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## 'No Single Issue' More Important Coalition to Battle For Clean Air Act

A coalition of conservation, health, citizen and labor organizations has launched a nationwide campaign to ensure that a strong Clean Air Act is passed by the upcoming 97th Congress as the existing Clean Air Act expires in 1981.

tion control requirements," explained Ayres. He cited the steel, copper, and utility industries as the major obstructionists.

The conservation, health, citizen and labor organizations which form the NCAC have indicated that strengthening the Clean Air Act will be a top Congressional priority in 1981. NCAC coordinator Elizabeth Agle noted that scores of local and regional organizations will work with the NCAC in 1981 because of a common concern about the detrimental effects of air pollution on public health, worker safety, tourism, the economy, parks and wilderness, fisheries, agriculture and forestry.

National organizations participating in the Clean Air Campaign include the American Lung Association, the Environmental Policy Center, Friends of the Earth, the League of Women Voters, the National Audubon Society, the National Parks and Conservation Association, the Natural Resources Defense Council, the National Wildlife Federation, the Sierra Club and the United Steelworkers of America.

### Progress

— In most places, the quality of the air has improved in the past decade. Federal health standards for some pollutants are now met in most areas, Agle explained.

— The Act has stimulated rapid innovation in pollution control technology. In ten years, pollution controls for automobiles (catalytic converters) and coal-fired electric generating plants (scrubbers) have

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## Holly Grove Timetable Revised

A revised timetable for progress on the Environmental Protection Agency's study of the Little Kanawha River in Canaan in Upshur County has been set by the EPA.

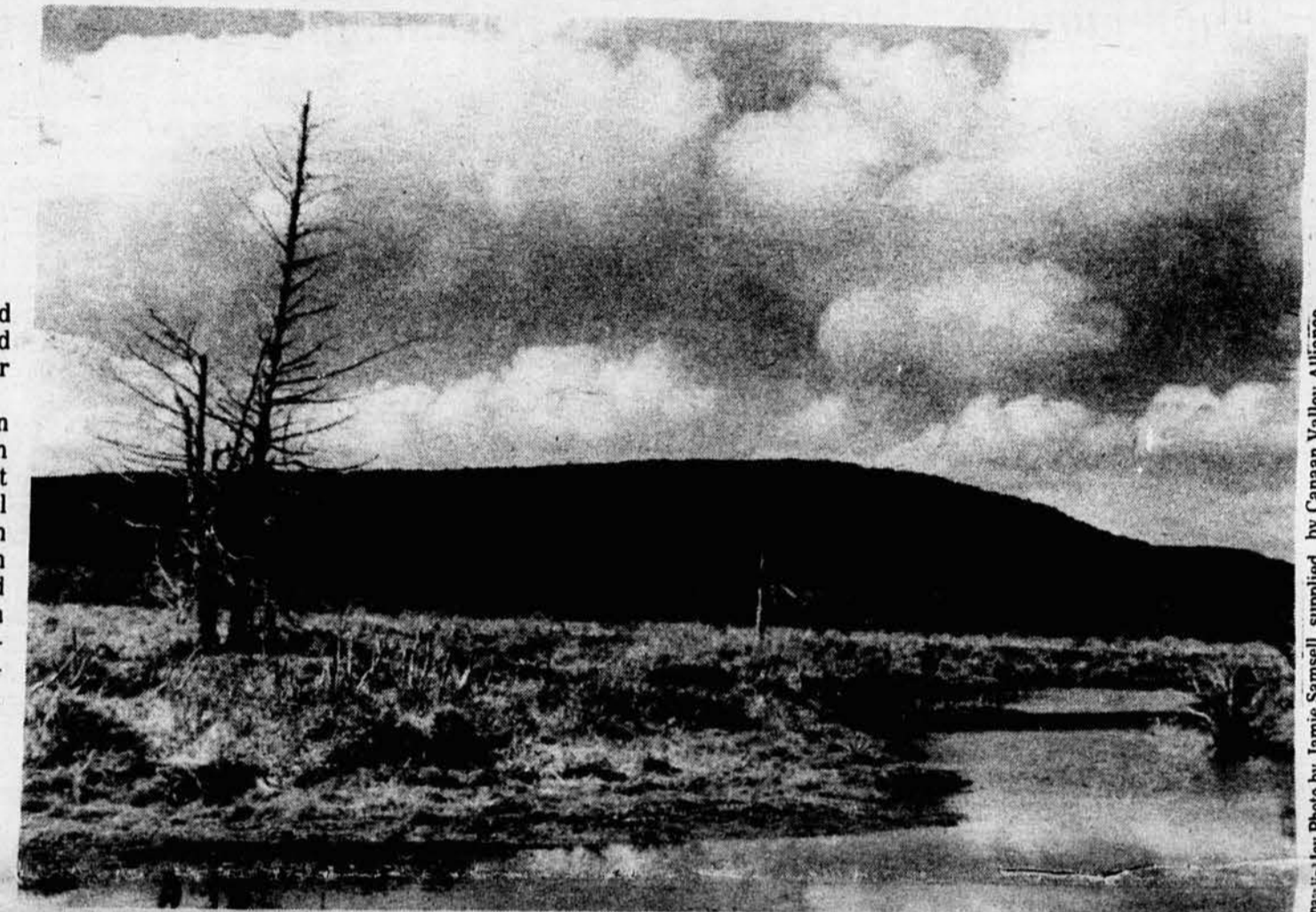
The new schedule lists March 23 as the date for completion of all technical reports; April 10 as the completion date of the draft decision document on the issue of whether Holly Grove Coal Company should be allowed to proceed with their mining before the completion of the environmental impact statement for the upper part of the watershed; April 24 as the completion date for the final decision document on the Holly Grove matter "with immediate distribution to all principal parties involved."

Mass distribution of the final document is expected within three weeks to allow time for printing.

The delay — of about two to three weeks — was occasioned, the EPA reports, by the discovery that the geology of the Holly Grove mining site is "far more complex" than was originally believed and will require almost twice as many core samples.

Twenty-one different issues ranging from wilderness designation to law enforcement have been identified by officials of the Monongahela National Forest in Elkins, issues which will be dealt with as the Forest Service makes plans that will see it well into the 21st century.

"New plans (need to) be prepared at intervals to respond to the changing national needs and the changing resource situation," commented National Forest supervisor Ralph Mumme. He noted that the new plan currently being prepared will be "issue oriented" — and that foresters



Canaan Valley Photo by Jamie Samsell, supplied by Canaan Valley Alliance

## Feds Want DPP License Back

The federal agency which granted the original license to the Monongahela Power Company to construct a dam across the Blackwater River for the Davis Power Project has asked a federal appeals court for a chance to reconsider the issuance of the license.

Attorneys in the case said the Federal Energy Regulatory Commission has asked the U. S. Circuit Court of Appeals in Washington, D. C. to remand the project license to it for reconsideration, a process that an attorney for the state of West Virginia

said could further delay the decade-old proposal for as long as ten more years.

"If the court does send the license back," said Dennis Abrams of the W. Va. attorney general's environmental task force, "it would trigger a new environmental impact statement . . . it could add ten years to the process," he said. Other attorneys have estimated the potential delay at six to eight years.

The FERC request comes in the wake of a Department of Energy draft report which identified alternatives to

the pumped-storage project in Canaan Valley, a site which environmentalists have been urging be preserved as a national wildlife refuge. That draft report identified a number of alternatives, chief among them conservation, improved power company management of electrical needs as well as an alternate site, Glade Run.

Almost at the same time as the draft report on alternatives was issued, attorneys for the power company were successful in having a Washington, D. C. circuit court judge

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## Forest Service Sees 21 Issues in New Plan As Monongahela Heads Into 21st Century

are seeking public involvement in an attempt to broaden the scope of the issues which will be dealt with in the plan. The preparation of the plan is expected to consume three years and will delineate the policies for a decade thereafter while at the same time indicating the management direction of the next 40 years, Mumme and his staff have indicated.

Already, a series of public meetings has been scheduled around the forest, nine of them in all. The first was held Feb. 24 in Marlinton, the second Feb. 26 in Harman. The remainder are slated for March 2 in Richwood,

March 3 in Webster Springs, March 4 in White Sulphur Springs, March 5 at Mouth of Seneca, March 12 in Hutonsville and March 19 in Parsons at the U. S. Forest Service's Northeastern Forest Experiment Station's timber and watershed laboratory.

Forest planners have indicated they hope the small working groups will establish a cadre of interested citizens who, over the three-year period during which the plan is being prepared, will be able to offer well-informed, ongoing opinions. "We have no problem getting comments from the Potomac

Appalachian Trail Club and the Society of American Foresters," said forest planner Gil Churchill, but the problem has been involving the "local folks."

Comments on the issues which foresters have already identified — as well as suggestions of other issues which the public feels should be included in the plan — are being requested by March 16.

The issues, and a brief summary of each, include:

— Wilderness. One of the major considerations will be to recommend the future status of the Cheat

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## The President's Voice

By Jeanetta Petras

Well, here I sit, still somewhat unbelieving of my recently-acquired position with the Conservancy, trying to organize some thoughts into black and white scribble. Please don't get the impression that I always have trouble aligning my grey matter, but the last several weeks have certainly lent themselves to that particular condition. Once I sort through and somewhat organize box after box of manila folders (my newly prized possessions), I feel sure the filing system in my head will begin to take shape.

At the moment, small, ascending, folder-beige tabs marked with familiar terms such as "Cranberry," "Scenic Highway," and "Dolly Sods" are constantly making an appearance and virtually pleading to be joined or rejoined with compatible company of common interest. I must say that during my five years as a director I have heard these issues and many more tossed around and expounded at board meeting after board meeting, but only now do I fully realize and appreciate all the time and energy they have commanded from our members and friends. It is extremely exciting and somewhat humbling.

Given enough time in the day, I hope to write a monthly column for the "Voice." At first I thought the purpose for this would simply be to capsule the various issues at hand, but in thinking, I believe I am going to leave my options open and basically let the spirit move me. So the "Voice" readership, at least to the extent of my column, may well be at the mercy of my whims and moods (and our very capable editor, I might add). I can almost certainly assure you of some monthly word from me, even if it's only to let you know I have not crawled into one of those manila folders and filed myself under "dead issue." (Don't think I haven't already been tempted.)

