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THE HIGHLANDS VOICE

WVC

Published monthly by the W. Va. Highlands Conservancy Vol. 14, No.9 October-November, 1982

MONONGAHELA NATIONAL FOREST

Hike On

THE FOURTH WVHC HIKING GUIDE IS OUT AND WORTH THE PRICE

BY BRUCE SUNDQUIST

Time flies when you're having fun. Trouble is, it also flies when you're writing hiking guides. The fourth revised edition of the West Virginia Highlands Conservancy's Hiking Guide to the Monongahela National Forest and Vicinity was supposed to be out last spring when Edition III ran out.

But then our U.S. Forest Service friends in Elkins, Parsons, Petersburg, Bartow, Marlinton, Richwood and White Sulphur Springs decided it was time for a major going-over.

They recommended changes on virtually every page of the old guide and rewrote several dozen pages totally. And then there were lots of comments from the hiking community over the past five years to work into the old material. And on top of all that, the editor decided that, with topo maps going for \$2 each these days, it was time to add topographic maps of all the major — and more popular — trails.

The net result was that the 5,000 copies of MNF IV didn't come off the press til late September — and it's over 240 pages long instead of 192 pages, and it now has a glossy cover.

Our Board decided to raise the price to \$7 each (retail), but now you won't have to buy as many topo maps to make use of the Guide. The money you save on topo maps should pay for the Guide in just one or two hikes. So in a sense, MNF IV, with its 48 maps, is even more of a bargain than its ancestors.

What should you do with Ed. III? Keep it for historical purposes, but don't plan your hikes with it! If you were one of those who contributed material for the new edition, you should receive your complimentary copy shortly.

What will happen in the future with MNF V, 4-5 years down the road? Our hiking guide to the MNF is a major source of financial support for WVHC. It also promotes an appreciation of the outstanding natural and scenic values that West Virginia's highlands have to offer.

No doubt the Guide affects U.S. Forest Service management

policy in beneficial ways. It helps balance out the materialistic pressures to which the Forest Service is constantly subjected. I feel that MNF V could easily be a lot better than MNF IV — and that it would be worth the effort to make it so.

But this will require a committee and some thoughtful planning and coordination — pretty much like what we had for MNF I, when a much larger fraction of WVHC's membership knew what a social conscience is.

I have listed below some of the things such a committee could do:

- (1) Scout and write up the new 73-mile Greenbrier Trail, a new DNR trail for non-motorized (hiking & bicycling) use along the Greenbrier River between Caldwell and Dummore.
- (2) Take photographs, ideally black and white, and preferably in the southern half of the MNF, where we have virtually no photos now. For MNF V we will be paying \$10.00 plus a complimentary guide for each photo we print. See page 228 of MNF IV for more details.
- (3) Write a more complete description of the new long-distance Allegheny Trail as it develops over the next three years.
- (4) Hike, and then write better descriptions of the several dozen trails in MNF IV that have rather weak, sketch descriptions.
- (5) Scout informal trails — up interesting side streams, along routes that make loops out of existing one-way trails, etc.

If you're interested in doing something substantive for MNF V, contact me, Bruce Sundquist, at 210 College Park Drive, Monroeville, PA. 15146. This will enable your activities to be coordinated with those of everyone else on the MNF V committee.

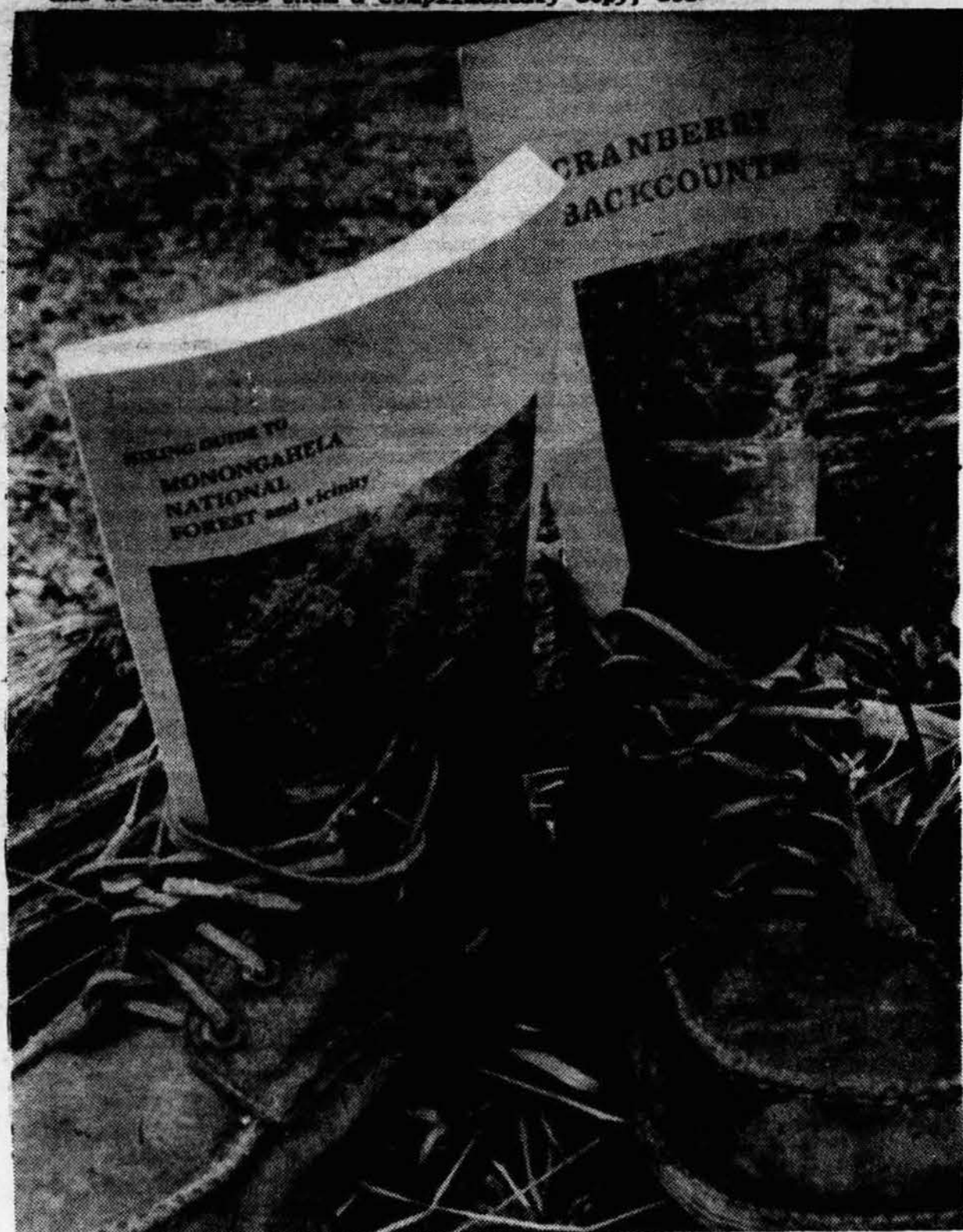
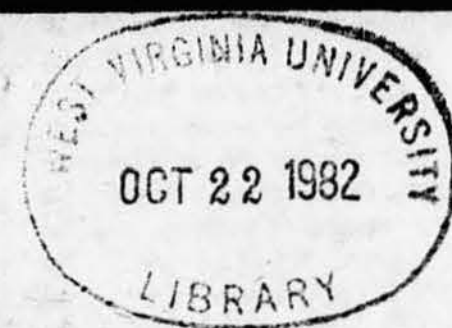
Speaking of volunteerism, hikers by now should have heard that public land management budgets for trail-related activities everywhere have been cut drastically from their normal, totally inadequate, levels. This necessitates at least a partial return to the days of old when a smaller, but closer-knit community of hikers and backpackers routinely maintained (and built) trails.

