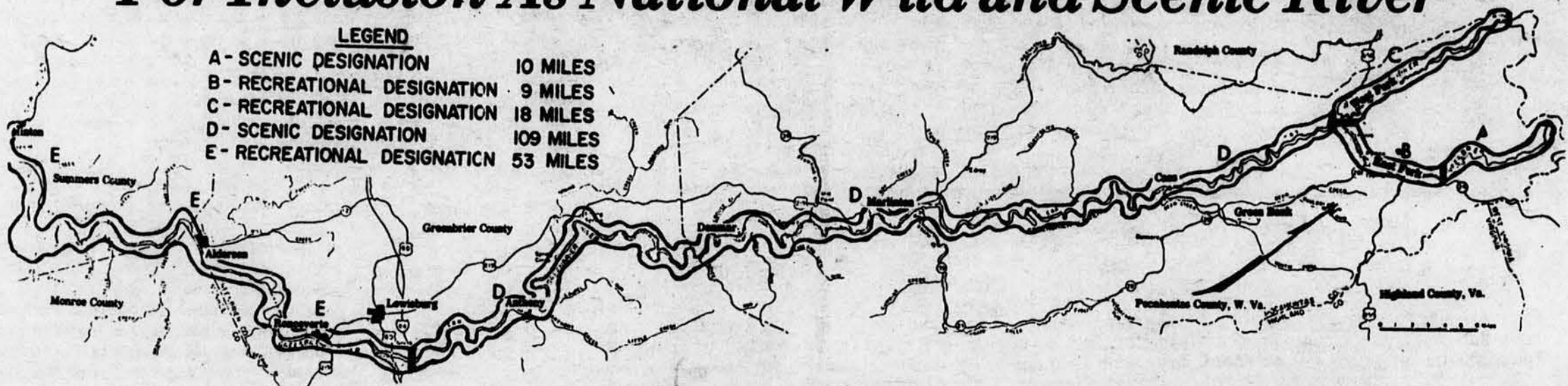


# THE HIGHLANDS VOICE

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## Preparation of Draft Environmental Impact Statement Is Next Step Forest Service Says All of Greenbrier River Eligible For Inclusion As National Wild and Scenic River



### Greenbrier Wild and Scenic River Study: Qualifying Segments and Classifications

All 200 miles of the Greenbrier River — from its twin, headwater forks at the extreme northern end of Pocahontas County all the way to Hinton in Summers County — has been determined to qualify for designation as a national wild and scenic river.

That was the announcement made by the U. S. Forest Service last month in a little brochure that whipped the word across the Mountain State, exciting environmentalists and laying

out the next steps in the process.

Now, the Forest Service is aiming toward the preparation of a draft environmental impact statement, one which will examine four alternate actions that might be taken in regard to the Greenbrier as well as assess four alternate management schemes should any part of the Greenbrier be designated for inclusion in the system.

As outlined in the brochure, the

alternate designative actions are:

- Do nothing;
- Move for full scenic and recreational designation as outlined in the Forest Service's current assessment;
- Move for full designation except for a 13-mile segment above Marlinton to permit the construction of a flood reservoir;
- Move for designation only within the Monongahela's southern boundary near Anthony.

Management options include federal, state, local and cooperative.

Already scheduled have been three public information meetings, one at 7:30 p.m. at the Pocahontas County Courthouse in Marlinton, the other two the following day at 2 p.m. and 7:30 p.m., respectively at the city building in White Sulphur Springs and the Memorial Building in Hinton.

Following the public information

meetings, a draft environmental impact statement and report will be prepared to estimate effects and evaluate alternatives. Following that document's finalization, it will be submitted to the President and Congress

Written comments should be mailed before July 22, 1981 to be considered in the preparation of the draft environmental impact statement, the Forest Service said.

## SRC-II Toppled By Reagan Cuts

MORGANTOWN, W. Va. (AP) — The giant SRC-II synthetic fuels plant near here, designed to light the way to U. S. Energy independence, was officially scuttled Wednesday as an overly expensive beacon.

The governments of the United States, Japan and West Germany, partners in the project, sealed its fate at a meeting in Bonn, West Germany and attributed their action to a "great increase" in anticipated costs.

The demonstration plant, originally scheduled to begin production in late 1984, was the flagship of the Carter administration's synthetic fuels policy. It was envisioned as the first of perhaps 20-50 coal liquefaction plants.

MORGANTOWN, W. Va. (UPI) — Mounting costs in construction inspired West Germany, the United States and Japan to terminate the ballyhooed coal conversion plant proposed for West Virginia — SRC-II.

The end of the project was announced Wednesday in a joint communique from Bonn, West Germany, in which the trio said they were compelled to

stop the project "at the earliest date possible."

Environmentalists in West Virginia as well as surrounding states had forged an odd amalgam of individuals and organizations — from mayors to housewives to regional commissioners — who were opposed to the project for a variety of reasons. Aside from the anticipated, hectic pace at which coal would be developed in the state, there were also worries about the by-products of the process. Some of them were known carcinogens — and more than half of them were expected to be classified as hazardous wastes without proven means of safe disposal.

Both wire service reports, however, indicated that the demise of the plant could probably be lain at the feet of President Ronald Reagan who withdrew staunch U. S. support in favor of private development elsewhere. While the Synfuels Corporation will have \$17 billion at its disposal for energy projects, those projects which require government cost-sharing are expected to be placed at the bottom of the list for funding.

After a ten-week delay during which it was presumably preparing a rebuttal to independent, federally-financed assessments of the impact of its pro-

## Holly Grove Rebuttal Due at EPA July 8 Holly Grove Citizens Group Pries Loose EPA's WAPORA Report

Congress has begun drafting budget proposals for construction of water resource projects during the coming

### Bad With the Good

Three billion dollars worth of Congressionally-authorized projects in national parks, forest recreation areas and wildlife refuges — all authorized by previous U. S. Presidents — have been scratched by the Reagan administration, according to the National Wildlife Federation.

The U. S. Land and Water Conservation Fund, financed principally by federal receipts from offshore oil and gas leases, has been sliced to just \$45 million, an amount designed to take care of court-ordered projects and emergencies, the Federation noted.

fiscal year.

The House Appropriations Subcommittee on Energy and Water Development has completed hearings on the Reagan Administration's request for funding for work on dams, canals and irrigation systems during Fiscal 1982, and was expected to start markup of its legislation before the end of June.

The administration has asked for a slight increase in spending in this category, up about \$65 million over current spending levels.

This would bring the total to almost \$2.6 billion for a program which, according to "Leader," a publication of the National Audubon Society, is in large part a political porkbarrel of construction contracts for senators' and representatives' home districts.

posed strip mine in Upshur County, the Holly Grove Coal Company was slated to meet early this month with representatives of the U. S. Environmental Protection Agency.

The EPA's Region Three offices in Philadelphia are preparing the nation's first environmental impact statement on a privately-run coal mine in the east, an EIS that was to have dealt, in its first phase, with the single mine site near Canaan in Upshur County — but from there branched out 40 miles downstream along the branches of the Little Kanawha River where other coal companies are expected to strip the landscape for its feet-thick underlayment of Kitanning coal.

A decision on whether or not to issue a federal permit to open that coal mine near the Upshur-Randolph counties' border had already been delayed for over two months — and was expected to continue to be delayed for at least until July 8, the date of the EPA-Holly Grove meeting — to allow time for the coal company to rebut a study

(Please turn to page 7)



# The President's Voice



Jeanetta Petras

Spring and summer hint of vacation, and it might be said that I have taken from my monthly column. However, the end of vacation suggests a recharge of energy to start back into one's work. I do not believe it has worked for me in this case since once again I am pushing right up against the deadline, if not a little past it.

I am particularly pleased this month to announce that we have been blessed with a fulltime volunteer. Susan Kell, a resident of New Jersey, is a WVU senior in the Parks and Recreation Program and is serving an 8-week internship with the Conservancy.

Together with doing a few tedious administrative odds and ends, she has taken on the fight for the Clean Air Act as her own project, making use of a lot of good information sent to us which has -- up until now -- been lying under piles of other information on top of my file cabinet.

Susan, along with our Charleston

vice president Perry Bryant, will be working closely with the Clean Air Coalition in Washington DC in keeping West Virginians abreast of the battle -- and urging persistent and strong support of the Clean Air Act which comes up for renewal in a few months.

Your support for the Act is absolutely essential. And it might be interesting to note that our ever-dependable opponent, Interior Secretary James Watt, will have a dominant role in writing the amendments to the Clean Air Act.

This is occurring because of his appointment as chair of a cabinet subcommittee, the Council on Natural Resources and Environment, giving him some authority over Energy Secretary James Edwards and Environmental Protectional Administrator Anne Gorsuch.

It has been said by seeming reliable sources that the Reagan administration "plans to weaken key enforcement provisions of the law, and allow

states to control pollution at their own pace."

If you are the least bit concerned about our air, please take time to learn all you can about the upcoming legislative battle and what you can do to help assure a strong, if not better, Clean Air Law.

A get-together of concerned folks has been scheduled for 1 p.m. on July 11 at St. John's Church in Charleston. **TRY TO ATTEND IF AT ALL POSSIBLE.**

If you read the last issue of the "Voice" you almost assuredly know of the Interior's decision not to designate Shaver's Fork as unsuitable for mining. The decision states that special attention should be paid to the area by the OSM as each permit application is filed.

In light of the drastic and extremely crippling cuts in the OSM made by Watt, I would venture to say little manpower will be left to pay routine to this area, let alone "special scrutiny."

It is incomprehensible that the nation's "number 1 environmental officer" plans to cut this regulatory agency's force by 40 percent, leaving our land practically without protection in a time when everyone is becoming energy-panicked.

