginians will continue to do a good job.

As identified by state conservationist Right, a “key feature of the program would be to strengthen local and state leadership in soil and water conservation. One means would be to provide federal matching block grants to states by reducing federal conservation program funds. Another would be the formation of conservation coordinating boards to set priorities at local, state and national levels.”

Here, Harvey believes, is where the power will reside. Instead of leaving the decisions about what to do in the hands of the traditional soil conservation district and ASCS boards, the power to make the decisions about how the funds — likely to be reduced funds — will be spent would be shifted to the new coordinating boards.

The basis for such a shift arose — and is clearly spelled out — in the current revised draft of the program report and EIS. One section, for instance, reviews the findings of audits and evaluations, some of which were conducted internally while others were handled by the General Accounting Office — Congress’ bureaucratic “watchdog” agency.

Typical of their findings was one study which showed that, across the board, a “lack of attention (had been given) to the objective of erosion con-

trol ... Program personnel and financial resources were found to be directed toward other objectives such as water management and production enhancement .. even though serious erosion problems were present in the areas studied ... (Additionally, there was) a lack of priority setting. GAO found little or no effort being made by the agencies to give priority assistance to farmers and ranchers with the most serious erosion problems ...”

In fact, the GAO found that much of the SCS and ASCS as well as other federal agencies’ work was not “concentrating scarce resources on the most effective erosion control measures, nor were they working with the people who most needed help in reducing erosion.”

Just that — concentrating resources on what are believed to be the nation’s most pressing soil and water conservation problems — is precisely what the practically-set-in-motion “preferred program” is aimed toward.

According to a description of that preferred program in the revised draft of the EIS, it “moves away from the ‘cafeteria,’ or ‘first-come, first-served’ approach of traditional conservation programs ... It addresses instead specific national resource conservation priorities. The top priority is the reduction of soil erosion, and the second priority is the reduction of upstream flood damages. The cornerstone of the preferred program is the targeting of soil conservation actions to reduce soil erosion and related conservation problems that impair the Nation’s agricultural productivity.”

The revised draft also “provides federal matching block grants to states for an expanded role in



developing and implementing conservation programs, the federal funds to be obtained by reducing current federal conservation program funds ...; provides for a Local Conservation Coordinating Board made up of representatives of the conservation district, county ASC committee, extension advisory committee and other

interested parties” to develop solutions for the problems they find in cooperation with state and national conservation coordinating boards.

Among the major points made is that the preferred program “targets an increased proportion of USDA conservation program funds and personnel to critical areas where soil erosion

or other resource problems threaten the long-term productive capacity of soil and water resources.”

As Right points out, the program “in whatever form it takes, will have a tremendous impact on the resources of West Virginia in the years to come. It is important that the people of the state ... come to our offices .. and let us know what they want.”

- provides for a State Conservation Coordinating Board, with members appointed by the Governor, to appraise overall state resource conditions and needs. This board will build on local programs in identifying statewide critical problem areas, setting priorities, and developing the state program.
- establishes a USDA National Conservation Board to advise the Secretary of Agriculture on conservation matters.
- bases state and federal cooperative conservation actions on an agreement between each Governor and the Secretary of Agriculture.
- provides for increased and more efficient cooperation and budget coordination among USDA agencies with conservation program responsibilities.
- continues or initiates actions to—
- target an increased proportion of USDA conservation program funds and personnel to critical areas where soil erosion or other resource problems threaten the productive capacity of soil and water resources.
- emphasize conservation tillage and other cost-efficient measures for reducing soil erosion and solving related problems.
- evaluate tax incentives as an inducement to increased use of conservation systems.

- increase emphasis on technical and financial assistance to farmers and ranchers who plan and install needed and cost-efficient conservation systems.
- target USDA research, education, and information services toward problems that impair agricultural productivity, while continuing basic research into the cause and cures of resource degradation.
- set up pilot projects to test new solutions to conservation problems.
- require land owners to have a conservation plan in order to be eligible for Farmers Home Administration loans.
- minimize conflicts among features of USDA farm programs that limit achievement of conservation objectives.
- strengthen collection and analysis of resource data.
- expand the use of long-term agreements in providing conservation assistance to farmers or ranchers.

In addition to the preferred program, the Secretary looked at many options and developed and considered two other alternatives. (1) Under the first of these alternatives, current trends in USDA soil and water conservation programs would continue. These trends, if continued, would result in lower funding and further degradation of soil, water, and related resources. (2) Under

the second alternative, USDA would redirect its programs so that it would target a larger share of its assistance to solving critical resource problems. Resource conditions would at best improve only slightly from what they are now.

