



The Highlands Voice

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Environmental Council targets priorities for special session and 1992 legislature

by Norm Steenstra

About 200 people rallied again this year at Jackson's Mill to examine threats to the West Virginia environment and plan a united effort to preserve and protect it. West Virginia Environmental Council met for their third annual conference Sept. 5-9 at Jackson's Mill. The agenda was grueling yet invigorating as people from all backgrounds and areas of the state worked throughout the weekend. They met by region and issue committee to review the problems, develop solutions, and make action plans for the forthcoming year.

In setting legislative priorities for the 1992 legislative session, special attention was given to the those efforts already set in motion during previous sessions. WVEC concerns not addressed in the special session will top the priorities for the 1992 legislative session.

Legislative priorities expressed areas of greatest concern to citizens, while enabling the lobbying team to

target areas of importance as they develop during the session. (See box for legislative priorities.)

Funding for the Department of Energy was a major concern expressed during the "open-mike" discussion of the special session, with agreement that the cost of regulation must come from a tax on coal, rather than from any general revenue funds. Funding alone will not fix some problems inherent in DOE and much concern was expressed for retaining a continued federal presence in the regulating the West Virginia coal industry.

Solid waste issues were on everyone's mind throughout the weekend. The failed HB2802 (death by Brackenrich) remains the legislative model. It was agreed that the special session bill must contain not only a mechanism to control non-local garbage (in-shed, out-shed, landfill cap and Class B referendum) but also the pro-active elements of 2802 such as development of recycling markets, a ban on incineration, and mandatory recycling in cities.

Political discussions centered around basic strategies rather than individual races. Groups were urged to look first and foremost at local offices — city races and positions on county commissions and Boards of Education.

Cementing our relationships with teachers, labor, and other progressive groups was a major goal expressed.

Jim Kotcon of Sierra Club echoed Lois Gibbs's 1990 E-Day advice, "Go make friends in the senate and if you can't, throw the dirtbags out." With perhaps a softer tone, Jim suggested we should "not get mad...get political — convince them or replace them."

During the traditional "We all live on a Dot" session, participants shared concerns and stories of environmental tragedy and triumphs from the state.

Thelma Robinette of the T.E.A.R.S. group fighting a mega-landfill in McDowell County read from a poem which she wrote concerning the condition of WV and out-of-state garbage.

It's Almost Heaven West Vir-

Legislative Priorities

Special Session 1991

Solid Waste — HB2802 legislative model, must contain mechanism to control in-shed/out-shed, landfill cap, and Class B referendum.

Department of Energy — Money to bail out DOE must come from tax on coal, no general revenue should be used, federal enforcement must continue.

1992 Legislature

State Environmental Policy Act
Soil Erosion/Sediment Control
Water Quality Standards
Timber
Groundwater Regulation
Toxics Use Reduction
Industrial Siting Bill
Quarry Bill

Probably the most exciting moment, (if we leave aside the great North/South softball game [South 13, North 5]), was the "passing of the plywood." The concerned citizens of Barbour County, having won their fight against John Faltis' mega-dump, gave a truck load of plywood signs to McDowell's T.E.A.R.S. group. Little revision will be needed—"10,000 tons per day" and "Mega Dump" also describe the McDowell dump.

The Barbour County folks urged the T.E.A.R.S. group to win their fight and pass the signs along to the next group. This example of recycling at its finest will undoubtedly become a WVEC tradition.

Throughout the conference, the overwhelming experience was that although each individual comes with their own issues or concerns, these concerns unite us as a strong political group of voters. As our issues fade in and fade out, we stand united, dedicated to the economic and social development of environmental policy in West Virginia.

Conference focus is on waste prevention

CHARLESTON — "West Virginia Waste: What's to Become of It?" is topic of the seventh annual Conference on the Environment, Thursday and Friday, Oct. 3-4 at the Charleston Civic Center.

Purpose of the conference is to have industry, environmental activists, and government work together on ways to protect the environment and, at the same time, maintain West Virginia's economy, said Patrick Gallagher, chair of the 1991 conference.

The keynote panel includes Don Clay, EPA Assistant Administrator, Allen Hershkowitz, National Resources Defense Council, and Bruce Karrh, DuPont Director of Safety, Health and Environment.

Joel Makower, author of "The Green Consumer," and Dr. Han Srinivasan, Department of Marketing at the University of Connecticut are among panelists who will discuss "Packaging and Marketing."

West Virginia Waste Prevention and Management will be discussed by Jack Martin, West Virginia Solid Waste Management Board, Chuck Chambers, Speaker of the West Virginia House of Delegates, Jerry Englert, Winfield Industries, Timothy Laraway, Mid-American Waste Systems, Inc., and Martha Huffman, Wetzel County Solid Waste Authority.

A workshop, "Ethical Decisions in Waste Management and Prevention," will be held during the second day of the Conference.

Scholarships are offered to environmental groups across the state. If you are interested in attending, contact Cindy Rank, (304) 924-5802 or 924-6262 and leave a message.

Land conservation is topic, Oct. 5

LEWISBURG — Land Conservation through local ownership and management will be the focus of a workshop Saturday, Oct. 5, 10 a.m. to 4 p.m. at The Greenbrier Center, Lewisburg.

Many organizations are in a position to accept partial or full interest in land in order to preserve current land use. The workshop will provide an opportunity to answer questions about such transactions.

Co-sponsored by the Midland Trail Scenic Association, the Greenbrier River Planning Council, the Mountain RC&D, and the National Park Service, the workshop will consider:

- * Preserving family lands and farms;
- * How to donate conservation easements;

ginia
That's what out of staters think
But with all that out-of-state
garbage

It will be hell on wheels that
stinks

Robinette was one of many
McDowell County citizens attending
their first WVEC Conference and
there was an overwhelming display
of support for the group.

- * How to accept donations of lands and easements;
 - * Tax rules, liability, and other legal considerations;
 - * Why, when, and how to establish a land trust.
- For additional information call:
Midland Trail Scenic Highway Association, Inc., 304/632-1284
Greenbrier River Planning Council, Inc. 304/653-4722
Bluestone River Conservancy, Inc. 304/425-1491
Lewisburg Visitors Center 304/645-1000
or Don Briggs, National Park Service
Rivers, Trails and Conservation Assistance Program
215/597-1582.

— from the heart of the mountains —

by Cindy Rank

Partnership for Progress

Thanks in large part to the integrity and foresight of W.V.'s most recent Commissioner of Energy, E. Woody Wayland, the state is experiencing perhaps the most valuable and effective venture to date in Governor Caperton's Partnership for Progress program.

In the wake of the coal industry's refusal to give more than lipservice and a few pennies to WV Division of Energy (DOE) in the legislature last spring, and on the verge of federal takeover of the W.V. Surface Mining Program, the Office of Surface Mining (OSM) agreed to work with W.V. yet another time in an attempt to fix what many perceive to be an unfixable mess of a program.

On June 3, 1991 Commissioner Wayland and OSM Director Harry M. Snyder signed a Memorandum of Understanding (MOU) which committed both agencies to review and assess the needs, including the financial needs, of the ailing W.V. Program. The Memorandum further committed OSM to provide support personnel and services to DOE in critical areas of the program (i.e. inspection, enforcement, permitting, data processing, training, etc.) "until sufficient funding and permanent staff could be obtained."

To some, this MOU is merely another subterfuge, a short circuit in the inevitable need for federal takeover. To others, the MOU represents W.V.'s best attempt at a coup that may just wrestle the state surface mining program from the eager jaws of OSM one more time. To others, it may seem to be the best solution yet.

Whatever the perspective, this Memorandum has probably done more than any other action short of federal takeover to lead us one step closer to a reasonable and effective Regulatory Program.

Fulfilling one part of the MOU, the joint DOE/OSM Financial Review Team released its 75 page final report August 29th at the Governor's Mansion in Charleston. The report suggests and documents the need for an additional 242 people on staff (141 currently + 242 recommended = 383 total) and an additional \$4.8 million in state monies (to be matched by \$4.8 million federal monies thus bringing the total program budget to \$17 million).

Today's operative assumptions seem to be that 1) the coal industry has been inspired to cough up more money; 2) the Legislature will therefore be able to approve adequate and permanent funding for the surface mine program during the special legislative session September 30th; 3) presumably this money will be over and above current fees, severance tax, etc. and will be generated perhaps by a few cents assessed on each ton of coal produced, rather than being pulled out of other state programs funded by the already stretched and stressed general fund, and 4) OSM will go home happy, retreating to a more distant, less intense posture of oversight.

Residents of the state's coal fields are, and rightly so, a bit reserved in their enthusiasm for this fairy tale story of the phoenix rising out of the ashes.

It has been federal presence in-the-flesh, in-the-field, and in-the-files that has allowed us to come this far, that has provided additional experienced personnel thus creating the opportunity to focus on the problems and sort out the details, that has provided the incentive for coal to assume a greater share of their responsibility for funding the surface mine program, etc.

But the Memorandum of Understanding expires September 30th (unless extended by mutual agreement of both DOE and OSM). What happens to that OSM presence at that time is not yet clear.

It is understandable that even the most reasonable people might harbor the fear that once we agree to meet some of big brother's requests and send him packing we are likely to drag our feet, then find good reasons to dally around on a convenient plateau far short of an effective and adequate program.

It happened before when DNR sought and achieved primacy of the surface mining program in 1981, then resisted full implementation of the program year after year, only allowing the degree of compliance needed to keep OSM at arms length.

Of course the limitations and deficiencies of those first few years pale in comparison to the outlandish origins and antics of DOE over the past five years. But if memory fails us now, we are bound to repeat the mistakes of the past.

If current assumptions about funding and legislation are correct and go unchallenged, and an OSM takeover is not in the cards this time around, the partnership begun with the MOU on June 3rd has to remain in full force on all levels during the anticipated magic transformation of old to new.

See from the heart, page 3

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LETTERS TO THE EDITOR

Corridor H southern route is disaster for environment

Dear Editor:

Although the new superhighway in the West Virginia highlands seems now to be a bad idea whose time has come, we must not allow the power-brokers and road-warriors to blast Corridor H along the southern route through the heart of the highlands.