Right now I want to quickly comment on a few areas of interest:

Contrary to the noise in the air (or lack of it), Cranberry is still very much alive and kicking. I assure you the brainpower on our committee is daily being put to use, and I am sure you will hear the results of hard-thought-out strategies.

I believe the Canaan Valley refuge issue is somewhat quite at the moment also, and giving its dedicated, hard-working proponents a well-deserved breather. But stay tuned to that front, too. We will keep you posted of future happenings.

At the time of this writing, public comments are still being received and considered on the Highland Scenic Highway, even though the draft EIS is soon to be released. For more information, contact Harry B. Mahoney, HSH Coordinator, U. S. Forest Service, P.O. Box 1548, Elkins, WV 26241 or phone 304-636-1800.

One area in which much activity is going on is the Shavers Fork battle. We are fortunate to have Bard Montgomery as our chairperson for "the Fork" committee. He is right on top of things and keeping people well-informed. I do want to alert

you of an extremely important public meeting scheduled for March 11 at 7 p.m. at the National Guard Armory in Elkins. Bard tells me this is the time and place to make our strong showing and present our opposition to the mining. Shavers Fork seems to be a rather complicated issue in that it has several different fronts. If you want more information, I feel sure Bard or a member of the committee will supply it. However, do not let lack of information or a feeling of it deter you from attending the March 11 meeting. It would be a tremendous help if you would just show up and simply state your opposition.

On the subject of air (not hot, as you may have determined by now), I recently received a beautifully-put-together packet from the Clean Air Coalition, complete with news releases and numerous ideas and suggestions on organizing around the crucial question of the Clean Air Act, a sure-fire battleground in the near future. I feel this is an area the Conservancy may need to keep abreast of and perhaps rally around, particularly since it involves the controversy of acid rain. Acid rain is a phenomenon which we are and will have to continue to deal with seriously in the future since there is already sufficient data to assume severe damage to our forest and aquatic habitat. I do not have enough time to do justice to the Clean Air battle and would like to hand over this wealth of information to someone capable of putting it to good use. If you would like a little excitement in your life, please let me know. I would hate for all this educational material to go to waste.

Lastly, I want to say there has been a change in the membership secretary. For a number of reasons, but primarily for the sake of convenience, Linda Elkinton has taken on the responsibility of that position. I hope the transition will go smoothly for all involved, namely Linda, Ron Hardway (past membership secretary), our members, and prospective members. I do want to take the opportunity to extend a very hearty "thank you" to Ron for a lot of good, hard work in the past and to Linda for taking on a seemingly mountainous task. Please take note of the new mailing address for the membership secretary as well as the Conservancy in general. It is P.O. Box 506, Fairmont, WV 26554.

I would like to make a short comment on the Mid-Winter Workshop. In my estimate, it was a success with 60 people registered, all of whom seemed to enjoy the speakers and each other's company. If you were there, it was good to have you; if you were not, we missed you and hope to see you at the Fall Review, if not before.

I am sure I am forgetting a lot and will undoubtedly kick myself for the next week, but at the moment my mind is blanking out. So I will sign off, leaving you with this small, hasty observation: life at the top does not necessarily seem full of power, money, prestige and undying respect. However, it certainly does promise to be unceasingly interesting!

Talk to you next month.

## We Pulled the Teeth Out of It

"It's nothing to worry about," commented Ohio Gov. James Rhodes after he and W. Va. Gov. Jay Rockefeller spearheaded a successful effort to gut a resolution opposing acid rain. "We pulled the teeth out of it."

The comment came in late February after Rhodes and Rockefeller were successful in having a proposed amendment by Colorado Gov. Richard Lamm tabled. That amendment "went into some detail

about the long-range transporting of pollutants which contribute to acid rain," according to a report by United Press International.

## A Lot of Catching Up to Do

Energy Secretary James Edwards, appearing before the House science and technology subcommittee in late

February, said he wants the government to concentrate on the development of nuclear energy over synthetic fuels.

almost destroyed everything that had been done toward the development of nuclear energy in the United States," he said. "We have a lot of catching up to do."

## New Mailing Address

Second-class postage paid at Fairmont, WV 26554, and at additional mailing offices under the Postal Act of March 3, 1879. Re-entry at Webster Springs with additional entry at Fairmont, WV 26554.

Main business offices are located at P.O. Box 506, Fairmont, WV 26554. Postmasters should address Forms 3579 to P.O. Box 506, Fairmont, WV 26554.

The official mailing address for the W. Va. Highlands Conservancy is now a "master" post office box in Fairmont. All correspondence to the president as well as the membership secretary and the treasurer should be directed to:

West Virginia Highlands Conservancy  
P.O. Box 506  
Fairmont, WV 26554

All correspondence to any of those three officers — as well as changes in the mailing address of members who receive the "Voice" should be directed to that post office box.



# Late March Fed-State Hearings Will Target Environmental Issues for West Virginia

By Perry Bryant  
Of W. Va. Citizens Action Group

Once each year, the various state agencies involved with environmental issues and the U. S. Environmental Protection Agency (EPA) negotiate an agreement which spells out what responsibilities each agency will have during the coming year for controlling environmental pollution. This agreement will also specify what amount of money the EPA and the state agencies will be spending for each program. This agreement literally determines how millions of dollars will be spent for pollution control.

Some of the state agencies which will be involved in this agreement include the division of water resources of the W. Va. Department of Natural Resources (DNR), the Air Pollution Control Commission (APCC), the state Health Department, the Department of Agriculture, the Governor's Office of Economic and Community Development (GOECD) and possibly the Solid Waste Authority. The problems addressed in this agreement include just about every environmental problem facing West Virginia (except mining), a gamut that ranges from acid rain, herbicide spraying and air pollution to hazardous and solid waste, sewage treatment plant construction, safe drinking water, underground injection, and more.

In order for the EPA and the various state agencies to gather public input, they will be holding two rounds of hearings. The first round will be held in three different locations around the state. All are 7 p.m. meetings, now set for March 24, 25 and 26 in Wheeling, Martinsburg and Charleston, respectively. The March 24 Wheeling meeting will be held in the Ohio County Public Library, while the next day's Martinsburg hearing will be in the county courthouse and the final day's hearing in Charleston will be held at the offices of the DNR's division of water resources.

After the preliminary round of

meetings, a "responsiveness summary" will be prepared, a document which will basically say: "Yes, we think you have a valid concern and we will address this issue in the final state-EPA agreement," or "For various reasons, we will not address this issue in the final state-EPA agreement." Hopefully, they will go on to specify the reasons they will not address the issue that you raise.

While it is not entirely clear, it may be important to have your comments in writing — handwritten comments are just fine. One EPA representative in the past has taken the position that oral remarks will be responded to orally at the meeting, while written remarks will be responded to in writing. So, if you want your concerns to receive attention in the responsiveness summary, turn in written comments just to be on the safe side.

One issue in particular that desperately needs multi-agency attention is acid rain. Last year at the state-EPA hearings, I strongly urged the EPA and several state agencies to address the issue of acid rain. An EPA representative wrote back and said that "acid rain is recognized as an important environmental concern by both the state and EPA and as such will be included in the final state-EPA agreement." It was not included in the final agreement nor has it been addressed since.

Acid rain needs to be attacked on a multi-agency level. Sulfur oxides and nitrogen oxides, the primary ingredients of acid rain, are obviously an air pollution problem and therefore should be addressed by the APCC. They have not addressed this issue.

As was stated during the Conservancy's Fall Review weekend, 50 per cent of acid rain falls to the ground in a dry state — not as rain at all. The sulfur oxides and nitrogen oxide particulates pose a serious respirator threat to senior citizens in West Virginia. Therefore, one would expect the health department would have addressed this issue. They have not.

The acidic water caused by acid rain gets into the water systems of towns and cities around the state. This acidic water literally eats away at the lead and copper pipes in the water supply systems. The deterioration of these water supply systems could cost West Virginia billions of dollars. Therefore, one would expect the GOECD would have addressed this issue. They have not.

Obviously, acid rain is at least a regional problem, more likely a national problem. Therefore, one would expect the EPA to have addressed the

issue. On a national level they have done an inadequate job, and in West Virginia they have done nothing.

Acid rain is also a water quality problem. Currently, the Department of Natural Resources is proposing to spend \$300,000 (see related article in this issue of the "Voice") to treat the acid rain problem in Cranberry River. If the treatment of one river in West Virginia is going to cost the state \$300,000, what is the final price tag for acid rain in West Virginia, in terms of both money and shortened lives?

Instead of this bandaid approach to

acid rain, I would strongly urge the EPA and the various state agencies that should be concerned with acid rain to develop an agreement that would do the following:

- Determine the amount of acidity that West Virginia is receiving from acid rain.

- Determine the sources of the acid rain affecting West Virginia.

- Develop a strategy for the abatement of acid rain in West Virginia.

The EPA should be developing a strategy for the abatement of acid rain in the entire country.

## Five-Year, Million Dollar Rescue Of Cranberry Targeted by DNR

A million-dollar, five-year attempt to rescue the Cranberry River from its acid-rain-induced plunge into sterility will be proposed as a line item in the W. Va. Department of Natural Resources budget this year.

The project, designed as a cooperative effort among the state DNR, the U. S. Forest Service and the U. S. Office of Surface Mining, marks the first major attempt in West Virginia at correcting a problem that has already destroyed thousands of lakes in the American northeast, in Canada, Sweden and elsewhere around the world. It seeks \$300,000 in general revenue funds to be used to match a grant from the U. S. Environmental Protection Agency.

At stake is a \$6-million-a-year "industry" that the Cranberry River represents to West Virginia's economy, an industry that was already losing a million dollars a year as long as five years ago, according to Peter Zurbuch, the man who developed the project and would function as its supervisor. He is currently the assistant chief of the DNR's wildlife resources division in Elkins. A report in which he outlined the proposal estimated the costs at \$970,000 over a five-year period, half of that to cover the cost of building acid water treatment stations on the Cranberry itself, while another eighth of the cost would be for proto-type testing of the process in the Otter Creek wilderness near Elkins. Most of the remainder of the cost of the project is for annual operations (something less than \$50,000 per year), plus a series of evaluative reports.

The aegis for the project came from the realization that "the nature of the trout fishery in West Virginia is almost sure to change unless we do something about it," Zurbuch said. He noted that the purpose of the project was not only to help the Cranberry River but also to determine if it's feasible to preserve the Mountain State's trout fishing by such methods. Zurbuch said there is "a good chance the state might lose a sizable number of its trout streams."