The Secretary rejected these alternatives as too weak to solve the problems and unresponsive to public opinion.

What to Expect

As a result of implementing the Secretary’s preferred program, the following can be expected:

- Conservation efforts will be more effective because they will be planned and carried out in response to clear objectives and priorities.
- Emphasis on cost-efficient solutions to conservation problems should increase the acceptance and adoption of conservation methods and accomplish more for each private and public dollar spent.
- The loss of soil and water resources will be slowed but not reversed. Implementing a program to reduce degradation of soil to tolerable limits would be prohibitively expensive.
- State and local governments will have a steadily expanding role in developing and implementing conservation programs.

Clean Air

(Continued from page 1)

Acid rain has killed the fish in more than 90 lakes in the Adirondack Mountains, and a recent NWF report revealed that 15 eastern states are "extremely vulnerable" to the harmful effects of acid rain. (See a report from the Conservancy's acid rain committee elsewhere in this issue.)

Under the plan outlined by Hair, Congress would set a formula which would allow utilities in the 31 eastern states to apportion fairly among themselves the burden of a 10 million ton sulfur dioxide reduction. Each sulfur dioxide generator subject to the reduction requirements would be given up to two years to submit a reduction proposal to the U.S. Environmental Protection Agency.

Utilities -- which account for about three-quarters of all sulfur dioxide emissions in the eastern U.S.A. -- would be allowed to "trade" emission reduction obligations among themselves and non-utility plants. Although EPA would have final approval of the utilities' reduction plans, the states would have an active role in enforcing the plans.

Hair expressed strong support for an acid rain bill -- S.B. 1706 -- recently introduced by Sen. George Mitchell (D-Maine) and for similar legislation to be introduced by Rep. Tony Moffett (D-Conn.).

In calling for effective acid rain control legislation, Hair said, the NWF, the nation's largest conservation organization, is "in the company of the bipartisan National Commission on Air Quality, the prestigious National Academy of Sciences, and the 86 percent of the American people -- who we all represent -- who have indicated their support for a Clean Air Act."

Other groups have also expressed strong interest in beginning now to do something about the acid rain problem.

Hostile Politicians

With the exception of Randolph, West Virginia politicians have taken stands "either straddling the fence or downright awful," members of the W.Va. Clean Air Coalition report.

For example, Rep. Mick Staton told constituents who met with him Nov. 7 in Charleston that he will resist any further regulation of air quality since placing more controls on industry (especially chemical producers) would mean "tightening down on the very life blood" of our community.

"There's one good way to stop all the toxic chemicals dropping on the Kanawha Valley," Staton said.

"We could shut the plants down -- but we don't want to do that. We have to make a choice: the cleanest air in the world, or jobs."

Some individuals have felt that it would be senseless to even attempt to talk to politicians -- Rep. Cleve Benedict, for example -- who are already on record in favor of industry's position. However, a majority of spokespersons have urged that all politicians be contacted in the

hopes that they might at least be made aware of the fact that many West Virginians do want the Clean Air Act kept strong.

Information Campaign Mounted

Led by Charlie Garlow of the W. Va. Citizens Action Group, West Virginians have begun a multi-step process to let politicians and the general public know about the present threat to the Clean Air Act.

First priority is a strong letter-writing campaign, in which a "West Virginia perspective" on the overall situation will be emphasized. (This is believed to have been a big factor in a Tuesday, Nov. 17 major victory for the

Coalition, when the U.S. Senate Environment and Public Works Committee -- by a decisive 12-3 vote -- refused to allow economic factors to influence the setting of air pollution standards.)

Other proposed steps include formation of a speakers' bureau, lobbying politicians, talking to the press, and encouraging members of participating groups to become more active on the issue.

Anyone interested in becoming involved in the fight to save the Clean Air Act should contact Charlie Garlow by calling 1-304-346-5891 or by writing to him at 1324 Virginia St. East in Charleston, W.Va. 25301.

The Journalist

(Continued from page 7)

money."

Maxwell declined to answer directly a set of four written questions sent to him by a reporter about the apparent conflict of interest. In a letter to *The American Lawyer*, however, Maxwell wrote that the questions "are structured upon manifestly deficient and inaccurate suppositions of the facts. Consequently, your inquiries are incapable of being answered. Also, your perceptible understanding of law is likewise fallacious."