Watt and our Congressional leaders MUST receive letters of protest to such blatant disregard of the responsibility to assure citizens the best possible protection of their land and water, as well as of sufficient energy. **PLEASE WRITE NOW!**

The land will be here forever, long after Watt has gone. I would hate to see it a constant sickening reminder of his impatient and unbending deci-

sions.

Geoff (that's pronounced "Jeff") Green, chairman of our Corridor H committee, has been busy putting together some excellent rebuttal to the Draft Environmental Impact Statement, "Appalachian Corridor H."

Of particular interest is his comeback to the economic study in which he concludes it will cost \$10,000 for every man, woman and child living in the counties affected by Corridor H.

For a family of four, that adds up to \$40,000 which, as Geoff pointed out at a recent DOH hearing, would serve the people quite well if the DOH would just simply hand over the cash instead of building a needless highway.

Of course -- as DOH engineer John Lett so abruptly informed us -- we could always resort to the no-build alternative, giving us "exactly what we've had for the past 20 years for the next 20 years." That's a prospect not so unattractive to me since those wonderful, winding roads take me through the beautiful mountains which give West Virginia its singular appeal and, I believe, gave it the now nationally known label: "Wild, Wonderful West Virginia."

Before I go I do want to let you know that Susan has put together (and very neatly, I might add) an index of "Voice" articles dating from the most recent issue back to August, 1969.

If anyone should want a copy of this for a reference tool, please let me know. I would be more than happy to send one to you.

Hope to see you at the Clean Air Meeting on July 11 in Charleston and/or at the Board of Directors meeting on July 12!

## Not Get Your Voice?

We receive complaints about servancy, P.O. Box 506, Fairmont, non-receipt of issues of the "Voice." WV 26554 of any changes in your mailing address. Often a paper has been mailed -- but to what turns out of be a wrong address.

Second-class postage paid at Elkins, W. Va. 26241 under the Postal Act of March 3, 1879. Main business offices are located at P.O. Box 1121, Elkins, W. Va. 26241. Postmasters should address Forms 3579 to P.O. Box 506, Fairmont, W. Va. 26554. Please notify W. Va. Highlands Con-

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Please attach a mailing label from an old copy of the "VOICE" and give us your new address:

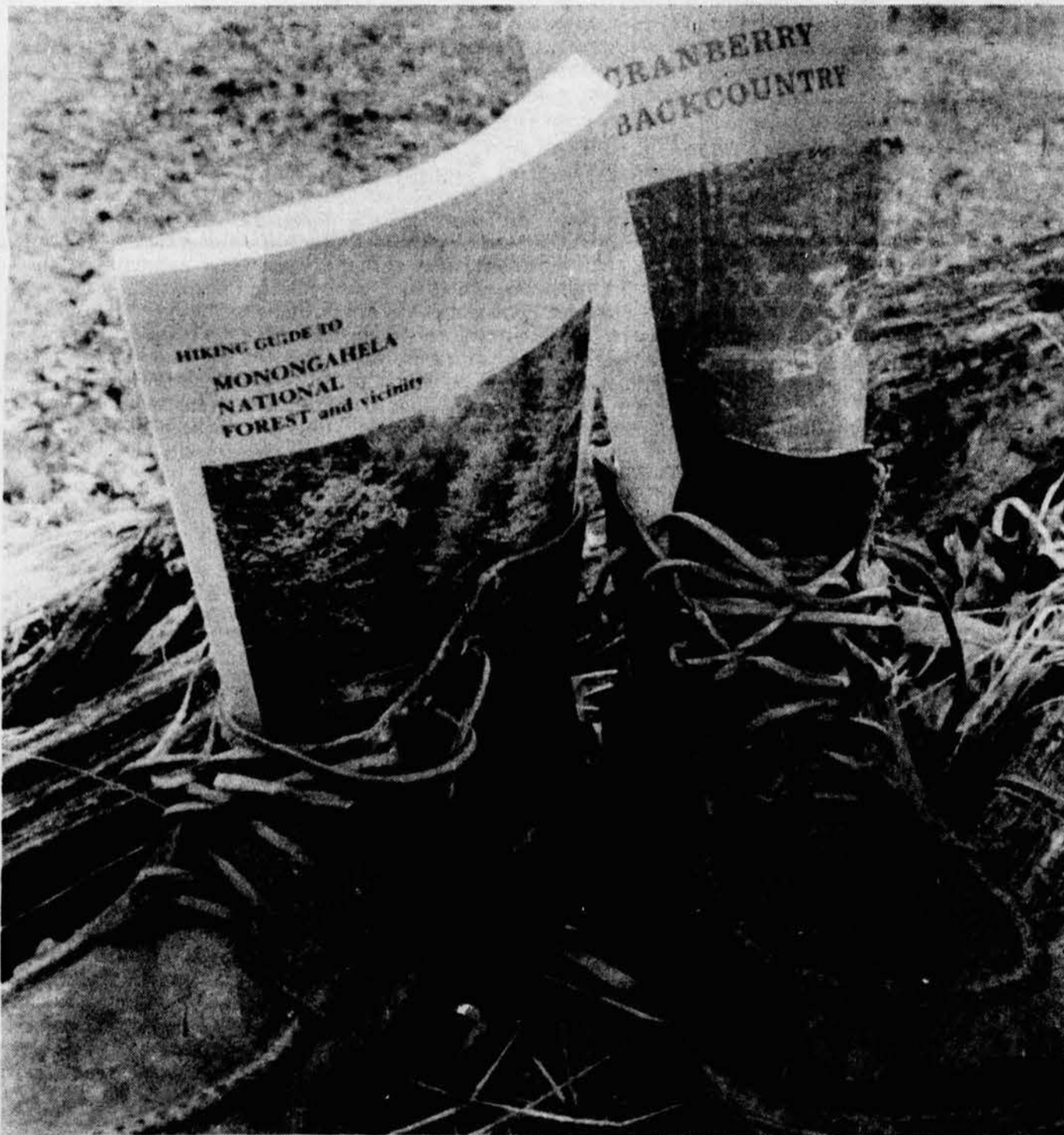
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# Briefs

## Trek

A three-day, 31-mile backpacking trip through the mountains of West Virginia — a fund-raising effort by the American Lung Association of West Virginia sponsored in cooperation with the Kanawha Trail Club, the W. Va. Scenic Trails Association and the Mountain State Outfitters — has been set for the second weekend in October, the ninth through the twelfth.

The "trek" is open to anyone 14 years of age who is in good physical condition. "Trekking supplies their own gear and solicit pledges to support the Lung Association's programs aimed at controlling and preventing lung disease," according to a spokesman for the Charleston-based state chapter. A five-dollar registration fee is charged, and in return the Lung Association provides materials for obtaining pledges, collects the pledges, conducts an orientation session on backpacking and provides the food and "other necessary logistical support for the 'Trek,'" the spokesman explained.

The Oct. 9-12 excursion will follow the Allegheny Trail between Seneca State Forest and Watoga State Park — "but even if you decide not to participate in the 'Trek,'" explained the Lung Association spokesman, "there are ways to safeguard your own lung health."

Among the suggestions are to stop smoking; get a flu shot in the fall and a pneumonia vaccination every three to four years if a chronic lung disorder is present; keep small objects away from children — and support community efforts to keep West Virginia's air clean.

The Lung Association spokesman noted that 47 million Americans suffer from one or more chronic diseases, 300,000 people die prematurely each year from cigarette-caused diseases; and over 30,000 children under five die from respiratory disease each year.

Applications to participate in the "Trek" should be made to the American Lung Association of West Virginia at 4118-A McCorkle Ave., S. E., P.O. Box 4445, Charleston, WV 25304.

## Whisper

The Whispering Spruce Trail, a half-mile long trail located at the summit of Spruce Knob on the Monongahela National Forest, has been designated as a national recreation trail by R. Max Peterson, chief of the U. S. Forest Service.

The trail, which offers visitors a short, easy hike, takes advantage of openings in the terrain to allow panoramic views of the surrounding country.

Another unique feature of the trail is the unusual vegetation which is characteristic of forest much further north.

Constructed in 1970, the trail was designed to serve as an interpretive trail for visitors to Spruce Knob. Beginning at the Spruce Knob Observation Tower, interpretive signs are interspersed at sites on the trail to point out the features of the high elevation ecology. It is open to foot travel only.

Administered by the U. S. Forest Service and located within the Spruce Knob-Seneca Rocks National Recreation Area, the Whispering Spruce Trail is the third trail on the Monongahela to be designated as a national recreation trail. It is open to the public free of charge.

## Final Comment Date on Draft EIS July 18

# Virginia Residents No Happier With Prospects For Corridor H Than Highlands Conservancy

Whatever happens with Corridor H in West Virginia, Virginia state highway officials say it is unlikely that the final 13 to 18 miles of the four-lane expressway would be built until at least 1997 — and maybe beyond.

That information came during a late-June public meeting in Midletown, Va., the last in a series of six public meetings to be followed by the now on-going public hearings which extend through July 8.

The Wednesday night meeting was the largest of the first six, attracting, by various estimates, as many as 200 people, the majority of whom were opposed to the construction of the final link for the highway out of West Virginia to Interstate-81 running north to south about a dozen miles inside the Virginia border.

The highway's bleak future was addressed most clearly, according to John Hartsock, a reporter for the Winchester Evening Star newspaper, by J. Delmar Robinson Jr. of Winchester, an area commissioner on the Virginia State Highway and Transportation Commission.