From virtually every perspective the southern route would be an environmental, and probably even economic disaster. Not only would the actual cost of construction and maintenance be much higher, but it is certain to have a negative impact on the very region it is supposed to 'save.'

It ought to be plain to see that many people who come to the highlands do so at least in part to get away from things like giant highways and endless malls. Does anyone seriously suggest that being able to drive from Elkins to Seneca Rocks five minutes quicker is going to mean a boom for tourism? Or that major new industries will flock to the highland valleys to shower the 'poor' residents with their bounty? Or that even if such things happened, that it would be a good thing for the region.

Let those who do go take up residence in the cities, preferably a short distance from the superhighway, where they can spend their time counting their money and reveling in the sound of thousands of big trucks roaring by every day.

But let the rest of us have our peace and quiet, our slower and simpler ways of life, our reliance on ourselves and our corporations, and let the highlands themselves be spared

from the ecological ravagement that a giant highway would certainly cause.

If a new highway is built, one thing is quite clear; whatever 'benefits' it may have will only be for the human community. The natural community that we share the land with can only be degraded by such a road, or any road for that matter. So it would seem to make sense that if a highway is constructed it be done so along a northern route that would serve a larger number of people and impact a less sensitive ecology.

But this seemingly obvious logic does not appear to have occurred yet to some of the road-hogs who persist in promoting the destructive southern route.

Do they really believe that there would be a tourist explosion because they would now have a superhighway with garish fast-food outlets and gas stations at every exit? Do they think that the greatly increased truck traffic that such a highway, wherever it is built, will inevitably attract, will be a good thing for tourism, or for anything?

Sadly, it would seem that there are many people who simply don't care where the road goes, so long as it is quickly built, so strong is their faith that 'The Road' will somehow lift them and their communities towards a new level of material prosperity, and thus of course the mythical 'better' life.

This is by now an old story, having been repeated in many rural area across the country, and there is little doubt that the same things will hap-

pen to West Virginians as have happened to other country people in the path of superhighways; their lives will come to be more and more controlled by the tentacles of urban corporations whose primary goal is increasing their profits, not improving the quality of life for West Virginians.

And let there be no doubt as to the kinds of corporations this highway will principally benefit: multinational bank, fast food/cheap junk conglomerates, giant mining and logging companies, and last but not least the toxic waste dumpers of the eastern megalopolis, who must be licking their chops at the prospect of an easy truck route into the heart of what they cynically believe is poor, backward West Virginia.

Is this what the majority of residents really want? Perhaps it is, but even if it is not, that is what they will get. A few (a very few) may even get 'rich' and move to Hawaii, and a few more may get bigger paychecks, but everyone will lose some of the most precious thing they will ever have; their freedom, because true freedom cannot be found in a bank account or behind a steering wheel, but from the peace and harmony that grow from the wild Earth, and from the deep-rooted love and friendship that grows from within a finely woven human community, where we tend the land with as much care and reverence as our own children.

When will we ever learn that you can't build a road to happiness? When will we finally understand that the wounds we inflict upon the Earth we inflict upon ourselves?

It is past time for us to stop regarding the construction of roads, especially huge superhighways as 'progress,' except that they continue our progression towards a more degraded, perverse land and culture. The idea that we must dissect the West Virginia highlands with a monstrous new road bringing constant noise, pollution and exploitation so that people can have a 'good' life is pernicious in the extreme.

The highlands area is already served by a network of high-quality, two-lane roads. We don't need any more.

What we do need is a new respect and appreciation for the land we live on and which sustains us. We need to relearn the old ways, the ways of living lightly and simply and lovingly upon the Earth, as partners and friends with all other beings.

That would be progress.

Sincerely,
Robert Stough
269 Owens Ave.
Derry, PA

State needs to form policy on environment

By James Kotcon

reprinted from the Charleston Gazette, Aug. 23, 1991

The time has come for a wholesale revision of West Virginia's environmental policies. More accurately, West Virginia needs to establish an environmental policy, because currently there is none. In spite of recent progress in environmental protection, fundamental shortcomings in the state's regulatory structure persist and undermine progress. These structural flaws have been exemplified by recent actions by governmental leaders.

Wetlands policy is an example. The Corridor H wetlands debate is being complicated by President Bush's recent policy revision. He proposes to "redefine" wetlands so that they do not interfere with the demands of developers. He believes he can keep his pledge of "no net loss" simply by changing the legal definition of wetlands.

Recently, Rep. Bob Wise, D-WV, who normally behaves with greater environmental sensitivity, attempted to intervene in the Corridor H wetlands dispute on behalf of the state Division of Highways. Now that the Corridor H project is being held up by the Army Corps of Engineers, Wise and the DOH propose to compromise by building replacement wetlands.

There are tremendous ecological difference between high-quality wetlands and a muddy hole. But the DOH has ignored those environmental distinctions for years. Wetlands provide important benefits in terms of water quality, wildlife habitat, pollution mitigation, etc., and these benefits cannot be replaced by simply building another muddy hole, even one that is 2.3 times, larger than the wetlands destroyed.

Anytime a state agency like the DOH makes the Corps of Engineers look like environmental heroes, then that agency is in trouble. The importance of this issue lies in its implication for environmental protection for the remainder of Corridor H. East of Elkins, some truly unique and special places are threatened by Corridor H and the actions of the DOH do not inspire confidence.

Another mind-boggler is the Division of Natural Resources' opposition to wild and scenic river status for streams in the Monongahela National Forest. Imagine the DNR being opposed to the "wild" in West Virginia! Director Ed Hamrick claims that the federal designation would interfere with state fish management activities and that the rivers aren't threatened. But his argument suggests that DNR is in fact the biggest threat to the wild and scenic qualities of these rivers.

But far and away the biggest idiocy is the suggestion from one legislator that the Division of Energy will get an increase in funding from the state's budget surplus. Earlier this year, the state Senate stripped fee increases on coal operators from the DOE budget. Now the state is faced with the loss of the whole mining program to federal regulators, and the special session in September looks like the last chance to get the needed funds for DOE. But rather than face the battle over fees on mine operators again, some legislators seem willing to take the easy way out and assess the taxpayers.

West Virginia has lots of legitimate uses for any budget surplus. McDowell County is so desperate for sewage treatment that it will consider hosting a mega-landfill or even a nuclear waste dump. Numerous towns need to upgrade their water supplies. The state's transportation network is falling down around us. Yet our legislators would have taxpayers subsidize the coal industry, rather than assess coal for permitting and monitoring costs. Legitimate needs would go unfilled in order to bail out the coal industry and DOE.

The coal industry will survive with or without DOE. But if coal operators want to keep DOE, let them pay for it. The taxpayers have thrown enough money into that Arch Moore rathole.

It is time state agencies got an environmental policy overhaul. The special session in September would be a good place to start.

Kotcon, of Morgantown, is legislative chairman of the state chapter of the Sierra Club.

from the heart

from page 2

Direct OSM involvement continues to be needed on a day to day basis and should be phased out only if and when new monies actually flow into DOE and only step by step as new, fully trained and qualified staff are brought onboard and new systems and computers become fully operational.

Great caution is called for if we are to preserve and build upon the progress this partnership has already brought to W.V.

West Virginia leads in something good

U.S. Department of Agriculture and Soil Conservation Service announced recently that West Virginia leads the nation in No-Till Corn. They prepared the following press release.

In 1990, West Virginia farmers went from fourth in the country to first in the percentage of full-season corn grown without tillage, according to the 1990 "National Survey of Conservation Tillage Practices."

West Virginia also led or was second in two other categories and was fourth overall in no-till farming, reported the Conservation Technology Information Center of West Lafayette, Ind., which compiled the survey.

In no-till, a form of "conservation tillage," crops are seeded and grown in soil that is not plowed. The soil is protected from erosion by crop residue or sod. The technology center describes no-till as "the ultimate in residue protection" and reported that this conservation practice "gained significant acreage in all crop types except double cropped grain sorghum."

In 1989, 32.9 percent of West Virginia's full-season corn was grown without tillage, the fourth highest percentage in the United States. In 1990, the percentage increased to 38.26, the nation's highest. Full-season corn, West Virginia's principal annual crop, was grown on 81,012 acres.

In second and third place with no-till, full-season corn were Virginia at 35.67 percent and Maryland at 30.28. Nationally, more corn is in no-till than any other crop, 6.4 million acres.

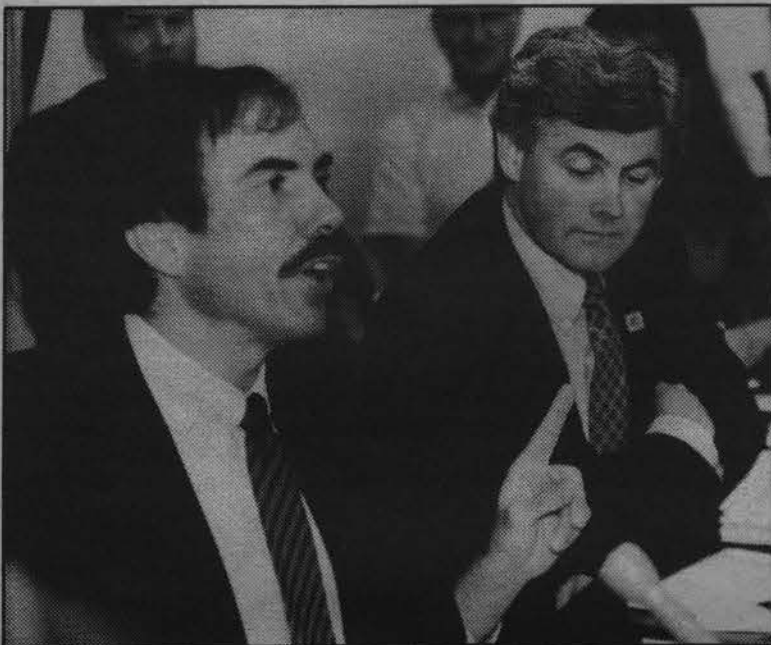
West Virginia's 7,319 acres of full-season soybeans were 45.02 percent no-till, by far the highest proportion in the nation. Delaware was second with 20.92 percent.

The state's soybean growers are leading a national trend. The acreage of full-season soybeans in no-till has doubled nationally since 1987, the technology center reported.

Wetlands protection stirs controversy locally and nationally...