The counsel for the West Virginia Highlands Conservancy is Patrick McGinley, a law professor at the University of West Virginia. Though McGinley says he has written a letter to Maxwell asking for a response to the conflict-of-interest charges, he declines to discuss the case or any plans the conservancy may have to challenge Maxwell's ruling. His co-counsel, William Nagle, is more talkative: "If what (*The American Lawyer*) found out is true, then we

can argue for a new trial," says Nagle, an associate at Pittsburgh's Shostack & Rosen.

John Woodrum, a lawyer with the Interior Department in Charleston, worked on the Mower Lumber case. Woodrum says he's surprised to learn that Maxwell had been associated with McDonald on the coal-leasing venture, though he does admit he "knew something was going on with some sort of coal interests up there."

The four-lawyer Elkins firm of Brown, Harner and Busch represented McDonald in the Britton suit and would have been aware of Maxwell's relations with McDonald. Partner John Busch -- who was recently elected president of the state bar association -- represented McDonald in the Highlands Conservancy case. "I view your attack on Judge Maxwell and the suggestion our office new of some conflict of interest as totally unwarranted and without foundation," he says. He refused to elaborate.

The members of the conservancy

Reclamation

(Continued from page 1)

of West Virginians for Work who will be recalled from earlier hearings -- will be attending the hearing.

Miners have threatened to line up enough speakers to see that the hearing will last at least three days, and to loudly jeer anyone who opposes their position.

The petition itself is disarmingly brief. In fact, the entire statement -- which has already been judged to be complete -- occupies just two typewritten pages and contains about 500 words.

Supplementing the basic statement is a one-and-a-half page text describing the area referred to in the petition, and a scant 17 pages of text citing evidence in support of the allegations.

Even more remarkable than its brevity, however, are the sources cited as evidentiary support. Unlike an earlier, federal "522" petition which sought to have a substantial portion of the Shavers Fork declared off-limits to mining by propounding new theories to be supported by evidence and from which new conclusions were drawn, the new petition relies almost entirely on conclusions which other persons have already reached.

But even more startling is the fact that some of the critical conclusions which go to the very core of support for the petition are the conclusions of the people who will be deciding the issue itself: the members of the reclamation board of review.

Probably the most powerful example of this has already been widely quoted, not only in the *VOICE* but in other publications as well. It is contained in a letter from Dave Callaghan, the W.Va. DNR director -- and the chairman of the Reclamation Board of Review -- to Talmadge Mosley, president of the northern division of the Island Creek Coal Company, one of three firms which have already invested nearly \$200 million in stripping the area.

As quoted in the petition, Callaghan wrote to Mosley:

"Until it is demonstrated that reclamation of the area is feasible and actually accomplished, this department will not consider the issuance of additional permits. If the acid production problems associated with your present operations are not corrected by your proposed remedial measure, we will have no alternative but to deny future permit applications for Island Creek's Ten Mile operations. Such denials will be mandated by law and are not discretionary."

Later, in at least one interview with the press, that administrative unsuitability designation was expanded to include a broad stretch of Lower Kittanning seam in not only Upshur but Randolph and Webster Counties

Species

(Continued from page 3)

-- the streamline of the listing process by defining "hearings" and "meetings;"

-- the modification of the petition process;

-- the technical amending of cooperating agreements;

-- the streamlining of the consultation-conference procedures;

-- the consideration of various methods of better defining the concept of "federal action;"

-- the clarification of "pre-act exemptions;"

-- the establishment of "taking prohibitions" on plants;

-- the modification or clarification

of the sport trophy exemption;

-- the need to clarify the application of one section of the act to CITES species and foreign raptors;

-- the removal of the registration requirements for importers and exporters;

-- the review of the relationship of some sections of the act to the importation procedures under CITES;

-- the clarification of the antiquities exemption to conform with the U. S. Customs Bureau;

-- the addition of criteria for issuance of permits;

-- and the modification of the citizens suit provision of one section of the act.

The Judge

(Continued from page 7)

They have been furnished copies of all court orders, correspondence from Mr. Cramer, replies of the court and also comments for all parties in the West Virginia Highlands Conservancy litigation. Attorneys for the parties have also been furnished copies of each of these items. Mr. Cramer, long prior to the publication of his vicious article, requested and was furnished copies of these relevant documents.

In the wake of the November, 1980 attack on me by *The American Lawyer* I made inquiries concerning the publication and its reputation.