So do two things: (1) buy either a Sven (or bow) saw or a long-handled pair of pruning shears, and (2) find a convenient way of mounting your tool of choice onto your daypack. It really doesn't detract in the least

from the pleasures of hiking to stop once in a while and take out a fallen tree or obstructing limb. Just be sure to leave any logs you find lying flat on the ground. They serve erosion control and other purposes.

Don't let those old boots fool you! All you have to do to get your copy of MNF IV is send \$7 to WVHC, P.O. Box 506, Fairmont, WV 26554. If you have 11 or more friends who also want a copy, your retail order of \$70 or more qualifies you for wholesale rates (1/3 off retail).

Wholesale orders should be sent directly to WVHC "Warehouse," which is c/o Bruce Sundquist, 210 College Park Drive, Monroeville, PA 15146. If you know of retail outlets that might want to sell our guides, send us their names and addresses and we will send them a complimentary copy, etc.



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See Ya' Soon

MORE WELLS, MORE EROSION

Ted Streit, an administrator of the Oil and Gas Division of the Department of Mines based in Charleston in a mid-September interview commented on the development of shallow gas wells in West Virginia, saying, "West Virginia has no law requiring a certain amount of space between shallow gas wells, but there is a federal pricing regulation that makes it necessary to space shallow wells 1,500 feet apart if the well is 3,000 to 6,000 feet deep and 1,000 feet apart if the well is 0 to 1,000 feet deep." Streit said that complying with the federal regulations usually allows fuel owner to get more money when selling.

Asked if it were possible that wells drilled near property lines were pumping gas out from under adjacent property owners land without the gas company having to reimburse the adjacent land owner monetarily, Streit said, "That's true under a shallow well, because it is an older law than that governing deep wells. (deep-well laws require adjacent land owners to be paid on a proportionate basis for gas the law says could be being pumped out from under their property.)"

Asked why the legislature doesn't straighten out the old laws so that adjacent property owners won't be cheated, Streit replied, "Because the industry doesn't want it straightened up." Streit explained that the newer deep well statute (W.Va. Code 22-4-A) was a compromise statute that exempt shallow wells from being regulated as the deep wells are.

Streit noted that only 1-2% of the gas wells in the state are deep wells, and left it to conjecture if the cause were due to state regulations demanding adjacent land owners be paid a certain ratio for gas being pumped out from under their property.

Streit said it is now technologically possible to estimate whether gas is being pumped from properties adjacent to shallow wells by engineering reports on soil porosity and the pressure of the gas.

"The present recourse of adjacent property owners is to have a well dug on their property," concluded Streit.

TAX DEDUCTIONS?

Under Internal Revenue Service (IRS) regulations the West Virginia Highlands Conservancy, Inc., is classed as a Section 501 (c) (3) tax exempt organization.

As such, all donations to the conservancy are tax deductible by the donor as a charitable organization.

The Highlands Conservancy will finish 1982 with a deficit of several thousand dollars, and your donation would be especially welcome this year.

Requests for financial information and specific questions can be addressed to the treasurer. Checks should be made payable to the West Virginia Highlands Conservancy, Inc.; and mailed to WVHC, P.O. Box 506, Fairmont, WV 26554.

Help the Conservancy and help yourself save taxes by making your donation this year!

HELP WANTED: The nominating committee of the West Virginia Highlands Conservancy is actively looking for conservancy members willing to serve as officers and members of the board of directors for 1983-84.

Board membership is an excellent way to become actively involved in the wide range of conservation activities that have become the hallmark of the Highlands Conservancy.

No previous experience is necessary, just a commitment to conservation.

Persons wishing to volunteer are welcome, as are recommendations by members of other members. All correspondence should be received by Nov. 15 and should be sent to the West Virginia Highlands Conservancy, P. O. Box 506, Fairmont, WV 26554 Attn. Nominating Committee.

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ROCK CAVE

Tears On The Little Kanawha

NEW GAS WELLS AND THE PROSPECT OF DEEP MINES WORRY FOLK

BY CINDY RANK

Round 2 on the Little Kanawha River has not yet ended and already Round 3 has begun.

Round 1 took place in 1979: Three applications for surface mines appeared; much discussion took place; local residents joined together to form FOLK (Friends of the Little Kanawha); permits were denied because of possible acid mine drainage problems. Holly Grove Coal Co./LaRosa Fuels appealed the denial to the Reclamation Board of Review (RBR). FOLK went to WV circuit court to obtain the right to be part of the appeal proceedings and was granted a hearing before the RBR. Holly Grove then withdrew its appeal just days before the RBR was to meet.

Round 2 began when Holly Grove once again applied for a permit in January 1980 (for the same acreage plus some). The State approved the permit this time and construction at the site was underway. FOLK made attempts to have EPA consider the NPDES (National Pollution Discharge Elimination System) permit application for the Holly Grove site. When EPA failed to act on its own, FOLK went to court to sue Holly Grove for operating without the necessary permits and to sue EPA, OSM and DNR for allowing the operation to commence without all the necessary permits. During court proceedings, Holly Grove agreed to cease operations while EPA investigated the application. As a result of this investigation EPA declared that requirements of the National Environmental Policy Act (NEPA) for areas as fragile as the Little Kanawha headwaters required an Environmental Impact Statement (EIS) be done before a decision could be reached about the mining permit.

