



# THE HIGHLANDS VOICE

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## After 12 years Cranberry becomes Wilderness Area

On January 13, a 12-year struggle came to an end. With President Reagan's signature, 47,800 acres of land in West Virginia were declared federal wilderness areas, and Cranberry Backcountry and Laurel Fork were saved from development.

When the battle began to save these West Virginia wonders, few believed the effort to save the land would take so long. "Back in 1977," said WVHC President Larry George, "I figured this would be all over in two years." As the years stretched on and resolution appeared distant, many must have thought—at times—that this particular environmental issue was an untenable battle.

"The popular press and the people never gave it (the Cranberry bill) much of a chance," George said. "When you see the hoops it (the bill) had to jump through you can see why."

The hoops were often shrouded in political subterfuge. Congressional Representatives, who privately supported the bill, refused to lobby for its passage on the floor of the House; underhanded tricks—using slight-of-hand to substitute the original bill with crippling amendments—threatened its failure and finally, over a decade's worth of work hung in the balance as House Bill 5161 lie on the desk of a President renown for his stands against wilderness.

The Cranberry issue was never an easy one. When the Isaac Walton League took the U.S. Forest Service to court in the late 1960's over the service's practice of allowing the clear-cutting of timber on federal land in the Richwood-Marlington area, the tone for the upcoming conflict was established. The result of that suit—the Monongahela Decision—would put an end to clear-cutting practices on federal forests.

Although the Monongahela Decision put a halt to lumbering in the region, as long as private interests owned the mineral rights to the land, Cranberry was always in peril of development for its mineral resources.

In 1970, the WVHC, then in its infancy, mounted its first push to incorporate Cranberry under the 1964 Wilderness Act. Under the leadership of Helen McGuinness and others, the Conservancy published the Cranberry Guide and Wilderness Proposal. This effort fell short for lack of support on Capitol Hill.

The Conservancy's hopes were renewed when Senator Jennings Randolph, in 1973, introduced a bill sponsoring Otter Creek and Dolly Sods for

wilderness consideration. Cranberry was included in this piece of legislation, but when the measure went to the House, Representative Harley Staggers, Sr., removed Cranberry from the bill and placed the issue on the backburner by turning it into a Congressional wilderness study area.

The establishment of Cranberry as a study area meant the Forest Service was charged with enforcing the "status quo" in the area until the Service completed its study and made its recommendations to Congress in 1980.

Although Cranberry was to remain in limbo during the five year study, in the spring of 1975, after the snows cleared, the bulldozing access roads for the purpose of obtaining core-drilling samples of coal reserves beneath the region, rekindled the push to turn Cranberry into a wilderness area.

A Chessie System (now CSX Corp.) subsidiary, Mid-Allegheny, leased Cranberry's mineral rights to Powellton Co. of Logan, W. Va. Powellton was interested in mining the area for its high-grade, metallurgical coal.

Upon investigation, George said, it was learned that Powellton was owned by Fiat of Italy. The plan to ship the coal to Italy where it was to be used in the manufacture of sheet steel for Fiat automobiles, and the Forest Service's failure to stop the construction 12 to 15 miles of access roads into Cranberry resulted in a Conservancy law suit to stop Powellton's bid to obtain mining permits for the area.

In 1977, the Conservancy moved ahead with its suit by preparing to take the Forest Service, Mid-Allegheny and Powellton to court. For six months Conservancy members and WVU law professor Patrick McGinley worked on the suit. The case resulted with the U.S. Southern District Court issuing a temporary injunction halting all mining in the backcountry.

When the West Virginia Legislature met in 1977, a bill was introduced to ban all mining in the backcountry, but the bill was defeated. In 1978, Conservancy member—and then Delegate from Princeton—Jim McNeeley introduced a bill in the state legislature to stop mining in Cranberry until 1980 when the Forest Service's recommendation was due in Congress. At one point during the W.Va. House of Delegate's debate on the bill, 15,000 pieces of mail flooded the House in favor of the bill.

With the success of a direct-mail fundraising campaign, and the recent



Larry George, Chairman of Cranberry Wilderness Committee, is presented a framed copy of Charleston Gazette front-page story announcing successful completion of Cranberry Wilderness campaign, and President Reagan's signing of legislation. The gift to George was presented by Judy and Skip Deegans of Lewisburg, WV, board members of WVHC.

injunction, the Conservancy obtained in wide base of grass-roots support and \$14,000 to wage its Cranberry campaign. "It was a high time for the Conservancy. It was sort of mind boggling," George said. McNeeley's bill, with the aid of the flood of mail, passed the House 96-8 and the Senate 27-7.

Riding a crest, the Conservancy again mounted an effort to convince Sen. Randolph to sponsor a Cranberry bill in the U.S. Senate. The Senator denied the request by stating it was too premature to sponsor a bill in that session of Congress.

By March of 1979, the Forest Service assured the Conservancy that it would recommend to Congress that Cranberry be granted wilderness status. Work began to enlist the support of Representative Harley Staggers, Sr., to have him sponsor a Cranberry bill in the House.

"We were worried that we didn't have a sponsor and we didn't want Harley Staggers to oppose the bill," George said. Arranging a meeting with Staggers, George and five Cranberry area residents went to Washington to persuade Staggers to sponsor the bill. "He dumbfounded everybody. He said it was a good cause and was in favor of the bill," George said.

"We thought we were in really fine shape. Cranberry was going to be recommended by the Forest Service as a wilderness area. But during the summer Staggers dragged his feet,"

George said. "We never did really figure out what was wrong."

As the summer wore on, the Conservancy issued a press release which tactfully suggested that Staggers was welching on his promise to introduce the bill. What ensued was a whirlwind media blitz which resembled "Point-Counter-Point."

In the end, Staggers relented and introduced two bills on Cranberry in the House. Telling the press that the Conservancy had initiated a campaign to "present" him into introducing a Cranberry bill, Staggers also said he did not support the legislation.

The language of the bills showed this lack of support for Cranberry. One bill, George said, created a wilderness area, but left the amount of acreage to be encompassed by the bill blank. The second bill preserved the backcountry, but did not stop oil and gas drilling, lumber cutting or coal mining.

Frantic to save the bill, Conservancy members tried to enlist the support of Senators Byrd and Randolph, but had no luck in obtaining the desperately needed aid.

"We found it very difficult to disengage from Staggers," George said. "That was not a bright moment for this bill or our lobbying ability."

In some efforts, opposites attract, and in 1980 the Conservancy found itself allied with a strange bedfellow—CSX. In the spring of

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## From the President

BY Larry George

The Highlands Conservancy is now starting a new administration for the coming two years and this period will be a very important one for the future and growth of the Conservancy.