Congressional subcommittee looks at wetlands

Hearing in Weston focuses on Corridor H, Buckhannon to Elkins



WEST VIRGINIA CONGRESSMAN Bob Wise and Congressman John W. Cox Jr. of Illinois at a hearing on federal wetland protection laws held in Weston

WESTON — Federal wetland protection laws and their enforcement came under Congressional scrutiny at a July 22 hearing.

Wetlands preservation "is quickly becoming one of the most controversial issues on the environmental landscape," said Bob Wise, West Virginia Third District Congressman and chair of the Government Information, Justice and Agriculture subcommittee of the House Committee on Government Operations.

Wise convened a subcommittee hearing on wetlands at Weston City Hall, then continued the hearing in the afternoon in Charleton. He was accompanied by Illinois Congressman and subcommittee member John W. Cox Jr. The pair conducted a similar hearing the previous week in Cox's home district. The hearing record will remain open until the end of August, Wise said, so any additional comments can be included.

More than half the nation's wetlands have been lost since this country was first settled, Wise said in opening the hearing.

"Sadly in the past, we encouraged the drainage of wetlands," Wise said. "Today we recognize their value in flood control, pollution control, and wildlife habitat."

Despite increased recognition of wetland values, protection efforts have run counter to the interests of farmers, developers, and the mining and timber industries, Wise said. At this time, the congressman continued, the greatest wetland controversy in West Virginia is Corridor H between Buckhannon and Elkins.

"Wetlands preservation is something we can all agree must be done," Wise said, "but how to go about it is

entirely another matter."

Wise recently toured one of the several wetlands along the Corridor H route between Buckhannon and Elkins. At that time, the congressman called for a "common sense" approach to wetlands protection. His words were echoed in much of the testimony he heard from the three panels of speakers at the local hearing.

The first panel included Chris Clower, W.Va. Field Supervisor, U.S. Fish and Wildlife Service, Colonel Harold F. Alvord, District Engineer, U.S. Army Corps of Engineers, and Commissioner Fred Van Kirk, W.Va. Division of Highways. Oral comments from the panel concentrated on Corridor H and presented very different perspectives on the history of the current empass.

Wetland protection is not a new issue, Clower said. His agency has worked with the W.Va. Department of Highways for the past 17 years "to avoid, minimize, or compensate for wetland losses for numerous major projects," he said.

It was only after wetlands were discovered along the Buckhannon bypass that reviewing agencies asked about possible wetlands along the remainder of the Buckhannon-Elkins route. The presence of wetlands along route was never mentioned in a draft environmental impact statement prepared by W.Va. Department of Transportation in 1975.

Fish and Wildlife Service personnel are interested in having the road built, Clower said, but if the wetlands are filled, "society will be the loser — in water quality, flood control, and wildlife resources."

Col. Alvord acknowledged that wetlands regulation has been one of

the most controversial parts of the Corps' regulatory program.

The development of a wetlands identification manual in 1989 has eliminated initial problems in interpretation between the Corps, EPA, Fish and Wildlife, and Soil Conservation Service, Alvord said.

"Up until the delineation manual was published, you had four agencies with different interpretations. It wasn't uncommon for four agencies to have four different opinions," Alvord said.

The manual eliminated those differences. It has been field tested for a year and needed revisions are due out soon for public comment, Alvord said.

Denial of the Corridor H permit was made only after extensive field review of the proposed route, Alvord said.

"The W.Va. Department of Highways can avoid the loss of most of these valuable wetland areas by a judicious redesign of portions of the highway," Alvord said.

The emphasis on wetland protection has come about since the Buckhannon to Elkins section of Corridor H was planned, said DOT Commissioner Van Kirk. If the highway were being planned today, the highway department would look for a different route.

But since the route is planned and money is available to build it, the

Corps should be more flexible in enforcing the provisions of the Clean Water Act, Van Kirk said.

The Corps looks primarily at wetland impacts, Van Kirk complained, while changes in the present alignment might impact homes, graves and historical and archeological sites.

Panel 2 was made up of Bob Post, chair of the Buckhannon-Upshur Chamber of Commerce transportation committee, and Steve Hannah, director of the West Virginia Farm Bureau.

Hannah's testimony challenged the value of wetlands in groundwater recharge, sediment and flood control, and management of nutrients in runoff. He also disagreed strongly with the government's current "no net loss" policy regarding wetlands.

"The policy goal of 'no net loss of wetlands' is a 180 degree shift in policy that existed since the birth of our nation over 200 years ago," Hannah said. "Draining swamps to produce a bountiful supply of food was considered good. Fewer mosquitos were considered better than more mosquitos. Less flooding was superior to more flooding."

Completion of Corridor H has been the number one goal of the Buckhannon-Upshur Chamber of Commerce since 1986, Post testified.

"It is the position of the Buckhannon-Upshur Chamber of Commerce that the majority's interest is not be-

ing served," Post said, "when there are needless delays and stoppages in the construction of this highway. It is time to use common sense relating to our priorities."

Cindy Rank, president of the West Virginia Highlands Conservancy and Dr. Catherine Gregg, biology professor at West Virginia Wesleyan College, comprised the third panel.

"It has taken the loss of more than half the wetland resources in the United States to focus our attention on the benefits provided by wetlands," Rank said.

What were once regarded as wastelands have come to be recognized as a valuable resource, Rank said, but protection of the resource has resulted in "loud and strong" reaction from those whose activities might be limited.

She urged caution in the search for a 'common sense' answer to complex questions.

"Common sense should dictate that we strive to clarify our understanding of the science, rather than attempting to change the science itself," Rank said.

Wetlands cover less than one percent of West Virginia, Dr. Gregg said. Filling two of the three largest wetlands along the Corridor H route between Buckhannon and Elkins "could destroy as much as 17 percent of Upshur County's wetland resources," Gregg said.

Biologist says wetland science is neglected issue in new regs

(Excerpted from testimony of Katharine B. Gregg, Ph.D., Biology, before a hearing of the Subcommittee on Government Information, Justice, and Agriculture of the Committee on Government Operations. W.Va. Congressman Bob Wise, who chairs the subcommittee, convened hearing on wetlands July 22, 1991 in Weston and Charleston.

Gregg is a professor of biology at West Virginia Wesleyan College in Buckhannon. Her testimony addressed the status of wetland science in general and touched on wetlands issues along the Corridor H route from Buckhannon to Elkins.

These comments are from her oral testimony. Gregg also presented the subcommittee with more detailed written information on wetland issues, complete with documentation.)

Of the seven wetland areas lying along the West Virginia Department of Highways (WV DOH) preferred routing for Corridor H between here and Elkins, four will be filled and mitigated with replacement wetlands. The three largest, however, cannot be filled according to a recent permit denial by the US Corps of Engineers (COE). These wetlands consist of emergent, scrub-shrub, forested, and open water wetlands.

The Little Laurel Fork Shrub Swamp and the wetlands on Laurel Fork of Sand Run belong in the category of headwater wetlands, three important values of which are:

- * Slowing the flow of water during storm events to moderate flooding;
- * Maintaining water quality downstream by the collection of pollutants like excess nutrients, sediment, toxic chemicals, and pesticides;
- * Providing habitat for a diverse array of plants and animals not found in West Virginia's more typical ecosystems.

Both of these wetlands are currently serving a buffering function between upland activities — for instance a dump and a logging operation — and the water downstream.

According to the WV DOH, the Laurel Run Beaver Dam Complex probably functions to reduce in-stream sediment and may be contributing to the viability of the present brook trout population.

West Virginia has less than 1 percent of its area in wetlands, and should the first two of these three wetlands, which occur in Upshur County, be filled for Corridor H, this one project could destroy as much as 17 percent of this county's wetland resources.

This hearing today is partially a result of reactions against recent delineations of wetlands that fall into jurisdictional control under Section 404 of the Clean Water Act and the swampbuster provision of the Food

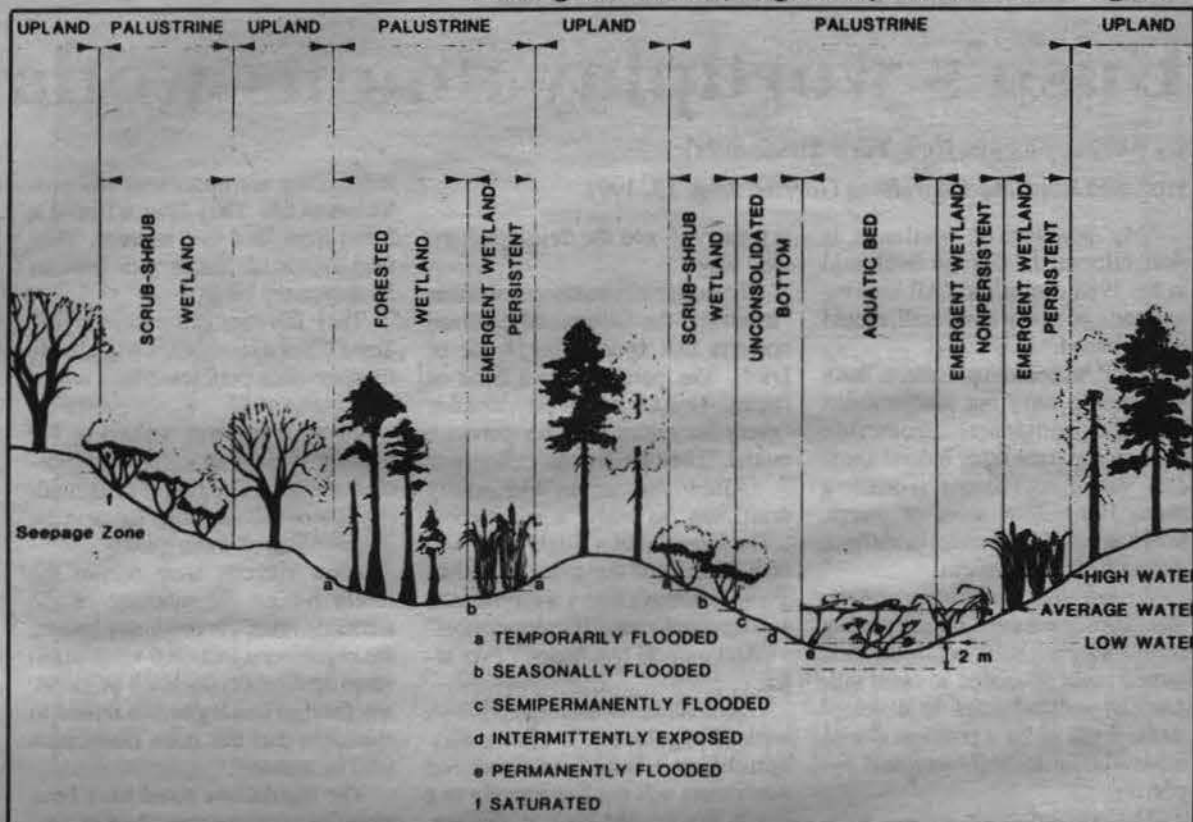
See Gregg, page 5

Definition of wetlands undergoing revisions

Federal Register for August 14, 1991 contains proposed revisions in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (1989 Manual), an interagency document adopted January 10, 1989. The manual has been used since 1989 by U.S. Army Corps of Engineers, Environmental Protection Agency, Department of Interior Fish and Wildlife Service and the Department of Agriculture Soil Conservation Service.