Plans for extensive mining throughout the first 40 miles of the river from the headwaters in Upshur County to Burnsville Dam in Braxton County made it imperative to study the entire 40 mile stretch. However, in deference to the Holly Grove Coal Company and to expedite the company's permit application, EPA chose to do a two-phased EIS. Phase A would consider the limited Holly Grove site of 250 acres in Canaan, and Phase B would follow and consider the cumulative impacts of extensive mining in the entire headwaters area.

Public meetings, studies, a Draft Phase A EIS (DEIS) document, and comments on the draft followed. The Culmination of this process was to be a Final Phase A EIS and possibly a permit to be released in the Spring of 1982. Then, on April 5th Holly Grove withdrew its NPDES application (and subsequently agreed to

withdraw its state permit as well) thus making a Final EIS unnecessary under requirements of NEPA.

To fulfill a court order of May 14, 1982, EPA has issued a Response Document which provides three things: 1) that agency response to all substantive concerns raised by commentors either in writing or at the public hearing in October 1981; 2) a sampling of these comments on the Draft EIS; and 3) an updated CARGEID report.

Comments were received from eight Federal agencies, one State agency, six coal companies, one mining trade association, eight public interest groups (including the WV Highlands Conservancy), 20 private citizens and three legal service firms.

EPA grouped the concerns into three major areas: 1) overburden analysis and handling techniques; 2) the selection of a long term Post Reclamation Care Plan; and 3) what EPA chose to call "the alleged" inconsistency of the data contained in the Draft EIS and its ultimate recommendation.

The document breaks these three areas into 13 major issues and a multitude of subissues. In addressing these issues, EPA affirms some of their original positions with more words and/or data, i.e., review of three dozen mines utilizing the proposed handling techniques indicated that enough time has not passed to state unequivocally that the reclamation methods have been effective or ineffective. FOLK notes, however, that in many of these cases acid seeps have developed and are intermittent sources of acid mine drainage. Some DEIS data is corrected, i.e., there are to be 75 jobs not the 115 originally reported, and a possible 200 secondary employment opportunities, not 450 as reported. And resolution of some of the issues is deferred by frequently citing considerations which "were to be addressed in Phase B."

The new CARGEID deals with challenges to the original technical predictions concerning possible acid mine drainage from the proposed mine. The original CARGEID predicted that, with an infiltration rate of 0.5"/week, with no iron catalysing bacteria present, and a 1.5 cubic feet per second (cfs) flow expected, 40% of the time, the pH may vary between 3.41 and 3.44. Taking into account the reduced limits of mining proposed in the DEIS, lower infiltration rates, the presence of iron catalysing bacteria and new flow rates, CARGEIS II predicts a range of pH from a possible high of 3.83 to a expected at 10 cfs stream flow to

a low pH of 2.70 at 1.5 cfs flow rate.

This document can be obtained from U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106. Ask for the Response to Comments on the DEIS -- Holly Grove Coal Co. NPDES -- Little Kanawha/Burnsville Dam Area - W.Va.)

Holly Grove's withdrawal of its application not only put an abrupt end to Phase A before the final EIS was published, but also put an end to Phase B and the original intent of the full EIS, which was to evaluate the cumulative impacts of extensive mining in the Little Kanawha headwaters area as far as the Burnsville Dam. EPA had previously committed \$200,000 to Phase B, and is now willing to use this money in the Little Kanawha area with the cooperation of the State of W.Va. This latest element of Round 2 has not yet been resolved, though various ideas and suggestions are being considered by both EPA and W. Va.

Round 3 is not really a new development, but is merely a logical progression from what has preceded. In the summer of 1981 LaRosa Fuels was said to have sold its mineral and surface holdings in the Little Kanawha headwaters area. In August of this year, the official recording of deeds was noted in a local Upshur County newspaper. The LaRosa family had sold at least some 256 acres in a tract for over \$2 million to Stone Cove Coal Company (a subsidiary of Consolidation Sales/CONOCO/DuPont) while reserving the gas rights.

Now, in 1982, gas well drilling in Banks District along the Little Kanawha is rapidly increasing and Stone Cove Coal Co. is drilling core holes and ground water monitoring wells for their planned deep mines in the Craddock, Canaan and Goshen area.

Huge gas well sites and wide access roads (see Skip Johnson article on page 7) are being cut and dozed out of the tree-covered hills in the headwaters area. Careless construction and delayed reclamation and revegetation are allowing excessive loads of sedimentation to flow into the small streams and tributaries that are part and parcel of the headwaters system. Regulations on the gas industry are few and voluntary "Best Management Practices" are either ineffective or poorly implemented even by those companies the industry refers to as 'renegade.'

On the coal front, it is ironic that of all the research and study done these past few years in the Little Kanawha headwaters, that none of it involved any real consideration of

deep mining and its possible impact on the watershed. The Phase A EIS on the Holly Grove site showed deep mining as Alternative 5, but said that such mining would involve other requirements and a new permitting process and so did not assess this method. The Phase B type studies now being discussed by EPA and WV will further analyze surface mining techniques, but will not evaluate the effects of state-of-the-art deep mining methods.

At first glance, the decision to deep mine may present some advantages over surface mining (that is, if it is even economically feasible in this area). There will be less damage to the timber industry. There will be less disruption of the land, and possibly less displacement of individual families. There will be less disturbance of the toxic producing overburden so troublesome in surface mines in similar areas. And, furthermore, deep mining traditionally provides more jobs per ton of coal mined than does surface mining.

But the main question debated in the Holly Grove EIS, the question of water quality and quantity, remains unanswered even with plans to deep mine. What impact will this mining have on the waters of the area? Is the coal itself acid producing? Are recent state-of-the-art deep mining techniques adequate to protect the quality and quantity of water in the watershed? Are abandonment procedures effective? Will water seep out (or break out) of the completed mine shafts and contribute harmful loads of acid and metals to the lightly-buffered streams? And will subsidence -- fracturing and dewatering of wells -- especially in those high-quality shallow wells of the Little Kanawha hiltops -- negatively impact families in the surrounding communities?

The history of deep mining in W.Va. leaves these questions unanswered. Acid mine drainage from underground coal mines has been a persistent problem for many years.

Locally, old home punch mines often run acid. And recent large scale deep mine operations in nearby similar watersheds haven't been completed and, therefore, the after affects are not yet documented. (Drainage during the mining process can be misleading because of the constant lining and dusting inside the shaft...)

Both federal and state law require industry and regulatory agencies alike to accurately assess and predict the probable hydrologic consequences (FHC) of mining in any area, especially fragile, sensitive watersheds such

(Please turn to page 7)

CHARLESTON

Goodbye My Friend

TWO INTERVIEWS WITH DON BRANNON REVEAL TROUBLE AHEAD

BY SKIP JOHNSON

Don Brannon, who was once appointed, withdrawn and reappointed to the State Water Resources Appeals Board by Gov. Jay Rockefeller, has written the governor submitting his resignation from the board.