"In the one year I have been on the highway commission, we have never discussed the highway project," Robinson told the group. "I assume it

has a low priority . . . and, in addition, we are in a financial squeeze."

Supporting that assessment was a letter read by Robert Morris, an elected highway supervisor from Shenandoah County who opposes the construction of the highway. Morris, quoting a letter written by area Congressman J. Kenneth Robinson, said that the "prospects are not favorable for the highway in the future . . . (and) funding is not likely to come through because of a severe crunch in highway funding."

Winchester newspaper reporter Hartsock reported that a state highway official from Richmond said that "the four-lane link through Virginia has been assigned a very low priority, and it may be 16 years or more before the Virginia link is built."

A United Press International account of the meeting said that many who attended "opposed the road because they fear it will take homes and farms and disrupt the rural character of the area."

Meanwhile back in Charleston, W. Va., highway department spokesman Gary Chernenko said that the general tenor of comments on the roadway's construction in West Virginia had been favorable throughout the series of six public meetings. He said that while public turn-out had been low, those who came were generally "well-informed." He said that, in general, the public seemed to favor the northern routes: from Elkins to Parsons, Thomas, Davis, then north to Rt. 50 and east toward Winchester.

"This is only the early trend," however, he cautioned, and noted that "the returns are not in."

The round of public hearings opened in Elkins later in the month — a sparse meeting attended by a handful of people, a palm's sprinkling of whom spoke. Among them were Steve Bradley of the Canaan Valley Alliance (as well as the Conservancy) plus Geoff Green, chairman of the Conservancy's Corridor H committee.

Digests of their remarks follow.

" . . . we believe that Corridor H poses a significant threat to the integrity of Canaan Valley as a natural area . . ."

"Three proposed Corridor H routes would severely impact the Canaan Valley. Alternates B and C would bisect the state park, travel north along the base of Cabin Mountain and then rise along the mountain, passing through a narrow gap to proceed north between the old and new Stoney River dams. Subalternate K has been proposed to bypass Canaan Valley but would be located atop the western rim of the Valley and therefore could be seen and heard from the Valley. The Canaan Valley Alliance is strongly opposed to all three proposed routes because all represent a substantial adverse environmental impact upon an area already beset by development threats."

Steve Bradley

" . . . the draft environmental impact statement has painted an unrealistically rosy picture of the potential for economic development while drastically understating the environmental costs . . . We are against building a four-lane highway through the highlands region and the reasons we're against it are obvious. "First: each and every build alter-

native as proposed is an environmental disaster.

"Secondly, they're preposterously expensive.

"And thirdly, they undermine an industry they're supposed to be enhancing . . ."

"If there's any doubt that Corridor H is an environmental disaster, just ask Trout Unlimited the National Wildlife Federation, the W. Va. Rivers Coalition, the Canaan Valley Alliance or the National Audubon Society, all of whom are opposed to any of the build alternatives. Or ask the W. Va. Department of Natural Resources, the U. S. Fish and Wildlife Service or the U. S. Forest Service, all of whom have serious problems with the build alternatives.

"The primary purpose of this highway is to promote economic development.

"A secondary purpose which is rarely mentioned is for the transport of weapons such as missiles and for the evacuation of the Washington, D. C. area in case of an emergency. (See page 137 of the 1979 preliminary engineering study).

"A third purpose, which should not be underestimated, is that all the middle-level bureaucrats who bought cheap land in West Virginia are begging Rockefeller for better roads so they can have a fast trip for the weekend.

"Getting back to economic development, here are some basic figures. I'm going to use Alternate A for an example just to keep this discussion simple. There's not that much difference, economically, among the alternatives. Alternate A was also the recommended alternative in the 1979 consultant's report.

"Let's take the 1981 cost estimates for Alternate A and project them to 1987, the approximate midpoint of the construction period. And let's take the 1980 census statistics and project them up to 1987. We have \$609 million being spent in a four-county area where Alternate A lies, an area with a total population of 63,218.

"That means \$9,600 is being spent on every man, woman and child in those counties, or over \$40,000 for each household. Personally, I think we'd get a lot more economic development if they just gave the \$40,000 to those households.

"Yet the cost-benefit analysis displayed by the Department of Highways shows that Alternate A produces a net savings. That's economics for you: the government spends \$40,000 on your family and saves \$42,000 because of it.

"Another point to consider is that Alternate A will displace 23 existing local businesses. It's fairly obvious that land prices will go up once the right-of-way purchases start. Homes and businesses will be looking for new places to rebuild. Higher land prices coupled with current and expected high interest rates will simply prevent re-establishment of many of those existing businesses, at a loss of jobs and livelihoods and equity for owners and employees. With the loss of homes and businesses, local tax revenues from personal property tax and business and occupation tax will drop while water and sewer systems will need to be extended or replaced to accommodate the relocations. To meet these expenditures with the reduced tax base, tax rates will be raised,

placing increasing burden on owners and businessmen who already have seen their property values inflate.

"With inflated property values and increased access, more and more land will be owned by non-local or absentee entities. New industry, if any, will be headquartered out of the region, and won't even develop until near the completion of Corridor H several years after the original industry was displaced. And displaced businesses won't be the only ones wiped out. Recent development trends are to locate outside of town near the expressways, drawing consumers away from the downtown stores and avoiding paying municipal taxes. Plus, according to the draft EIS' pages four through 24 (with which I agree), new industry or business would probably be small, employing a small labor force.

"Therefore, we have replaced existing local small business and industry with non-local small business and industry — ten years later — with an expenditure of \$600 million in direct costs and untold dollars in indirect costs.

"I'm sure there's some pro-Corridor H people out there who are saying '23 trout streams — so what?' I'm going to tell you what.

"I'm going to use a trout stream as an analogy for all types of active outdoor recreation that would be adversely affected by all the build alternatives of Corridor H. This includes trails, canoeing and floating rivers, campgrounds, state parks — all of which will be placed under increased development pressure as visitor rates quadruple between 1974 and 1984, without Corridor H.

"What's wrong with that growth rate?"

"A trout stream and, analogously other recreation places — they're too hard to describe aesthetically, but for some people, they develop into a passion. It's like a lot of forms of active, outdoor recreation — it's healthy, its inspiring, and it gets to be necessary. That's why they come to West Virginia in spite of a lack of four-lane access. They get addicted to their sport and to West Virginia's beauty. The outdoorsman develops something in his heart for his favorite activity or area, something which requires satisfaction.

"On the other hand, there is the traveler, the motorist, the one who sits in his car and has the AAA outline his travels on strip maps. His only passion is his miles-per-gallon.

"The EIS and the whole proposal caters to the motorist and the through-traveler and takes away from the active outdoorsman who has been the mainstay of the growing, healthy tourism industry in West Virginia. That's why the gas crises did not significantly affect tourism here. Our outdoorsmen had to fulfill their passions by doing their thing in the highlands, plus we got the whimsical motorist trade that was easily detoured by the availability of gas.

Who knows where the motorist will go next? Let's invest in the people and the resources which already exist and which have already supported our high-quality way of life. . . .

"This is the wrong time to invest so much in a project with such a dim future. . . ."

Geoff Green

## Spray

" . . . the record in this case illustrates a carelessness and callousness on the part of the utilities with regard to aerial spraying, which this commission finds irresponsible," said the executive secretary of the W. Va. Public Service Commission Howard Cunningham.

His comments came on the eve of the opening of the first of weeks of aerial herbicide spraying in June, spraying which is expected to continue throughout the summer months.

"The testimony of the complainants and supporting witnesses clearly demonstrates that, though their aerial maintenance programs, the companies have sprayed people, crops, gardens, lawns, ornamental trees and shrubbery, orchards, near water and public roads and have frequently sprayed areas located off rights-of-way," Cunningham said.

The PSC also noted that landowners should be given the right to manually clear the right-of-way on their property, a statement which was in agreement with a policy decision by Appalachian Power Company.

"We are, however, puzzled by the lack of information given to the public regarding this option," the PSC order which directed that newspaper advertisements be placed in advance of spraying added. "More people won't take advantage of it unless they know about it." A supplemental part of the PSC order directed that advertisements be placed telling people of the option.

Both Appalachian and Monongahela had fought the PSC's involvement in its two-year battle with state residents who complained of improper spraying in April of 1979 and asked the PSC to restrict and revise the companies' vegetation maintenance programs. The power companies contended that regulatory authority rested with the W. Va. Department of Agriculture and the U. S. Environmental Protection Agency.



## Cleve's Corner

A Report From  
Congressman Cleve Benedict



WASHINGTON — A recent article in the Washington Post on the proposed Davis Power Project in Tucker County upset me. I guess I should have known there would be problems with the story when the reporter who interviewed me later identified by as a U. S. Senator from West Virginia.

The report, apparently aimed at appeasing residents in the Washington-Baltimore area, who are opposed to the project, omitted several positive and unique benefits of the proposed power plant. I wrote a letter to the editor of the Post in an attempt to present additional facts that were left out of the story, but to date the newspaper has not published my comments.

Tucker is like several other counties in the 2nd Congressional District where much of the land is owned either by the federal or state governments and used for parks. In Tucker County, 40 per cent of the land falls into that category and therefore does not generate any tax revenues for the county.

Location of a power plant there would bring an increase in property tax revenues, the bulk of which would underwrite costs of operating the school system. I can foresee the day when Tucker County could be operating an educational system comparable to those in Grant, Putnam and Tyler counties where utility plants are now located.

The proposed power project will be

financed totally with private funds — no tax dollars are involved — and Allegheny Power System already owns all the land needed for development of the twin-lake project. Since this is a pumped storage project it will be used to produce electricity to meet peak load demands in the late afternoon and early evening.