During the past decade the Conservancy has either provided the leadership or significantly contributed to the accomplishment of several important conservation goals:

- Designation of the Otter Creek and Dolly Sods Wilderness areas in 1975;
- The Federal Surface Mining Reclamation Act in 1977;
- The final defeat of proposed U.S. Army Corps of Engineers reservoirs on the Cheat and Cacapon rivers in the late 1970's;

—And, only weeks ago, the Conservancy received one of its most gratifying victories in recent years with Congressional passage and President Reagan's approval of the Cranberry Wilderness bill.

These accomplishments, more by accident than design, have propelled the Conservancy forward to its present role as one of the State's leading conservation groups. As a result, West Virginians in general, and conservation leaders in particular, have come to develop high expectations for the Conservancy's ability to accomplish its goals and its willingness to become engaged in new projects and issues.

With the successes of recent years, both elected and appointed government officials have come to rely upon the Conservancy in an ever increasing degree for input in natural resources decision making.

The bottom line is that there exists high expectations for the Conservancy's standard of conduct in public forums and for its ability to competently advocate its positions on natural resource issues in the technical, legal and public policy aspects. With the great diversity of issues with which the Conservancy is involved today, it is only prudent that we carefully select the difficult issues that we often tackle in order to avoid overtaxing the limited resources of a basically volunteer lay conservation group.

It appears certain that the Conservancy will maintain its leadership role in efforts to protect the integrity of the Canaan Valley and to mitigate the damages caused by mining activities on Shaver's Fork. The traditional Conservancy role of "watch dog" for the management of the State's national forest lands also will be continued as will our long-standing commitment to the effective control of surface mining reclamation throughout the State. We also have supporting roles in the reauthorization of the Federal Clean Air Act and the associated issue of acid precipitation.

In past years, the Board of Directors has held the central role in determining the organization's positions, strategy and activities. My goal, as president, is to involve individual members to a much greater degree in the decision making process—in regard to both organizational positions on natural resource policies and strategy to achieve our goals.

This will be accomplished by making the Conservancy's issue-oriented committees the primary forum in which important pending decisions will be discussed, after which a committee recommendation will be reported to the Board of Directors.

These committees also will hold primary responsibility for determining strategy and coordinating activities to achieve Conservancy goals. Effective March 1, the following issue-oriented committees will be designated:

- Air Quality Committee—Acid precipitation, Clean Air Act reauthorization.
- Canaan Valley Committee—Davis Power Project, Land use and Wildlife Refuge in Canaan Valley.
- Highway Committee—Corridor H, Highlands Scenic Highway.
- Mineral Development Committee—Federal and West Virginia mineral policies and reclamation programs.

—Shaver's Fork Management Group—Litigation and administrative actions regarding mining activities on Shaver's Fork

—Oil and Gas Management Group—Legislation and regulations for reclamation of oil and gas operations.

Public Lands Management Committee—Management and development policies for national forest and state lands.

Water Resources Committee—Federal and West Virginia policy and programs to control water pollution and hazardous waste; Clean Water Act reauthorization; water development projects.

I believe that it is essential that individual Conservancy members participate in the above committees and I ask those interested to contact me personally at 9 Crestridge Drive, Huntington WV 25705, or phone: (304) 736-1325.

The Board of Directors will continue in its role as the governing body of the Conservancy and pass final judgment on all organization positions. However, much of the discussion of policy and strategy—which in the past has taken up by the Board—will now be the responsibility of the committees. The Executive Committee (officers and committee chairpeople) will take the lead role in coordinating committee activities and setting editorial policy for **The Highlands Voice**.

The primary goal of this redistribution of responsibility is to give every Conservancy member an opportunity to become involved in decision making. A secondary goal is to decrease the relatively heavy agenda and workload on our 31 member Board of Directors. I will make every effort to assure that this new distribution of responsibility does not become too structured and fully expect some future modifications in order to maintain the Conservancy's traditional organizational flexibility.

Finally, I wish to express the appreciation of all Conservancy members for the hard work and leadership provided by Jeanetta Petras during her past two years as President. Jeanetta was very effective in single-handedly managing the Conservancy's affairs during a difficult period when several intense issues, i.e., Shaver's Fork, Cranberry and Water Pollution regulations, had to be dealt with simultaneously. Jeanetta will continue on the Board as Past President and has agreed to assist me in several projects for which I am most appreciative.

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1980 contact was made with CSX Vice-President John Snow and words were exchanged that indicated that the company did not mind if the Cranberry bill was passed.

"They (CSX) were always very up-front. They were representing their shareholders and were in it for the bucks," George said.

While an intensive lobbying effort was getting under way on Capitol Hill, back in West Virginia DNR Director David Callaghan was beginning to make noises that his department would oppose any legislation to make Cranberry a wilderness area. Gov. Jay Rockefeller settled the issue by overruling Callaghan and saying West Virginia would support any bill pertaining to a Cranberry wilderness.

"In 1981 things looked pretty good. All the major players were in favor of the bill," George said, but Reagan was elected and the nation took a swing to the right. Although Benedict had promised that if he was elected he would sponsor a Cranberry bill, he was forced to delay it because of a threat from the White House to veto the Cranberry issue.

In December of 1981, Benedict finally introduced the bill. With the hearings of January 1982 going well, politics were introduced into the proceedings as Benedict announced he would run against Byrd in the November elections.

"It was a very nervous time," George recalled. "The Highlands Conservancy saw the bill as a bipartisan issue and we did not want to see it become a campaign issue."

In June the bill passed the House and moved onto the Senate, which George said was hostile territory. "The Senate hearings on August 14 went extremely well. It was the first time I walked into a Senate hearing and felt better when I left," George said.

Even though the bill went well in hearing, another problem appeared. Meeting with Senators Byrd and Randolph, George said the Senators expressed concern about a loss of tax revenues to Pocahontas and Webster counties collected from private ownership of minerals in the proposed wilderness area.

"Byrd and Randolph wanted the counties compensated for any tax losses. At first I thought the counties would receive a half million dollars," George said. When the Byrd amendment was added, however, the two counties were scheduled to receive \$3.2 million. This amendment added serious problems for passage because it would mark the first time a wilderness bill would compensate an area for lost tax revenues.

While Byrd insisted on the tax compensation as a condition of passage, his support did not appear strong for the bill. In an attempt to show a wide range of support Conservancy members Jim McNeeley and Perry Bryant solicited the support of the AFL-CIO and UMWA in West Virginia. With this show of support, Byrd backed the bill and attempted to get the bill out of the Senate Energy Committee. Again another delay came when Sen. Howard Metzenbaum (D-Ohio) stalled. With Congress breaking for the election the Cranberry bill sat at the bottom of the Senate.