Brannon, a chemistry teacher at West Virginia Tech and an ardent trout fisherman, cited his heavy classroom load and a concern that regulations adopted by the board aren't being enforced rigidly.

"Also," Brannon said, "I am upset that Miles Dean (director of the Governor's Office of Economic and Community Development) is apparently running the water resources division."

He said the water board has established "what I consider excellent regulations for water quality standards, hazardous waste disposal and implementation of the NPDES program. But what concerns me now is enforcement of those rules and regulations."

Brannon contended when sewage problems cropped-up at Snowshoe Resort in Pocahontas County, "six warrants were served and then pulled back by Dave Callaghan (Department of Natural Resources director). "I don't think it was

coincidental that at the same time Miles Dean was working on financing for the resort," said Brannon.

He also contended that when Dennis Abrams, head of the attorney general's environmental task force, brought suits alleging oil and gas well drilling abuses to Falls Creek in Fayette County and at a public fishing lake in Wyoming County, "he was called on the carpet before sunset."

But Brannon said his primary reason for leaving the board is his full teaching load at Tech. "I am finding it increasingly difficult to find time to do board work and attend meetings," said Brannon.

Brannon was first appointed to the board in 1979, but he ran into opposition from the Senate Confirmation Committee and Rockefeller withdrew his name from consideration. In 1980, however, Rockefeller reappointed him to the board and he has served since that time.

A Charlton Heights resident, Brannon is a graduate of Glenville State College, and has a masters and doctorate from West Virginia University. He is active in the Kanawha Valley chapter of Trout Unlimited.

BY RICK WEBB

WEBB: Would you have stayed on the Water Resources Board if you had felt that you could accomplish something there?

BRANNON: I think the major work had already been done on the Board. We had finished up the water quality standards, NPDES Program, and RCRA, and the Under-ground Injection Control Program is in its last stages. I think I had accomplished pretty much what I had set out to do when I got on the Board.

W: In Skip Johnson's article, you also indicated that political interference was one of your reasons for quitting.

B: Well, if you're talking about what appears to be a lack of enforcement, that is true. There were many reasons for actually getting off the Board — and I see a lack of enforcement. Actually, the Division (of Water Resources) is not allowed to do its job. That's another reason, yes.

Another thing is, as I stated (to Skip Johnson), our teaching loads at Tech are not very light. As a matter of fact, everybody has the maximum recommended by the American Chemical Society. Last spring, I was over myself, as well as sitting on the Water Resources Board.

W: The time considerations, it wasn't worth your time?

B: Well, I don't know if you can say it wasn't worth my time. I have expended a tremendous amount

of time on the Board. A person gets worn down after a while.

W: In Skip Johnson's article there were a couple of specific instances mentioned that had the appearance of political interference. One was the charges being dropped against Snowshoe. Do you have the specifics on what exactly those charges were? Were there actual problems up there?

B: As I understand it, at Snowshoe, for a period of time, actually over a period of years, raw sewage has been flowing down the slope above upper Shavers Fork. And I don't think that the sewage treatment plant over on the Cupp Run side actually operates very well either.

Those charges were dropped.

W: And you think that came directly from the Governor's office?

B: I would say yes. Didn't the OECD (Governor's office of Economic and Community Development) recently negotiate a loan for Snowshoe?

W: As a matter of fact, they announced the loan the same day that the charges were dropped.

B: Right. You know it just seems more than a coincidence to me.

W: At the same time, one of the officials at Snowshoe stated that the only problem up there was some petty technicality having to do with the location of a fence, or something like that. Is that valid?

B: Well, the full details I don't

know. But I know that there has been a problem up there for a good while.

Now, there is another problem with Snowshoe at the present time, and it has to do with construction up there. I believe that a lot of that information appeared in the Highlands Voice. They are muddying up Cupp Run, Big Springs, and Slaty Fork, all of which are trout streams.

W: Let's see, Slaty Fork goes toward the Elk River doesn't it?

B: Yes, actually, what we call Slaty Fork is the upper end of the Elk. It's where Big Spring, Slaty Fork and Old Field Fork more-or-less come together.

W: I think some people are under the impression that West Virginia doesn't even have any turbidity standard. But that's not correct is it?

B: That is incorrect. This is another one of the water quality standards that in my opinion needs much greater attention in that there is a turbidity standard.

There are some exemptions for some streams. In other words, if a "208 non-point source pollution control plan is filed with the Water Resources Division, then an exemption is granted if they are following that particular plan. However, there are no exemptions for trout streams, and Cupp Run, and Big Spring and what we call the Slaty Fork section of the Elk, are all trout streams, naturally reproducing trout streams.

"THE STATE IS OBLIGATED TO FOLLOW THOSE RULES AND REGULATIONS, AND...THEY'RE NOT DOING IT."

W: Has there actually been a decision not to enforce it? Just how does it work that it is not enforced?

B: Well, I don't know, I would hate to say categorically that a decision has been made not to enforce it. However, in all appearances, it is not being enforced.

W: Have you ever heard of any cases where it has been enforced?

B: No, I have not. Actually, two years ago I heard of, shall we say, some inspectors being influenced against enforcement of turbidity standards, and the general conditions ("not allowable in waters of the state") clause in our rules and regulations. And they were encouraged not to enforce oil and gas operations.

W: About six months ago, Dennis Abrams, who is with the Attorney General's Environmental Task Force, brought the Falls Run case that was mentioned in Skip Johnson's article. That was a turbidity or sedimentation problem due to gas well drilling.

B: Well, yes, that was right next door. It upset me very highly, in that Dennis was called on the carpet.

W: Whose carpet?

B: It was Miles Dean's or somewhere in the Governor's office.

W: It also occurred at the very same time as a news release that the Governor issued calling for "less nitpicking" by the DNR.

B: Right, that is very true. And as a matter of fact, these wells were actually into a trout stream. All of this situation occurred into a trout stream. They sued the company for a very good sum of money; however, they settled for \$3,000...and the place up there is still a mess.

W: What I have heard of David Callaghan's or Dave Robinson's position on this sort of thing — like dropping pollution charges — they say, well, they're trying to work cooperatively with the companies, and if they show a sign that they're trying to clean up, a good faith effort, they can drop charges. Do you think there is any justification for that?

F: If you are to control pollution, you can work with a company as long as they show good faith in trying to get a problem cleared up. However, there does come a time, I think, when action does have to be taken. In some of the cases that have come before the board, there have been instances where the Division has gone along with them trying to get the problem straightened up for five years, and still the company has not complied. I would think they would have to show good faith in a much shorter length of time.

W: Before we leave the subject of interference with enforcement, can you think of other specific examples?