As I see it, the project is also a conservationist's dream come true. It will have a 7,500-acre lake whose shoreline will be protected from commercial development. Access to the lake for boating will be restricted and boats will be limited to small horsepower motors. There will be no racing or water skiing.

Interior Secretary James Watt recognized the values of the Davis project nearly ten years ago when he was a member of the Federal Power Commission, which licensed the project. Many of us see this project as an opportunity to achieve a balance between respect for our environment and the human needs of our people. I've been to the area and walked the land where the project will be located. I'm convinced Canaan Valley will still be lovely to behold. In addition, it will become a productive asset for our nation and for the people who live in Tucker County.

Congressman Benedict's address is: 1229 Longworth House Office Building, Washington, D. C. 20515.

## Watt on Wetlands

Secretary of the Interior James Watt, commenting at a recent meeting of the Migratory Bird Conservation Commission, said he supports continued land acquisition to preserve wetland and wildlife habitat, on a "willing seller" basis.

"In contrast to other land purchases the Interior Department is authorized to make, we must move aggressively on wetland areas. They may not be available if we wait," Watt said, referring to the physically fragile nature of wetland areas.

As Secretary of the Interior, Watt is chairman of the Migratory Bird Conservation Commission which approves areas to be purchased by the Interior Department from the Migratory Bird Conservation Fund. Proceeds from the sale of Federal "duck stamps" (the Migratory Bird Hunting and Conservation Stamp) to waterfowl hunters 16 years of age or older provide about \$16.5 million in revenues to the Fund each year.

On June 2, the Commission met and approved the expenditure of funds for 14 tracts of lands which were inholdings on existing national wildlife refuges. The refuges include Barnegat National Wildlife Refuge in Ocean County, N. J., Humboldt Bay National Wildlife Refuge in California, and Rachael Carson National Wildlife Refuge in Maine.

The inholdings totalled 725 acres and were purchased for \$1,163,000. More than 123,000 acres of other migratory bird wetland habitat have

been approved for purchase by the Commission as funds become available.

"These properties are being acquired from willing sellers and are lands of high priority due to their resource value. They will be managed by the government as feeding and resting areas for the continent's ducks and geese. But the areas will also be available to the public for a variety of other uses such as bird-watching, fishing, hunting and just enjoying the outdoors," Watt said.

## W. Va. Native Plant, Audubon Societies Set Northern Canaan Trip for July 18, 19

A tour of the little-seen northern end of Canaan Valley is being conducted by the W. Va. Chapter of the National Audubon Society in cooperation with the newly-formed W. Va. Native Plant Society, an outing now set for July 18 and 19.

The Audubon trip is part of a forum to discuss land use issues in Canaan, particularly those caused by the two, current, back-to-back proposals for the Valley — the Davis Power Project and the national wildlife refuge. The Native Plant Society will be conducting a tour of the northern end of Canaan which will coincide with the Audubon trip, according to Ron Fort-

ney of the W. Va. Department of Natural Resources.

He pointed out, however, that the Native Plant-ists will be visiting other sites in the vicinity of Canaan, including grass balds on Cabin Mountain and wetlands at the headwaters of Beaver Creek near Mount Storm lake. "We should see the heathers on Cabin Mountain and many plants indigenous to bogs and grass balds of the Allegheny Mountain region," he noted.

The mid-July trips to Canaan are the second excursion of the Plant-ists, the first having occurred in late June during a field trip to Altona Marsh in

the eastern panhandle, a 100-acre, freshwater, calcareous wetland — and the only known place in the state where ten different species of plants exist. The other part of the field trip included an excursion to "Ice Mountain" in Hampshire County where cool air masses which flow along the mountain sides cause ice to accumulate and persist well into the summer. The micro-climate is responsible for the existence of several "delightful rarities."

Details on the Canaan trip are available from Fortney at 304-348-2707 or by writing to him at the DNR, 1800 Washington St., Charleston, WV 25305.

## Canaan Paralogism

A Response From  
Linda Cooper Elkinton

Dear Congressman Benedict:

I am writing in regard to the April 29, 1981 "Cleve's Corner" that appeared in the Parsons Advocate in which your views on the Davis Power Project were expressed.

The Davis Power Project is but one proposal for Canaan Valley, and I would be most surprised if you have not heard a number of times from your constituents about some of the others.

As you may be aware, although it was not immediately apparent from reading your column, Canaan Valley has been the subject of many studies on a variety of its characteristics — its hydrology, soils, climate; its history, geology, plant and animal life; its water quality, hydro-electric potential and its overall highest and best use for the county in which it is located, for the state of West Virginia and for the nation as a whole.

As a fourth-generation native of Canaan Valley with a home and many family members continuing to live there, and as one of the first, official, lay intervenors with the Federal Power Commission (now the FERC) in the Allegheny Power System's licensure proceeding for their proposed Canaan Valley power project (as well as now being a party to the court suits that seek to have that action set aside), I have studied all the reports done on the Valley, in detail. I know you are a very busy person and may not have had the opportunity to personally review these documents. I want, therefore, to take a few minutes here to share with you a few significant items, some of which conflict to varying degrees with the impression given by statements in your brief article.

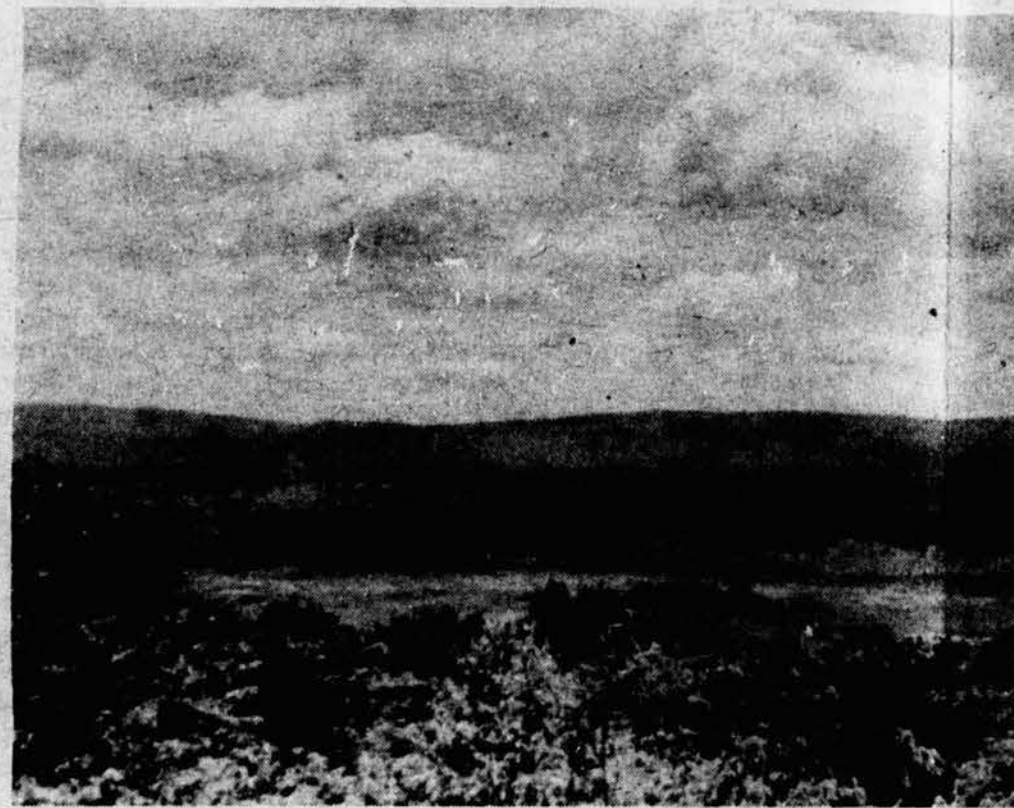
### Out-of-Date Power Projections

**v. the Economics of Preservation**  
Of paramount importance in these studies is the now-confirmed fact that power demand as originally presented by APS as justification for the Canaan power plant no longer exists, and that many other viable options are available if and when such a need can be confirmed. Equally important is the immense economic

valley of Canaan Valley as a protected natural area.

Four studies are of particular significance. The first I think most worthy of note is a most extensive, meticulous and prolonged one done by the FPC in their decision-making process on the proposal for the Canaan

the Department of Interior, the Allegheny Power System, and the U. S. Forest Service, to mention a few. These studies were all conducted at different times over the last 15 years and for very different purposes by agencies with divergent perspectives. After a tour of the Valley, lengthy



power dam. The second is the one made by the U. S. Army Corps of Engineers in response to APS's application for a Section 404 wetlands permit for this same project. The third is a detailed review conducted by the Department of Interior's U. S. Fish and Wildlife Service of the Valley's potential as a federally-managed wildlife refuge. Lastly, the most recently completed study is by the U. S. Department of Energy on APS's need for additional generating capacity and alternatives to their Canaan project.

Two of these studies, FPC's and the Corps', were mandated by federal law and another (DOE's) was specifically commissioned by Presidential order. There have been other studies as well — by the W. Va. Department of Natural Resources, other divisions of

and detailed briefs, a number of specially-commissioned studies and ten weeks of hearings spanning a five-year period, both the combined staff of the FPC and, later, their administrative law judge, rejected the Davis Power Project as not being in the public interest. In so doing, the administrative law judge stated:

"The specific adverse environmental consequences resulting from the construction of the Davis Power Project will not be overcome by the benefits which may be derived from the lake, from the recreational areas and from the wildlife preserve proposed by Applicants, with or without any or all of the further suggestions put forth by those essentially favoring the proposed project." (emphasis added)

I think it important to further point out that this conclusion was reached before issuance of the authoritative DOI, DOE and Corps reports on the important subjects they studied so thoroughly (more below); and, that before this decision was made, all parties took every possible opportunity, even when it involved procedural delays, to present their sides to this federal agency. I might also add that the FPC-FERC really could not then and cannot now be characterized as "pro-environmental" in its orientation. In fact, some would contend just the opposite was the case.