Third parties who may have knowledge as to the magazine's reputation are: 1) E. Donald Shapiro, Dean, New York Law School, 57 Worth Street, New York, N.Y. 10013 (212-966-3500); 2) Roy Cohn, Saxe, Bacon & Bolan, 39 E. 68th Street, New York, N.Y. 10021 (212-472-1400) (He appeared on Tom Snyder's *Tomorrow* show with Steven Brill, the editor of *The American Lawyer*); 3) Dean Gordon Gee, WVU Law School, Morgantown, WV 26506 (293-5306)

could not have known about Maxwell's coal plans in time to push for Maxwell's disqualification unless Maxwell had disclosed them beforehand. Last fall, at the time of the litigation, judges' financial disclosure forms were not being made public because of an injunction granted to several judges who were fighting disclosure. In February 1981, however, the stay was lifted, enabling the public to see financial disclosure forms dating back to 1979, when the forms were first filed. Under federal law governing the filing of judicial disclosure forms, judges are subject to civil and criminal penalties for knowingly filing inaccurate reports.

In the 1980 form Maxwell mentioned that he had received some advance royalty payments from coal leases but did not specify the lessee. On the 1981 form he revealed that Westwood was the lessee, but he calculated the total value of his leased coal lands as between \$15,000 and \$50,000 -- far below the potential, indeed probable, value listed in the engineering report.

as well.

Callaghan's letter, coupled with subsequent statements and those other experts in the field, were all gathered together by Rick Webb and compiled for submission on Sept. 11 -- four months after the letter to Mosley -- on behalf of the W.Va. Rivers Coalition.

Webb is the Braxton County farmer who incurred the wrath of the DLM Coal Company when he suggested that coal mining in an area where DLM was active had destroyed trout streams. After battling back a libel suit that earned him a national reputation, he reached the conclusion that things really hadn't changed that much.

In many ways, the current petition marks the high point of Webb's years-long attempt to bludgeon the concept of responsible development into the heads of everybody who will listen -- and into a number of those who won't.

"The petitioner," Webb writes on the second page of the petition, "alleges that coal mining operations within the petition area will adversely affect fragile lands and waters, resulting in severe damage to important natural systems, and in a substantial reduction in the long-range value of the water supply."

"The petitioner further alleges that within the petition area reclamation . . . is not technologically or economically feasible, (that) mining operation . . . cannot be conducted so as to avoid acid, and other toxic drainage (or) . . . ensure that all acid-forming materials are disposed of in a manner that will prevent contamination of groundwater or surface water . . . (or that) reclamation plans . . . (can) describe measures to be taken that are sufficient to assure the protection of the quality of surface and groundwater systems . . . (or) that the cumulative impact of the anticipated mining . . . will not cause material damage to the hydrologic balance."

The petition -- as well as the Rivers Coalition and Webb himself -- have been railed at by, among others, members of West Virginians for Work, for what they perceive to be an anti-coal mining stand.

Webb denies this charge, and points to the language of the petition by way of proof: ". . . the petitioner . . . recognizes the ongoing efforts of the coal mining industry to develop mining methods that will allow mining in the petition area in accordance with the standards of performance and reclamation, and without the residual acid seepage problems cited in this petition. The petitioner believes, however, that if indeed such a mining methodology can be developed, more than sufficient acreage is currently permitted in the petition area, and therefore available to allow the mining industry to demonstrate that methodology."

The Watt Protest

For details, call
Charlie at 342-2996.

ELKINS AND NEW YORK

The Judge and the Journalist

The Conservancy gets dragged into the fray as a federal judge and a national magazine lock horns for the second time in a year.

EDITOR'S NOTE: The following article is re-printed by permission of The American Lawyer. Juxtaposed is a response from U. S. District Judge Robert E. Maxwell.

The American Lawyer article was headlined: "On the Bench: Maxwell's Silver Hammer."

BY JAMES J. CRAMER

Federal district court judge Robert Maxwell is at it again. Last November The American Lawyer reported that the chief judge of the Northern District of West Virginia had ruled in favor of a natural gas company, even though that company held leases for gas drilling on some of Maxwell's property. Now the judge has once again ruled in favor of a business associate — except that this time the issue is coal, the stakes are much higher, and the plaintiffs in the case say they may ask for a new trial on the basis of Maxwell's conflict.

The West Virginia Highlands Conservancy, an environmentalist group, went to Maxwell's court last fall to press for a temporary restraining order against the Mower Lumber Company and the United States Department of the Interior. Mower Lumber planned to build access roads through the 842,000-acre Monongahela National Forest in Randolph County — the county in which Maxwell's Elkins, West Virginia, courthouse is located — in order to explore and mine the land in the forest to which it holds the mineral rights. The lumber company leased the forest to Interior more than 50 years ago but retained the rights to the coal and other minerals underlying the land; the Interior Department gave Mower the go-ahead to build the access roads.