B: Oh, yes. As a matter of fact, on my favorite trout stream, which I shall not mention, approximately two, almost three years ago now, an iron seep started from a gob pile that a company had reclaimed. And you can go over there today and the stream is running red with iron. Now the stream is of high enough pH that acid drainage is not the problem. Flocculent iron is going down the stream and cutting off somewhere in the ballpark of a mile of water that would be excellent for trout to reproduce in. The inspectors' reports for the last three years, which I went back and looked at, all indicate there are iron seeps. And I, as a member of the Board, could not get any action, shall we say, positive action. The Division looked at it, ect. But a decision was made somewhere not to take any action to correct the problem.

They did get a state permit. When I looked at it last fall, they had had a state permit five months, and there were 23 violations of the permit, and there was

not one notice to comply in the file.

W: One problem that I am very familiar with is the failure, or refusal, to enforce the requirement against mine site construction without a water resources permit. And recently I talked to Brent Walquist, the new assistant director of the DNR, who said that he supported Callaghan's position on this because Water Resources has been too slow to issue permits.

B: This has also been a concern of mine. The statute and the rules and regs are very emphatic about that -- that there will not be anything happening until a permit is in hand. I heard through the grapevine, however, that as long as a company is applying for a permit, they will be allowed to mine -- and you have seen that.

W: When I look at this, it means to me, for one thing, that the state's enforcement program is clearly not up to the standards required for implementation of the federal NPDES program.

B: Well, one would get that impression. I think if the state has statutes and certain rules and regulations, the state is obligated to follow those rules and regulations, and at the present time they're not doing it.

And I want to say, I do not think that the blame lies with the Division of Water Resources.

W: It's just that they're under the thumb, right?

B: Yes.

W: Except for this kind of inability to take enforcement action, would you say that the West Virginia pollution control program is adequate otherwise?

B: Well, I think we have quite adequate rules and regulations if they could be enforced.

W: What do you see as the main water quality problem facing West Virginia?

B: Well there's three of them. Acid rain is a big problem. Sedimentation is a big problem right now, in that the turbidity standard is not being enforced, for what reason, I don't know. The other thing is what I consider inadequate treatment systems for coal mines. There needs to be two treatment systems. There needs to be a system for sediment control

one advantage cost-wise over sodium hydroxide.

W: Why are they going with sodium hydroxide then?

B: Possibly due to what is viewed as ease of application. You can have a concentrated solution of sodium hydroxide; however, the solubility of calcium hydroxide is not very high and you have to have a more complicated system. It's awfully easy to have a drum of 20% sodium hydroxide setting alongside the drainage ditch and run some in once in a while.

W: Another issue related to this is paying for this treatment after the mines are abandoned. One of your recent opinions in a case that I am involved in, would have required a \$2.8 million bond to treat acid mine drainage at the Brooks Run Coal Company. That would have been a precedent that you obviously feel is needed.

B: Definitely. If there is a threat to the environment, I think that whoever is getting the financial rewards of the operation, should also be made responsible for the consequences of that operation. I cannot see the people of West Virginia being made to pay.

W: Another basic policy problem that we face right now is that the DNR Administration holds the perspective that underground mines present much less of a hazard to the state's water quality and environment than surface mines. Therefore, they are not willing to very aggressively enforce the laws, and they now want to relax certain of the regulations. Do you think their position is justified?

B: There is very definitely a very high potential for acid mine drainage coming from deep mines as well as surface mines.

W: On the subject of surface mines, what is your perspective on the Kittanning coal seam problem?

B: I believe that the surface mines shouldn't be there. Even though the Task Force is working on it, the technology right now is not there. The situation is much more complex than was originally thought. And they don't have the bugs out of it yet. And if you are not able to control the acid that is generated, I don't think that you should mine it, pure and simple. Many of the areas in Upshur county should not be striped.

"IF YOU ARE NOT ABLE TO CONTROL THE ACID THAT IS GENERATED, I DON'T THINK THAT YOU SHOULD MINE IT"

and there needs to be a separate system for acid drainage control. There is a possibility that one system could work in a few circumstances; but from all I have heard, there are real problems when you try to put the two systems together. It just won't work.

W: You have advocated going to the more sophisticated system which uses the more expensive calcium hydroxide to give more control, than going to the less expensive sodium hydroxide system.

W: Changing the subject. Are you familiar with the Tory Mountain Ski Resort over at Harman?

B: You know, I haven't figured out exactly where that's at. Do you know? Is it on Tory Camp?

W: Yes, Little and Big Tory Camp Runs of Dry Fork.

B: Aw, you're kidding. Tory Camp is absolutely an excellent brook trout stream.

W: I think they are doing construction over there already.

B: I have heard of it, and actually I have been very concerned that what would be directly affected there would be a very good trout stream, a wild trout stream, Dry Fork. That is one heck of a big concern to me -- whether or

not suitable environmental controls will be applied to that particular construction project.

W: And whether the turbidity standard is being enforced?

B: That's true. Tory Camp is a native brook trout stream -- there can be no exceptions.

W: Another question. You've been trout fishing in different areas around the country -- how would you rate West Virginia's fisheries resource compared to the other states?

B: There's two ways to look at this. As far as large numbers of miles of exceptional trout

W: You resigned from the board, which I think it is safe to say, is kind of disheartening to West Virginia's environmental community. Would you have any advice at this point for people who want to work to protect their streams and environment? What do you think needs to be done? What can people do?

B: Well, as you know, Rick, it is a long hard row to hoe to actually make progress. It seems like you're always stubbing your toe. You run into one obstacle after another. The best thing you can do is be persistent. And, I suppose

"BECAUSE WE DO NOT HAVE A LARGE NUMBER OF GOOD... TROUT STREAMS...WHAT WE DO HAVE MUST BE PROTECTED"

streams, West Virginia does not have it. Compared to Pennsylvania, for example, we don't have it. And I suspect that even Virginia has more miles of trout streams, you know, good trout streams, than we do in West Virginia. As for the western states, there is no comparison. I guess what I am getting at is that because we do not have a large number of good, high quality trout streams in the state, what we do have must be protected to the highest extent. Every mile is precious, we do not have any to squander.

that people will accuse me of not being persistent, ect. However, I am tired. I need to take off a little while, shall we say, charge my batteries again. The basic thing is to keep at it as long as you can.

W: Do you plan to stay active with the Trout Unlimited organization?

B: Yes.

W: And through your involvement do you expect to remain involved with water quality protection?

B: It's more than likely, yes.

DNR NOTIFIED -- Under West Virginia law, pollution must be controlled before it enters a stream. The use of a stream itself to control and collect sediment violates prohibitions against alteration of the physical or biological integrity of a stream, according to Rick Webb of Mountain Stream Monitors.