Be that as it may, it was only ten months later that the Commission itself (with only three of the five Commissioners sitting, and one of them filing a dissenting opinion) moved to license APS's project, a license that made only cursory mention of the Valley's importance to the public as a protected natural area, an alternative



the FPC is required by law to consider — thus giving rise to one of several, seriously-contested matters raised in our legal challenges of this decision. It should also be recognized, I think, that the license was issued at a particularly troubled time in this nation's history, a time, there is good evidence

were to deny all the vitally important scientific and ecological reasons why Canaan Valley should not be flooded for APS's power project, the need for an increased energy supply alone can not and has not withstood the close scrutiny to which it has now been subjected. And, even if such a need for

through flood it — as the above-mentioned studies have clearly shown.

Canaan Valley is one of the most highly-prized natural areas in West Virginia. Its location in the beautiful Potomac Highlands section of our state make it even more important to economic questions. Its transformation, in the long run especially, from what it is now to an over-developed, industrial and commercial center will not help but only be detrimental to this matter.

In this regard it is interesting to note that while the power company may now maintain that no commercial development is envisioned on the shore of their water impoundment, as you reference in your column, this and much more is certainly not out of the picture. A consultant's report they commissioned in the '60's makes this quite clear, and their behind-the-scenes work since then confirms it even further.

Since your column reflects that you have spent considerable time with the power company discussing their plans, you may be quite familiar with their development plans for the Valley — and may, indeed, find them most attractive as another reason for favoring their power project proposal. If this is the case, I hope you will at least give equal consideration to the other, full-blown possibility and become equally conversant about it: that of a national wildlife refuge in Canaan Valley, particularly since this plan would not be without its equally attractive economic attributes.

As a national wildlife refuge, the Valley would make an undeniable and significant contribution in to the economic well-being of all Tucker Countians as well as the state and nation. In addition to protecting its nationally-recognized natural features, and controlling threatening land uses (which exist even at present), Public Law 95-469 provides for federal refuge revenue-sharing funds for counties in which they are located. The 28,000-acre Canaan refuge would provide an estimated \$380,000 in such funds to Tucker County annually. This alone would more than double the county's present property tax collections. In addition, as the USFWS's final environmental impact state on the proposed refuge spells out, an additional \$150,000 annually would accrue to the county as a result of refuge operations.

These figures are nothing to sneeze at, and they compare favorably to revenues projected to be generated from the power dam when those figures, as these, are discounted to reflect their present value. Tax returns to Tucker County from the power project for the 50-year license period would average some \$545,000 per year rather than the millions-of-dollars figures so often cited. Equipment depreciation and actual generation hours make a significant difference. The power company, however, has continued to use essentially the same figures they put forth in 1970. (Again, see USFWS's FEIS on the refuge, pages 98 and 99.)

The revenues generated by the federal refuge would be available for schools, roads, and other important county uses — and they would not be spent on needed services before they arrived, as would be the case with construction of the Canaan power dam. As the FPC's FEIS and the DOE report point out quite clearly, massive amounts of county revenues would have to be used to provide for 300 new construction workers and their families — for road repairs, health services, schools, fire and police protection and other services. Such expenses would be incurred before

revenues from the power project would be made available since the money from the power project would come in the form of taxes on equipment-in-place and in-operation — and then not until the project were completed, some five to ten years after initial construction.

In addition, while it is not my intent to down-play the need for increased local revenues in Tucker County (I, myself, am a product of their school system), I know of few counties anywhere that could not use additional local revenues. It should also not go unnoted that Tucker County, in the last eight years, has utilized available resources most admirably to construct a new, consolidated, county-wide high school, a new, consolidated grade school, a new vocational-technical center, a first-rate nursing care facility and a beautiful new community center in Parsons.

The question of private versus tax money in plans for the Valley is an equally illustrative one. With this power plant, we are not talking about private investment dollars — but rather electric utility rate payers' money. That is really your dollars and mine in essentially the same way tax dollars are — with one important exception: it affects an even wider percentage of the public, since not everyone may pay taxes, but everyone does use and pay for electricity.

I could not agree with you more about the economic impact of the large percentage of state and federal lands owned in Tucker County that are not taxed. This is a problem nationwide and one, as a Congressman, I hope you will be able to address during your term in office. However, it is also significant and must be pointed out that in addition to those holdings, Tucker County is also unusual in that another 24 per cent of its area is owned by utility companies — APS as well as CSX (formerly the Chessie System). These utility lands have traditionally generated very little tax revenue, and through litigation, the utilities have gone to great lengths to insure that this continues to be the case. Some speculate that had the utilities been paying their fair share in Tucker County (taxes on land comparable, say, to those paid by private landowners with similar holdings) no additional revenues would be needed there today.

It is, however, misleading to imply — as your article did — that state and federal lands in Tucker County generate no local revenues. The two state parks in the county are among the most popular in the state, and as the DOE study points out, employment and spin-off revenue from them has made a significant contribution to the county's economy. Together, they have more than offset the employment losses caused by factory closings in the county in the 1960's and 1970's. And, in general, although some local businessmen find it difficult to admit, tourist dollars are a very important part of the local economy (see DOE report, pages two through 34 and 39). And this will increase in the future if the area remains in its present condition.

And, although your article seems to reflect an attitude similar to that stated repeatedly in the past by the power company in regard to the Valley's value and importance as a natural area, it is difficult for me, sharing with you as I do a common farming heritage, to believe that an area which has been compared in its national significance to such remarkable areas as Yellowstone and Yosemite valleys (see DOI studies establishing Canaan as a National Natural Landmark in 1974) can totally

escape any recognition by you.

To conclude otherwise, Congressman Benedict, your visit and walk through the Valley sure must have been quite miserable. It most likely did occur on one of the Valley's not-at-all-uncommon, misty, in-the-clouds days. If this were the case, the significance of this should not be lost, for it is of utmost importance. As the Corps' study details, there are, on the average, only 81 full, sunny days a year in Canaan Valley.

The reason this is important is because of the power company's contention that aside from energy production, the most important feature of the Canaan power dam would be its flat-water recreation. In reality, water-based recreation requires sunshine, warm weather and lots of it. These are, in fact two of the Valley's rarest commodities, but the same ones which provide for its lush, low-ground, wet vegetative cover and immense diversity of animal life.

Subsequently, the issues of access and boating restrictions to the power company's lower reservoir beg the far greater questions raised by every study ever done on the Valley. Both Cheat Lake (Lake Lynn), part of an APS hydro project near Morgantown, and the VEPCO reservoir at Mt. Storm offer wide expanses of flat water, but their recreational potential is severely limited by climatic conditions. The same would be eminently true of such a body of water in Canaan. (As a youngster growing up there, I know the river water was not warm enough even to attempt swimming in it until late July, and even then it was not warm.) Water quality also limits use of the above-mentioned lakes and, although different in character, this would also be the case with the Canaan reservoir as all four studies indicate.

In Canaan, the extreme water-level fluctuations required for pumped-storage power production would in itself compromise its recreational potential. Further, the Valley's floor, as you will recall, is quite flat, and a draw-down of even two vertical feet of water in such a large, shallow body would expose hundreds of feet of shoreline. A four-foot vertical drop, the average predicted by APS for the reservoir, would be most dramatic on all sides, despite any special measures that may be taken to reduce some of the broader exposed areas. And, search as they have, the scientific community has found no vegetation whatever that would grow and survive such constant disturbance to cover the extensive mudflats that would result in very short order.

These important considerations are what led the W. Va. Department of Natural Resources to decline APS's offer to manage the lower reservoir for recreational use. DNR has also raised serious questions about even considering maintaining a "put and take" fishery in such a body of water because of the prohibitive expense to taxpayers involved, if, in fact, a fishery of any kind would be possible there. All four of the studies here again take note of the very high probability of severely-reduced or poor water quality resulting from the constant turbidity, shoreline scouring, pumping action, the Valley's overall climate, the decomposition of remaining vegetative materials — to name a few of the most obvious problems cited.

These studies also point out the importance of present uses of the Valley for hunting (deer, wild turkey, ruffed grouse, woodcock, snipe, duck, bear); trapping (mink, beaver, fox and other species); fishing for native brook and brown trout; the very popular "put and take" stream fishery now in the

(Please turn to page 8)

to believe, which will never repeat itself. By this, I mean just after the Arab oil embargo of 1977 with all the fear and confusion it caused; at a time when our nation's efforts to deal with energy self-sufficiency were most embryonic; and, of even greater importance, at a time when energy demand was then perceived to be permanently fixed and totally in-elastic.

These latter circumstances changed drastically in the following months, however, and energy demand now can hardly be compared to what existed in 1970 (when APS filed its application for the power dam), let alone 1977. As APS's records, the FPC report and the DOE study indicate, 1970's projected annual growth in peak power demand stood at what was estimated to be seven per cent; by 1977, it had decreased only slightly.

But by 1980, as the DOE report elucidates, drastic changes had occurred, and this figure had dropped to less than one-half what it had been, two to three per cent, with some sources (among them utility experts themselves) indicating that a far lower figure is perhaps closer to what actually exists today.