Highlands Conservancy environmentalists wanted Maxwell either to enjoin Mower from mining and roadbuilding or to force the Interior Department to revoke the authorization while it considered the conservancy's petition that mining would endanger the region's fragile environment.

Mower's key witness in court, Ralph McDonald, a vice president in charge of mineral development, took the stand and claimed that a halt to the road construction could cost a Mower subsidiary more than \$43,000 a day if crews and equipment were idled.

Maxwell sided with Mower and the Interior Department and denied the injunction. But before he began hearing the plaintiff's motion, Maxwell made a curious disclosure, ostensibly for the benefit of the defendants: "I don't know whether the secretary and-or, of course, the Forest Service and-or Mower and-or anybody else affected by it might have some objection to this court, in person of this judge, sitting in this matter," the judge began. "I own a tract of land that is about halfway between Bowden and Bemis ... What it is is timberland. Also, in one of the paragraphs (of the plaintiff's motion) it mentions one of the uses to which the membership of the conservancy is most interested in — that is, hiking in the woods."

"And relying on memory of that, I

would just briefly bring to everyone's attention that I ... gave the government a right-of-way for hiking trails." Maxwell then noted that he owned a tract of timber land near Mower's coal site in the park. "So I could just bring that to everyone's attention," he said. "And if anyone wants to challenge the court, don't think there is anything personal involved in it. If you think that 28 USC 455 (the part of the judicial code covering disqualification) is applicable, say so."

Though neither defendant took him up on it, Maxwell's implication was clear: if he had ever displayed any bias by previous actions, it would be on the side of the hikers, since in the past he had signed over some of his "timberland" for hiking trails. But Maxwell did not disclose everything. What he left out was far more crucial and would certainly have earned him a challenge under the code — but from the environmentalist plaintiffs, not from the defendants.

In August 1979, one year before the Mower case, Maxwell signed two leases to develop some of his extensive coal holdings just a few miles from Mower's development site in the national forest. The lessee was Westwood Enterprises, a Pennsylvania company that scouts and sells coal.

A mining engineering report assessing one of those holdings, a tract of 21 square miles, projects that Maxwell's land could produce 260,000 tons of coal annually, some of it for surface mining and some of it for deep mining. The lease on that tract states that Maxwell could receive \$2 per ton of coal for deep-mined lands and \$2.25 per ton for those that are strip-mined. Using a conservative estimate, if the coal is found and mined in the amounts projected in the engineering report, Maxwell could make a net profit of \$1.5 million over the next three years. And, under the terms of the lease, Maxwell is due to receive monthly royalties from Westwood Enterprises while it explores the land; royalties now owed Maxwell total \$66,050.

Maxwell's lease alone — his coal interests in the area — would probably have warranted disclosure under 28 USC 455, the section of the judicial code that requires a judge to reveal any holding that could cause his impartiality to be questioned. But more important to the Mower case is how the judge came by his leases. The man behind Maxwell's potentially lucrative deal was Mower Lumber Company vice president Ralph McDonald — the key witness in the road-building case Maxwell heard and decided in Mower's favor.

In 1978, when the leasing deal was being negotiated, McDonald was working both for Mower and on his own in developing coal properties in the Monongahela area. The judge's lease, however, does not mention McDonald himself, who acted as an independent middleman; it bears only the names of Maxwell and the president and secretary of Westwood Enterprises. But according to trial transcripts in a wholly unrelated matter, *Steven Britton v. Westwood Enterprises*, it was McDonald who served as a broker in arranging for Maxwell and Westwood executives to

meet.

David Jamison, the secretary of Westwood who signed the lease with Maxwell, at first denied that McDonald had anything to do with the lease. So did McDonald: "I never had any dealings with Judge Maxwell that I know of," he declared in an interview. But after being informed of the statement in Britton linking him both to Maxwell and Westwood, McDonald did concede that he had introduced Maxwell and Westwood executives but still denied any business relationship with Maxwell or Westwood.

Sworn statements in Britton and correspondence between McDonald and Westwood's attorneys, the Pittsburgh firm of Berkman Rusland Pohl Lieber & Engle, paint a picture that differs substantially from McDonald's and Jamison's recollections.

Britton, a federal civil suit filed in Pennsylvania in 1980, was brought by Steven Britton, a coal exploration manager, against Westwood after he was fired. In the spring of 1978, Britton, acting for Westwood, and McDonald worked together to secure

coal leases in the Monongahela region.