State wildlife officials — the majority of whom are paid by directly by sportsmen rather than funded by the legislature — believe that would be little short of anathema. Wildlife resources division chief Robert Miles noted that the entire wildlife resources division, the agency which is proposing the stream treatment project, is "supported by the

beneficiaries" of its programs, beneficiaries who provide an annual budget of more than \$5 million for everything from wildlife management to law enforcement.

"West Virginians," Miles said, "take their hunting and fishing quite seriously. It's almost a religion rather than a sport," he suggested.

As outlined by Zurbuch, the problem of acid rain and its resultant destruction of lakes and streams, has been developing over the last half-century. One of the highest concentrations of acid run-off in West Virginia occurs during the spring thaws when acid locked up in the mountain snows runs off into the streams. To date, the major problem with fish kills is not so much directly related to the acid as it is to a series of heavy metals, particularly aluminum and mercury. As Zurbuch explained, higher acid concentrations — now typically a thousand times as high as they were less than 200 years ago — reduce the tolerance of fish to heavy metal concentrations. In addition, such metals are more easily leached from disturbed soils as the acidity of rain increases.

Zurbuch described many of the mountains' streams as "almost distilled water," waters with such small buffering capacity that small amounts of acid can make them lethal. On the Cranberry River, fish stocking is now not possible for fully a third of the year, a condition which wildlife officials attribute directly to acid rain and one which has developed since the early 1970's.

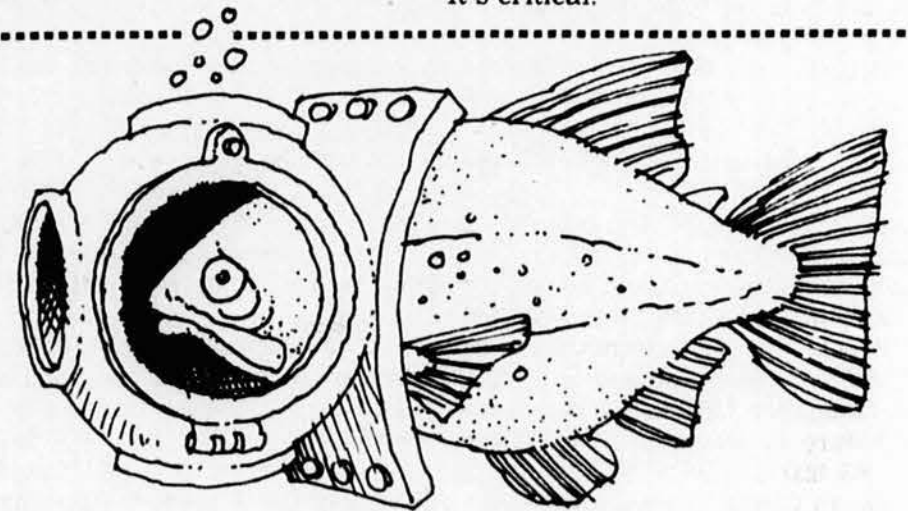
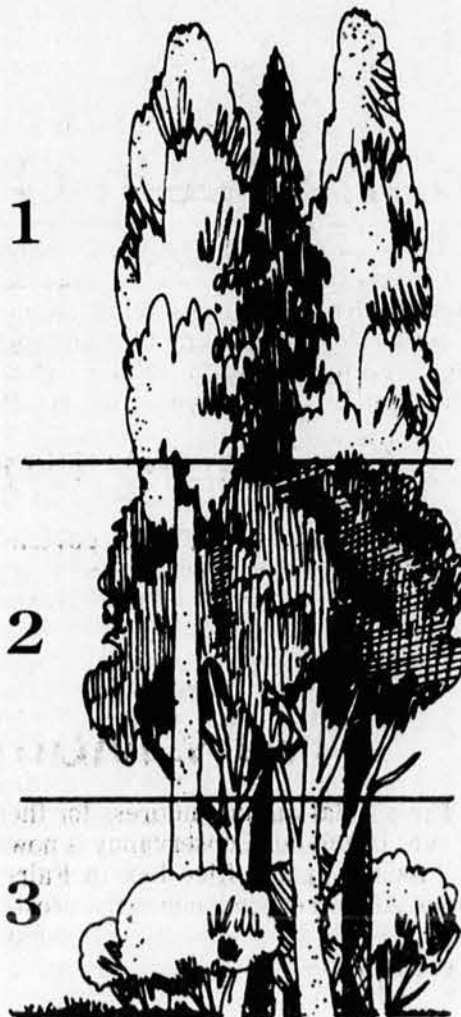
It's that limited buffering capacity which the acid stream treatment program is aimed at supplementing. Under the program, a treatment program at Otter Creek which has been underway since the 1960's would undergo modifications aimed at testing the proposed technology for use on the much-larger Cranberry River, a stream with ten times the volume. Basically, the Cranberry project would use large limestone gravel in barrels through which the streamwaters would be channeled. The limestone would neutralize the acid in the water and be dissolved in the process.

"It's a global problem," Zurbuch said, "but it's falling down on our heads. The time to begin is right now. It's critical."

### "Meanwhile, Back in the Forest."

In forests, raindrops wash over three tiers of foliage before reaching the soil. What is the effect of acid rain on this foliage?

Visual signs of injury occur on plants where pH values are 3 or less—brown pockmarking after a few hours and the pitting of both faces of the foliage after a day. These leaf lesions reduce the area for photosynthesis, limit leaf growth, affect root growth, decrease soil respiration and affect germination of conifer seeds. At intermediate pH levels where there are no visual signs of damage, however, significant reductions in the weight of the leaves point to other forces at play, although it is not yet clear what forces and how strong they may be.



Scientists were puzzled to find heavy trout mortality occurring in lakes whose acidity was inadequate to account for the damage. It was then discovered that there was a "second wave of destruction" in the wake of acid rain. The soil surrounding the lakes reacted with the acid in the rain to release large quantities of aluminum into the lakes. Aluminum in that

form is deadly to fish. The poisoned runoff moved rapidly across the water surface. In deeper lakes with good oxygen supplies, fish could find refuge at the bottom. In shallower lakes, however, fish were caught in a deadly trap. They had the choice of dying from lack of oxygen at the bottom, or from acids and aluminum at the top.



Next Hearing  
March 11, 7 PM  
at Elkins Armory

# 'Blatant Errors,' Ignored Offers Substan

## OSM Identifies Issues for Watt To Consider in Reaching Decision

A document that will be used by U. S. Secretary of the Interior James Watt to decide whether or not millions of tons of coal should be extracted from beneath the Shavers Fork of the Cheat River is not yet complete, but a draft of that document does set forth the major issues that need to be considered, as well as identify some issues that will not be considered, federal officials explained during a public hearing on the Shavers Fork draft document in Elkins.

The document was prepared in response to a petition by the W. Va. Highlands Conservancy which sought to have the entire watershed of the Fork from Cheat Bridge to Parsons declared off-limits to mining.

"These issues were identified after examining the allegations in light of data developed in the course of the petition study," wrote planners and researchers for the U. S. Department of the Interior's Office of Surface Mining at their regional office in Charleston. Regional OSM director Patrick Boggs spearheaded the public hearing held in Elkins, a meeting which was the second of three to be held in connection with a 10-month-old Conservancy petition.

In all, the OSM staff has identified 27 separate issues which it believes need to be considered before the Secretary of the Interior reaches a decision on the coal mining, and the staff also has identified ten other matters which have been raised but are not now believed to require further consideration.

Under the law as outlined by Boggs at the public hearing in Elkins, Secretary Watt must decide whether to prohibit mining everywhere, prohibit it only in selected areas or by selected methods, or make no prohibitions at all — reject the Conservancy's petition for unsuitability. The final alternative would include recommendations by OSM for "preferred alternative for transportation and mining operations" in an attempt to "minimize any potential environmental impacts."

One interesting point made in the report concerns the extent of the coal reserves which are available on the Fork. Mower Lumber has asserted that total recoverable reserves just on its 28,000 acres are about 62 million tons, while the OSM draft document pegs the total reserves on the Fork at 45 million tons. The report goes on to point out that even if the entire watershed were declared unsuitable for mining — and the coal were lost forever — the state's recoverable reserves would be reduced by only one-tenth of one per cent, while the nation's reserves would be reduced by only one one-hundredth of one per cent.

Even in Randolph County, "coal production is expected to increase steadily at least through 1985," a projection which is based on production without the Shavers Fork coal being considered.

Conversely, the report also goes on to say that if an unsuitability designation were to spur Mower to produce all its coal quickly, the effect would be a "boom-and-bust" cycle of development which would strain the county's

housing, water sewage, sanitation, educational and police protection services. However, if portions or all of the watershed were declared suitable and development of the coal resources proceeded at a more leisurely pace, the county's economy and social services could readily adapt to the changes.

Among those potential environmental impacts which require consideration before a decision is reached are:

- Road construction and maintenance which need to be "analyzed on a site-by-site" in order to control turbidity, siltation and metallic ions which are "potential problems (which) . . . vary with distance from surface waters" but "can be controlled by best engineering practices."

- Coal refuse storage areas which also need "site-by-site evaluation (because) of the potential for contamination of groundwater by leachates."

- Surface subsidence which "will occur as a result of the underground mining of coal." The OSM study says that sink holes "could create safety problems, disrupt streams, affect recreation facilities and increase water discharge from mine . . . (while) under wetlands . . . irreversible adverse impacts" would "likely result."

- Fine sediments which "may result in adverse levels of turbidity (and) siltation in streams."

- Surface runoff which "may result in water quality degradation" from aluminum and iron.

- Landslides which have a "high potential" for occurring when the surface of unstable slopes are disturbed.

- Highly erosive soils which will require "special engineering techniques" to control stream sedimentation.

- Soil "slumps" which, in some soils, have a high potential for the disruption of road drainages, the blocking of traffic and affecting nearby streams.

- Acid production from mining which "must be considered" when determining the capabilities of the Fork to accept greater amounts of acid.

- Acid from mines after they are abandoned, which "cannot be controlled by the sealing techniques attempted in the past."

- Acid seeps from closed mines which must be controlled by outcrop barriers and special procedures for the closing of the mines.

- Increased acid in the stream which "will cause significant . . . shifts" upstream from Bowden "especially" when the river is low.

- Contamination of groundwater, which needs to be protected as well as the surface waters.

- Toxic metals and acid from mining which may be released and affect aquatic life in the tributaries of the Fork.