In the Lame Duck session which followed the elections, Congress became engrossed with MX missiles, jobs bills, the five-cent per gallon gasoline highway tax and federal agency close-downs. Cautious not to miss an opportunity, Byrd worked behind the scenes and with the aid of Majority Leader Howard Baker, brought the bill onto the Senate floor with the \$2.2 million tax amendment attached.

On Saturday, December 19, with the Senate chamber overflowing, Sen. John East (D-N.C.) began his filibuster on the gas tax. As midnight approached and East continued talking, Byrd walked over to him and whispered in his ear. Out of respect of the Minority Leader, East told the Senate he would defer to Byrd for the introduction of an important bill.

With all eyes in the chamber directed at Byrd, the people in attendance must have expected that the Senator was going to announce a critical bill of national importance.

Instead, Byrd called up H.R. 5161, a proposed wilderness area in the state of West Virginia. According to Byrd's aides, Senators, members of the press and visitors in the gallery registered a state of shock at the introduction of the bill.

At this point, George said, Sen. McClure (R-Idaho), Chairman of the Senate Energy and Natural Resources Committee pulled a fast

one and told Byrd he would drop the bill into the box. At 12:15 a.m., December 20, the Senate approved H.R. 5161 and, because of the tax compensation amendment, sent it back to the house for ratification.

The McClure ringer was not noticed until Monday when an aide read the bill. If the ringer had slipped through unnoticed, H.R. 5161 would have been doomed. McClure's copy of the bill authorized the \$2.2 million to Pocahontas and Webster counties, but also contained language to compensate every county in the United States for tax dollars lost due to wilderness designation.

In the house, John Siberling (R-OH) moved to bring the bill onto the floor, but former Representative Mick Staton (R-W.Va.) and Mike Young of Alaska threatened to stop the bill. Behind the scenes work produced a favorable vote in the House and the bill was sent back to the Senate.

With many senators red-eyed from the last minute rush of business, H.R. 5161 came up for vote. At 2 a.m., December 22 H.R. 5161 became the last bill of the 97th Congress to pass!

From the Senate the bill went to Reagan, who had already signed three of the five wilderness bills to come to him.

The fate of the Cranberry issue now rested with Reagan. It was said that passage of the bill hinged with the Florida Wilderness bill (H.R.9).

Similar to H.R. 5161, H.R. 9 would have granted vouchers to phosphate mining companies as compensation for the loss of phosphate claims on 49,150 acres of land in the Osceola National Forest. Reagan refused to sign this bill.

As the bill lay on Reagan's desk, Byrd intervened on the bill's behalf. From reports given to him after the fact, George said Byrd met with Reagan and discussed the problems facing the country. As he was getting ready to leave, Byrd reportedly told Reagan he had a bill in his possession which meant a lot to West Virginians. Reagan said he had the bill.

On December 23 Reagan signed H.R. 5161 which created the largest wilderness area in the Eastern United States and marked the first time local communities were compensated for the loss of tax revenues due to a wilderness designation.

With the passage of H.R. 5161, CSX will be granted vouchers for the value of mineral reserves lost. These vouchers can be used as credits in future bidding on federal mineral leases.

To establish the value of the coal beneath Cranberry, CSX has one year to perform core-drilling in the area. After this all development and harvesting of minerals in the area will be forbidden.

## \$26 million recommended for Stonewall Jackson

The effort to halt construction of the high-wall Stonewall Jackson dam in Lewis County received a set back recently when President Reagan recommended to Congress that an additional \$26 million be appropriated for the project.

Reagan's recommendation, made on Jan. 31, also endorsed the appropriation of \$5.6 million for other water projects throughout West Virginia. The projects are contained in a recently released list of U.S. Army Corps of Engineer's water projects in the United States.

If Congress approves the \$5.6 million request, the money would be spent on: \$2.3 million for flood control near the R.D. Bailey dam, \$2 million for flood control at Beech Fork Lake, \$750,000 at Burnsville and \$600,000 for Levisa and Tug Forks of the Big Sandy and Cumberland Rivers.

The Stonewall Jackson dam, controversy has been a subject of debate for several years. The controversy is centered on whether a massive high-wall dam—which would flood approximately 19,500 acres of prime West Virginia farm land—is the best plan to curb flood water in Weston and other central West Virginian communities downstream for the proposed project.

Opponents of the dam—and recently Congressman Bob Wise—have gone on record saying a series of small watershed dams would provide better flood control and leave thousands of acres of farm land undisturbed.

In 1981, former Congressman Mick Staton appeared to be the lone West Virginia representative opposed to

the project—senators Byrd and Randolph has been in favor of the project since it was first authorized in 1966. But, when re-districting put Lewis County into Staton's district, he flipped on the issue and became a strong supporter for Stonewall Jackson.

Authorized in 1966, the dam was to be completed by 1976 at an estimated

cost of \$34.5 million. Now, almost seven years later, construction has yet to commence on the dam itself, even though \$46 million has been spent on the project by the federal government. Official estimates predict the final cost for Stonewall Jackson will hit the \$200 million mark if it is built.

## Listing of state rivers dim

by Skip Johnson  
Staff Writer, Charleston Gazette

The chance of any West Virginia river being included in the National Wild and Scenic River System is fading because of local opposition and lack of state government interest in a management role.

All were rated as qualified for scenic status by the agencies that studied them—either the National Park Service or U.S. Forest Service—although final reports have not been issued in every case.

But the agencies recommended that the rivers be managed by state or local entities, and not the federal government.

Given lack of state interest and local landowner opposition, none of the rivers is likely to get into the system, federal, state and county officials have conceded.

Local opposition has been particularly intense along the Greenbrier, according to the Forest Service, which has charge of that study. The agency's final recommendation hasn't been made, but is expected to recommend state or local management—a proposal the agency

concedes has little chance of getting off the ground.

The Park Service studied all the other rivers, and one study—that of Cacapon—has already been officially declared dead by the agency because of local opposition.

The final reports on Gauley, Bluestone and Birch are due out in a month or two, but aren't likely to change anything.

Birch, in particular, is stymied by landowner opposition. George Weilly, spokesman for the Braxton County Commission, said recently. He said there has been some favorable comment, but not enough to encourage the commission to pursue the matter.

The Gauley, Meadow and Cranberry studies have been lumped into one, and Meadow and Cranberry have already essentially been discarded because of local opposition in the case of Meadow, and Forest Service lack of interest in the case of Cranberry. The Forest Service points out that Cranberry is already protected because of its location in the Monongahela National Forest.

Private and commercial rafters oppose scenic river status for Gauley.

# Conservancy asks Environmental Impact state on Shaver's Fork Mining

By Bard Montgomery

Speaking for the Highlands Conservancy at a public meeting in Elkins on December 8, Bard Montgomery asked that an Environmental Impact Statement be prepared before the U.S. Office of Surface Mining (OSM) makes a decision on six mining permits for the Shaver's Fork watershed in the Monongahela National Forest.