The Britton suit touched on the lease deal Britton and McDonald struck with Maxwell in August 1979. During the trial, Guy Bucci, Britton's attorney, questioned Westwood president Robert Maloney about the participants in the deal: "Was your understanding that the Maxwell leases were primarily handled by McDonald?" "That's what my understanding was," Maloney responded. Later, in court, both Maloney and Jamison would recall that they had met once with Britton, McDonald, and Maxwell — in the judge's chambers — to talk about coal leases.

In a March 1978 letter written by Rudolph Houck III (then a Berkman Ruslander associate) to McDonald and Britton, Houck told them to "inquire of the Judge whether the lease is acceptable as drafted." In addition, a December 1977 letter from Berkman partner Bela Karlowitz to Britton and McDonald confirmed an arrangement under which the two men would have a 30 per cent interest in Randolph

Mineral Exploration Company, an affiliate of Westwood Enterprises, for their work in obtaining leases, including Maxwell's, and developing them. Says Britton, who is now estranged from Westwood, "Ralph McDonald was instrumental in pulling in these properties, especially the judge's."

Section 28 USC 455 of the disqualification code states clearly that a judge must remove himself from any case "where he has a personal bias or prejudice concerning a party." Even if Maxwell did not pay McDonald for acting as an intermediary, Maxwell would still be grateful to McDonald for putting together a deal that could net him more than a million — although the actual mining has not begun yet and Westwood is far behind in its royalty payments. Westwood president Maloney testified in Britton in 1980 that the company was "in arrears in our minimum royalties to the tune of about \$30,000." He added, "We will hold on to the Maxwell lease as long as Judge Maxwell doesn't demand that we come forth with the (Please turn to page 6)

The Judge Responds

I wish my financial condition as reported by The American Lawyer were true. I could spend more time in the saddle on my horses and along bass and trout streams.

The basic premise of the article involves ownership of coal land. It has been a very well-known fact for more than a quarter of a century that I own land — timberland, farmland and minerals — and some of the tracts of land may be underlaid with coal. I hope some coal will be found and that it will be capable of being produced.

My mountain farm that is referred to in the article is many, many miles from the property involved in the Highlands (Conservancy) litigation. In fact, my farm is on an entirely different mountain range, and further, is separated by the Tygarts Valley. My farm is two watersheds removed from the property involved in the Highlands (Conservancy) litigation.

As a person, I am outraged by the fact that yet another malicious, baseless attack on my personal integrity has been printed in The American Lawyer. Given the reputation of this publication, however, it is not surprising that they would for a second time resort to a distortion of the truth.

The clear impact of this scurrilous article is that I knowingly and wilfully failed to disclose to counsel information which, if known to them, would have caused me to be disqualified in the civil action of West Virginia Highlands Conservancy v. Cecil Andrus, Secretary of the United States Department of the Interior, et al, recently pending in the Northern District of West Virginia. In this Court the Defendants prevailed and the Plaintiff appealed to the United States Court of Appeals for the Fourth Circuit at Richmond. The Court records show that the parties by their council, including the Plaintiff-appellant, voluntarily dismissed the civil action with prejudice.

The American Lawyer and its reporter, Mr. Cramer, now shamelessly attempt, in what can only be described as gutter journalism, to draw the reader to a conclusion which is untrue by employed misrepresentations, half-truths and innuendo.

I had no reason to believe when I participated in West Virginia Highlands Conservancy v. Cecil Andrus, Secretary of the United States Department of the Interior, et al, — nor do I have reason to believe now — that either the statutory requirements of the Code of Judicial Conduct mandated my disqualification in that litigation.

There has never, in my 16 years of service as a United States District Judge, been any instance in which I have knowingly participated in a case in which I had a financial interest in the subject matter in controversy or in a party to the proceedings or in which there was any other basis for my disqualification.

Following The American Lawyer's November, 1980 attempt at character assassination, a responsible newspaper, The News Register of Wheeling, conducted a complete inquiry into the subject-matter of that article, as well as my overall conduct as a judicial officer and with an editorial exonerated me from any wrongdoing and pointed out the lack of credibility of Mr. Cramer's article. Several newspapers reprinted this editorial.

This continuing vendetta against me is naturally disturbing and I plan to take action in my behalf after we have had an opportunity to fully investigate all aspects of this malicious defamation.

Of even deeper concern than the personal attacks against me is my resentment of the attempt made by Mr. Cramer and The American Lawyer to ravage the nation's judicial system.

Obviously, one of the purposes

motivating those who engage in this type of unscrupulous activity is to attempt to subvert the court system and the judicial process. No court can permit its responsibilities to be intimidated and harassed by falsehoods and distortions.