TORY CAMP RUN -- One of a diminishing number of West Virginia streams which are clean and cold enough to support a naturally reproducing population of native brook trout (see Brannon interviews page 4). Brook trout eggs, which are laid in October, require silt-free gravel riffles for successful development and hatching. When checked on October 14th by Mountain Stream Monitors, Tory Camp Run was muddy (about 15 times the turbidity of one of its clear feeder streams). A series of check dams had been built in Tory Camp Run to collect sediment runoff from the road construction on what was formerly called Job Knob, more recently named Tory Mountain by the ski resort developers who are rushing to complete their access roads before winter sets in.

Cry Me A River

GROUND WATER RESOURCES THREATENED IN LITTLE BIRCH WATERSHED BY ACID MINE DRAINAGE

The following letter to the editor of The West Virginia Hillbilly was written by Rick Webb in response to a front-page article in the Hillbilly written as part of a 10-part, in-depth study of obstacles faced by coal operators in the Mountain State written by Harry Lynch.

In the article, which was an interview with David Lackey, Lackey was represented as a small (46 on the payroll) coal operator whose main problems stem from "outside influences."

"...Lackey is generally impressed with the Reclamation Division of the DNR, but has harsh words for the Water Resources Division. "I understand that people in Water Resources are disgruntled over wages paid them compared to the Reclamation people. Maybe that's one reason they're difficult to deal with," Lackey offers, half seriously, half jokingly. "I do know that certain inspectors give the impression that they are anti-coal. Water resources in particular are over loaded with environmentalists who are too quick to point out what they think is bad. I'll give you an example. First of all, we're an award-winning mine. The DNR gave us special recognition last year, and I was a former safety inspector for a large corporation. I believe in doing it right. Just the other day I received a copy of a letter from Bob Miles that was written by an inspector asking that action be taken against Lackey Coals for unauthorized discharge of iron water. Supposedly, the inspections occurred in January and June. I was never notified of an inspection, but that's not the worst part. I don't discharge water at the mine; it's recirculated and used to control dust..."

Webb, a frequent critic of Brooks Run, is a member of one of the environmental groups that Lackey said in the article, "...we're continually harassed by the same group of people."

BY RICK WEBB

Your front page article, "Coal's Biggest Problem..." which appeared in the Hillbilly's September 11th issue, demands a response. As one of the parties unfairly attacked by your featured coal operator, I feel that the issues need to be clarified.

Mr. Dave Lackey, who is championed in your article as the small-time coal operator harassed by unreasonable environmentalists, is one of five or more contract mine operators for Brooks Run Coal Company, a coal development concern owned by out-of-state and European interests. From the beginning of Brooks Run's central West Virginia project in 1979, a pattern of flagrant violation of environmental laws was established.

Based on the record, it is obvious that Brooks Run officials determined at the outset not to let permit and environmental review requirements stand in their way. The record shows that the Brooks Run coal preparation plant in Webster County was built both without the permit required under the federal Clean Water Act, and prior to the environmental review required by the National Environmental Policy Act. Furthermore, at least four mine sites were constructed prior to receipt of state and federal permits, and at least two mines were in production prior to permitting. My own viewpoint on the subject of government over-regulation of the coal industry was formed when neither the U.S. EPA, nor the West Virginia DNR, would take effective steps to require compliance.

Eventually the Brooks Run companies did acquire the permits. Under the circumstances, however, the environmental review performed by the agencies served only to justify decisions and mistakes that had already been made. To facilitate this subversion of public policy, Brooks Run, or its contractors, were able to suppress key hydrologic information that would have been damaging to their position if released to the public or made available to the agencies. In effect, they railroaded the environmental review process.

In the article, Mr. Lackey mentions "500 to one" public support for the Brooks Run project. (This figure is based on letters and petitions submitted to EPA.) He fails to point out, however, that none of those who signed on with the favorable comments had their own property threatened in any way.

As a landowner, I have a very legitimate interest in protecting the value of my property. Sure, Brooks Run owns the coal, and they own the right to mine it. But I do not believe that any rights of ownership, by a coal company or otherwise, includes the unrestricted privilege of destroying ground water resources.

Nor do I believe that private ownership, nor the much abused concept of free enterprise, include the right to degrade the streams of the state — which belong to all of us. The current Brooks Run operations and more extensive development plans threaten the continued high quality of this state's finest streams, the Birch River.

The way I see it, the "500 to one" figure cited by Mr. Lackey serves only as evidence of Brooks Run's ability to distort the issues, and to exploit economic interest as a basis for organizing a political machine to protect it from the consequences of its own irresponsibility. However, now

that a serious pollution problem has developed, letters and names on petitions will be to no avail. Once an acid mine drainage source has been created, it is here to stay.

Now, after what it only the initial phase of the Brooks Run development, two distinctly new sources of acid mine drainage have been created in the Birch River watershed. The stream bed of Panther Run, a small tributary of Little Birch, is now coated orange below two mine sites. Contrary to what Mr. Lackey contends (that "Everybody, including the DNR, knew that the stream contained a high level of iron before we started operations. It's not coming from my mines."), the present high levels of iron were not found in Panther Run prior to the mine site development. The bad drainage is from Brooks Run permit areas. Specifically, it seeps from spoil areas below the mine face-up areas.

It appears, however, that neither Brooks Run, nor its contractors, are willing to accept responsibility for treatment of the toxic discharge. This is understandable. Treatment of acid mine drainage is expensive, and it must continue indefinitely. I doubt that Mr. Lackey, or the other Brooks Run contractors, have the financial resources to assume liability for perpetual treatment. And neither do the people of West Virginia. The many miles of lifeless West Virginia streams which already run acid due to untreated mine drainage should testify to that. (see page 8 of Voice).

I want to point out that I recognize, and believe me I've taken a hard look, that coal can be removed from the ground in many situations without the kind of

CHARLESTON

So Long...

ABRAMS RESIGNS...LOOKS FOR ENVIRONMENTAL SETTING

Dennis Abrams, head of Attorney General Chauncey Browning's environmental task force since its inception three years ago, has resigned effective Jan. 15, 1983.

Abrams, a Beckley native, said he is considering a job in the field of environmental law in Washington, or he may open a private practice in Charleston.

Under Abrams, the environmental task force — the legal division of the Department of Natural Resources — has been a major factor in DNR's activities against polluters.

The task force brought the first public nuisances lawsuits in

environmental destruction that characterized mining in the past. The landscaping and revegetation work at the Brooks Run mines, for example, is not the issue. Acid mine drainage and the loss of groundwater — these are my primary concerns and cause for contention with the Brooks Run Coal Company.