The proposed regulations would require increased evidence and duration of wetness. Before the proposed changes could be field tested, the Council on Competitiveness chaired by Vice-President Dan Quayle decided to redefine wetlands. Critics charge the council's definitions have no basis other than to clear the way for commercial development of once-protected wet areas.

The question may be moot, but written comments on proposed revision to the 1989 Manual will be taken until Oct. 15. They should be sent to Gregory Peck, Chief, Wetlands and Aquatic Resources Regulatory Branch, Mail Code (A-104F), U.S. EPA, 401 M Street, Washington, DC 20460.



TYPICAL WETLANDS system found in West Virginia. (copied from U.S. Fish and Wildlife Service publication from December 1979). Overall, less than one percent of West Virginia is wetland. About 14 percent of all wetlands in the state are in Canaan Valley and the Meadow River area.

New Jersey governor opposes competitiveness council changes in wetlands rule

Dear President Bush:

I urge you to reconsider the decision to redefine wetlands subject to federal protection as proposed by the Vice President's Council on Competitiveness. The proposed revisions to the 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands will seriously diminish the amount of wetlands nationwide that will be protected and preserved and will have a devastating effect on New Jersey's wetlands.

The 1989 Wetland Delineation Manual was a joint effort by the scientists and resource managers of the Environmental Protection Agency, the Army Corps of Engineers, the Soil Conservation Service and the Fish and Wildlife Service to determine a consistent, scientifically-based standard for defining wetlands. The Manual has been in effect for two years and has undergone many regulatory and jurisdictional changes. To suddenly reverse this policy and radically reduce the amount of wetlands protected is unwise and destructive environmental policy.

The proposed definition change will result in the loss of protection for an estimated one to five million acres of wetlands nationwide. What is most disturbing is that the proposed revision would eliminate protection for our most valuable wetlands. The proposed changes define wetlands as those lands with water at the surface. This eliminates the wetlands with water near the surface which serve to filter out pollutants and keep groundwater sources pure. It also eliminates most forested wetlands.

The proposed revision would have a devastating effect on New Jersey. The State Department of Environmental Protection (DEP) estimates that the new methodology would nearly cut in half the amount of wetlands in New Jersey subject to the protection of the federal Clean Water Act and the New Jersey subject to the protection of the federal Clean Water Act and the New Jersey Freshwater Wetlands Protection Act. Such precious resources as some of the forested wetlands in New Jersey's Great Swamp would no longer be protected.

New Jersey passed its own Freshwater Wetlands Protection Act in 1988, and since that time, the State has invested over \$3 million to map all the State's wetlands. This definition change will make that mapping effort meaningless.

Equally disturbing is the lack of public participation in this entire process. I wrote to EPA Administrator Reilly on April 3, 1991 expressing concern about what was known at that time about the contemplated changes. Since that time, there has been no public comment period, no solicitation of ideas, and no scientific review. Now, it is my understanding that the changes will be formally proposed by the end of the month and that there will be no public hearings before they are formally adopted 60 days later. This is no way to do business. The public should be able to review and comment on the proposed changes before they are put into effect.

The proposed rule change makes a mockery of wetlands protection efforts. Valuable resources will be destroyed in New Jersey and throughout the nation. I urge you to reconsider the proposed changes and to allow the public to be heard.

Very truly yours,
Jim Florio
Governor
New Jersey

Gregg

from page 4

Security Act.

A number of controversies have surfaced, one of which questions the methodology for wetlands delineation contained in the 1989 Federal Manual. This manual was cooperatively written by professionals in four federal agencies and has been used successfully for the past two years by their field personnel.

There is a move to change the scientific definition of wetlands in an attempt to reduce the number of wetlands under jurisdiction. However, making changes such as increasing the inundation requirement or requiring a "splash test" will probably remove from protection many, many acres of seasonally flooded headwater and bottomland forest wetlands.

Wetland scientists consider these to be very important functional wetlands, especially for maintaining clean water, which is after all the main goal of the Clean Water Act. These proposed changes are being pushed without our knowing how they will impact our wetlands resources. Further, a 60-day public comment period planned to take place following the release of proposed revisions to the Federal Manual will be concurrent with field-testing, thus eliminating crucial information from the review process.

Another controversy revolves around the point of view that we should classify wetlands according to their value and only place the most valuable ones under jurisdictional protection. Wetland scientists are in agreement that such ranking is not possible, feasible, or desirable, as different wetlands perform different functions, much as a sedan and a coal

truck perform different jobs.

Which is better? Can we decide that since sedans are smaller that we can do without them? What if the family automobile is scratched and has a few rust spots? Is it no longer functional? Similarly, wetlands that may not be aesthetically pleasing, like ones with refrigerators in them, still perform important functions for us free of charge, like keeping our water clean and protecting our homes from floods.

Wetland science is in its infancy today, and we have very limited information about exactly how wetlands function. We have less information about how to restore damaged wetlands and even less about creating new wetlands.

Eastern coastal wetlands are best understood and seem amenable to restoration and creation; inland wetlands like seasonally flooded forests and other headwater wetlands are virtually unstudied, and efforts to create them have usually failed.

Current mitigation policy for jurisdictional wetlands is first to avoid wetlands damage, second to restore, and only as a last resort to destroy and attempt creation of replacement wetlands. There is presently much pressure to change this sequencing around to favor creation over avoidance mitigation. Given the status of wetland science, this seems a bit like sending folks off to Saturn before perfecting the technology to get back.

If one of our national priorities is to preserve and enhance our nation's wetland resources, then we should take a conservative stance, namely to err on the side of preserving the resource.

If we take the stance of the Office of Management and Budget, which is pushing to delineate only areas with saturation to the surface for 21 days (rather than the seven days currently required), then we are saying that if we're not sure it's a wetland, then go ahead and destroy it. This is like deciding that since we don't know for sure whether there is a cancer-curing drug to be found in a particular rain forest, then go ahead and cut it down for immediate economic gain.

The President's pledge toward "no net loss" of wetlands is difficult to achieve, given our current limited experience with their restoration and creation.

If we are to protect and enhance the nation's important wetlands resources, we must place more emphasis on the avoidance of wetlands damage, much as the US COE did recently when the preferred Corridor H permit was denied.

We also need to continue our efforts at restoration and creation, but these projects need clear goals so that their success can be measured, and they need regular monitoring and often mid-course corrections. Nationally, neither goals nor monitoring have been the rule for most of our past and present mitigation projects.

We also need more incentives for wetlands protection programs and we need to better educate the public on wetlands values and the consequences of their loss. Science can collect facts, make generalizations and testable predictions, but the public makes policy on what we do with our knowledge. Finally, we need to increase our research efforts to ensure that there is an adequate knowledge base for sound decision making.

Bush's wordplay dooms wetlands

by Anthony Lewis, New York Times Service

reprinted from *The Charleston Gazette*, Aug. 13, 1991

"My position on wetlands is straightforward," George Bush said in his 1988 campaign. "All existing wetlands, no matter how small, should be preserved."

When he became president, Bush appeared to carry out that promise. The Environmental Protection Agency and three other federal agencies issued regulations protecting about 100 million acres of marsh, tidal zones and other moist lands from destructive development.

But last week, under pressure from real estate developers, oil and mining companies, the Bush administration turned turtle. It moved to open millions of wetland acres to development. It did so by a political device wonderful in its ingenuity and hypocrisy.

The administration simply redefined the word "wetland." The new definition turned as much as 10 million acres of wetlands into ordinary ground, outside the protective rules. Presto magico! George Bush's pledge

is preserved, and the developers get their way.

The device is reminiscent of one in "Iolanthe," the Gilbert and Sullivan operetta that spoofs the House of Lords. The peers marry a band of fairies—but a fairy law provides that "every fairy must die who marries a mortal." Then the lord chancellor says: "Allow me, as an old equity draftsman, to make a suggestion. ...The insertion of a single word will do it. Let it stand that every fairy shall die who doesn't marry a mortal, and you are out of your difficulty at once!"

And they all live happily ever after. The Bush administration trick with wetland regulations is of a similar neat character. But it is not funny, and Americans will not live happily as a result. Not us, and not our children. The fish and shellfish and birds we value, the very water we drink will all suffer.

Wetlands are among the most important ingredients of the environ-

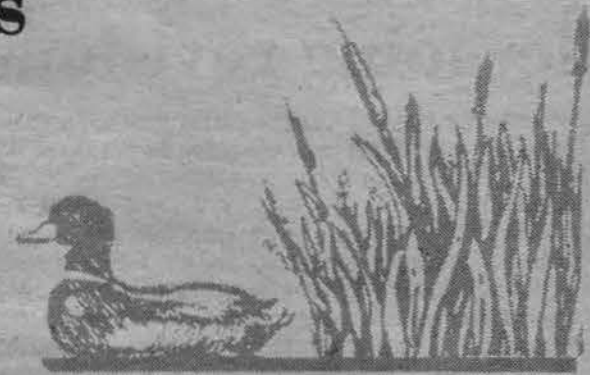
ment. They are nourishers and protectors of life. They filter water as it flows from land into streams. They feed aquatic life and provide habitats for migratory birds.