**More, Cheaper Energy Elsewhere**  
What this means is that APS's need for additional generating capacity has, for a variety of very important reasons, been reduced more than one-half since the DPP was proposed in 1970. But as your article reflects, APS continues to insist that little has changed. In fact, their own load projections proved so embarrassing to them when presented to DOE that they were forced to make a special, internal study and did, as suspected, find their projections to be substantially over-rated. (See DOE report, executive summary)

Congressman Benedict, even if one

power as APS contends could be confirmed, the wide choice of viable alternatives available to them at near, or below, the same cost without flooding Canaan Valley is undeniable.

Among these, as the DOE report enumerates, are time-of-use rate structures (somewhat like telephone companies have so successfully employed); conservation programs to decrease overall demand (this has worked, as DOE confirms, perhaps too well from the perspective of some utility companies: this country, in the last two years alone, has reduced overall energy consumption by 12 per cent); purchase of one-half of VEPCO's partially-built Bath County, Va. facility (which APS is now in the process of doing); and adding traditional coal-fired or hydro facilities if and when they are needed.

The fact that all these would be possible much more quickly and at a lower price tag is of the highest importance to your constituents and to people every where. (I might also add that despite an often-cited contention that no matter what APS proposes, there are those who would take opposition, the record in this regard speaks for itself. Opposition has been voiced to one and only one of their facilities — and that is the one proposed for Canaan Valley.)

**The Economics of Preservation**  
The matter of the economics of the Davis Power Project and the well-being of Tucker County you raised is indeed most important. I can state unequivocally that the potential Canaan Valley holds for this is an issue that has been foremost in the minds of all — both as organizations and individuals — who have sought a method for the protection of Canaan Valley. It is fallacious, however, to consider that this is only possible



MEMBERSHIP AD

"This is the first time in my memory that the Country's chief conservation officer has been an anti-environmentalist." former Sen. Gaylord Nelson.

# Watt's Wrong...?

In a few short months Secretary of the Interior James Watt, former head of the Mountain States Legal Foundation which was created to thwart environmental regulations, has:



"This administration is in the mainstream of the environmental movement..." James Watt (quoted in the May 25, 1981 issue of U. S. News and World Report)

- Supported the relaxation of strip mining regulations...
- Declared a moratorium on the acquisition of more national parkland, although more people than ever before are now visiting parks...
- Proposed "unlocking" many of the 500 million-plus federal acres under his protection, so that they can be used for mining, timbering and grazing.
- Endorsed proposed legislation that would make it easier for oil and timber interests to prevent Congress from designating any new wilderness areas in national forests...
- Favored opening four areas off the California shore to oil and gas exploration...

DISAGREE?  
SAY SO BY JOINING THE  
W. VA. HIGHLANDS CONSERVANCY!



West Virginia Highlands Conservancy

## Membership

Application

Name \_\_\_\_\_  
 Street \_\_\_\_\_  
 City \_\_\_\_\_  
 State \_\_\_\_\_  
 ZIP \_\_\_\_\_  
 Telephone \_\_\_\_\_

Individual Regular Member at \$10 per year      Organizational Regular Member at \$20 per year  
 Individual Associate Member at \$20 per year      Organizational Associate Member at \$30 per year  
 Individual Sustaining Member at \$50 per year      Organizational Sustaining Member at \$60 per year

\_\_\_\_\_ Type Membership Desired  
 \_\_\_\_\_ Total Amount Enclosed

SEND TO:  
 W. Va. Highlands Conservancy  
 P.O. Box 506  
 Fairmont, WV 26554

Date \_\_\_\_\_  
 Signature \_\_\_\_\_

## WVHC April Board Meeting

ELKINS, April 12, 1981 — Jeanetta Petras, president, called to order the meeting of the board of directors of the W. Va. Highlands Conservancy Sunday at 10 a.m. Roll was called and a quorum was present. It was stated that after board members missed two meetings, a warning of loss of board seat was to be sent.

Max Smith moved (George Warrick seconded) that since the board members had received copies of the minutes that the reading be dispensed with and the minutes approved. Motion carried.

Minutes of the executive committee were read. Jeanette Fitzwilliams moved (Dave Elkinton seconded) that the action of the executive committee be approved. Motion carried.

Treasurer's report: Dave Elkinton presented a budget of expected expenditures for next year. Jean Rodman moved (Jeanette Fitzwilliams seconded) that the working budget for 1981 be accepted. Motion carried. Dave stated he had put \$5,000 into a savings certificate when moving the accounts. George Rosier moved (Max Smith seconded) that the board approve the action of the treasurer. Motion carried.

Membership report: 533 paid members of which 491 were individual members, 14 organizational members, three were libraries, and 21 were complimentary (newspapers, Monongahela National Forest and Mountain Stream Outfitters who had previously made a donation). Eleven members did not renew in February.

A discussion was held on sending copies of the Highlands Voice to key legislators and those on the complimentary list. Max Smith moved (Stark Biddle seconded) that the editor of the Voice and the membership chairman be authorized to send complimentary copies of the Voice to persons and/or organizations in a position to help the Conservancy. Motion carried.

A discussion of organizational dues and representatives attending the meetings was held. The following is a list of board organizational members not paid: Pittsburgh Climbers, Brooks Bird Club, W. Va. Wildwater Association, Greenbrier Grotto, George Sutton Audubon Society.

George Warrick moved (George Rosier seconded) that the president and a committee be authorized to print new brochures. Motion passed.

Voice editor's report: The Voice is changed to look professional. The Conservancy is looking for a place to get mailing labels at a decent price. George Warrick moved (Jeanette Fitzwilliams seconded) that editor Judy Frank be congratulated on the improvement in the Voice. Motion carried.

Highland Scenic Highway: Joe Rieffenberger reported a draft of the draft is in Forest Service hands. The terrestrial wildlife report was misquoted, and there are out-of-context quotes throughout the draft, according to Rieffenberger. The draft is to be out in June.

Rivers committee: Stark Biddle reported on the options of the status of the Greenbrier River in regard to its designation as a wild and scenic river. The hearing will be soon. Dave Elkinton moved (Stark Biddle seconded) that the president and those interested form a committee to formulate a stand on wild and scenic rivers in West Virginia. Motion carried.

Canaan committee: Linda Elkinton, chairwoman, reported she felt the prospects for Canaan acquisition as a

wildlife refuge were in their "worst shape." Congressman Cleve Benedict is in favor of the power project, lawsuits are still in court and Watt wants all refuge funds to maintain other refuges. Attorney Ronald Wilson requests the Conservancy contribute to the Washington, D. C. District Court action. George Warrick moved (Max Smith seconded) that we send \$500 to the attorney. Motion carried.

Cranberry committee: Larry George and Stark Biddle met with Congressman Benedict who said he supports wilderness for Cranberry but not the Seneca Creek and Laurel Fork areas.

The committee recommends we accept Congressman Benedict's stand: go with Cranberry and check into the other areas for primitive management. Charles Carlson moved (Geoff Green seconded) that the Conservancy accept Benedict's option, and that efforts should be concentrated on Cranberry, dropping Seneca Creek and Laurel Fork. Motion carried.

Scenic areas: Sayre Rodman discussed Smoke Hole and the Ours property that is for sale. The Forest Service wants it but there is no buying of property by the government at this time. The general opinion was to keep a low profile and take no action at this time.

Otter Creek: Larry George stated that Island Creek and the Forest Service were negotiating the price for the underlying coal. Island Creek wants to move the boundaries of the wilderness and put air shafts with electric lines and service areas in Otter Creek. This is being investigated. (See article "Reagan Policy Changes Makes Federal Mineral Leasing Easier in Potential Wilderness," April, 1981 Voice, page eight, columns four and five)

Monongahela National Forest hiking guide: Printing for the new guide will be \$3,300 for 5,000 copies. There are three new outlets we know about, plus several inquiries. Membership brochures are going out in the guides.

Miscellaneous: A motion was made by Linda Elkinton (Dave Elkinton seconded) that the Conservancy send \$20 to the W. Va. Student Public Interest Research Group (WV-SPiRG) at W. Va. University for the Ben Linsky award to be presented to Paul Kaufman posthumously. It was to have been presented to his sons Timothy and Todd on Earth Day, April 22, 1981. Motion carried.

The Conservancy was asked to recommend someone for the membership on the state's Water Resources Board, the Reclamation Board of Review and the Air Pollution Control Board. Any recommendations from members were to have been sent to the president or Larry George.

Concerning the anti-wilderness bill (S-842), Stark Biddle moved (Dave Elkinton seconded) that the Conservancy join with other conservation groups in opposition to the bill. The board authorized appropriate transmittal of that opposition by the president to the W. Va. Congressional delegation and others. Motion carried. (See article "Anti-Wilderness Bill Would Undermine State Review, Give Wilderness Foes Legislative Control," May, 1981 Voice, page eight)

Summer board meeting: Set for Sunday, July 12, 9 a.m. at the Handley Public Hunting and Fishing area.

Lois Rosier,  
 Conservancy Secretary  
 (with editorial addenda)



# Watt Bent on Weakening 1977 Strip Mine Act Despite Court Ruling Granting Broad Powers

Although the U. S. Supreme Court unanimously upheld the constitutionality of broad federal controls of strip mining in a June 15 decision, the U. S. Department of the Interior, under its secretary James Watt, said it has not altered its intention to give individual states increased authority to establish and enforce their local strip mining standards.

Watt has been chipping away at the current regulations by accepting weak settlements in Interior's pending lawsuits — thus setting precedents for future suits — and by negotiating weakened state programs when states have objected to standards that Interior, under the former administration, had required. In addition, the department is revising its regulations to conform to the administration's new interpretations of the Surface Mining and Reclamation Act of 1977.

In West Virginia, Natural Resources director David Callaghan said the U. S. Supreme Court ruling might be a "blessing" for the Mountain State, and that the ruling's direct effects would be minimal for the state.