- Native trout in the northern end (downstream from Bowden) of the Fork which "could be affected by other impacts associated with mining."

- Encroachments into the habitat of the black bear which

"would be detrimental to the bear population anywhere in the southern" part of the Fork and "most especially in the RARE II area" on Cheat Mountain.

- Degradation of the habitat of the Cheat Mountain salamander which "will make it more difficult to prevent the extinction of this species."

- "Disturbance of rare plant habitat (which) could eliminate certain plant species from the watershed."

- Wetlands disturbances, which are described as "irreversible."

- A two-mile trail across private land which might create some conflicts might better be re-located onto Forest Service land, the report indicates.

- A "direct conflict," which would exist between mining activities and the use of the Gaudineer Scenic Area, campgrounds and the "fish-for-fun" area.

- The quietness of the Fork, which will be "greatly affected" by the numbers of mines developed, timing of development and the miles of roads used for coal hauling.

- Noise, which would "be in direct conflict . . . with recreational users" of the area.

- Solitude, which "will be adversely affected" by mining.

- "Mining (itself, which) is in direct conflict with the 'wilderness' values" of the Cheat Mountain RARE II area.

The matters which have already been ruled out include:

- The impact of surface runoff from disturbed areas which, it has been determined, "is not likely" to make the Fork more acid.

- The impact of acid rain and organic acids, at least as individual issues. However, the draft report indicates that both issues are "encompassed in the overall acid impact evaluations."

- The impact of turbidity which is "not expected" to affect aquatic life.

- The impact of metal toxicity which is "not expected to affect fish populations of the mainstem Shavers Fork."

- The impact of acid from mines in the northern half of the area (downstream from Bowden) which "will not" cause the death of trout in the tributaries.

- The impact on the river's bottom-life which will be considered at the same time as the effects of mining on fish.

- The impact of mining on the Bowden National Fish Hatchery which, "under present and foreseeable circumstances . . . will not affect" the hatchery's fish.

- The impact of mining on "habitat degradation" which will not affect game species other than the black bear.

- The impact of mining on the revegetation of soils, suitable amounts and quality of which are present "to allow the application of the best technology currently available to control erosion and restore productivity for a variety of post-mining land uses."

By Bard Montgomery

West Virginia's best black bear breeding grounds would be endangered by proposed mine roads, says a recently released report sponsored by the U. S. Office of Surface Mining (OSM). "More access into the interior of the (Shavers Fork) area will result in increased harassment and harvest, legal and illegal," according to the study. "If the bear is to be afforded needed protection," says the study, "no additional permanent and accessible roads should be put into remote zones."

Mower Lumber Company has begun mining on a tributary of the Shavers Fork and is preparing to open another mine nearby. Eventually Mower hopes to open as many as 30 mines in Monongahela National Forest lands drained by the fragile Shavers Fork of Cheat River. The state's Department of Natural Resources has limited Mower to no more than six mines operating at one time in the area of Shavers Fork, which is one of the state's most popular trout fisheries.

The U. S. Office of Surface Mining report says that the construction of haul roads and the traffic they carry will have a detrimental effect not only on the black bear but also on other wildlife species in the area, including wild turkey, snowshoe hare, raccoon, bobcat, fisher and the rare, Cheat Mountain salamander.

Conservation groups, led by the W. Va. Highlands Conservancy, are attempting to stop mining on national forest lands in the Shavers Fork basin. The Conservancy has petitioned the Office of Surface Mining to declare these lands off-limits for surface coal-mining activities. A public meeting on the petition and the OSM report will be held in Elkins on March 11. The meeting will take place at 7 p.m. in the National Guard Armory on the Flood Control Road.

The OSM report, entitled "Draft Shavers Fork 522 Petition Evaluation Document" (hereinafter referred to as "the document,") was prepared in response to the Conservancy's petition to designate the lands in question unsuitable for surface activities associated with mining, including both deep-mining and strip-mining. A decision will take into account comments offered at the public meeting or submitted in writing no later than March 18 to the U. S. Department of the Interior, Office of Surface Mining, 603 Morris Street, Charleston, WV 25301. The OSM phone number is 304-342-8125, and the person to contact is J. Hammond Eve.

The decision would normally be made by the regional director of OSM in Charleston, and could be appealed by the disappointed party to the Department of Interior's board of mining appeals. However, the new Secretary of Interior, James Watt, is expected to render the decision in the Shavers Fork case.

There has not been sufficient time before publication of the current "Voice" to make a thorough study of the document, which was published on Feb. 18. A concise review is offered here, with an invitation to readers with special expertise to scrutinize the document themselves.

In order for the petition to be successful, it must be demonstrated that reclamation is not feasible, that mining is incompatible with other planned

uses or that important fragile or historic lands will suffer significant damage from mining.

While the document appears to support Conservancy allegations concerning the danger to the black bear and certain other terrestrial species, it fails to discuss the effects on ruffed grouse, deer, songbirds and other fur-bearing and non-game animals including red fox, gray fox, opossum, weasel, beaver, otter and flying squirrels. OSM acknowledges the vulnerability of the Cheat Mountain salamander, but throws up its hands when faced with the question of protecting the Cheat minnow. It passes the burden of decision to the U. S. Fish and Wildlife Service, administrators of the Endangered Species Act. OSM refuses to consider the fate of the Cheat minnow in reaching a decision on Shavers Fork.

Support for the Conservancy's position is offered in an area in which environmentalists are often outgunned — the area of economics. The socio-economic discussion is complex, and offers ammunition to both sides, but in two matters clearly favors the conservationist position. It predicts that the impact on coal supply of an unsuitability designation will be "insignificant," affecting one-tenth of one per cent of state coal reserves and one one-hundredth of one per cent of national reserves. Further, the document predicts that rapid development of planned mines would lead to an influx of miners and other workers that would severely strain housing and

Mineable Coal





# ed Issues, But OSM Draft Document on Shavers Fork Mining ntial Support As Well, Says Conservancy Chairman

public services in Randolph County which is already experiencing growth in mining activity and population. Rapid mine development would lead to expansion and then to collapse as mineable seams are played out.

In a blatant error of reasoning, the document attributes this possible "boom-and-bust" cycle to the requested designation of unsuitability, suggesting that such designation may cause Mower to hasten development of its established claims. In fact, Conservancy attorney Pat McGinley is attempting to halt Mower's race to develop these sites by challenging OSM's determination that Mower possesses a "valid existing right" to mine its coal.

Another surprise is that the document fails to support petition allegations in areas where we would appear to have a good case. OSM sees no significant impact by mining on water quality and fish, short of a catastrophe such as a flooded mine breakout. OSM assumes that mine discharge permit conditions will be sufficient to prevent acid drainage into the main Shaver's Fork, and that compliance may even improve fish habitat by adding neutralized water to an already acid mainstream. OSM admits there may be danger to native trout from mining on Glade Run and Red Run tributaries of Shavers Fork. The effect of sedimentation from road construction on fish habitat in the

stream is not discussed. The effect of iron and aluminum concentrations is dismissed due to lack of information. Turbidity is discussed only in the context of its impact on Bowden National Fish Hatchery, which is not expected to be hurt by heavy sediment

loads in the mainstream due to dilution from springs at Bowden. Adverse impacts are predicted on short-term air quality, visual perspective and opportunities for solitude. Adverse impacts on recreational experience would be largely a matter of

conflict with what the recreationist expects, according to the document. The intrusion of noise from mining and transportation would be most significant in those parts of the petition area bordering the Otter Creek wilderness.

## The Hearing

Well over 150 people appeared at the national guard armory in Elkins Feb. 25 for the second of three public hearings designed to corral all the information possible to produce "the best final document possible" in examining the issue of whether or not coal should be mined on the Shavers Fork of the Cheat River in Randolph County. The third and final hearing is set for 7 p.m. on Wednesday, March 11, also at the armory, and will be followed with a final decision set for release on or before April 25.

The three-hour February meeting was part of a year-long process which began ten months ago when the W. Va. Highlands Conservancy petitioned the federal government to declare tens of thousands of acres of the Shavers Fork — the entire watershed from Cheat Bridge to Parsons — as off-limits to coal mining. In the intervening period, a preliminary public hearing was held in August to determine what the scope of the study should be, and since that time, seven different public briefings have been held as the U. S. Department of Interior's Office of Surface Mining (OSM) wrestled with the problem of gathering the information needed for the new Secretary of the Interior, James G. Watt, to make what OSM director Patrick Boggs called "a fully-informed decision."

The meeting opened with a summary of progress to date on the examination of the petition by Boggs, then went "off-the-record" for an explanation of the organization of the document as well as a question-and-answer session which lasted until shortly after 8 p.m.

In all, 21 people offered comments on the draft document, the overwhelming majority of them in favor of rejecting the petition in whole or in part. Of the 21 who addressed the record, only three indicated they felt the petition had significant merit.

Testifying were:

- John Busch who spoke on behalf of the Mower Lumber Company, owners of 28,000 acres of mineral rights beneath the Shavers Fork watershed. Mower currently has several coal mines already in operation and others planned under existing rights which it held prior to the filing of the petition. At least five of their mines will be able to continue in operation despite the outcome of the petition, it has been noted. Busch, an Elkins attorney, noted that Mower had received their copy of the draft OSM document only six days before the hearing. While they asserted that it demonstrated "no factual or legal basis" for declaring the Fork off-limits to mining, he also noted that the firm may not be able to complete their analysis of the OSM document by the March 18 deadline, the last day for public comment.

- Don Phares, a man who said he has lived on the Cheat River for a decade and decried what he viewed as threats to close it by the "national resources," an apparent reference to various agencies of the federal and state government. He said he could recall the days when you could "pack your pack and crawl under a rock cliff and enjoy yourself," days which he lamented were now gone forever. His complaints ranged from badly-kept roads through the area, to the presence of sheep-killing bears, to the long battle which Mower has fought to develop its mineral rights, to destructive lumbering practices, to "somebody at the head not doing their job."

- Truman Daniels, who said he believed the major issue hit upon by Phares had been over-regulation. "This is one of the big issues," he said, and he urged what he called a "middle-of-the-road" policy. "There's room for the bear and the deer and the lizards and the min-

nows" and coal mining, he asserted.