The meeting had been called by OSM to identify the environmental issues that had not already been covered in two major studies of the area, one conducted by the Forest Service in 1978 and one by OSM in 1980 in response to the Conservancy's unsuccessful petition to declare federal lands drained by Shaver's Fork unsuitable for mining.

Montgomery stated that the conservancy was concerned that the critical issues of acid and iron drainage after the mines are closed had not been resolved. "We remain concerned" Montgomery said, "about the Cheat Mountain Salamander, Cheat Minnow, black bear and esthetic and recreational enjoyment of a wild river in its natural state."

Elkins attorney John Busch, representing Enviro-Energy, the permit applicant, contended that no further study is necessary, stating that "none of the studies performed already have come to any conclusion other than that mining can be done without harm to the river and the fish and the wildlife." In fact, the OSM study drew the conclusion that there was not enough information made available by Enviro to determine whether there would be gravity discharge of contaminated water. OSM decided that it would wait for this information to be produced in the permit applications.

It has been a long wait. The permit applications were submitted in March of 1981, and Enviro and OSM have been wrangling ever since over whether the information in the applications is adequate for making a decision. Meanwhile, four of the mines under discussion have been operating under state permits while the debate goes on.

One is located on Glade Run, two are at the old Linan mine site and one is across the river on the east side, opposite Linan. In addition, a new road was gouged out above Stalnaker Run last summer to the site of the proposed fifth mine. The sixth mine would be at the mouth of Yokum Run, just below Linan. The state has agreed to let Enviro operate no more than six mines and 22 miles of haulroad at any one time.

The Conservancy brought suit last July to stop further work on the new mines until federal permits are granted, but the Federal District Court at Parkersburg has delayed taking action on the case.

It appears that OSM's technical staff is making a sincere effort to appraise the environmental consequences of these mines, but Enviro's foot-dragging (they don't need a decision since they're already operating

without it) and staff shake-ups at OSM have left the permit review just hobbling along. Now OSM has decided its technical staff, which identified many deficiencies in the Enviro applications, is too overburdened to carry out the crucial environmental assessment of each mine. This job will be farmed out to a private consultant, not yet named. The Conservancy has asked that this consultant disclose any ties with Mower Lumber Company and its lessees.

The environmental assessments may give any or all of the mines a clean bill of health, called a "finding of no significant impact" (FONSI), which would ordinarily mean no Environmental Impact Statement will be prepared. The Conservancy has asked to examine and submit comments on any FONSI before a final decision to prepare or not prepare an EIS.

The advantage of an EIS is that it must consider alternatives to granting the permits, such as outright permit denial or the imposition of permit conditions to mitigate foreseeable impacts. These alternatives would be outlined in a draft that would be open to public comment.

Other speakers at the Elkins meeting contended that an EIS would just create more unnecessary paperwork. In the present case, however, an EIS would not have to go over the same ground covered by earlier studies. The Conservancy has asked that an EIS be prepared as a supplement to those studies, bringing them up to date and settling the question of acid/iron drainage.

## DNR limits Shaver's refuse pile

By Bard Montgomery

Department of Natural Resources Director David Callahan granted approval to Ingram Coal Company's plan to establish a new refuse pile in the Shaver's Fork watershed. However, in response to comments by Conservancy member Rick Webb, Callahan ruled out the use of the site for dumping of coal wastes originating outside the watershed. Webb had raised the possibility that the proposed permit would open the way to wastes of greater acid potential than those produced by designated coal seams in the Shaver's Fork basin.

Ingram Coal, formerly known as New Era Resources, operates a coal preparation plant at Cheat Bridge, which has long been the focus of conservationist protest. The preparation plant receives coal from both deep and strip mines on Mower Lumber Company land south of U.S. 250 in the Monongahela National Forest. It is also expected to receive coal from Enviro-Energy mines opened on federal lands north of U.S. 250.

The approved waste disposal site is on a ridge top near the preparation plant and adjacent to a strip mine that has been backfilled with wastes from the plant. Callahan cited the lack of adverse effects from the backfill as a factor leading to his approval of the new dump site.



Enviro Energy's conveyor and bridge cross Shaver's Fork at the Linan mine, a few miles below Cheat Bridge.

## U.S. Board dumps Shaver's Fork petition

By Bard Montgomery

The Conservancy's petition to have federal lands drained by Shaver's Fork ruled off-limits to mining has been denied in Washington.

A decision by the Interior Board of Surface Mining Appeals overturned a 1981 order by the Office of Surface Mining (OSM) which would have placed restrictive conditions on mining in the petition area. The Conservancy, represented by West Virginia University law professor Patrick McGinley, had asked the appeals board to rule out mining in the area altogether, based on a provision in the 1977 Surface Mining Law which grants protection to areas of special value, if they are declared "unsuitable for mining" by OSM.

Mower Lumber Co. and E-K Lands Co., major owners of the mineral estate underlying the federal lands, also challenged the OSM order. Mower claimed that portions of the petition area were exempt from the order, and disagreed with OSM's findings on the extent of its coal resources and the possibility of acid mine drainage.

The appeals board did not adopt the position of any of the parties involved. Instead it ruled that OSM never had the authority to consider an unsuitability petition on national

forest land, because such land is already protected from surface effects of mining by other provisions of the 1977 law. Nonetheless, there are many exceptions under this law, and Mower claims the exceptions give it the freedom to open mines in the national forest. Four mines are now being operated by Mower's lessee, Enviro-Energy, and two more are planned. None of these mines have federal permits, and the Conservancy is seeking an injunction to prohibit their operation until OSM makes a decision on the permits.

For Shaver's Fork, this ruling appears to mean that the 1979 agreement limiting Enviro-Energy's mining activity in the watershed is now a dead letter. This agreement was worked out between Enviro and the state's Department of Natural Resources (DNR), and limited the number of operating mines to six and the total length of haulroad to 22 miles. The Enviro-DNR agreement has expired, but was revived by OSM's 1981 order, then buried by the appeals board ruling.

The ruling also has serious national implications. It would appear to remove the possibility of protecting any national forest land in the country from mining by citizen use of the petition process established in the 1977

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THE W. VA. HIGHLANDS CONSERVANCY

# Canaan Valley's current land use situation

by Linda Cooper Elkinton

Land use professionals and others from various government agencies who have been involved with the study of Canaan Valley have, for many years, warned that the Valley's unique geology, climate and topography make it unsuitable for intensive development. However, intensive, uncontrolled development is what is now taking place in Canaan Valley and at a very rapid rate.