They are also extremely fragile. Some fill or a few houses will kill the function once performed by a marsh as a source of life.

Using marginal wetlands for farming also has an adverse environmental effect. The runoff of agricultural chemicals is a major factor in the deterioration of water quality.

Farm interests were one of the forces behind the sabotage of the wetlands rules. As originally issued, the regulations included some cultivated land, especially in the Midwest, and farmers had legitimate reason to complain that the rules made such land unsalable.

The regulations could have been amended without gutting them to meet the farmers' objections. But other interests saw an opportunity. The big oil companies, mining and real estate firms formed a lobbying group called the National Wetlands Coalition.



Using the logo of a bird flying over a marsh, this organization set out to gut wetlands protection.

The lobbying effort was extraordinarily well financed—and effective. Congressmen, besieged, introduced bills to undo the wetlands regulations.

It was a familiar Washington struggle: between the concentrated power of special interests and the unfocused general public interest. The public interest was very large in this instance, now and for the future. But the public on the whole was uninformed and unrepresented.

In those circumstances one person above all is in a position to speak for

the public interest: the president of the United States. But President Bush did not resist the special-interest lobbying. A White House task force on wetlands, headed by a pro-business presidential assistant, pushed for weakening of the regulations.

In the end, EPA Administrator William K. Reilly decided that he must give ground or be crushed. The new, narrow definition of wetlands will soon be published for comment. Unless the public miraculously understands what is being done to it, and rise up, we shall have highways and shopping malls and golf courses where wetlands used to be.

Trade-offs

West Virginia Department of Highways will probably avoid this beaver pond in Barbour County in the course of building Corridor H from Buckhannon to Elkins. U.S. Army Corps of Engineers turned down permit applications to fill this and a scrub-shrub wetland nearer to Buckhannon. In a compromise, DOH now proposes to spare this area but to fill the other wetland and attempt to mitigate damages by constructing a wetlands somewhere else.

Photo by Ross Straight



Guard the Wetlands

Editorial, The Christian Science Monitor, Aug. 19, 1991

No one is publicly arguing against the protection of wetlands. These marshes, swamps, and bogs are widely recognized as critical to water purity, flood control, and the nurturing of fish and waterfowl.

But consensus dissolves over the question of what's wet enough to get the official tag of "wetland." Under the Bush administration's new guidelines, which came out of the Council on Competitiveness chaired by Vice President Quayle, the wetness line is drawn much nearer the liking of business and agriculture.

Some experts say as many as half the 100 million remaining acres of wetlands could lose protection if the new standards are adopted. Farmers and builders counter that government regulation ought to be trimmed back to its original purpose — conservation of land that is truly "wet," not occasionally damp.

But wetlands that aren't under water for the 15 consecutive days demanded by the revised standards are not necessarily less deserving of preservation; they can still be essential to flood control or wildlife feeding.

The administration's proposal would greatly reduce the amount of such land entitled to protection, and many states would probably follow the federal lead. But legislation now before Congress would go further, eliminating the Environmental Protection Agency's final say over the use of much protected land. It might be better to live with the new administrative rules, some argue, than risk a legislative gutting of wetlands regulation.

Even better would be retention of the broad protection provided by current rules, with administrative tightening to assure the regulations are fairly and consistently applied. The loss of wetlands has to be stopped.

Are the regulations in effect since 1989 as burdensome as critics assert? Ninety-five percent of land-use permits applied for under current regulations are approved, and the law gives broad exemption to farmland.

Government intervention in the use of private property is never welcome, but it's well established in law. Wetlands are a public good that demands protection, as President Bush acknowledged when he promised "no net loss."

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Only The Voices Cried Out

by Marta R. Steenstra

I watched it happen, unseeing
I listened to the voices, unhearing
I sensed the anger, unfeeling
And only, the voices, cried out

My eyes were blind to the truth
The echo of the voices fell upon deaf ears
My heart was untroubled, by reality
And only, the voices, cried out

Finally, my eyelids, began to flutter
And my ears began to hear
Quietly, my soul began to open
Yet only, the voices, cried out

What could I do about it?
I was only one, simple person
So I did nothing
And only, the voices, cried out

I watched, as it came closer, and closer
Destruction, welled up around me
But still, I did nothing
And only, the voices, cried out

Then they came for MY West Virginia
And by god if I'll let them take her!
The voices cried out -
And I was one of them

Intercepted letter to the governor pleads for strong stand on garbage

Dear Governor Caperton:

I write to you as one who supported you with my vote in your 1988 campaign.

I am very concerned about the threat our state faces from those who seek economic riches by burying us with garbage from the east coast and from who knows where else. I very distinctly remember your expressions of concern about this problem in your 1988 television campaign messages.

But, frankly, I'm concerned about what I believe is a lack of leadership on your part in adequately dealing with is continuing and increasing threat. Your most recent "moratorium" on Class "A" landfills exempted those under construction and even those being actively considered.

Folks in areas all over West Virginia have bravely endured armed guards, "guard" dogs, mafia financed lawyers, tainted "public relations" propaganda, and crooked local politicians operating with virtually no state oversight. We are invaded by a host of hucksters and profiteers who have no more regard for our quality of life than have the others who, for too many decades, have plundered our resources leaving in their wake poverty, despair and environmental mayhem for future generations to spend precious resources in abatement thereof.

I believe a short, very short, window of time, only a very few weeks at most, remains for your administration to possibly claim credit for exercising effective leadership in meeting the garbage threat head on.

I strongly urge that your administration, during the upcoming special legislative session, work fervently to help enact strong and effective legislation to adequately meet the challenges of those who would bury us in trash, for their personal financial gain, without regard for our physical and/or spiritual health. But your strong leadership now could be decisive in helping our people successfully overcome the forces of corruption and intimidation they now face and the debauchery certain to come with the development of the garbage "industry."

Is your possibly two-term administration to be remembered as the one which kept your commitment to "STOP" this garbage madness? Or will your administration be remembered as a four year stint in which the West Virginia state administration sat by idly as King Garbage built a throne of trash from which King Garbage ruled with impunity, and from which our health, our natural wealth, and our mountaineer spirit is plundered?

The West Virginia Environmental Council is providing your administration with strong and effective recommendations for garbage control. I hope that you will take a leadership role in turning these recommendations into law. I also hop you will take a leadership role in seeing that the proper departments and divisions of state government quickly develop and effectively enforce regulations to implement that law.

If you seize this opportunity in the very short time remaining, your administration can claim credit for exercising the necessary leadership. But if the effort fails, and if exemptions for even one county's corrupted project are tolerated, then I believe that tens and/or hundreds of thousands of West Virginians will rise in rightful, massive indignation against their Governor for failure to take a leadership role.

Just sitting back to see what's going to happen, then agreeing with it so as to take credit for the limp effort is not enough.

I want my governor to be at the front, leading an effective effort, and in effect, saying to the mega-dump developers, "Go home; keep your false promises; keep you ill-gotten trash dollars; quit corrupting our people with them."

Will you please do this — for me, for other West Virginians, and for yourself?

Thank you.

Franklin D. Young
Rt. 1, Box 108
Ripley, WV

Izaak Walton League urges Canaan Valley purchase as National Wildlife Refuge

RAPID CITY, S.D. — The Izaak Walton League of America, assembled in convention in Rapid City, S.D., July 17-19, urged the Department of the Interior to purchase Canaan Valley wetland area and set it aside as a National Wildlife Refuge in order to save this unique boreal ecosystem from destruction.

A resolution to that effect was introduced by the Izaak Walton League of West Virginia and was adopted unanimously by the delegates from the League's 400 local chapters. The resolution establishes a new national policy position of the Izaak Walton League of America.

"Although we are late-comers to the effort to protect Canaan Valley, we are committed to the cause," wrote Maitland Sharpe, Izaak Walton League conservation director in a letter to Highlands Conservancy President Cindy Rank.

"The Izaak Walton League now looks forward to working actively with you to help make a Canaan Valley National Wildlife Refuge a reality

and ensure protection of the singular national and recreational values of the area," Sharpe concluded.

As part of their resolution, the Izaak Walton League had this to say about Canaan Valley and a national wildlife refuge:

The Canaan Valley, located in the highlands of the Allegheny plateau in northern West Virginia, is a high altitude wetland ecosystem that supports an unusually diverse array of flora and fauna. The valley, which measures 14 miles long and five miles wide and has an average elevation of 3,200 feet, contains a tundra and bog environment common to areas far to the north.

The valley represents 40 percent of West Virginia wetlands and is the largest high altitude wetland complex of its kind in the eastern United States.

Canaan Valley supports more than 580 different plant species and more than 162 species of birds. In recognition of its outstanding natural values, the Canaan Valley has been design-

ated as a National Natural Landmark by the U.S. Department of the Interior. The landmark evaluation of the valley stated: "...the valley ranks with Yosemite and Yellowstone Valleys...In the east, there are very few areas of its grandeur and magnificence."

Canaan Valley is located close to eastern population centers and offers opportunities for millions of Americans to experience northern ecosystems without traveling hundreds of miles to the north or west. In close proximity to the Dolly Sods and Otter Creek Wilderness areas, a Canaan Valley National Wildlife Refuge would provide a variety of outdoor recreation activities for visitors to the area.

Department of Interior purchase of the Canaan Valley wetland area is needed, the League asserted, "because the singular natural values of the valley are being lost to developments such as power facilities, vacation homes, condominiums, off-road vehicles, bars, and restaurants."

Nuclear dump proposed for W.Va. faces battle

By Ken Ward Jr.
Charleston Gazette, Aug. 5, 1991

CHARLESTON — A revived proposal for a nuclear dump in Southern West Virginia will likely face stiff opposition from Gov. Gaston Caperton and state environmental groups.

Members of a private task force seeking a \$100,000 federal grant to study the facility met for the first time Friday in Beckley. They think a Monitored Retrievable Storage facility in Wyoming County will stimulate the local economy.

"Great. Another completely insane idea," said Norm Steenstra, spokesman for the West Virginia Environmental Council. "It's not going to happen."

Paul Childress, a nuclear-waste specialist with B & W Fuel Co., Lynchburg, VA., first proposed the MRS be built in West Virginia. Childress, a Wyoming County native, suggested the idea to Gov. Arch Moore in 1987.