- L. L. Moss of nearby Upshur County who said he believed "you can't stop everything because it affects somebody else." He said it was "high time for Mower to be allowed to operate" or be paid for their coal rights. He said that the OSM document had "cost a fortune" to prepare and that the public would continue to "pay the bill unless you get as mad as I do and then we'll be able to do something." After hearing other speakers, he also returned to the podium later and said that one reason the coal markets and coal fields were suffering their current economic woes was because of the nation's coal-loading facilities. He noted, however, that several coal companies as well as consortiums of companies were planning to develop new coal ports to alleviate the congestion at Hampton Roads in Virginia.

- Thaddeus Pritt of Beverly who, in a complicated series of statements, linked West Virginia's 1930's-era tax-limiting "Proposition 13" to the current sale price of land. He also called the federal government — particularly the U. S. Forest Service — involvement a "growing cancer" for which "a political cure" needed to be found.

- Joe Rieffenberger, the immediate past president of the W. Va. Highlands Conservancy and one of the men responsible for the filing of the original petition which resulted in the evening's hearing. "I do not wish to rob Mower Lumber Company," he insisted, but he also said he believed that the only solution to the problem was for Mower to purchase the surface or for the federal government to purchase Mower's rights. He alluded to what he indicated would be a perennial battle over the Fork since whatever decision Watt would make could be appealed to the courts — and further unsuitability petitions could also be filed. "We may find ourselves here annually," he said, a comment that sparked a flurry of pointed questions from other members of the audience which were finally cut off by an OSM staff member in an attempt to keep a clear record of the meeting.

- Kenneth Webb, a miner and a member of West Virginians for Work who urged everybody to "get together and get the work done. West Virginia needs the tax and America needs the coal," he said.

- C. S. Ogden, a man who opened his statement with "I want to mine our coal." He said he serves as chairman of the Dry Fork Miners Association and is also employed by the Chessie System as an engineer. He said he didn't understand the environmentalists' motive, since acid rain was polluting the river and the Fork's coal is low in sulfur and would reduce the sulfur content of smokestack coal. He also said he had a petition signed by 2,000 persons "who want to mine coal on Shavers Fork." He also decried the years-past decision to put a national fish hatchery at Bowden on the Fork when it might have been put on a less sensitive stream, particularly the South Branch of the Potomac River.

- Sharon Rogers of the W. Va. Rivers' Coalition, a woman whose reference to miners disgruntled by the petition as "ruffians" raised the instant ire of the audience. Her subsequent suggestion that they would be "willing to sell their children for kindling if the profit warranted" drew the wrath of one coal miner's wife who spoke later, as well as loud growls while she spoke and subsequent boos when she completed her statement. She termed the coal business "demand constrained" during a recitation from an article by New York Times newspaper reporter Ben Franklin. She also questioned the thoroughness with which the OSM staff could have examined the coal resources of the Fork and related them to potential impacts, inasmuch as the final coal report was apparently not made available to the staff until sometime after Feb. 2 and before the Feb. 18 issuance of the draft document. "I trust it will be considered," she said, "... the schedule is important but the content (of the report) is vital."

- Tom Clark, a coal lands manager who called the recently-boosted tax rates on coal lands in the area "a real millstone," inasmuch as they apparently boosted the cost of holding land far beyond its current potential for production. He argued that the government bought the land with certain minerals restrictions written into the original deeds and "it's up to everyone to see that the government lives up to that deal."

- Faye Bertelli, a housewife and member of West Virginians for Work who argued that the OSM document's assertion that out-of-work coal miners might find jobs if the Fork's recreational aspects were developed as "unbelievable and very unrealistic... we need coal and jobs," she insisted, and further asserted that proper use of modern technology could still make the Fork's lands useful after mining is completed. She also added that her "blood is boiling" over Ms. Rogers' remarks about the sale of children for kindling and "if Ms. Rogers thinks we are ruffians, let's show her we fight for our rights."

- Foster Mullenax of the Mullenax Lumber

Company in Parsons, a hardwood lumber company at the extreme northern end of the Fork where it joins with the Black Fork of the Cheat River. He asserted his belief that modern-day mining techniques can both produce the coal from the Fork while at the same time protecting the area's environment, an assertion he buttressed with personal observations of current and past mining practices in the headwaters of streams which still produce brook trout on the road from Point Mountain to Helvetia in the extreme, southwestern edge of Randolph County. "Private enterprise," he said, "continues to be the best hope of democracy."

- John Simon of Elkins who suggested that the "bread and butter" issues involved were increased jobs and taxes, and that an executive order from the President could save some taxes by eliminating "meetings such as this."

- Gerald Armstrong, a man who said he lost interest in coal mining when, at the age of 13 or 14, he walked 30 feet into a coal mine, walked out again and has never been back. "I'm more interested in partitions than I am in petitions," said the contractor. He suggested that the upper (southern) part of the Fork would "probably be declared dead in the next year or so" from acid rain, and that he would "like to see a study on the effects of hunger on coal miners' families (and) on an energy-hungry America."

- Milton Cunningham of the Cunningham Land Company which owns parcels on Shavers Mountain. He aroused both the mirth and interest of the audience early in the hearing when he asserted that a portion of the OSM document indicated his minerals had already been mined and abandoned. Speaking on the record, however, he said it seemed to him that environmentalists "always get the ball rolling and we have to stop it... they know more about it than you fellows do," he asserted, turning to the nine members of the OSM staff who were lined up at tables beside him. He also asserted that "there could be every mine running at the same time and still not pollute the river." He also protested the slowness with which federal and state regulatory agencies processed applications for mining.

- Katherine Gregg, president of the W. Va. Chapter of the Sierra Club, a woman who asked that copies of the research documents upon which portions of the OSM report are based be forwarded to her. She also said that she felt that if Mower and its staff could not adequately evaluate the report by March 18, "how can the Sierra Club (members) ... do it in their spare time?" She urged coal mining firms to concentrate their mining efforts in areas of the state which the U. S. Environmental Protection Agency had already identified as non-sensitive to the impacts of mining. She asserted miners would find environmentalists "solidly in favor" of mining in those areas.

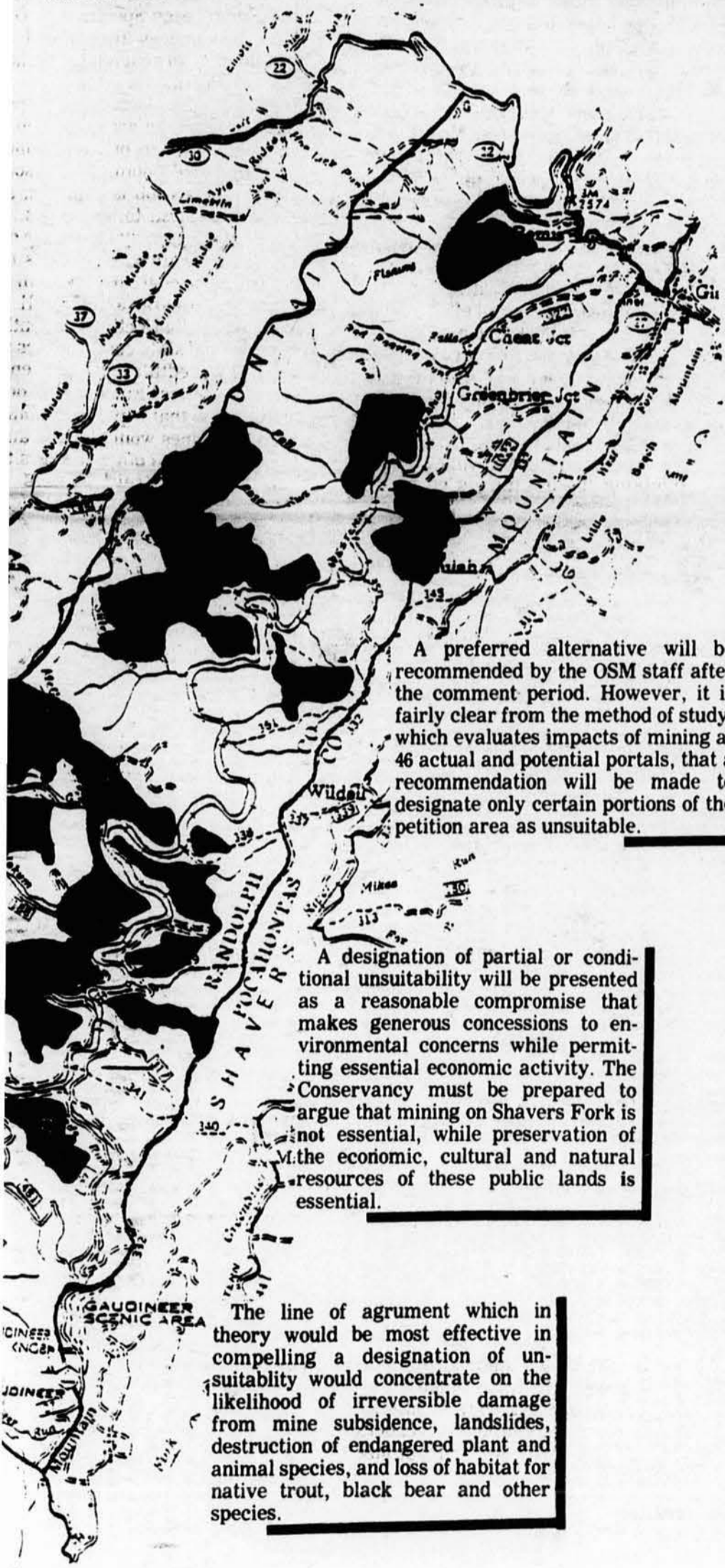
- Frank Christy, a businessman who sells tires to the coal mining industry who has found his own business declining in the face of declining mining. "It's hard to mount a tire on a bear or a lizard," he asserted, referring to two species of animals which environmentalists have sought to protect on the Fork.

- John Lounsbury, a consulting forester who charged that the inferences drawn from the information provided in the OSM document are "sorely lacking in back-up technical information." He also called the evening's hearing a "waste of time," inasmuch as there was insufficient time for people to prepare to make comments on the draft document.

- Al Arnold, a Pennsylvania resident employed by a Colorado mining service firm who spoke on his own behalf and suggested that the current over-regulatory atmosphere in which the coal mining industry is operating is "the other end" of a "pendulum swing" from the days when mining meant "fires, subsidence and pollution" of streams and rivers. He suggested that some species of plants and animals will perish as part of "God's laws" and the survival of the fittest; that coal must be mined where it is found; that 75 percent of the 20,000 miners currently unemployed lost their jobs within the last two years because of over-regulation; that the American taxpayer is subsidizing foreign oil production to the extent of the equivalent of \$80 per ton of coal; that utilities have no incentive to convert to coal because of restrictive and constantly changing air quality standards; and that he would "like to see the environmentalists do without their natural resources for a while" in an attempt to "temper their rabid outbreaks."