Within the last five years, housing units in Canaan have grown by 400 percent, and this trend is expected to continue into the next decade and beyond. In 1970, there were two businesses in the Valley. Today there are 13. At present, five developers are planning 1,480 condominium units and a private ski area and small-acreage development lots on the steep slopes of Cabin Mountain are also under way. Residency in Canaan is up 87 percent in the last ten years and projected increases of 150 percent are not unreasonable to expect during the next decade.

Canaan Valley is a very heavy rainfall area and the hard clay soils that underlie the Valley impair percolation. With much of the development there on relatively small acreages that utilize septic tanks, lagoons or small package treatment plants, for waste disposal, problems are on the way. In time, the waste will saturate the top layers of soil and leach into drinking water supplies, streams and ground water. The condition is already evident in some locations in the Valley and it will make the maintenance of good water quality for human consumption as well as for wildlife habitat and recreational activities impossible. Some Valley landowners and developers are beginning to recognize the seriousness of the situation but feel helpless or uninclined (respectively) to do anything about it.

The water quality of Canaan is especially important because the Valley's extensive wetlands—its marshes, bogs, swampy areas and beaver ponds—hold water somewhat like a large under-the-surface lake. Drainage in the Valley is routed from the fast-developing southern end to the water-logged northern end and once water quality is degraded, virtually all life and activity dependent upon it will suffer. While the Valley itself is unique, the situation is not. This is the same problem that has been experienced elsewhere where proper land use controls have not been implemented before masses of people have descended on a very attractive area. Lake Tahoe, the southern entrance to the Great Smokey Mountains National Park and the entire Pocono region of Pennsylvania are all examples of places where this problem has occurred.

A study recently undertaken for the Tucker County Commission addressing the over-development problems in Canaan suggests that Davis and Thomas could well serve as very convenient locations for much of the development presently envisioned

for Canaan. It notes that large tracts of land around these towns (owned by CSX) could be made available for the type of commercial activities which, by their nature, are not appropriate in the Valley.

These towns could again become the thriving business and residential centers they once were and, since they are established municipalities, they could better meet the challenges offered by development that otherwise may locate in the Valley proper.

We are all well aware that Tucker County and the surrounding area could profit from greater economic development and increased revenues. They need a stable form of economy rather than the boom/bust kind of thing they have experienced in the past.

Recent reports indicate that sales income in Tucker County has increased significantly in recent years: up 110 percent since 1976, from \$9.3 million in 1976 to \$20.5 million in 1980. In this same period employment has increased by 17 percent due to tourism associated with Canaan Valley and Blackwater Falls. This has more than offset the loss of jobs from factory closings in the 1970s, and once again, high school graduates in county seek jobs locally rather than leaving for bigger cities.

The tourist/outdoor recreation industry holds tremendous potential for stable economic growth in the area if the naturally attractive character of the area that exists today can be maintained in a high quality. There are few places in our State that are more highly appreciated and valued than the Blackwater Falls/Canaan Valley area. The public has made sizeable investments in the two State Parks and has a stake in what is immediately adjacent to them.

It is not in the public interest that those who have only their own economic gains in mind, as is more and more the case these days in Canaan, be allowed to determine the future of the area. In Canaan, increased private resort development means more and more acres are closed to hunters; popular and traditional public fishing spots are wiped-out to make room for new roads and bridges; and once scenic vistas are cluttered with undesirable buildings and offensive and over-sized signs. The result is that public use is being eliminated for the large, admiring public. As individuals, many cannot afford to purchase "a piece of the rock" in Canaan, but appreciate being able to visit and take advantage of the rare and unduplicated experiences which Canaan Valley has become famous—its hunting, fishing, wildlife diversity, nature photography, unusual plants and the opportunity to take advantage of a drive through its fresh invigorating air and splendid pastoral scenery.

Present developers in Canaan are ignoring the cumulative effect their separate houses and resort developments are wreaking on the Valley. If left to their own designs, developers will not recognize their

damage until it is too late to prevent serious economic impact. Responsible development is compatible with the protection of the Valley's resources, but it must be done with care and proper planning.

After years of searching and studying, it still appears that establishment of the Canaan Valley National Wildlife Refuge, as proposed by the U.S. Fish and Wildlife Service in May, 1979, with the practical and reasonable land use controls it involves; the sizeable in-lieu-of-taxes revenues it offers to Tucker County;

the contributions it would make to the growth of a strong and stable economic base in the area and the immense opportunities it provides for continued public use and appreciation of the Valley, is the best solution to the present situation. But if permanent protection is not possible in the near future, we need to begin work on whatever protection is possible in the interim. For, if another five years passes before serious work to protect the Valley's irreplaceable resources is accomplished, the decisions, by default, will already have been made.

## Davis should be scrapped

(EDITOR'S NOTE: This is a reprint of an editorial which appeared in the Jan. 21, 1983 edition of the CHARLESTON GAZETTE.)

Some issues drag on and on, endlessly argued in the courts and media, and never happen. A classic example was the Blue Ridge Project, a plan by American Electric Power to build a hydro dam on New River in North Carolina.

Blue Ridge was shot down by public opinion, Congress and even the then-president of the United States, Gerald Ford.

The Davis Power Project in Canaan Valley—West Virginia's own "Blue Ridge"—is becalmed in a similar sea. For a variety of reasons it's unlikely ever to be built:

—The Project attracts litigation like honey attracts bears. Two suits await resolution: the Army Corps of Engineers says it has the authority to deny a wetlands permit for the project; another challenges the licensing. Among appellants in this case is West Virginia. More challenges, more suits are certain.

—Allegheny Power System, which wants to build Davis, has bought into Virginia Electric Power Company's hydro project in Bath County, Va., thus delaying if not eliminating the need for the Canaan Valley dam.

—Demand for electricity is down nationwide. Upward curves in the load growth charts that were commonplace in the 1970s aren't there now.

## Who makes up these questions?

In a recent copyrighted poll about West Virginia's environmental attitudes, 32 percent of the people surveyed—or about one-third—stated they would approve a relaxation in clean air standards and other environmental laws "in order to help the economy and create new jobs."

The poll, performed by Charles Ryan Associates Inc., for the Charleston Daily Mail, WSAZ television and the Associated Press, asked 500 randomly selected state

residents "How willing would you be to relax the clean air standards in your community in order to help the economy and create new jobs?"

In addition to the 32 percent who responded favorably toward relaxing the standards, 40.5 percent said they were somewhat willing to relax the standards, 7 percent said they were not willing to relax the standards and 13 percent responded by saying they rejected any attempt to relax present environmental laws. 6.7 percent had no opinion.

## DNR attempts to redefine acid mine drainage

By Joun Purbaugh

Mining regulation changes submitted by the Department of Natural Resources, which call for transferring permitting authority for water pollution resulting from surface mining operations to the DNR's reclamation division, and that agency's stated decision not to enforce the in-place surface mining regulatory program, all combine to portray a future of lessened controls on mining and related water pollution.