Recently the state Water Resources Board reached a tie-vote on my appeal of Brooks Run's Mine No. 8A permit. Although the Board members did not vote favorably on my interpretation of state law concerning groundwater protection, two members did vote to consider the adequacy and economic feasibility of Brooks Run's acid mine drainage treatment plan. In addition to requiring a treatment system that would work properly, they would have required a 2.8 million dollar bond to pay for long-term treatment after mine abandonment. The other two members of the Board decided that the Board could not legally consider these questions. With a tie-vote, the Board was unable to make a proper ruling in my appeal. Now the U.S. 4th Circuit Court of Appeals has set the case before the Board again.

This appeal, and the others I have filed regarding the Brooks Run development, concern matters of important public policy. As members of what we think of as a responsible society, we must take a careful look at the environmental trade-offs that are attendant to development of our state's coal resources. Even in the worst of economic times, those who reap the profits of coal development should not be allowed to pass on their expenses and liabilities to the rest of us, and to the generations of people who will follow this one.

West Virginia history, the most publicized being against New River Co. when water from one of the company's abandoned underground coal mines flowed into Laurel Creek, a Fayette County trout stream. As a result of the suit, the mine was sealed and the stream is again being stocked with trout.

The task force's authority to bring public nuisance suits independently was lost recently, however, as a result of a state Supreme Court ruling in the Manchin vs. Browning case, when the court said the attorney general could act only as a lawyer for a state agency and had no common law authority.

Move On Down The Road

EROSION FROM GAS WELL ACCESS ROADS INCREASING

BY SKIP JOHNSON

A survey of 20 oil and gas well access roads by the state water resources division, most of them on the Little Kanawha River drainage, has shown an estimated average loss of 273 tons of soil per road, if no reclamation is done, or if it isn't done in a timely manner.

The division began the survey in May, picking sites at random from a 10-county district in the western part of the state. At least 15 more sites will be surveyed, according to Bill Brannon of the division's Charleston office.

Brannon said only access roads, and not drill sites, are included. "We feel the roads give us the problems," Brannon said. The average length of roads surveyed thus far is 772 feet.

"All this soil wouldn't necessarily get into the stream," Brannon said. "It depends on the terrain and the proximity of the stream to the road."

To obtain its estimates, Brannon said the division uses a formula known as universal soil loss equation, which is used by the Soil Conservation Service in designing plans for its farm co-operators.

Other factors are considered, Brannon said, including whether erosion controls are built in at the start, how much time elapses prior to reclamation, and whether the road is heavily used during wintertime or other bad-weather periods.

He said the soils of the Little Kanawha basin are mostly red and yellow clay, which are highly erodible. He said these clays remain suspended in water longer than most other soil types and are more visible. The Little Kanawha, a good bass and muskie stream, is muddy an estimated 80% of the time, according to the DNR wildlife division.

The survey was begun by water resources to determine the effectiveness of Section 208 of the Federal Water Pollution Control

Act. This section, which has been in place two years, calls for voluntary erosion control by land-disturbing industries, including oil and gas drillers, timberers, highway builders and farmers.

Brannon said less erosion is coming from surface mine access roads than from most other land disturbances because of strong environmental controls on surface mining.

Mike Mills, water resources inspector at Parkersburg, said the survey includes samples from wells primarily in Ritchie, Doddridge, Calhoun, Roane and Gilmer counties.

Mills said the estimates on soil losses don't surprise him. He said he considers the 273-ton average "pretty low." This is just a potential loss, he said. "It is an estimate of what would happen if no reclamation work is done."

He said the soil loss would rise above the estimate if the road receives a lot of wintertime use or use during summer storms. "Then it would be a very conservative estimate," he said.

"They (the oil and gas industry) aren't doing too bad a job on reclamation," Mills said, "but there is a lot more that could be done."

He said the loss of topsoil and stream erosion are major problems in West Virginia. "There is a real need for concern," he said.

Tears

(Continued from page 3)

as the Little Kanawha.

But who knows how to do such an assessment? The now required six-month minimum monitoring of chemical and biological parameters of nearby streams is debated up one side and down the other. Groundwater monitoring for quantity and quality is also required for six months prior to mining, but where is the best place for wells? And how extensive must the preliminary data be? And how accurate are the geological as well as hydrological predictions? OSM has issued guidelines for groundwater monitoring, but state and industry personnel debate the usefulness and appropriateness of these directives.

NPDES permitting is now in the hands of the state, but who is to say if it is possible for the Department of Mines, the DNR Reclamation Division and DNR Water Resources to work together in a cooperative effort which is both strong and effective? EPA has retained oversight in the NPDES process, but to what extent will it choose to exercise that oversight, and how effective will it be?

At stake in all of this is the Little Kanawha, the surface and groundwater reserves that feed it year-round and make it the high-quality stream that it is, and the lives of people who depend on these waters as an integral part of their existence.

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ELKINS

P For Poor

LETHAL MINE DRAINAGE

Water quality in the Tygart Valley River subbasin ranges from excellent to poor, with pollution from abandoned mine drainage affecting all but a small part of the subbasin, according to a study by the Department of Natural Resources.

The results of the Tygart Valley River Subbasin Abandoned Mine Drainage Assessment show that the first significant abandoned mine drainage enters the river from five miles downstream from Elkins. From this point to the mouth, the study says, the river "falls constant prey to intermittent and often lethal doses of mine drainage."

The study was prepared under the Division of Water Resources' water quality management program in cooperation with the Reclamation Division's abandoned mine lands section. A limited number of copies are available from the Division's public information office in Charleston (348-7861).

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Acid Bond

CANADA NEEDS HELP TO STOP ACID RAIN

Sulfur pollution may have caused the deaths of 5,000 people in Canada and the U.S. during 1980, a preliminary congressional study found. The draft of a final report due late next month also said if sulfur dioxide emissions, which cause acid rain, remain constant, the number of deaths could rise.

The following letters to the editor of the Wall Street Journal illuminate the pressing problem of acid rain from our neighbor's point of view and a bordering state.

BY ALLAN GOTLIEB
AMBASSADOR OF CANADA

I have no doubt that your Sept. 7 editorial on acid rain (Gitche Gume's pH) will evoke considerable comments from those who are seriously concerned with the demonstrated effects of this phenomenon on our shared environment, if only because it flies in the face of most informed international scientific opinion.

I shall therefore limit my comments to how Canadians view the problem and how they are reacting to it. The problem is recognized by all political parties in Canada, reflecting deep and widespread public concern. The concern is on the impact of acid rain on our large, sensitive ecosystems and on vital economic activities that depend on a healthy environment — agriculture, tourism and our largest industry, forestry. There is also a deep concern about the enormous cost of cleaning up, repairing and restoring what acid rain is destroying. At the same time, contrary to the suggestion in your editorial, Canadians are prepared to admit and shoulder their share of the blame for emissions which affect both sides of the border.