The facility would accept radioactive rods from nuclear power plants throughout the East. Spent fuel rods would be processed and stored temporarily at the MRS until being taken to a permanent dump, which is not yet built.

The U. S. Department of Energy is

offering \$100,000 grants designed to educate the public about the MRS. But the DOE apparently demands that state and local government officials support the project before grants are awarded.

Caperton is on record opposing an MRS facility in West Virginia. As one of his first acts after being elected, he voiced this opposition in a letter to the federal Monitored Retrievable Storage Review Commission.

"Such a nuclear-waste facility is simply incompatible with West Virginia's existing land-use patterns and would seriously impair the efforts of our state to build the tourism industry and further economic development," the letter said.

Caperton press secretary George Manahan said Sunday, "I haven't heard any change in that position. I can't see where he (the governor) would be in favor of that."

Carol Jackson and Andrew Maier of Save Our Mountains are already seeking Caperton's help in stopping the new project. They wrote to the governor on Saturday.

"As you probably know, the MRS is on the move again," their letter said. "We need your help at once. We ask that you express your opposition to the MRS in a letter to the DOE."

Maier served on a five-county task force formed in 1987 to study the

MRS proposal.

"The group turned out to be nothing more than an advocacy group for the project," Maier said. "The idea that we're going to spend \$100,000 of taxpayers' money on this study is ridiculous."

Maier says promises of nearly 1,000 permanent jobs from the facility aren't accurate. He also says technology to safely transport and store radioactive materials doesn't yet exist.

Former state Delegate Clayton Hale, elected Thursday as chairman of the new task force, could not be reached for comment. Childress also could not be reached.

County will benefit from Valley refuge, landowner believes

Tucker County Commission
Tucker County Courthouse

Dear Sirs;

I recently read the fact sheets prepared by the Canaan Valley task force dealing with the valley, development, and the proposed refuge. I am providing you with insight from my perspective as a homeowner in the valley who both vacations there and offers my home for rent. I also have undeveloped property on the outer banks of North Carolina. The contrast in these locations is striking and speaks much about the decisions which face you as commissioners responsible for local issues in the valley.

The outer banks have many similarities to Canaan Valley: a unique environment which is beautiful and delicate, major natural attractions, and a local economy which is significantly impacted by the recreational sector. The primary difference is that the outer banks are 20 years ahead of the valley in their stage of development, and provide a glimpse of what the possible future is for the valley if development is allowed to dominate your decision-making.

Water supply is a problem, wild horses are killed by traffic and may be eliminated to avoid the traffic hazard, severe erosion of the beach is occurring, and access in case of an evacuation is acknowledged to be inadequate.

Although short term gains have been achieved by developers, local people including the county, and myself; the future of this area has been placed in jeopardy. Finally, I believe the county government has now become so dependent on the revenues from development activities that they are totally addicted to them and can no longer make sound, objective decisions.

What this all comes down to is what is a good balance between economics and ecology in the valley. In my mind, like in the outer banks they are linked, and the risk exists that the golden goose will be killed by short term thinking.

Simply put, I decided not to build on my property in the outer banks because I feel the level of development has ruined the natural beauty and sense of the place.

I chose to buy property in Canaan Valley rather than in the Laurel Mountains of Pennsylvania because of the uniqueness of the open areas and type of development currently in the Valley. What attracted me and continues to attract people to visit the valley is its uniqueness from a natural standpoint and from a development standpoint.

If this uniqueness is compromised by over-development you can kiss the whole thing good-bye. I believe the purchase and use of large amounts of the valley by the government and conservation groups will only serve to enhance the attractiveness of the valley in the future.

I encourage you to take a long term view of statesmen rather than the short term approach of politicians and work to preserve the attraction of the valley by supporting the proposed wildlife refuge.

Thank you for your consideration of my input on this matter. Please contact me if I can provide an insight or help on this or related matters.

Sincerely,
Arthur J. Helmstetter
Beavercreek, Ohio

October is West Virginia Recycling Month. Contact the WV Division of Natural Resources for public awareness brochures on recycling at home, litter prevention, and Adopt-A-Highway programs. Write 1900 Kanawha Blvd. E., Capitol Complex, Room 732, Charleston, WV 25305

Comments sought on formulating a position of Seneca Creek

The Issue

Several members have raised questions about what the Conservancy can do to preserve access to falls on Seneca Creek. The following was prepared in part by Don Gasper and Sayre Rodman so members could think about taking a position.

The upper valley of Seneca Creek, in Pendleton County, is an important wild area within the West Virginia highlands. Seneca Creek starts just east of Spruce Knob in Bendelton County and flows northeast for some miles through a narrow, densely forested valley, part of the Monongahela National Forest. Then, near a landmark waterfall, the valley floor becomes a flat strip, for about three miles to its meeting with a public road.

Problems with this last three miles have reduced the value of the whole upper valley, and threaten to degrade it permanently. Historically, this flat bottom strip has been used for pasture only, privately owned but informally open to public foot travel as access to the publicly owned upper valley. More recently, the landowners have absolutely closed this route to public access, while making land available for recreational structures which have been placed near the waterfall.

Quality of the area

The Forest Service has collected mountains of data about the qualities of the upper Seneca Creek valley, while evaluating candidates for Wilderness Areas in the Monongahela National Forest. They rated it very highly. The Conservancy's input, from people with years of intimate experience with relevant areas, called it one of the best Wilderness candidates, comparable to the already established Otter Creek Wilderness.

Topography and access

The three-mile strip of old pastureland is the only access to much of Seneca Creek, except for strong hikers and backpackers. The valley is very deep at the lower end. From the lower public road access, one or more trails climb high to a ridge crest, and then descend to public land on Seneca Creek, miles further on. This is excellent recreation for some people, but a circuitous route to many, such as most serious fishermen.

Critical location of the area

Areas of publicly recognized quality and importance cluster around the northeast part of the Monongahela National Forest. Spruce Knob, Seneca Rocks, Dolly Sods, Canaan Valley, Otter Creek, and Smoke Hole name important places with superb public image.

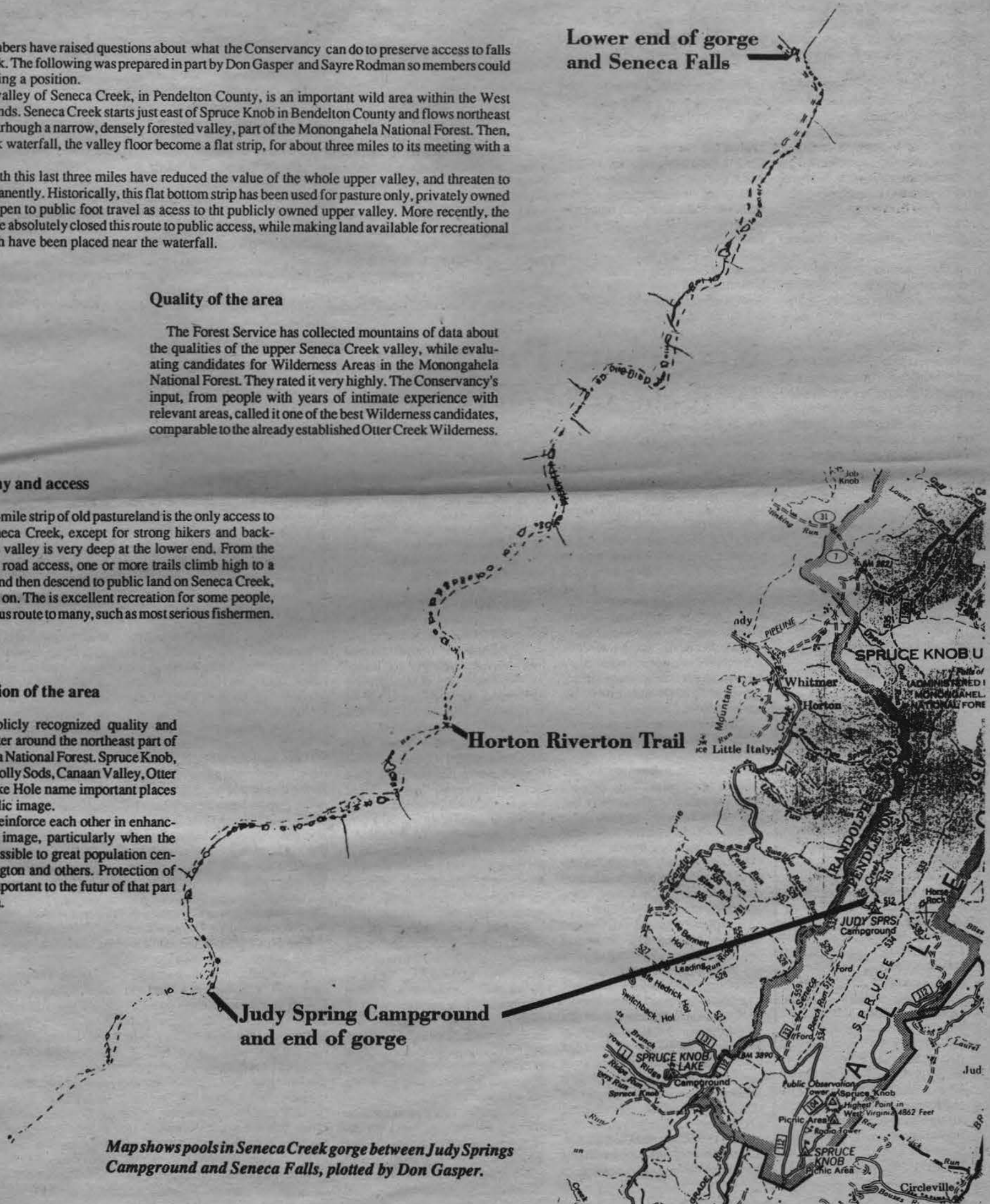
Such places reinforce each other in enhancing the region's image, particularly when the region is so accessible to great population centers like Washington and others. Protection of such places is important to the future of that part of West Virginia.

Lower end of gorge and Seneca Falls

Horton Riverton Trail

Judy Spring Campground and end of gorge

Map shows pools in Seneca Creek gorge between Judy Springs Campground and Seneca Falls, plotted by Don Gasper.