DNR's proposed regulations would redefine "acid mine drainage" by eliminating the old standard of water with pH less than 6, and substituting a standard of 15 mg/l excess acidity over alkalinity.

According to Don Brannan, former member of the Water Resources Board, this change would allow mine discharges with a pH as low as 3.5 to 4.0 to be considered "not acid", even where the excess acidity was common sulfuric mine acid. This new standard for acid drainage is doubly important because only seams or overburden which produce "acid mine drainage" would be subject to the prohibition against gravity discharges of mine water and subject to requirements for handling and disposal of toxic overburden.

The long term cost to the state could be significant if this change allows more relaxed mine design and operational standards in areas previously considered acid producing.

After redefining acid mine drainage, the regulations then redefine "gravity", by saying, "a discharge which occurs solely due to the buildup of hydrostatic head or pressure is not a gravity discharge."

Previously, all gravity discharges from drift-entry mines in acid or iron producing seams were not allowed, and entries were located to prevent such a discharge. Now, in addition to the change in the acid definition, openings may be located in such seams even where it is anticipated that the abandoned workings would fill with water, and the resultant water pressure would cause a discharge out of an entry located below the highest point of mining.

Comments on these and other provisions of the regulations have been submitted by members of the Mining Committee. DNR Deputy Director Brent Wahlquist held meetings with both industry and environmental group representatives prior to official filing of the proposed regulations. Some suggestions made by WVHC members were incorporated by Wahlquist in the package, including a requirement for more baseline surface and groundwater monitoring for any operation proposed for a lightly buffered stream.

DNR and the industry—through the Governor's State of The State message—have proposed "consolidation" of state water pollution and state issued federal National Pollutant Discharge Elimination

System permits for surface mining operations into the division of reclamation. This bill would do much more than "consolidate" water and reclamation permits.

For over 50 years, the state has had a policy of regulating all water pollution activities under the water resources division. This new legislation would propose that the state water pollution act—including abandonment permits—simply not apply to "surface mining operations," which by definition includes surface area of underground mines.

The current water quality standards promulgated by the Water Resources Board would not apply to surface mines, and the Reclamation Commission of DNR Director Gallagher, Reclamation Chief Wahlquist/Pittsenbarger, Water Resources Chief Robinson and Director of the Department of Mines Walter Miller would be empowered to write new standards applicable to mine discharges.

Water is a cyclic resource system, and must be managed as a whole. The proposed bill takes one of many sources of water pollution and exempts one industry from the comprehensive management and permitting process.

Legitimate complaints exist over duplicative filing requirements for reclamation and water permits. Such problems can be remedied by regulations which require a joint application and permit document, but preserve review of water pollution effects of mining under the water pollution control act, by the water resources division. Water pollution from coal mines is still water.

Federal approval of state primacy in surface mining regulation was predicated upon the states' statute and regulations, which were determined to be as effective as federal standards at the time of approval in January of 1981. Due to a court order enforcement parts of the "approved regulations" were officially delayed for one year, until February 1982. DNR then refiled the "approved regulations," which were to become effective in phases. By September 22, 1982, all the federally approved program was in effect.

Although no contrary filing has ever been made with the Secretary of State, DNR Director Dave Callaghan has confirmed his decision to further delay enforcement of these regulations pending ongoing changes in the guiding federal regulations and the proposed changes in the approved state regulations. This decision means that the 1981 approved regulations have never been made effective or applicable, and never will be.

Callaghan feels that the "interim" regulations of 1978 adequately implement the intent of the 1981 state act. This highly confusing scenario means that the proposed state regulatory changes will be judged by comparison to a set of federally approved regulations which have never been implemented.



## Local sources may be cause for acid rain

Local sources and not emissions from coal-burning power plants in West Virginia and the Mid-west may be the cause of acid rain in Canada and the Northeastern United States.

In a recent completed study on acid rain, Pittsburgh scientist J.O. Frohlinger reports that a storm system which remains static over an area for long periods of time may collect more dust particles and, therefore, make rain more acidic. Dust particles play an important function in the development of rain since water molecules attach themselves to these particles to produce rain.

If Frohlinger's study proves correct, it would contradict the presently held belief that acid rain in Canada and the Northeast is directly related to the transmission of sulphur dioxide emissions from Mid-western power plants by wind and storm systems.

In his eight year study — from 1973 to 1981 — Frohlinger compared measurements of dust particles collected in western Pennsylvania, nor-

thern West Virginia and western Maryland for their chemical makeup, the acidity of rain and the amount of acidity of rain from the same storm at different locations.

His findings showed that the longer a storm system remained in an area, the higher level of sulfate was found in the rain. Comparing his local findings with regional weather data, he discovered that rain from the same storm in rural West Virginia and Pittsburgh had the same level of pH as levels recorded from the same storm at the Willow Island power plant, near St. Marys WV, and in Illinois. The storm had travelled across Ohio where many coal-burning power plants are located.

At present, Frohlinger has not decided where and how he will use the information collected by his study. The eight year project was funded by the Allegheny Power System, which, he said, had no control over the findings or future use of the collected data.

## Are you a Nazi Dupe?

Interior Secretary James G. Watt has triggered new rage among environmentalists by likening their zeal to that of the Nazis in the 1930s.

"Look what happened to Germany in the 1930s," Watt said in an interview in the January 24 issue of Business Week. "The dignity of man was subordinated to the powers of Nazism . . . Those are the forces that this (grass-roots environmental movement) can evolve into."

Michael McCloskey, executive director of the 338,000-member Sierra Club, responded, "Only James Watt would fail to see the difference bet-

ween Hermann Goering and John Muir."

"I think the secretary has gone bonkers. It's time the whitecoat people took him away," said Gaylord Nelson, chairman of the Wilderness Society.

Watt said in the interview that environmentalists want "centralized planning and control of the society." His press secretary, Doug Baldwin, said the quote is accurate, but that his boss did not intend to liken environmentalists to Nazis.

— Reprinted from the Washington Post

# Water quality under attack by EPA

by Perry Bryant

How much iron, or any other pollutant, a coal mine can legally discharge into West Virginia streams and rivers isn't always clear, generally, the U.S. Environmental Protection Agencies determines what level of pollutant is acceptable for existing and new sources of pollution. These levels are called technology involved (e.g. best practical technology, generally required for existing sources, are allowed higher levels of pollutant discharge than best available technology required for new sources).