"The reason for that is we are in substantial compliance with the federal act right now and have an approved program with the Secretary of the Interior," he said.

The DNR director also said he felt the ruling would enhance competition "in that one state would not be allowed to forego reclamation practices in order to have a competitive advantage in the marketplace."

"This decision will emphasize the need for other states which do not have strong reclamation laws to implement them," Callaghan said.

"I think it will, in the long run, be an advantage to West Virginia's industry."

The Supreme Court's ruling is the latest link in a lengthy history of strip-mining fights.

It took Congress six years to pass a federal strip-mining law — and lawsuits began even before the ink on the new law was dry. Some suits still remain, and the high court's decision isn't expected to be the last step.

Various parts of the 1977 laws were challenged by coal mine operators in Virginia and Indiana. In both cases, federal district judges struck down major portions as violating the Constitution.

The judge in Virginia ruled against portions of the law which require surface coal miners to restore land to its original contours when they are finished mining.

In Indiana, the judge struck down similar provisions requiring the restoration of mined farmland to high productivity.

While President Carter was still in office, the Justice Department appealed both decisions to the Supreme Court. Carter's Interior Department had been anxious to use the authority Congress gave it in the strip-mining law.

In opinions penned by Justice Thurgood Marshall, the high court said Congress had acted within its authority to regulate interstate commerce. The court also said the law doesn't violate the Tenth Amendment to the Constitution, an amendment which reserves power to the states over matters that aren't specifically delegated to the federal government.

The Justices stopped short of addressing some issues. The coal mine operators had claimed that the strict controls of the law constitute a "taking" of private property without compensation, which is prohibited by the Constitution's Fifth Amendment.

The Justices said the law itself isn't a taking of property, and that the suits were based on theory and didn't allege that any specific land was taken, so they didn't rule on whether a taking might occur through enforcement of the law in some circumstances.

They also said challenges to enforcement procedures that allow fines or give the Interior Secretary the power to halt mining are premature since the challenged parts of the law haven't been enforced.

The regulations for surface coal mining and reclamation — which apply to 31 coal-producing states — were designed by Interior's U. S. Office of Surface Mining to enforce the goals established by the 1977 law. Heading up the OSM is James R. Harris, a man who, as an Indiana state senator, argued that the 1977 law was unconstitutional.

The 1977 legislation provides a framework for the protection of the environment from the adverse effects of coal mining.

Industry and the states have criticized the regulations for going far beyond the intent of Congress, resulting in excessive costs and discouraging production.

Under Watt at Interior, the department months ago started administration moves to speed up changes in the federal strip-mining program. Among other things, Watt already has scaled back inspections by federal officials and has decided to reduce the surface mining office's work force by nearly 40 per cent.

In addition, the administration's plan is to encourage states to submit strip-mining regulations to the agency for approval that are less restrictive than the federal standards upheld by the court.

In this way, Watt and his advisers hope to authorize and put into place many of the regulatory changes they favor long before the department completes the time-consuming task of redrafting current federal strip-mining rules.

Federal officials and environmental groups agree that the latest Court decision probably won't affect this strategy.

"The regulations we have now are voluminous, quite detailed and do not allow the states the flexibility we think is appropriate," said Dean Hunt, who, as OSM's assistant director for technical services and research, is in charge of the regulatory reform proposal.

As a former associate of an engineering consulting firm involved in mine planning, Hunt has had extensive experience with the regulations since their inception.

the 31-year-old assistant director is implementing a reform effort expected to accomplish these objectives:

- Remove excessive federal regulations.
- Return primary responsibility for surface coal mining and reclamation regulation to the states.
- Provide cost-effective regulations.

— Minimize government involvement in the development and design of mine operations.

— Assure continuity of state program regulations necessary to maintain coal productivity and provide environmental protection.

— Provide technical guidance and leadership to the states.

Under the new program, Hunt said, OSM will work with the states to develop mutually acceptable programs. This step will proceed concurrently with revising federal regulations. March, 1982 has been set as the target date for completion.

Elimination of the "redundancy" caused by the three, federally-required measures a business must follow in building a coal-mining facility is one example of the proposed revisions, Hunt said. Those steps include meeting performance standards, con-

forming to design criteria and having the structure designed by professionals.

Hunt suggests that the design criteria requirement be omitted. Then OSM would simply provide guidance to the industry and states so they know what performance standard must be met without getting into the details of how to do it, he explained. Hunt maintains the approach is geared toward intelligently providing the kind of regulatory relief that is appropriate.

"Therefore, in the end, regulations can be implemented that make sense in application, provide environmental protection and a level of certainty to allow long-term planning," Hunt said.

Throughout this administration, Hunt noted, he will conduct an "open-door" policy for public comments concerning the regulations.

To protest proposed changes in strip mine enforcement, write to:

President Ronald Reagan  
The White House  
Washington, DC 20500

U. S. Sen. Robert Byrd  
Washington, DC 20510

U. S. Sen. Jennings Randolph  
Washington, DC 20510

Rep. Cleve Benedict  
1229 Longworth HOB  
Washington, DC 20515

or the Congressman  
from your district  
or state

## Holly Grove Citizens Group Pries Loose

Continued from page 1

of the mine's acid-producing potential, a study which says that the facility cannot be worked without serious and irreparable damage to the watershed in which it lies.

That long-running delay prompted a federally-sponsored "citizens participation committee" to criticize the EPA in late June for withholding information they considered crucial for a proper evaluation of the impact of the opening of the mine.

The delay itself dated back two months to the third week in April when the man who once spearheaded the EPA study of the Holly Grove mine was about to present a draft decision document on whether or not the Holly Grove site should be opened. That presentation — to have been made before Beckley-based U. S. District Judge Robert Kidd sitting at Clarksburg — was called off by a series of last-minute telephone calls among the parties involved. Commenting on the reasons for the delay, EPA attorney Bill Early said that the "voluminous information" adduced by the studies had not been able to be adequately assessed by the parties involved.

"There was not sufficient opportunity for everyone to review these documents before going to court," he said. "In fairness to them and to allow them an opportunity, we thought it best to ask for an extension of the hearing date."

That was not quite what the citizens involved in the process said they were told. "Though the technical data is complete and submitted according to schedule," wrote Cindy Rank in an April newsletter to Friends of the Little Kanawha, the original group which had filed the lawsuit which led up to the preparation of the EIS, "EPA is unable to make (a) decision at the time 'due to the national issues involved and the changing administration . . .'"

But both Early as well as EPA spokeswoman Janet Luffy agreed that the only "national issues" involved were "we were anxious to help industry in continuing to operate (as well as) protecting the environment . . . We're trying to do both," said Luffy, "that's the dilemma . . . the main issue is the environmental issue . . . we're trying to determine if this (the

conclusions of the studies) will be the impact. We don't disagree with the conclusions" of the studies, she said.

Early confirmed that Holly Grove "has been provided with a copy of the Cargeid report. As a result of reviewing that document, Holly Grove has expressed a desire to have it responded to by their consultants . . . After that is accomplished, Holly Grove has expressed a desire (for a) meeting with the EPA people to discuss the matter in detail."

In the meantime, Early said, the decision document which was to have been used in approving or denying the Holly Grove permit is "under some level of scrutiny insofar as its conclusions are concerned (and awaits) Holly Grove's response to Cargeid" before being finalized.

In fact, EPA's Early has pointed out that the Cargeid report is only one of many studies which will be used in the final decision about whether or not to issue a permit for the Holly Grove mine.

Still unavailable to the citizens committee — set up by the EPA to monitor its progress toward the issuance or denial of an EIS — are the agency's own internal reports as well as a broad-spectrum document generally dubbed the "WAPORA" report, named for the Berwyn, Pa. consulting firm which examined the mine's impact on everything from the sociology to the archaeology.

That impounding of information at the same time that the coal company is preparing its rebuttal to the EPA documents had "angered" the citizens committee charged with monitoring the progress of the EPA's work. In a statement drafted and released in late June and issued from Buckhannon by its chairwoman, Katherine Gregg, the committee said it is "confused, frustrated and angered by the prolonged delay in the decision . . . (the committee is) disturbed by the unfair burden that this delay is causing . . . everyone involved in the dispute . . . (and the committee hopes) for action and decisions that will restore its waning confidence in the federal EPA." Gregg said the committee has been denied access not only to the broad-based WAPORA reports and the EPA's internal studies, but also the original draft decision document as well.

But Early indicated that EPA does not feel strictly bound by the time limits of the 60-day extension. "We left it kind of flexible," he explained. "No date has been set" for the next hearing, he said, instead, that date has been "contingent on how much more time Holly Grove would take to respond."

Early also denied allegations that Holly Grove had been given preferential access to studies not released to the citizens participation committee. "No one other than the regional staff at EPA has had access" to the internal studies, the WAPORA reports or the draft decision document, he insisted.

Early's comments, however, did not square with another member of the Philadelphia Regional Office's legal staff, John Cooper. He said that Holly Grove "may have one page" of the WAPORA document — despite the fact that, unlike the EPA's citizens committee — they had never submitted a FOI Act request for it.

The request for the WAPORA report came in the wake of those delays in the issuance of the late-April "draft decision document," according to Gregg. She said her committee requested not only a copy of the draft decision document but also the WAPORA report and the so-called "Cargeid" report. She said only the Cargeid request was granted.

Cooper in Philadelphia, however, said that the denial of the WAPORA report was a "technical" denial only and was made during a telephone conversation between himself and Gregg. He said that at the time he declined to release the document, his reasons were based on the fact that the document was "incomplete." However, he also said that it is likely still incomplete. "It's just that it's undergoing revision," he said. "It's not that we're trying to keep anything from anybody."