- Stanley Gould of Valley Head who urged the creation of jobs so that handicapped people might find employment and get off welfare.

- And W. C. Turley, a man who identified himself as a Logan County "ruffian," and who urged the soothing of environmentalists by concrete demonstrations of what modern-day mining techniques can accomplish. But he added that "if (the government is) going to take the land away," landowners should be reimbursed at the fair market value.



A preferred alternative will be recommended by the OSM staff after the comment period. However, it is fairly clear from the method of study, which evaluates impacts of mining at 46 actual and potential portals, that a recommendation will be made to designate only certain portions of the petition area as unsuitable.

A designation of partial or conditional unsuitability will be presented as a reasonable compromise that makes generous concessions to environmental concerns while permitting essential economic activity. The Conservancy must be prepared to argue that mining on Shavers Fork is not essential, while preservation of the economic, cultural and natural resources of these public lands is essential.

The line of argument which in theory would be most effective in compelling a designation of unsuitability would concentrate on the likelihood of irreversible damage from mine subsidence, landslides, destruction of endangered plant and animal species, and loss of habitat for native trout, black bear and other species.



# Fish and Wildlife Service Develops Wetlands Criteria

The U. S. Fish and Wildlife Service has developed a new wetlands classification system that it hopes will be adopted for use by other federal and state agencies concerned with the protection of these vital areas.

Once thought of as wastelands, wetland areas today are recognized for their value in maintaining groundwater supplies, purifying water, preventing shoreline and bank erosion, and temporarily storing floodwaters. In addition, biologists have long realized the critical importance of this habitat to the continued existence of fish and wildlife species.

A standardized system of classifying wetlands will enable improved resource management decisions by the public agencies that are responsible for their protection. Such a new system is profiled in a recent publication by the Fish and Wildlife Service entitled "Classification of Wetlands and Deepwater Habitats of the United States," developed in conjunction with the U. S. Geological Survey, National Oceanic and Atmospheric Administration, and the University of Rhode Island.

In defining the biological boundaries of wetlands, the new system allows federal and state agencies, as well as the private sector, to describe and categorize these types of habitat. This information is essential in the early planning stages of any project and may prevent costly and unexpected delays during the construction stage.

Once a developer contemplates a project within or adjacent to a wetland, the classification system provides the information necessary to gauge the habitats' characteristics. The appropriate local, state or federal agencies can then advise whether it may fall under their jurisdiction and determine what, if any, regulations might apply to modifications of that area. In the design of this system, however, there is no attempt to establish the boundaries of the regulatory programs of local, state and federal agencies.

Wetlands are recognized as the most biologically productive type of ecosystem in the world. They include a variety of diverse types, among them marine (open ocean and associated coastlines), estuarine (salt marshes and brackish tidal waters), riverine (rivers, creeks and streams), lacustrine (lakes and deep ponds), and palustrine (small ponds, prairie potholes, marshes, swamps and bogs).

Wetlands are economically important — two thirds of the commercially important fish and shellfish harvested along the Atlantic and Gulf coasts depend on coastal estuaries and wetlands for food, spawning grounds, or nurseries for their young; for the Pacific coast, the figure is nearly one-half.

The Service's new classification system replaces an earlier one, in use since 1954, that original purpose was to assess the amount of waterfowl habitat on the basis of 20 different types of wetlands. Presented in a document known as "Circular 39," this had been one of the most commonly used systems in the effort to preserve valuable, but diminishing, wetlands throughout the United States. The new classification scheme is broader and more inclusive in the types of information it presents.

"The classification system we've developed now gives a lot more attention to wetlands that have other values, not just wetlands that have value as waterfowl habitat," says Lynn Greenwalt, director of the Fish and Wildlife Service. "Such factors as dominant animal and plant life, soil type, and water chemistry are all now incorporated in the way we look at, define, and group wetlands."

The new system is designed to meet four main objectives:

- To describe areas that have similar natural attributes;

- To arrange these areas in a system that will enable better resource management decisions to be made;

- To convert these areas into a format for inventory and mapping; and

- To provide a uniform classification system and terminology.

Already the state of Michigan has adopted the Service's new classification system as its method of classifying wetlands, and the new system is being used by the Fish and Wildlife Service as the basis for its National Wetlands Inventory.

"Classification of Wetlands and Deepwater Habitats of the United States" is available for \$4.25 from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402 (Stock No. 024-010-00524-6).

## Feds Want DPP License Back

Continued from page 1

declare that the U. S. Army Corps of Engineers had no right to halt construction of the project by denying — or even considering — a permit for the construction of the dam. Last week, that decision was also appealed.

The project was first conceived in the late 1960's and became an environmental issue which reached peak fever when the Army Corps denied the power company the right to build a dam to impound a 7,200-acre lake which would flood wetlands in Canaan Valley. Construction of the lake has also been opposed by the state of West Virginia because it was feared that "honky-tonk" development around the lake's perimeter would degrade the major state investment already made in the valley.

Most residents of Tucker County where the project was planned have

favored the project because they believe it would add employment to the area as well as substantially increase the tax base of the county and provide badly-needed funds for schools and roads.

The power company perceived the project as the least expensive means of providing the energy demands it had forecast into the 21st century. Delays in the construction of the project, however, have forced Monongahela Power and its sister firms of the Allegheny Power System to purchase a half-interest in the Virginia Electric Power Company's pumped-storage project in Bath County, Va. That purchase is scheduled to take place early this spring, at which time construction in Bath County is expected to resume. Construction was halted when funds for the massive project — and Veeco's demands for electricity — petered out.

## Coalition to Battle

Continued from page 1

moved from the laboratory to commercial realization. Half the cars in America now have catalytic converters capturing 70 to 90 per cent of hydrocarbon and carbon monoxide pollution. In 1981, for the first time, cars also meet strict nitrogen oxide standards.

"We do not have to choose between a clean environment and energy or economic goals because of the development of these pollution control technologies," the NCAC spokeswoman said. Because of the Clean Air Act, "more coal does not have to mean more acid rain and health damage. And new cars can be both cleaner and more fuel-efficient," she asserted.

— Studies of the Act's impacts on economic growth and jobs "support the common-sense idea that new investments for pollution control have more than balanced the impact on regulation industries," she said. In the past five years, she said the GNP was probably slightly higher because of the investments in these controls. And for every job lost because of pollution control, ten to 20 have been created, she said. A report released by the Council on Environmental Quality in 1980 estimates annual benefits of air pollution control to human health and other concerns at \$21.4 billion in 1978.

The report also surmised the estimate to be low, but Agle noted that it is still \$4.8 billion more than the 1978

cost of complying with the provisions of the Clean Air Act.

— About 14,000 lives were saved during the year of 1978 as a result of the improvements in air quality since the Clean Air Act was passed, according to the CEQ.

### Unfinished Business

— Federal health standards for major pollutants remain unmet in most urban areas. In 1979, EPA reported that 538 counties violate the federal health standards for ozone (smog precursor), 395 the health standard for particulate matter and 161 the health standard for carbon monoxide.

In the Los Angeles metropolitan area, air quality is unhealthy more than two-thirds of the year; in New York, it is unhealthy one-third of the year. Together, these areas involve eight per cent of the nation's population. In 1980, the Los Angeles Basin experienced its worst October smog siege in nine years, and scores of people were admitted to hospitals for treatment of respiratory ailments.

— There is no federal health standard for dangerous fine particles, particles less than one-one-thousandth of an inch in diameter. They are easily inhaled deeply into the lungs and cause difficulty in breathing, respiratory diseases, aggravation of heart and lung disease and increased mortality. Particulates may be responsible for visibility impairment and other material damage, Agle said.

## Plants, Animals, Groundwater, Arable Land

(Continued from page 8)

salinization of top soils and surface water, and the desolation of native vegetation. Among the causes of this problem are extensive irrigation and poor soil drainage, ground water overdraft, overgrazing and urbanization.

The desertification report, prepared by David Sheridan, notes that about 225 million acres of the United States — an area roughly the size of the 13 original colonies — are undergoing desertification.

"Desertification in the United States has some very far-reaching implications in terms of the nation's food and energy supplies, balance of payments and its environment," the report says. "It is an affliction that saps an arid land's ability to support life."

The report details desertification problems in five areas within the arid West — areas that receive 20 inches of rain or less a year. They are the San Joaquin Valley in California, the Wellton-Mohawk Irrigation District in Arizona, the Santa Cruz and Pedro River basins in Arizona, Kiowa and Crowley counties in Colorado, and the High Plains of Texas.

The desertification report also warns of "new stresses" that are likely to intensify desertification in the arid West, including:

- Vast coal and oil shale resources, the development of which is likely to require more water than will be available from the Colorado River by the year 2000.

- Increased wheat, cotton and beef prices that encourage arid land ranchers and farmers to push produc-

tion beyond the land's capacity.

- Increased cutting of western forests for fuel, a major cause of desertification elsewhere in the world.

- The development of the proposed MX missile system on 8,000 square miles of land in Nevada and Utah, requiring substantial amounts of scarce water for construction and placing unprecedented demands on the land because of increased population.

A number of expensive, high-technology schemes have been proposed to bring new water to the arid West, including piping water from the Mississippi, towing Antarctic icebergs to the area and attempting to change the weather, but the report raises serious questions about their economic and environmental costs.

"What has not received the necessary attention," said Council member Jane Yarn, "is what the report calls the non-technical, non-structural solutions to western arid land problems — solutions like water conservation, traditional soil conservation practices and grazing controls, that benefit the general public but not necessarily any single interest."

Copies of the CEQ's 1980 report as well as the reports on groundwater contamination and desertification of the United States are all available from the CEQ at 722 Jackson Place, N. W., Washington, DC 20006. A self-addressed mailing label should be enclosed, and six weeks allowed for delivery.

## Forest Service Sees 21 Issues

Continued from page 1

Mountain RARE II area, one of 22 areas within the national forest once were considered as potential wilderness areas. Four were chosen for potential designation as wilderness, 17 were rejected and one — the Cheat Mountain RARE II — was recommended for further study.