What a coal mine can discharge is not, however, solely dependent on technology based effluent standards. The states are required under the Clean Water Act to review and establish "water quality standards" every three years. The term "water quality standards" is a little misleading. The process involves first determining the uses of every stream and river within the state. These uses vary from industrial, recreational, or agricultural, to warm-water fisheries or cold water fisheries, to swimmable. Secondly, once these uses have been established, certain in-stream water criteria are applied to insure that these uses are met. For example, because trout are sensitive to iron concentrations, the amount of iron concentration in a West Virginia trout stream can not exceed .5 parts per million, while streams unpopulated by trout are allowed iron concentrations of 1 part per million.

EPA used to establish the in-stream criteria needed to protect the various uses. These in-stream criteria have been recinded as regulations and are not mere suggestions.

If the in-stream water criteria are being violated, i.e. the designated uses of the stream are not being protected, then dischargers on the stream can be forced to reduce their discharges below the standards required under the technology based effluent standards.

Confused? It is confusing, but just remember that there are two key ingredients to water quality protection. The first ingredient is technology based effluent standards. The second key ingredient has two parts: a) stream and river uses, and b) in-stream water quality criteria to protect those designated uses. EPA has already made in-stream water quality criteria optional. Now EPA is proposing to allow states greater "flexibility" in establishing river and stream uses. I doubt seriously that relaxation of technology based effluent limits are far behind.

My objections to the proposed EPA regulations, to allow states greater flexibility in establishing stream and river uses, are two-fold. First, allowing states greater flexibility in determining water uses encourages economic warfare between the states. There are some states (Ohio comes to mind) that would love to write off certain streams and rivers in order to attract new industries. If the Clean Water Act was designed to do

anything, it was designed to protect states from this kind of economic warfare.

Secondly, the process used to give the states greater flexibility in establishing lower uses, is unrealistic. The process involves: 1) the selection of priority water bodies, 2) justifying lowering the uses through a "use attainability analysis" and a "benefit-cost assessment," and 3) developing criteria to protect the new uses, including site-specific criteria.

The thrust of this approach is to shift the responsibility of proving that a use cannot be met from industry, to the state agencies. For example, industry could maintain that a particular water use was not being met and that the cost to industry to control their effluent in order to meet the in-stream standards would not justify the benefits associated with the use. The state agency (the Water Resources Board in West Virginia) would conduct a cost-benefit analysis to determine the validity of the industry's assertion. Cost-benefit

analysis are expensive to perform and fraught with subjective assumptions.

What dollar figure, for example, would a state agency apply to the experience of a child growing up near a stream which is clean enough for crawdads to survive? Is that experience (of being able to catch crawdads) worth a \$1,000, \$10,000, \$100,000?

Similarly, the states are not in a position to develop site specific criteria. Generally, the states have relied on EPA to develop general in-stream criteria. The ability of 50 different state agencies to develop two or three site specific criteria per state is questionable at best. It is, in my opinion, unconscionable for EPA to suggest that the states develop cost-benefit analysis and site specific criteria, while at the same time drastically cutting grants to the state for water pollution control programs.

Finally, the proposed regulations eliminate the additional protection granted to "outstanding national resource waters". EPA claims that

this additional protection is not mandated by the Clean Water Act, and therefore, they are going to eliminate this provision. This seems to exemplify the new EPA approach: "If we're not absolutely mandated to protect the waters of the United States, then we won't."

Anyone who would like to comment on these proposed regulations should write to Mr. Saback of EPA before February 11th. The address is Criteria Branch, Office of Water Regulations and Standards, US EPA, 401 M. Street SW, Washington, D.C. 20460.

Anyone wanting additional information can contact me at 346-5891 or write to 1324 Virginia St., E., Charleston, WV 25301.

## WVHC Board meeting



Larry George, newly elected President of the Highlands Conservancy, presides at his first Board of Directors meeting during the recent Mid-winter meeting at Jackson Mills 4-H Camp on Jan. 15-16. Also pictured are from bottom, are: Mike Gilzow, Trout Unlimited, Skip Deegans, Perry Bryant, Charleston Vice-President, Lois Rosier, Conservancy Secretary and Larry George.

Larry George was elected president of the Highland Conservancy at the mid-winter board meeting held at Jackson Mills on Jan. 15-16.

Officers elected to the Board at the Sunday Board meeting were: Glenn Davis, William McNeel, Jim McNealey, Frank Pelurie and Tom Michael. Their terms expire January 1985.

Committee reports included: Cranberry—With passage of the Cranberry bill, CSX Corp. has one year to perform core drilling in the backcountry to determine the value of coal reserves beneath the area. CSX will be allowed limited access into the area with lightweight motorized vehicles.

Canaan—It was reported that the Nature Conservancy was the reci-

ipient of a \$25 million grant from the Richard King Mellon Foundation. Discussions also were held on the Conservancy's next course of action in the Canaan conflict.

Shaver's Fork—The Board recommended that work continue to halt mining in the area.

Membership—Linda Elkinton reported the Conservancy presently has 607 members. A membership campaign is currently in the works.

The Board's spring meeting was tentatively scheduled for the weekend of May 7-8, at Camp Washington Carver. The camp is about three-miles from Babcock State Park. A presentation on the New River National Park and tours of the new park are being planned.

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## WVHC Environmental Priorities Set

By now we all are aware of West Virginia's financial plight, but while our state legislature wrestles with our economic woes, important state environmental issues also must be addressed. The following is a listing environmental priorities, approved by the Board on January 16, the Conservancy will endorse in 1983.

### 1. Oil and Gas Reform

**Problem:** Current state law does not provide notice to surface owners when a driller applies for a permit for oil and gas exploration. Therefore it's possible for a property owner to come home some afternoon and find a bulldozer building a road on their property. Other problems include: spacing of wells (this is where a driller puts a well right next to the property line and doesn't pay the adjacent mineral owner for the oil and gas taken from him); lack of protection for fresh water supplies; poor reclamation standards and enforcement; lack of damage recovery procedure; and lack of enforcement.

**Highlands Conservancy Position:** To support a bill which gives the surface owner 15 days notice that a permit is pending, and that the surface owner be given the right to object to road location and well location. An alternative position is to require the oil and gas developer to get written permission from the surface owner prior to issuance of a permit. We support a bill with the following provisions: 1) Mandatory well spacing if requested by the adjacent mineral owner or if deemed necessary by the administrator of the Oil and Gas Division. 2) Testing of water wells in the area prior to oil and gas exploration. 3) Requiring that temporary revegetation be concurrent with land disturbance and that permanent revegetation be completed within 30 days of the removal of the drilling unit when weather permits. 4) Allowing the surface owner to select between going to court or binding arbitration to recover for damages, including being reimbursed for lost land use as a result of road building and site preparation. 5) Increasing enforcement by increasing the number of inspectors, increasing their pay, changing the requirements for being hires as an inspector, and allowing the administrator of the Oil and Gas Division to revoke a permit or deny the issuance of future permits when a driller is in material violation of a law or regulation.