The publisher of The American Lawyer, Jay Krieger, is prominently singled out by name in the book *Serpico* by Peter Maas, author of *The Valachi Papers*.

Organized crime has not found a hospitable atmosphere in this district. The reputed leader of the organized crime family of Western Pennsylvania, along with several alleged associates, are now in federal prisons after jury trials, guilty verdicts and resulting sentences from this court.

With West Virginia, and particularly Northern West Virginia, being recognized as the centerpiece of our nation's energy programs for the next decade — or longer — it is reasonable to assume that organized crime and their associates would use every means at their command to move proceeds from racketeering enterprises into legitimate energy businesses — coal, oil and gas. One of the means to attempt to accomplish this effort, a recognized tactic of organized crime, is to attempt to defile and libel the court system.

I am asking the Attorney General of the United State and other law enforcement agencies to fully investigate all attempts by organized crime and their associates to enter the energy programs in West Virginia and to prosecute anyone found to be a part of such undertakings.

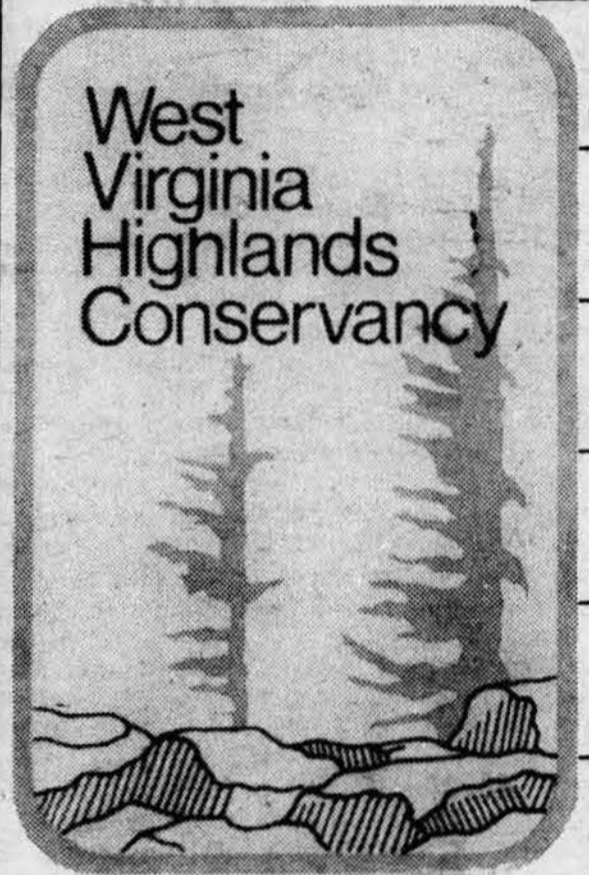
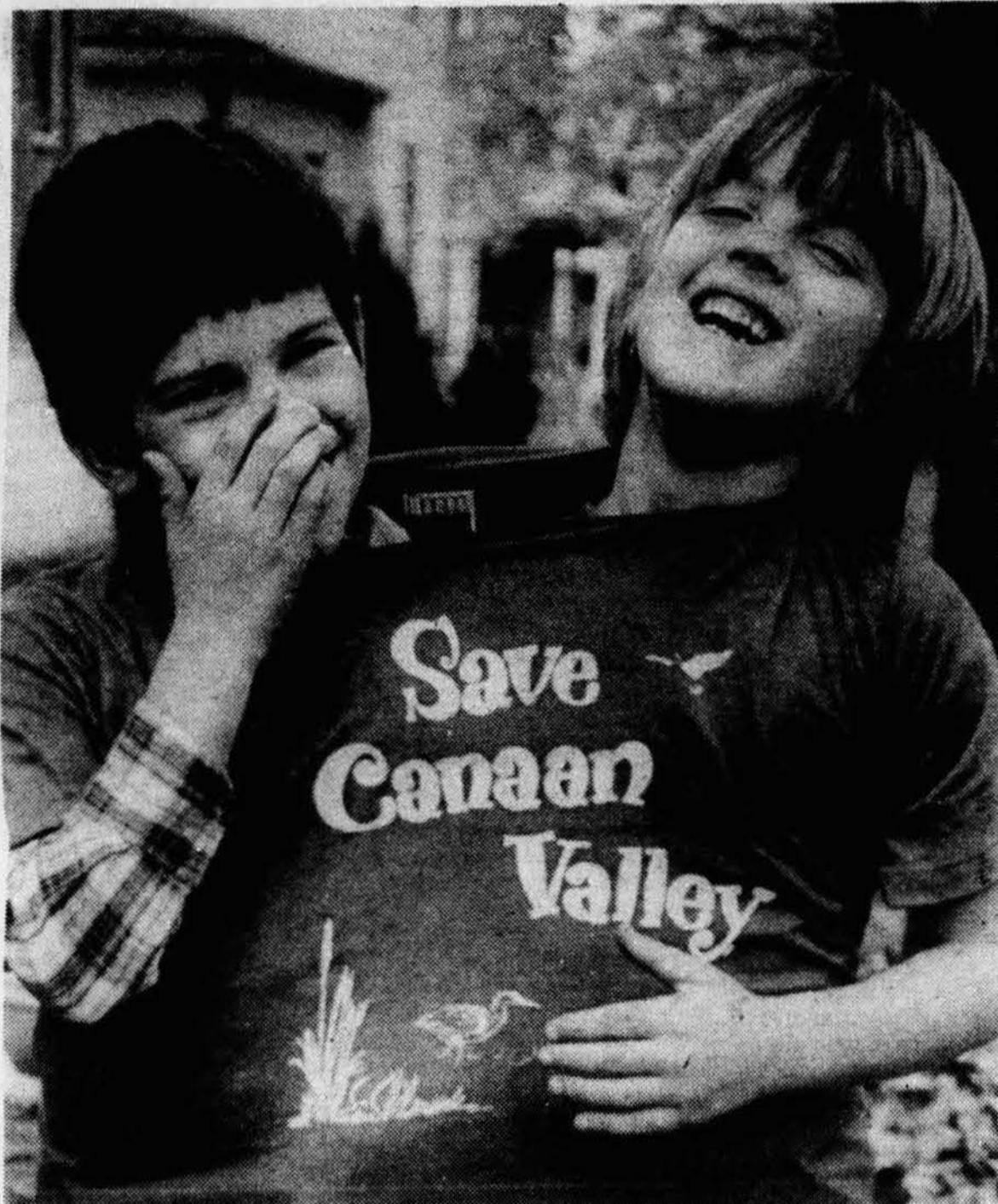
I have earlier brought the facts of this situation to the attention of Judge Harrison Winter, Chief Judge of the United States Court of Appeals for the Fourth Circuit, in order that both he and the members of the Circuit Council would have full and complete knowledge of the truth of this matter.