- Land and right-of-way acquisition. The Monongahela's 840,000 acres have been expanding at the rate of about 1,000 acres per year for the past decade, much of it in the Spruce Knob-Seneca Rocks National Recreation Area. Foresters contend that more lands are "needed to meeting the increasing demands on the Forest and to provide for a more efficient land management situation."

- Minerals, oil and gas. Already identified as a central issue is whether national forest policies should encourage mineral use in order to meet the needs of the nation as a whole or to discourage use in order to minimize disturbances to other resources such as air, water, wildlife and recreation. Increased demands for the use of minerals beneath the forest have already been forecast.

- Watershed. Issues involved in watershed protection and management include the use of chemicals, the disposal of wastes and the protection of fish, soil and water resources in the face of minerals and timber development.

- Firewood. Since 1973, the demand for free firewood from the national forest has grown by 1000 per cent, foresters note. While easily accessible wood along the roadsides has been cleaned up, keeping firewood available to the public — and perhaps encouraging increased use of wood as an industrial or commercial fuel — needs to be studied.

- Recreation management. The mix between developed facilities and dispersed use, the location and size of planned developments, the controls on recreation use — all these have been identified as issues by forest planners. It is anticipated that energy shortages may increase recreational demands near metropolitan areas.

- Wildlife management. Bear, turkey, Hawthorne, prescribed burning, roads, caves for bats, plus planning for "non-consumptive" uses of the forest such as bird-watching are to be planned for.

- Range management. Some 7,000 acres of the Monongahela are managed by leasing the land to farmers. But foresters note that intensive grazing can adversely affect wildlife habitat.

- Information. Everything from environmental education to the credibility of the Forest Service itself is affected by the information the public receives about activities on the forest. Programs "can be used to increase the environmental knowledge of students, explain forest activities, help accomplish forest management objectives and contribute to sound decision-making."

foresters assert.

- Alternative energy sources. "The role that the Forest could potentially play to help meet our energy needs is unknown, and the effects of such a role on other resource uses is unknown," forest planners have indicated.

- Cultural resource protection. Planners have also indicated that the procedures used to identify and protect archeological and historic sites may affect the use of other resources.

- Silvicultural practices and timber regulation. While the majority of the Monongahela is suitable for timber management, a major problem is producing a sustained yield of timber products because the stock of trees reflects past treatments. Much of the forest is now about 70 years old and will be ready for harvesting at about the same time, foresters note. Current decision in this field will affect the forest for generations to come.

- Air quality. While state officials are responsible for the implementation of the Clean Air Act, national foresters are concerned because uses of the forest may create candidates for stricter air quality standards elsewhere.

- Transportation system. While roads and trails provide access to manage the forest, make it available to public users and to move commodities to market, some uses conflict with others, and the management policies chosen are expected to affect what uses are possible.

- National Recreation Area (NRA) management. The law which created the NRA was aimed at developed types of activities, while a large segment of the public "seems to prefer dispersed types of recreation development," foresters have learned.

- Special use policies. Special use permits cover everything from rights-of-way, utilities and recreation facilities, all of which may be governed by policies that may be either permissive or restrictive.

- Fire, insect and disease protection. "In all alternatives," foresters note, "protection policies must be adequate and cost-effective."

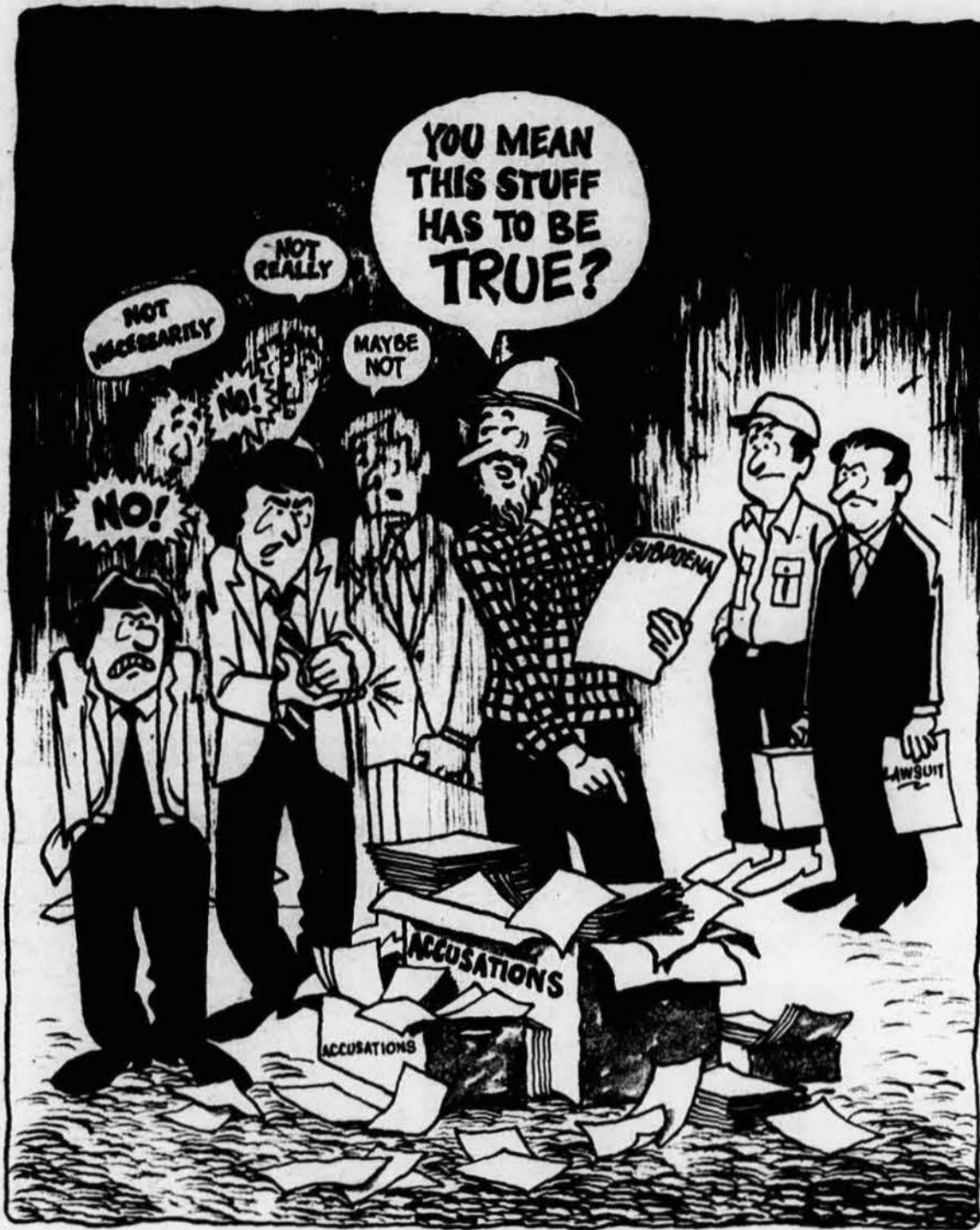
- Law enforcement. Foresters believe that policies regarding enforcement of laws and regulation is "of concern" because they may be too permissive or too restrictive.

- Private development of the forest. The role of private developers in the construction and administration of resorts, campgrounds and similar facilities will be reviewed.

- Utility corridors. The location of corridors and the policy for burying utility lines will be reviewed.

- Land line location. "There is a concern that land line maintenance is not occurring at a rate equal to line deterioration," foresters note. "Good lines help the Forest Service plan projects and prevent innocent trespass while at the same time help neighboring landowners."





## Try the case

In the case of D.L.M. Coal Corp. v. Webb (Upshur County Circuit Court, 80-D-159), in which the plaintiff seeks compensation for "false and defamatory information which damaged the corporation," two ironies leap out from all the rest:

1) The defense seeks a dismissal on the extraordinary grounds that the defendants bear no responsibility to be truthful in their reports to big brother. According to a brief filed by the intervening Justice Department, it makes no difference whether the defendant acted in "bad faith." Although such conduct would be deplorable," the brief stated, "it's still privileged." Such an idea reflects a calloused disregard for the concept of equal rights under the law. What principle of democracy holds that a company or an individual must be subjected to the effects of slanderous statements simply because those statements are directed to the government?

The Justice Department claims to be concerned because "D.L.M.'s complaint seriously threatens important federal policies." What important federal policies? Does the government wish to pursue a policy of acting on false information? Does the government advocate justice only for those whose affiliation ends with the word "citizens" rather than Inc.?

We, and probably the company, and certainly the courts, could be much more sympathetic to an admission by the defendant that he erred, or that he didn't know what he was doing in the first place. But our self appointed protectors of the wild always take the hard line when the soft sell would serve them better. And for that, we will, in the future, diligently recall this occasion when their position was one of feeling no particular compunction to speak the truth.

2) The ridiculous proposition that this case is one of a lone citizen trying to stand up to the coal industry, or to one giant corporation. The brief of six "volunteer" groups seeking to intervene stated, "It would be a travesty...to require the defendants to deplete their limited resources by having to defend a plainly unmeritorious law suit."

These are the defendants whose resources are limited to those of the League of Women Voters of the United States, the National Wildlife Federation, the American Civil Liberties Union, the Consumers Union of the United States, Inc., the Natural Resources Defense Council, Inc., the West Virginia Wildlife Federation, the West Virginia Citizens Action Group, the United States Department of Justice, the law firm of Wilmer & Pickering, the law firm of Arnold & Porter, and three professors from the West Virginia University College of Law, all of whom are helping or have offered to help with the case.

## Long stories made short

by Dan Miller

There were two new articles last month, concerning the case of D.L.M. Coal Corp. v. Webb, which should not pass without comment.

The first, which appeared in the January 12 *Charleston Gazette*, posed what it perceived to be the pertinent legal questions involved. Some of these deserve more immediate answers than the legal process will provide. So here they are. No charge.

"Is information given by citizens to government agencies immune from legal action?" Not in this country. Not in this century!

"Does it matter whether a citizen acted out of malice, or knowingly gave false information?" Are you kidding?

"Is a private company involved in controversial business a public figure under the law?" Probably no one is in a more controversial business than the *Charleston Gazette*. Would it therefore like to yield its First Amendment rights, including the right to "petition the government for a redress of grievances"?