### 2. Reorganization Withing the DNR:

**Problem:** Some people within the DNR would like to have the Reclamation Division (RD) handle the water discharge permitting process for all mining activity. This permitting procedure is currently handled by the Division of Water Resources (DWR). While this doesn't seem to be a big deal it can have major ramifications. The DWR is headed by Dave Robinson who has better perspective on environmental concerns than does Pete Pittsinbarger, who heads the RD. Pittsinbarger seems to have the

attitude that "if we have to pollute streams in order to mine coal, well that's the price we have to pay for progress."

**Highlands Conservancy Position:** Oppose any legislation which will remove the water discharge permitting process from the Division of Water Resources.

### 3. Solid Waste

**Problem:** Like oil and gas exploration, there are a number of problems with the state program—actually the lack of any significant state program—dealing with solid waste. First is the lack of enforcement of solid waste regulations. Second, is the lack of any state program designed to reclaim the approximate 2,000 open dumps in West Virginia. Third is the lack of support for the Solid Waste Authority which provides technical assistance, planning and financial assistance to counties and local governments in opening new sanitary landfills.

**Highlands Conservancy Position:** Support legislation removing the Health Department from enforcing solid waste regulations and vest that power with the Department of Natural Resources. This already has been done by executive order, which is probably illegal. Secondly, and much more difficult, a solid waste reclamation program must be established within the DNR. The idea probably would have support but getting funding for a new program this year will be difficult at best. Thirdly, support should be to provide adequate funding for the Solid Waste Authority (SWA) and oppose any bill which will abolish the SWA or transfer their authority to the Governor's Office of Economic and Community Development.

### 4. Hazardous Waste

**Problem:** One of the biggest problems with hazardous waste is the need for state matching monies for Superfund Expenditures. Even if a Superfund site is privately owned, federal law requires the state to pay 10 percent of the feasibility study, design study, and construction cost, plus 50 percent of the monitoring and maintenance cost after the site has been reclaimed. If the property is owned by the state then the state must contribute 50 percent of the feasibility study, 50 percent of the design study, 50 percent of the construction cost and 100 percent of the monitoring and maintenance cost. Obviously the state is going to have to have a lot of money if we're going to clean up any of the abandoned hazardous waste landfills.

**Highlands Conservancy Position:** The creation of a state superfund. The superfund legislation would tax hazardous waste material which is treated, stored, or disposed of in West Virginia. The tax would be steepest on those methods of disposal which are likely to cause problems in the future, i.e., landfills; and would be lightest on the more environmentally sound but more expensive disposal technologies, e.g., incineration.

There are other problems with the hazardous waste program in West Virginia. First, there is a provision in the state law which requires state regs to be "consistent with and equivalent to" the federal regs. This has caused the DNR and the Air Pollution Control Commission a lot of problems when they have tried to adopt good regulations which differ from the federal regs. This section of the regulations should be deleted.

Thirdly, there are two regulations which have not been finalized by the DNR which may come before the Legislative Rule Making and Review Committee. The first set of regs deals with the financial requirements (insurance) for treatment, storage, and disposal facilities. The DNR proposed regs which allowed for companies to self insure. The self-insurance must be eliminated.

The second set of regs dealing with landfill design hasn't been released yet. It has been recommended that the Highlands Conservancy position on landfill regulations pattern the California Approach. In California they have identified highly toxic and highly mobile hazardous waste and have said to industry you have to find alternative methods of disposing of these substances over the next ten years. If the West Virginia regs don't take this approach, then I am requesting Board approval to fight these regs in the Legislative Rule Making and Review Committee.

### 5. The Stonewall Jackson Dam

**Problem:** It's a boondoggle.

**Highlands Conservancy Position:** Continue our support of any resolution introduced which will place the state on record as opposing the construction of the dam.

### 6. Surface Mine Regulations

**Problem:** The DNR is currently in the process of revamping the surface mine regs and looking in particular to "lessen the regulatory burden on deep mines." These regs would change the definitions of acid mine drainage and gravity discharges and would drastically change blasting requirements among other things.

### 7. Water Use Registration

**Problem:** Currently there are no permitting processor registration process for people who use water from West Virginia's rivers and streams. In other words, the DNR has no idea how much water is used by industry in the State. There are three options to this problem: 1) Do nothing; 2) Require water users to register with the DNR and require the DNR to establish priorities in case of drought or 3) Require a permit for water use.

**Highlands Conservancy Position:** Support legislation which would require industry to register with the DNR and require the DNR to establish a priority water use system to be implemented during times of drought.

# \$25 million

# donated to

# Conservancy

By Skip Johnson of the Charleston Gazette

A \$25 million grant from the Richard King Mellon Foundation—the largest ever made by a private foundation for conservation purposes—will launch a \$50 million national wetlands conservation project, the Nature Conservancy announced Wednesday.

The five-year project will target key endangered wetlands in the United States. A conservancy spokesman said that by encouraging land gifts, matching gifts and sales at below market value, \$50 million worth of wetlands could be preserved.

Ed Maguire, the conservancy's West Virginia director, said this state could be a beneficiary of some of the grant.

He said two wetlands here of high priority are those near Mount Storm in Grant County and "a miniature Cranberry Glades in Pocahontas County." It is also conceivable, Maguire added, that some money could be applied to obtaining wetlands in Canaan Valley.

"But Canaan is so tied up in court over the Davis Power Project, there is nothing to sell until the controversy over that project is resolved," he said.

He said the conservancy is on record, however, as being interested in acquiring Canaan wetlands "assuming there is a willing seller."

The Army Corps of Engineers has been making an inventory of West Virginia wetlands over the past two years, and this is due out soon, Maguire pointed out. "We will probably defer to that study in determining our highest priorities," he said.

A spokesman for the conservancy's regional office in Arlington, Va., said there is no listing of places of highest priority to be acquired with the grant money, with the exception of two key wetland tracts in Florida.

It was disclosed Wednesday that the conservancy has reached an agreement with the Northwest Florida Water Management District on funding the acquisition of key wetlands along the lower 18 miles of the Escambia River.

"There are no other sites on the list," the conservancy spokesman said. "A determination will be made on a joint basis by representatives of the foundation and the conservancy's science department."

William D. Blair Jr., president of the non-profit conservancy, said the grant represents "a major effort to preserve significant examples of our threatened aquatic ecosystems."

The conservancy already has several preserves in West Virginia, including Craneyville Swamp in Preston County, Greenland Gap in Grant County, Yankauer Preserve in Berkeley County, Murphy Preserve in Ritchie County, Hungry Beech Preserve in Roane County and General Davis Cave in Greenbrier County.