(Please turn to page 6)

Holiday Gifts The CONSERVANCY Way!

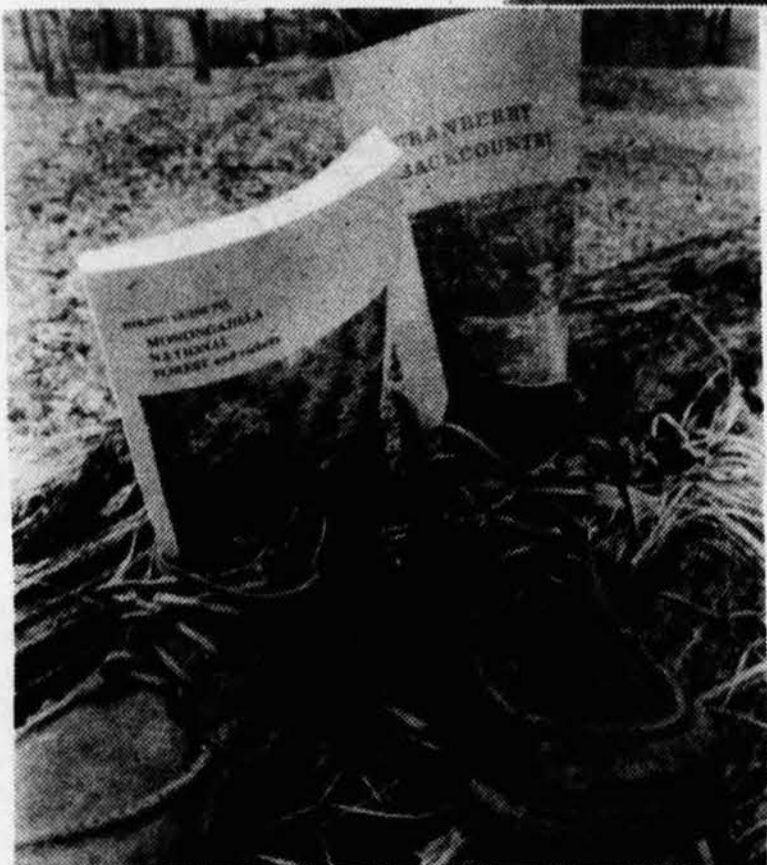


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Amount Enclosed
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