The second story appeared in the January 24 edition of *The West Virginia Hillbilly*, and is a reprint of a National Law Journal article by Gene Weingarten. Several comments from this piece deserve attention, for instance:

"The defense is arguing that Mr. Webb's communications to the Federal Environmental Protection agency are absolutely privileged by his constitutional right of access to government for redress of grievances." Does this mean that the information contained in the defendant's "communications" should not be available to the coal company? If so, whatever became of the accused's right to confront his accusers? Or does privileged mean that there is no obligation to be truthful in such communications? Can anyone be seriously arguing that point?

"He (the defendant) has lost days in

depositions, brief writing and gathering evidence to prepare a defense." The irony of this outcry cannot escape the notice of anyone familiar with the coal business. Lost time for such activities due to "citizen participation" has become a routine cost of doing business.

"The state's residents (West Virginians) haven't always had the highest regard for their natural resources — one curious custom, for example, is to abandon junked cars, washing machines and other heavy duty appliances in mountain streams."

This is Mr. Weingarten's justification for the need of such high minded citizen imports as the defendant to save us ignorant hillbillies from ourselves. In doing so, however, he has betrayed his ignorance of the subject. Really, this section should be forwarded to Secretary of State A. James Manchin for his comments. To besmirch an entire state and its people for the actions of a few is a tactic of easy journalism with which West Virginians are all too familiar. In essence, this practice of stretching the truth to fit one's rhetorical mold is what the law suit is all about.

"I don't think its an exaggeration to say that this could cripple environmental groups overnight," says Timothy Hayes, director of the Virginia office of the National Environmental Defense Fund." I do, Timothy, I think it's a gross exaggeration. Since the suit was filed last July, and even since an Upshur County court refused to dismiss it, environmental groups have been as active as ever. If you doubt that, check the transcripts of OSM hearings on the fitness of West Virginia's proposed regulatory program. It may be, however, that whatever the outcome of the current case, the defendant and all his cohorts will be more careful with the truth as they make their self appointed rounds.

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# Plants, Animals, Groundwater, Arable Land Top Priority Environmental Problems Says CEQ

Global loss of animal and plant species, contamination of ground water by toxic chemicals and the spread of desert-like conditions in the western United States have been identified as "three priority environmental concerns for the 1980's" by the President's Council on Environmental Quality (CEQ).

In releasing the Council's Eleventh Annual Report and separate reports on the nation's ground water and desertification problems, CEQ chairman Gus Speth said that "the urgency of these three problems is not yet fully understood by the public or by government policy-makers."

"These three concerns are striking examples," Speth said, "of why we must pay great attention to global resources depletion, to toxic chemicals and to the loss of agricultural lands."

"This is no time to back away from our environmental commitment," Speth said. "Indeed, we must not only maintain but strengthen our efforts to control pollution and protect our planet's natural resources if we are to fulfill our obligation to future generations."

## 66 Major Industries Export Half of Wastes

Almost half of all hazardous waste produced in West Virginia is disposed of outside the state, according to a survey conducted by the Division of Water Resources. Survey findings show that 48.5% of the 329,776,691 pounds of hazardous waste produced by 66 major West Virginia industries are disposed of out-of-state. On the other hand, 99.9% of all non-hazardous waste produced in West Virginia-- a total of 1,972,089,223 pounds -- remain in the state.

Neilima Senjalia, of the ground water/hazardous waste section, administered the survey and said these figures were tabulated from questionnaires sent to chemical manufacturers and other industries in West Virginia that produce industrial waste. Senjalia reported a high return rate for the study. Of 81 major industrial facilities included, she said, 66 responded.

Survey results will help ensure proper disposal of chemical waste in West Virginia, according to Senjalia. Data will be used to identify needed disposal capacity. "To be sure these wastes are handled properly," Senjalia said, "we need to know how much is being produced and how it's being disposed. If we know what type of waste is being handled," she continued, "we can also determine what type of disposal methods are necessary." In addition, data will be provided to the legislative subcommittee on hazardous waste so that they will understand the current situation in West Virginia.

Other survey findings indicate the prevalence of incineration as a means of hazardous waste disposal in West Virginia. Of all the hazardous wastes that stay in the state, 68.6% are incinerated, while only 22.4% are disposed of in landfills. The remaining 9% include wastes disposed of in deep well injections, wastes subjected to biological and chemical treatment and wastes that are exchanged with other companies for reuse.

Similarities are seen outside the state, as 24.8% of West Virginia-produced hazardous wastes are incinerated, while 14.8% are disposed of in landfills. The remaining 60.4% include deep well injection, combinations of landfill and incineration use, waste treatment, waste exchange, as well as reclamation of valuable materials in wastes.

Speth said the "most urgent and pressing" concern discussed in the Council's 1980 Annual Report, submitted to Congress by President Carter in mid-January, is the need for concerted international action to address a wide range of global resource, environmental and population problems. The Annual Report places special emphasis on the importance of protecting biological diversity -- the rich endowment of animals and plants that nature has provided -- from an unprecedented threat.

"Rather than being an isolated incident, extinction -- the death of a species -- is increasing," the CEQ report says. "Some biologists estimate that one to three extinctions are now occurring daily and that the rate will increase to one per hour by the late 1980's."

Speth stressed that "the 5 to 10 million plant and animal species now living are an irreplaceable source of food, fuel, fibers, medicines, and building and industrial materials needed by a growing world population."

"Yet with continued rapid alteration, pollution, and loss of habitat, and

the overexploitation of some species, as much as 15 to 20 per cent of all species on earth could be lost in the next 20 years. About half the loss would occur as a result of tropical deforestation. Ironically, most extinctions will be species never even discovered by scientists, let alone understood for their value to us."

"The costs to human interests from such losses would be incalculable," Speth said. "About half the commercial drugs now on the world market were originally derived from living organisms. Wild animals and plants provide a wealth of materials (such as wood and fibers) and chemicals (such as oils, resins and dyes) which benefit humankind. The locally cultivated varieties and wild relatives of the world's major food crops are sources of genetic traits essential to improving crop yields and resistance to pests and diseases. The loss of genetic diversity in crops exposes us to escalating threats of crop diseases and pests, fertilizer shortages and rising fossil fuel costs."

"People destroy biological diversity by killing plants and animals directly and by burdening them with new predators, parasites and competitors," Speth said. "Most importantly, without intending to do so, we physically and chemically degrade their habitats in our quest to feed and house the ever-expanding population. This is a case of killing the goose that lays the golden eggs."

The Annual Report says the loss of species can be minimized by enlightened programs to protect endangered species and representative ecosystems, improved forest management practices, and greater use of natural pest control techniques instead of chemical pesticides.

In its chapter on water quality in the United States, the Report notes growing concern about the contamination of ground water -- which provides drinking water for about half of all Americans -- by synthetic organic chemicals, including known or suspected carcinogens. More extensive information on the problem is contained in another Council report, "Contamination of Ground Water by Toxic Organic Chemicals."

Dr. Robert Harris, a member of the Council, said the reports "clearly document the emergence of a new threat to our ground water resources -- widespread contamination by toxic organic chemicals."

"Hundreds of drinking water wells affecting the water supplies of millions of people have been closed because of such contamination," Harris said. "No one can say with confidence how long the contamination has existed, the exposures that people have sustained, or the health effects that have occurred in individuals or the population as a whole."

The reports cite recent examples of contaminated drinking water wells in the San Gabriel Valley in California, in Bedford, Mass., in Nassau and Suffolk counties on Long Island, N. Y., and in Gray, Maine. Overall, regional administrators from the Environmental Protection Agency have reported "serious contamination" of drinking water wells in 34 states, and the report on ground water says "there are indications that the true number is at least 40. CEQ has found that at least 33

toxic organic chemicals have been found in some drinking water wells, often in concentrations well above any contamination seen heretofore in any surface or ground water supply."

The report points out that some states -- notably Connecticut, New York and New Jersey -- have begun to respond to the problem by adopting laws to control ground water contamination, and the Environmental Protection Agency last November proposed a ground water protection strategy which emphasizes a federal-state partnership in preventing ground water contamination.

"Although the EPA ground water strategy addressed a broad range of

ground water quality issues," Harris said, "it is the recent, and seemingly sudden, appearance of toxic organic chemicals in drinking water wells that may be the most urgent -- and in the long run the most difficult -- problem facing the new federal-state strategy."

A third problem highlighted in the Annual Report -- and amplified in an extensive report to the Council entitled "Desertification of the United States" -- is the spread of desert-like conditions in the western United States. Prominent effects of desertification are extensive soil erosion,

(Please turn to page 6)

## Ground Water Contamination Detection Method Tested

A survey testing the effectiveness of subsurface resistivity methods in West Virginia is being conducted by the Division of Water Resources' ground water/hazardous waste section. Subsurface resistivity methods help determine ground water contamination from surface impoundments. The Division's survey, funded by EPA grant money remaining from the Surface Impoundment Assessment (SIA) completed last year, will determine if these methods can be used in West Virginia as a tool to detect ground water contamination. The Division contracted with a consulting firm for assistance with the survey.

Rick Shaver, geologist with the ground water/hazardous waste section and coordinator of the survey, says the Division needs the capability to detect ground water contamination at a minimum of time and expense. "With the resistivity survey," he said, "we may detect contamination without drilling monitoring wells," which, he pointed out, are costly and time-consuming. Shaver added that the survey should help companies locate ground water monitoring facilities more effectively.

Field work began in September, with 10 industrial sites to be tested through November. Data collection and interpretive reports will be submitted later this year to EPA and the companies involved. Information from the SIA was used to choose the sites. Each company involved in that study was rated according to its potential for ground water contamination and the 10 highest-rated companies were chosen.

"We wanted to test sites we already know something about," Shaver said, "so we could match up new information with what we had gathered from the SIA to determine the effectiveness of the resistivity survey."

To conduct a resistivity survey, two steel electrodes are driven into the ground. An electric current is passed between them and the voltage drop is measured. As the electrodes are spread farther apart, the current penetrates deeper into the earth. Explains Shaver: "You get a series of resistivity readings, or soundings, from a central point at increasing depth." Shallow readings show high resistivity as current passes through unsaturated soil. As the current penetrates deeper, the resistivity of the earth material normally drops abruptly, indicating the presence of ground water. When ground water is contaminated with materials that affect its resistivity, abnormal readings are obtained since current passes more easily through contaminated water.

Researchers complete approximately 10 different soundings at each site. The results of each sounding are plotted on a map and compared with other information for those sites. A decision can then be made as to whether or not the site requires more extensive investigation.