Cooper said both he and his agency were "certainly trying to avoid . . . (the) perception or fact" of the EPA's withholding any information from the citizens participation committee while simultaneously providing it to the coal company.

The WAPORA document was expected to arrive in Buckhannon sometime during early July.

"It'll take a while to copy," he said.



# Health, Environment, Urban Life Threatened By Broyhill Revisions of Clean Air Act

The Broyhill bill attacks the national health standards, the very foundation of the Clean Air Act. The current health standards provide a "margin of safety" to protect the health of the more than 50 million Americans who are particularly susceptible to the dangers of air pollution — those over 65 and under 12, pregnant women, and those with such respiratory diseases as emphysema and asthma. The Broyhill bill would have the health standards set to protect against "significant risk" of adverse effects without the additional "margin of safety" required under present law.

**Please urge your representative to support the current health standard-setting process.**

## Environment

The Clean Air Act's program for the Prevention of Significant Deterioration (PSD) allows state and local governments to "budget" future emissions of sulfur oxides and particulates, the pollutants that cause acid rain and impair visibility. More than 90% of the country, including most of our national parks and wilderness areas, is protected by this important program. The Broyhill bill would allow notable pollution in these now relatively clean areas.

Sulfur emissions from power plants have increased six-fold in the last 40 years, and the acidity of rain in the Northeast has increased ten-fold. Hundreds of lakes in the U.S. and Canada are already devoid of most life because of acid precipitation. Buildings, autos, and statues are being damaged, and acid rain leaches such heavy metals as lead into water supplies, causing a serious threat to public health.

The PSD program is designed to control the potential future increase in these damaging emissions. The program also provides a measure of health and environmental protection beyond that offered by the minimum standards for cities and industrial areas, guarding against serious effects suggested in the scientific literature but not encompassed by the standards. While some of these effects may not yet have been established definitely enough to mandate further pollution reductions in dirty areas, they are sufficient reason for a policy of prevention in clean areas. Finally, the PSD program prevents economic dislocation by reducing the temptation for industry to relocate away from developed areas in order to avoid pollution control requirements.

Industry has attacked the PSD

program, claiming that it stops economic and energy development; the National Commission on Air Quality, however, reported that the PSD program will not have that effect, even in the clean air areas of the West.

**Please urge your representative to see that the PSD program is kept intact.**

## Urban Areas

Even though 140 million Americans breathe unhealthful air, the Broyhill bill would delay the deadlines for achieving the national health standards by 8 years, thus removing much of the pressure on

industry to clean up polluting facilities.

Most areas of the country cannot meet the Clean Air Act's 1982 deadline for achieving the national health standards, and environmentalists support relaxation of the deadlines only for those areas where it is proven that the standards cannot be met.

The Broyhill bill eliminates many of the most effective pollution control programs that help protect urban areas, including the requirement that new polluting facilities in dirty areas install pollution control equipment that meets the "Lowest

Achievable Emission Rate." This requirement forces the development of more cost-effective equipment and hastens the improvement of air quality.

Also eliminated would be penalties for industries that do not comply with requirements of the Clean Air Act. Enforcement officials are now required to levy a fine against a violating plant that equals the costs saved by the company by not complying with a standard. This incentive forces industries to choose between the costs of polluting and the costs of complying.

Two other programs that are now mandatory in polluted areas

would be made optional by the Broyhill bill — Transportation Control Plans to improve mass transit and thereby reduce pollution; and annual inspections of auto emission control systems. Automobiles remain the largest source of air pollution, and experience in several states has shown that significant reductions can be achieved through proper maintenance of auto emission control systems.

**Please urge your representative to support the 1982 deadline for achievement of national health standards.**

# Benedict Among Broyhill Co-Sponsors

By Susan Kell  
WVHC-WVU Intern

The debate on the Clean Air Act began in March with the National Commission offering 109 recommendations to "improve and streamline" the act.

According to commission chairman Sen. Gary Hart (D-Col.), the recommendations would "preserve the best aspects of the law, streamline other parts to make it more effective, eliminate what is not working, and address new issues which have been discovered since the Act was adopted."

One of the issues addressed in the recommendations is the problem of acid rain. The commission recommends that new initiatives be made to control "acid rain."

A recent complaint to the EPA by

Pennsylvania and New York has brought about an increased interest in the issue of acid rain for the residents of West Virginia. This is because Pennsylvania and New York claim that the acid rain falling on their states is caused by coal debris and residue power plants in West Virginia.

West Virginia's attorney general, Chauncey Browning, disclaims the complaints.

The commission also suggests that Congress, in an effort to control acid rain, require the levels of sulphur dioxide be significantly reduced by 1990.

Sulphur dioxide, in combination with water, is a component of acid rain. Acid rain has helped eliminate aquatic life in hundreds of lakes and streams in the United States and Canada, and thousands of others are endangered.

It is hoped that with a reduction of sulphur dioxide in the air (as recommended by the commission) the acidity of rain will be reduced, therefore saving thousands of lakes and streams that would otherwise have been destroyed by acid rain.

The National Clean Air Campaign is also pushing for a Clean Air Act that would curb acid rain.

Besides this issue, the NCAC also wants a stronger Clean Air Act that will regulate airborne toxic chemicals and other health hazards, and will clamp down on evasion of controls by polluting industries.

While the National Clean Air Campaign is asking for a stronger Clean Air Act, the steel, copper and utilities industries (along with other groups) want to weaken the act. One bill has already been introduced by Sen James Broyhill (R-NC) to weaken the

Clean Air Act.

The Broyhill Bill, which is co-sponsored by Cleve Benedict of West Virginia, would eliminate many of the most effective pollution control programs that protect urban areas, and would also eliminate penalties for industries that don't comply with requirements of the Clean Air Act.

The final decision on the Clean Air Act will probably be made in the fall. Already industries are making known their viewpoints and desires concerning the act.

It is important that Cleve Benedict and other representatives in Congress also be aware — as soon as possible — of your desire for a stronger, better Clean Air Act.

Letters should be mailed to:  
Rep. Cleve Benedict  
1229 Longworth HOB  
Washington, DC 20515

# Canaan Paralogism

(Continued from page 5)

Blackwater River (one of the most outstanding in the state); river canoeing and others, many of which, the studies indicate, can be given only cursory attention since they cannot be easily quantified in a manner that reflects their purely economic value. These are activities pursued by literally thousands of people each year in Canaan, and, I might add, by West Virginians and, indeed, Tucker Countians as much or more than by people from other states.

The Corps, perhaps our country's most avid dam-builders (and, here again, not an agency known for its strong, pro-conservation positions) in its detailed study which led to the denial of APS's Section 404 Permit for the Canaan dam, noted the significance of expansive bog communities, marshes and swamp areas that comprise the majority of the northern Canaan Valley — its large, continuous wetland areas which some have referred to as "worthless" but which, in fact, are protected under federal law because of the past, massive destruction of such landforms nationwide, wetlands which had been responsible for so much purification of water and downstream flood protection. The Corps study showed that the Canaan Valley

is the largest shrub-swamp wetland remaining in the entire eastern United States; one with plants and vegetative communities unusual in their diversity, proximity to each other, resilience to severe climate conditions and so uncommonly separated from where they normally occur on this continent in Canada, Maine and upper New York state. Their occurrence at this unusual latitude and the fact that many species of plants there (some 40 of which are under review for the state's rare and endangered species list) have survived from the last Ice Age are the basis for the Valley's having been referred to as a "living museum" of natural history. And although this may appear on the surface to have very little value to the lay-person, it must be noted that these features of Canaan Valley are of utmost importance in the scientific and medical communities as well as for their interpretive, educational and other uses. Rare and unusual plants are a source of some of the most important break-throughs in disease prevention and control known to humankind.

The Highest and Best Use

The Corps thus confirmed what the U. S. Fish and Wildlife Service also found to be the case in their indepen-

dent studies of the Valley for federal protection as a national wildlife refuge: that the highest and best use of the Canaan Valley was not as a bottom for a large industrial pond but as an immensely valuable natural area; one that needs protection and management for the use and enjoyment of this and all future generations — and not just those who may be able to afford to purchase a small, shoreline tract there.

Protection of the Canaan Valley is a very high priority for the National Audubon Society and for many other organizations both in West Virginia and outside the state. The Canaan power dam has not been built because one study after another — and there have certainly been many, now — show it does not make good sense, either economically or ecologically.

It should not go unnoted that, essentially, only one of the many studies actually supports the construction of the Canaan power plant. That study, however, reflects a vested interest: that of APS. It is also most unfortunate that Tucker County public officials continue to see APS's plan as their one and only salvation. In this instance, our local public utility, of all the county's absentee landholders, can not always be referred to as one of its most honorable friends.

Congressman Benedict, there are many hundreds, even thousands, in your district who favor the Valley's protection as a national wildlife refuge. If you do not have a feel for this yet, it is only because a proper opportunity has not yet arisen for its expression.

Too Much to Ask

In conclusion, I want to reiterate the most important point of all that must be made about the Canaan power dam: that the power is not needed, and that if and when such power may be needed at some time in the future, there are many, viable alternatives without the flooding and destruction one of West Virginia's most important natural features.

Adding another \$500,000,000+ construction project to APS's system may be good business for APS, but it is quite alarming to consider in this day and age when such a cost would eventually end up on the shoulders of consumers. These factors, in addition to the knowledge that such a project would primarily be used for export purposes — and at the cost of destroying a nationally priceless natural area that is known and loved by so many West Virginians makes it just too much to ask.

Most sincerely,  
Linda Cooper Elkinton