Hampshire County's sad story of recycling

By Bonnie McKeown

We have a lot of problems with government that allows outsiders to dump trash in West Virginia. But how about recyclers who want to haul cans, glass, paper and plastic out of West Virginia?

With the uphill battle already faced by recycling — iffy markets, household habits, the problems of hauling and collection — don't you think that the state Public Service Commission, which controls hauling of solid waste, would try to make it easier to recycle? Wrong.

In February 1990, the Extension Homemakers Clubs of Bloomery in eastern Hampshire County opened a recycling center at Ompps grocery. The nearest recycling processing firm, Zuckerman's, happens to be located 30 miles away, across the state line in Winchester, VA.

Zuckerman's, an established family firm, hauls and handles nothing but recyclables—no garbage. It keeps up with the latest markets and technology and was eager to do business in Hampshire County. Zuckerman's was to pay the difference between the cost of the bin and the recycling proceeds if earnings were more; if earnings were less, the Homemakers would pay the difference.

Ten days later the Public Service Commission — acting with extraordinary speed — ordered the center closed. It was acting on a complaint from Bill Hood of United Disposal, the local, Tucker County based trash

hauler, fearful of competition. Ironically, Hood and Zuckermans really have been in two different business: trash hauling and recycling.

Hood later offered a recycling program to the Homemakers, and set up a bin in Romney, which is more than half an hour away from Bloomery. Some parts of Hampshire County are more than an hour from Romney, so it is by no means a comprehensive recycling program or even the start of one. The whole action killed the local enthusiasm for recycling.

The PSC's lack of enthusiasm for recycling is well known. A 1989 study done by its consulting firm panned the

idea of recycling in rural areas, ignoring rural counties and towns

around the nation which have successful drop off centers.

Capon Springs, WV 26823

To:Highlands Voice

Here's our sob story on recycling. The garbage collector looks like the bad guy, but the fact that the PSC is anti-recycling is the real story and I think the place where environmental efforts can do the most good.

Zuckerman's has tried and failed to get a WV license since then, they tell me. Bill Hood & Zuckerman's really are in 2 different businesses: garbage and recycling. I think the problem is that the state law governing the PSC doesn't distinguish between the two.

Bonni McKeown

Recycling Program dumped DNR closes lid on Hampshire bin

By David Swint
Charleston Gazette
May 26, 1990

Bloomery residents say it's a matter of bureaucracy, but government officials say money being paid out of state is the problem with a Hampshire County recycling program.

The Hampshire County Extension Homemakers Club started the program in February, with recycling services provided by Zuckerman Co. Inc., a scrap and recycling firm in Winchester, Va.

Gary Williams, vice president of Zuckerman, said he was contacted by the homemakers concerning recycling service and placement of a recycling bin in Bloomery.

"We were contacted to put a container at Bloomery, and we did," Williams said.

"In a couple of days we were told that we were in violation of PSC rules. We pulled out of Bloomery, not really knowing why," he said.

Bob Hatfield, assistant to the field staff chief with the Public Service Commission, said, "We got an informal complaint from a certified carrier in Hampshire County concerning an out-of-state company."

"Upon investigation, we found that they (Zuckerman and the homemakers) had made arrangements to have income from the recycled goods cover rental fees for the container and transportation costs," Hatfield said.

If the money generated from the recycled material was not enough to cover the costs, the homemakers had agreed to pay the difference. Hatfield said the arrangement constituted a for-hire exchange, which requires a permit from the PSC.

After more investigation, the PSC learned that Zuckerman had no certificate to haul materials in West Virginia. "Anything generated in

West Virginia is under PSC regulation if a charge is incurred for its transport," Hatfield said.

Hatfield said officials of the company that filed the complaint, United Disposal Co. in Davis, told the PSC they were willing to provide the same service as Zuckerman. Since they are a West Virginia-based company, they fulfilled regulations required by the PSC.

Mary Gaston, a Bloomery native and member of the Hampshire County Extension Homemakers Club, said the club contacted United Disposal first when the recycling project began.

"They said they didn't have the facilities to recycle," Gaston said.

Carol Winland, WVU extension agent, said she had talked to United Disposal owner Bill Hood after Zuckerman pulled out, and he offered to place a recycling bin at the same location in Bloomery free of charge for a one-month trial period.

"Hood said he is not set up to recycle, but he can," Winland said.

Hood said the homemakers have not been back in touch, but his offer still stands. "Zuckerman's was coming into the area with a service I was willing to provide."

He said he was unaware of any earlier attempts to contact him for the service. "The only person I have talked to has been Winland."

Winland said her area of West Virginia has missed out on many such projects in the past. "It happens all the time, but nobody complains. There were recycling grants available through the Department of Natural Resources, but when we got to it, the pot was dry."

Bob Brooks, motor carrier section manager for the PSC, said the department is not against recycling, but against companies who go against PSC regulations. He cited new rules

being proposed requiring companies to recycle a minimum of 10 percent of what they haul.

The homemaker group staged a protest in May in response to the decision regarding Zuckerman. Fourteen vehicles loaded with more than 5,000 pounds of recyclable ma-

Recycling Center Closed

reprinted from Hampshire Review, Feb. 21, 1990

The Hampshire County Extension Homemakers' Clubs attempt at getting Hampshire County into recycling lasted only 10 days before the Public Service Commission ordered the center at Ompps' Grocery in Bloomery closed last week.

WVU Extension Agent Carol Winland said the problem stemmed from the Virginia carrier, Zuckerman's, not being licensed by the PSC to do business in West Virginia and Hampshire County. Winland said the clubs had understood that Zuckerman's would provide the recycling dumpster free of charge. But she said a spokesman for Zuckerman's supposedly told the PSC that a monthly rental fee would be charged, making the operation illegal.

PSC Motor Carrier Section Manager Bob Brooks explained from his Charleston office last week that carriers must have authority from the PSC to operate for compensation in West Virginia. United Disposal of Burlington has that authority in Hampshire County.

Brooks said trash haulers have been regulated since the 1930's and that all rates are also set by the PSC. He said the only way he knew of that recycling could be accomplished is through the local approved hauler or by a recycling company, with its own vehicle, picking up the recyclables

people for getting rid of recyclables at a recycling center even if they receive no money back for them.

But trash haulers say the PSC has yet to come up with a per-bag rate that will offset what haulers may lose in changing from the current per-household rate.

I hope that this fall's special legislative session can put out a solid waste bill that addresses rural, not just urban recycling, by 1) defining recyclables differently from trash, and allowing the most efficient economic trade to operate. In border counties like ours, this might mean that out of state firms haul recyclables OUT of West Virginia; 2) establishing a workable per-bag rate that rewards trash collectors and citizens for consuming less disposable material and recycling what we do consume.

material traveled to Zuckerman's Winchester, Va., location, 25 miles from Bloomer.

All the vehicles were bearing signs reading "We have to truck our recyclables out of West Virginia" and "We recycle our bottles and cans."

and taking them back to its own plant.

"I'm hoping one of the carriers in West Virginia can do this as cheaply as an out-of-state carrier," Brooks stated. "I think it was kind of a misunderstanding."

The PSC manager said the agency is definitely interested in getting recycling started in the state. He also offered to send a representative to Romney to try to help resolve the situation.

Recycling Committee Chairperson Thelma Mattson of the Springfield Extension Club said the trash hauling rules were a complete surprise to her and the other committee members.

"Everybody is pretty discouraged about the whole thing," said Mattson, who added that extension members are undecided as to a course of action.

In an update the Hampshire Review reported:

WVU Extension Agent Carol Winland reported Tuesday that she had talked with United Disposal owner Bill Hood and that he has made the offer to place a recycling bin free of charge at Ompps' Grocery on a one month trial basis.

Winland said the situation would then be re-evaluated as to cost effectiveness. She is expected to contact homemakers' clubs this week for their decision on the offer.

Happening around the state

Oct. 3-4: Conference on the Environment at the Charleston Civic Center. Topic will be "West Virginia Waste: What's to Become of It?" For further information, contact Cindy Rank, (304) 924-5802 or 924-6262 and leave a message.

Oct. 5: Workshop on Land Conservation, 10 a.m. to 4 p.m. at The Greenbrier Center, Lewisburg. For additional information call: Midland Trail Scenic Highway Association, Inc., 304/632-1284; Greenbrier River Planning Council, Inc. 304/653-4722; Bluestone River Conservancy, Inc. 304/425-1491; Lewisburg Visitors Center, 304/645-1000.

Nov. 2: Toxic Waste Use Reduction Seminar, 9 a.m. to 3 p.m. at Westminster Presbyterian Church in Chester, W.Va. \$10 registration fee includes lunch. To register or receive more information, write to Tri-State Environmental Council, P.O. Box 76, Chester, WV 26034.

OSM overrules mining permit

By Paul Nyden, Charleston Gazette, Aug. 28, 1991

Stephen Keen, the Division of Energy's No. 2 man, issued a new permit to an Island Creek Coal subsidiary on July 31. After it is reclaimed, the 200-acre coal refuse pile near Bayard, Grant County, could produce more than 17,000 gallons of acid drainage a day.

Acid mine drainage must be treated continually, usually for decades. Untreated acid drainage kills fish and other aquatic life. It makes water unfit to drink. Treatment can cost up to \$500,000 a year at a single mine.

Keen, an Island Creek official before he went to DOE 18 months ago, issued Laurel Run Mining a permit over strong objections from Harold M. Parsons, DOE's inspection supervisor in Philippi. In a harshly worded July 18 memorandum, Keen told Parsons his reasoning was flawed and his understanding of mining laws was poor.

On Monday, a federal official told DOE that Keen was wrong and that Parsons was right.

James C. Blankenship Jr., director of the U.S. Office of Surface Mining's field office in Charleston, said DOE cannot "issue a permit that will create a post-mine acid drainage condition on the basis that perpetual treatment is an acceptable form of protection to the hydrologic balance."

This may be the first time OSM threw out an acid-generating mine permit issued by DOE.

Keen argues federal mining law does not prohibit mining in acid producing coal seams. It simply requires effective reclamation after mining is completed.

Blankenship said Keen's decision to issue the Laurel Run permit "was improper and exceeds the state's authority."