In the context of this wide public concern in Canada, the Canadian government after lengthy deliberations has concluded that, while research into acid rain and its effects on the environment should continue, enough is already known about the impact of the annual 50 million tons of sulfur dioxide and nitrogen oxide emissions from sources in both Canada and the United States to warrant immediate laws and regulations to reduce the threat. The Canadian federal and provincial governments have followed this course. To cite two examples, the INCO smelter at Sudbury, the continent's single largest source of sulfur dioxide, emitted about 7,000 tons of sulfur dioxide per day in the mid-1960s. Existing Ontario regulations have reduced this to 2,500 tons per day with a further cut to 1,950 required in 1983. New strict controls ensure that the Texas Gulf zinc and copper smelters at Timmins are achieving 97% and 95%

sulfur containment respectively.

But acid rain is a shared problem which requires transboundary cooperation. Canadians realize this and in a recent poll 94% of the respondents saw acid rain as an international challenge that can be solved only through cooperation between the two countries. Canada has already committed substantial funds to the reduction of these emissions and, as a reflection of the shared nature of the problem, recently proposed to the administration that a concerted effort be made to reduce nitrogen oxide and sulfur dioxide emissions by 50% by 1990. The proposal, like many others aimed at dealing with this serious irritant in our relationship, has yet to be picked up.

* * * *

BY ROBERT F. FLACKE
NEW YORK STATE COMMISSIONER
OF ENVIRONMENTAL CONSERVATION

Scientific authorities agree that sufficient information exists to require immediate action to reduce the long-range transport of pollutants, the primary cause of the acid precipitation in the Northeast. New York state supports additional research and study. However, more study must not be used as an excuse for doing nothing.

Sen. Moynihan's bill, recently approved by the U.S. Senate Environment and Public Works Committee, requires an emissions cap on power plants, and would result in major reductions in sulfur dioxide from a 31-state region bordering or lying east of the Mississippi. Under the measure, New York state's contribution would be to make reductions over the next 12 years ultimately amounting to a decrease of 162,000 tons in annual emissions of sulfur dioxide. New York stands ready to ensure the required reductions are made once the bill becomes law.

Since 1968, New York has reduced sulfur dioxide emissions by more than 10 million tons. And the state did this by imposing strict limits on emissions from power plants and industries.

On the other hand, several states — primarily in the Midwest — failed to make similar reductions. As a result, citizens there are enjoying substantially lower utility rates — some 60% of the rates New Yorkers pay.

As for the contribution of natural resources to the acid precipitation problem, a 1979 study by scientists at Washington State University showed only one to two and a half percent of the sulfur deposition in the Northeast to be from natural sources. The remainder was shown to come from manmade sources such as power plants and industries.

Two Steps Back

DNR RECONSIDERS ITS DEEP-MINE REGS

BY JOHN PURBAUGH

On September 14, 1982, several West Virginia Highlands Conservancy (WHC) members and others interested in mining issues met with the new Deputy Director of the Department of Natural Resources (DNR), Brent Walquist.

Walquist's primary portfolio is the comprehensive rewriting of the DNR's permanent program regulations for surface effects of deep mining. He is well equipped for this task by virtue of his experience with Carbon Fuels, where he directed permitting efforts for many mining operations. Others attending the meeting were Cindy Rank representing Friends of the Little Kanawha (FOLK), Rick Webb representing Mountain Stream Monitors (MSM), Perry Bryant representing the Charleston-based Citizens Action Group, John McFerrin representing the Appalachian Research & Defense Fund (APPALRED), Judy Bockthaler representing the League of Women Voters and John Purbaugh representing the WHC.

Walquist's guiding philosophy in rewriting is based on two judgments, the first of which is: since federal office of surface mining (OSM) proposed regulation changes will allow the state more flexibility in drafting its own rules, the state plans to take advantage of that opportunity.

Secondly, since West Virginia produces much of the nation's underground coal, DNR will re-examine regulations which are "unduly burdensome" on underground mines, since such mines don't, under the newly proposed OSM changes, cause the degree of environmental harm as do surface mines.

As examples of this new gospel, Walquist went through the list of 35 conditions placed on the West Virginia program by OSM when it approved state primacy in surface mining regulation back in January 1981. Twenty-one of these conditions require compliance by the State on Nov. 1, 1982. Of these 21, the state will request reconsideration of several conditions, including the prohibition of up-dip mining and changes which would allow the state to permit mining on lands adjacent to lands unsuitable for mining. An example of the latter change would be to allow re-mining of some areas in the New River National Scenic River, which I feel is a hope of the DNR.

Highwalls may be allowed to remain after closure on certain deep mine sites by a variance procedure outlined by Walquist. His argument is that where a mine operates for 10 to 20 years, the spoil from the highwall created at the portal bench will have stabilized over time, and needn't be dug

up for restoration to original contour unless necessary to mitigate existing environmental problems.

Not surprisingly, objections were voiced to both these specific examples and the overall philosophy behind the changes. Walquist had asked the group to come prepared with a list of environmental effects of deep mining, including the following:

1. Acid mine drainage - long term, from gravity discharges, seeps or blowouts at the outcrop or mine seal;
2. Effective treatment systems for acid mine drainage (AMD) have yet to be proven; costs of treatment must be guaranteed by a bond;
3. Subsidence - surface effects from longwall and "controlled subsidence" or retreat mining;
4. Subsidence - underground effects from upward fractures into groundwaters;
5. Refuse disposal piles - inadequate drainage control and treatment;
6. Dewatering or disruption of domestic and agricultural water supplies;
7. Haul roads - runoff carrying heavy sediment loads, passibility of heavy metal leaching.

A spirited discussion about DNR's apparent enforcement policy then occurred. Walquist says that the rewrite will require all enforcement actions to be routed through Charleston, and that "guidance" will be given to the magistrates in handling the case.

We expressed concern that a policy which needlessly delayed on-the-spot enforcement by the inspector would undermine his authority on the site, and could actually chill enforcement initiative by field inspectors. One suspects that even without a regulation requiring central clearance, that's the clear internal policy today.

The camel's nose is in the tent, or is at least sniffing outside ready to enter and drive the still embryonic permanent surface mining program out into the cold. Walquist says there's still some time to influence the proposed regulations, which are due to be filed by mid-October. Public comment will then be open for a month, after which the DNR will finally promulgate the regulations.

Under the new state administrative procedures act a joint legislative committee must review the rules and finally approve or disapprove them.

Members, willing to participate in review and the drafting of comments of the rules, should contact the mining committee chairperson, John Purbaugh.