Blankenship said the permit application predicted "an iron-rich, acidic discharge of approximately 12 gallons per minute after reclamation...Of additional concern is an assertion ... that acid drainage infiltrating the undermined area of the refuse pile could seep out near, or into, the Potomac River."

Blankenship ordered Energy Commissioner Woody Wayland to explain, within 10 days, how DOE will correct Keen's action or "show

good cause" for issuing the Laurel Run permit.

Parsons defended his recommendation in a Aug. 2 memorandum. "I have seen, firsthand, what happens when mining produces acid mine drainage requiring 'perpetual' treatment after reclamation. I have counted my share of dead fish and I have seen miles of high quality streams permanently destroyed."

After becoming a reclamation supervisor in 1978, Parsons recommended against issuing several acid-producing permits in Upshur County. "Due to economic and political considerations, my recommendations were ignored," he said.

Today, many areas Parsons wanted to preserve are bare hillsides lined with orange streams, dotted with dark blue-green stagnant ponds.

Laurel Run Mining rejected recommendations from Parsons and his staff. Parsons wrote, "They did not restrict the location of the refuse pile to a ridge top where it would be high and dry and more hydrologically isolated. Instead, because of volume requirements, they expanded the pile downhill where it will cover springs and wet areas."

Parsons said Island Creek and its subsidiaries already treat more than 9 million gallons of acid water a day. He questioned the wisdom of generating still more.

Thomas Rodd, a Morgantown lawyer, was getting ready to file a protest of the Laurel Run slate dump later this week. He said his protest may now be unnecessary.

"Hundreds of miles of mountain streams remain at risk," Rodd said. "Only 7 percent of West Virginia's coal reserves cause acid drainage problems. We can mine coal for 325 years before getting to this coal. It is absurd to allow mining that produces acid drainage."

"Steve Keen is at odds with federal law," Rodd said. "This situation reflects the problems created when an industry is regulated by officials whose allegiance is to the coal industry, not to the public."

"The problems at DOE are not just financial," Rodd said. "They are also philosophical."

MONONGAHELA NATIONAL FOREST NEWS

National Forest to be surveyed for endangered species

Monongahela National Forest officials are trying to determine if the endangered Virginia Flying Squirrel occurs in the forest.

Auburn Environmental of Auburn, Alabama has been contracted to trap 30 sites across the National Forest to determine the occurrence of the federally endangered squirrel.

Trapping areas are located in places designated wilderness and non-motorized, semi-primitive dispersed recreation where habitat is maintained for wildlife species requiring a low level of disturbance. (Management prescription 5 and 6.2 areas in the 1986 Land and Resource Management Plan.)

"Trapping sites are located in Forest areas above 3,200 feet in elevation that contain a Red Spruce component, the preferred habitat for this rare, nocturnal mammal," said forest Wildlife Biologist Harry Pawelczyk.

Two principle means of surveying for this subspecies is by placement of nesting boxes, or by baiting and placing small, wire, live traps. Traps are only operated during night time hours.

Forest Service wildlife biologists and others have and continue to survey other potential habitat in the forest for the Virginia Flying Squirrel. Those surveys are conducted through

cooperative agreements with the sections of the West Virginia Department of Natural Resources, a WVU wildlife management professor and a mammalogist from Marshall University.

Principal means of surveying for the subspecies is by placing nesting boxes of bating and placing small, wire live traps. Traps are only operated during night time hours.

"Surveys for the squirrel in these other management prescription areas help us learn where the subspecies occurs on the Forest which we then take into consideration as we plan management activities on the Forest. Our goal is to avoid negative impacts to the squirrel and its occupied habitat," said Pawelczyk.

Since few or no projects such as timber activities or construction of new wildlife clearings can occur in wilderness or 6.2 areas, this contract will develop information on the extent to which the Virginia Flying Squirrel actually occurs in the thousands of acres of potential habitat in these management prescription areas which are in previously unsurveyed portions of the Forest.

All small mammals captured during the study will be released unharmed, after their species is identified. Results of the study should be available by July 1992.

Training available for environmental leaders

The Institute for Conservation Leadership has scheduled several seven-day training sessions for leaders in voluntary organizations. Sessions will be at:

Little St. Simons Island, Georgia, Dec. 7-14, 1991

Corbett, Oregon, Feb. 1-8, 1992

The conferences stress "hands-on" learning for volunteers and staff who want to increase their effectiveness as advocates for the environment. The Institute pioneered this intensive individual training in 1989.

During the week-long training, participants will learn to:

- * Identify problems and improve working relationships using four interpersonal styles;
- * Build an organization using six principles of successful voluntary organizations;
- * Communicate with individuals, groups, and the media;
- * Select issues and identify the group's goals;
- * Raise money for programs;
- * Identify and develop future leaders.

Proven, practical skills developed during training are designed to be put to work as soon as participants return to their home organizations.

Costs for the sessions vary with room and board rates, but generally range from \$490 to \$600 for each participant.

Recipients of training have come from a diverse group of organizations including the National Wildlife Rehabilitator Association, Anacostia Watershed Association, Oregon Environmental Council, Upper Valley Land Trust, Native Americans for a Clean Environment, North Carolina Wildlife Federation, and People Against Hazardous Landfill Sites.

Established in 1988 with support from National Wildlife Federation and the Pew Charitable Trusts, the Institute's mission is to train and empower volunteer leaders and build institutions to protect and conserve the earth's environment.

In addition to individual training, the Institute offers board of director's training, network conferences, strategic planning, executive director training, and custom designed training.

All of the Institute's instruction carries a money-back guarantee. Applications for scholarship assistance are available.

For more information about the Individual Leadership Conference or other trainings, write the Institute for Conservation Leadership, 2000 P St. NW, Suite 413, Washington, D.C. 20036 or call 202/466-3330.

The fifth edition is 320 pages and includes:

- * classic West Virginia hiking areas like the Allegheny Trail, Otter Creek, Spruce Knob, Blue Bend, Dolly Sods and more;
- * detailed descriptions of 164 hiking trails covering 780 miles;
- * 60 maps;
- * 39 black and white scenic photos;
- * hiking and safety tips;
- * conservation concerns.



To order your copy of the Monongahela National Forest Hiking Guide send \$9.95 to:

The West Virginia Highlands Conservancy
P.O. Box 306
Charleston, WV 25321

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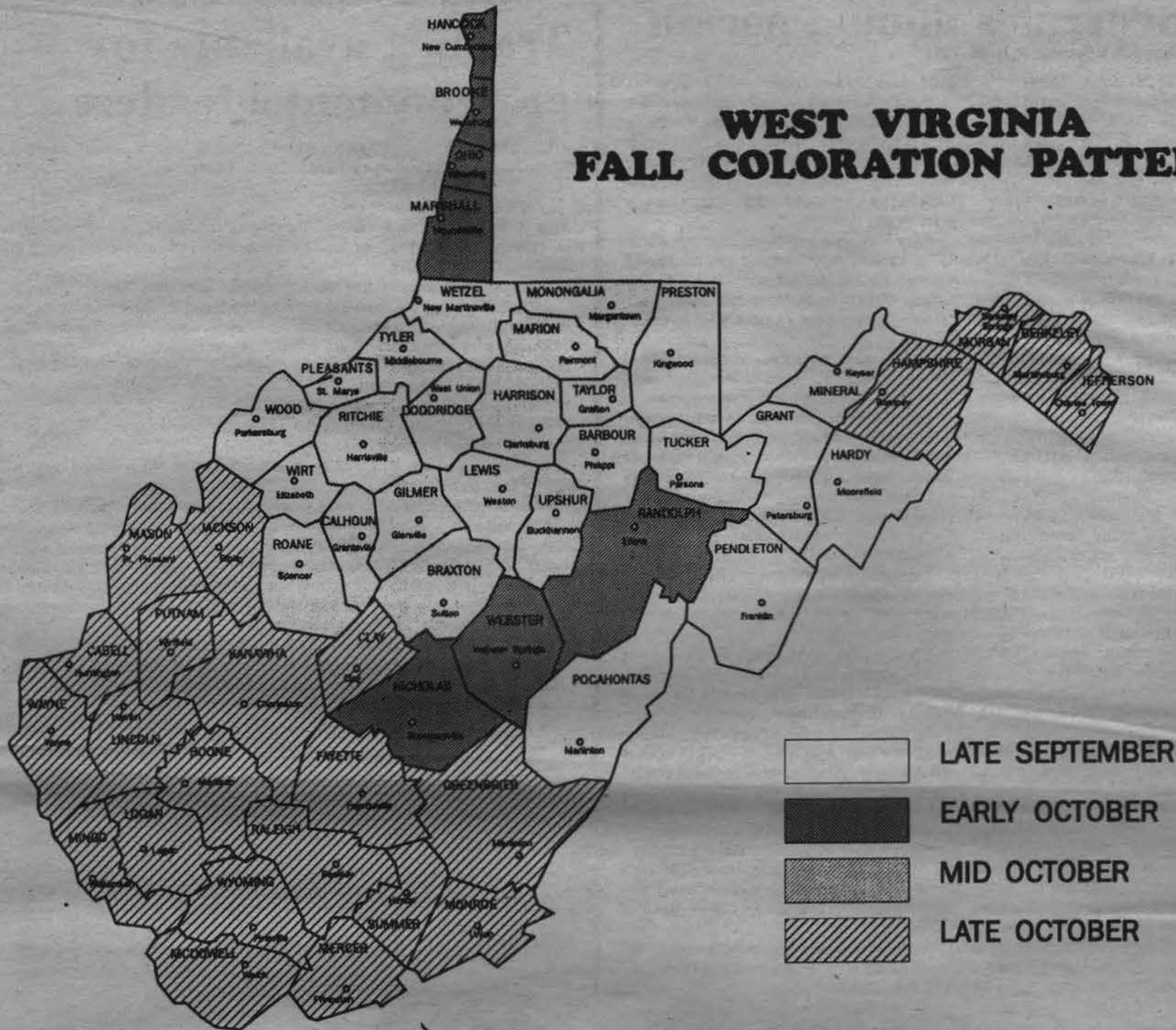
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by Bruce Sundquist and Allen de Hart

with the cooperation of the Monongahela National Forest staff and numerous hikers

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