



The

Highlands

Voice

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Photo taken circa 1918 after clear cut from U. S. survey of WV; appeared in Tucker County report of 1923.



WE'RE SORRY, BUT RIGHT NOW YOU AREN'T ALLOWED TO ENJOY THIS PARTICULAR VIEW OF BLACKWATER CANYON. YOU CAN BLAME ALLEGHENY WOOD PRODUCTS, THE NEW OWNERS, WHO HAVE POSTED THE PROPERTY.

WE HOPE YOU NEVER HAVE TO SEE A VIEW LIKE THIS OF THE BLACKWATER CANYON AGAIN

BLACKWATER CANYON

THE WEST VIRGINIA HIGHLANDS CONSERVANCY COMMITMENT

By Mike Withers, Coordinator, the Blackwater Coalition

Highland Conservancy's "Save the Blackwater Canyon Project"

We are developing and implementing a four pronged approach; a *political strategy*, a *legal strategy*, a *grassroots strategy* and the *use of the media in all strategies*.

POLITICAL STRATEGY

To save the Blackwater Canyon (BC) we need to enlist the help of elected officials. At this point Senator Jay Rockefeller has taken the initiative by meeting with Allegheny Wood Products (AWP) and the owner, John Crites, by facilitating negotiations between the Forest Service and AWP.

In a letter, West Virginia Highlands Conservancy President, John McFerrin asked Governor Underwood to join the battle by cooperating with Senator Rockefeller in his efforts to save the BC, and by using his personal influence with AWP to put a moratorium upon logging there while discussions continue. McFerrin also pointed out recently published comments from Underwood administration officials who differ on what the state's role in the controversy should be. "From (Commerce Secretary Robert) Reitsema's comments ... it appears that he seeks to protect the Canyon. From Mr.

Maxey's (Forestry Division Director) comparison of preserving public lands to a spreading cancer, I infer that he does not."

At this point it looks like the Governor is taking sides with Commerce Secretary Reitsema. Last week Reitsema participated in a meeting that included Lane Bailey (Senator Rockefeller's top aide), AWP, and Forest Service officials. The Governor's Press Secretary, Dan Page, later commented that the Governor would not seek a moratorium as he was optimistic that an agreement would be soon reached. Time will tell.

LAND SWAP

Details of the negotiations have not been made public. However, it is known that AWP owner, John Crites, insists that his company is only interested in trading land, not in a cash settlement. Mr. Crites says his main interest is securing a sustainable supply of lumber for his wood products mill. When asked to comment on the possible land swap reported by Gazette Ken Ward in the Gazette, I responded by saying,

See CANYON on page 5

---from the heart of the plateau---

by John McFerrin

Our Sacred Duty

We had to do something. The West Virginia Highlands are in our name. Conserving them is what we do. Our bylaws say that one of our purposes is "To preserve and protect areas of particular scenic, geologic, biologic, historic, wilderness and/or recreational importance in West Virginia."

Blackwater Canyon is fundamental to our purposes. There is no place in West Virginia that is of more scenic, geologic, biologic, historic, wilderness and/or recreational importance than is Blackwater Canyon. Both as individuals and as a group we have had outings there. It is truly a special place. We can't sit still and let it be timbered. We can't sit still and let someone build vacation houses there.

The something we decided to do was hire Mike Withers to coordinate our efforts and run an aggressive campaign to save the Canyon.

By today's standards he doesn't have much of a budget. The whole thing wouldn't get you a cup of day old coffee at the White House. For us it is a lot of money. The Board decided to spend it because we needed to take a strong step to save the Canyon. It is too important to our fundamental purposes to let go without a fight.

In this fight we have a single goal: public ownership of the entire Canyon. The land in controversy lies between Blackwater State Park and the Monongahela National Forest. There are rumors of a compromise, a half-measure to preserve a slice of the Canyon while the rest of it is timbered and otherwise developed. That is not good enough. The Canyon is too important to be sliced into bits so that the Governor can issue a press release announcing that he has "saved" Blackwater Canyon. If we are to save the Canyon, we must save it all.

A fight of this magnitude is never easy. We may not achieve our goal. Even if we don't, however, we will still have been true to our purposes. We will have done our all to preserve a place of overwhelming scenic, geologic, biologic, historic, wilderness and/or recreational importance. We will have remained true to our purposes. We will have done what needed to be done.



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The Highlands Voice is always printed on recycled paper. Our printer uses 100% post consumer recycled paper when available.

Tradeoff: Blackwater Canyon for TP

or

True Confessions: Yes, I Use Toilet Paper!

By Jim Sconyers

I'm having a discussion with another guy about the Blackwater Canyon and some of the issues there. Issues like: The endangered species there. The recreation values of the Canyon for hunters, anglers, kayakers, hikers, bikers, and more. The potential of the Canyon as a sustainable base for the burgeoning Tucker County tourism industry. The scenic, esthetic, and spiritual values of this Canyon, unrivaled in the East. The state's investment in restoring the health of the river. The state's commitment to promotion of tourism. The impact on the public's enjoyment of Blackwater Falls State Park. The way vistas from Pendleton Point, Lindy Point, and other locations epitomize West Virginia in the media, advertising, and public information campaigns. And so on. And, of course, how all of the above is now threatened by the logging that has begun in the lower part of the Canyon. Did I say discussion? Do you ever have the kind of conversation where two parties are talking, but you doubt anybody is communicating? This is more like two monologues than a dialogue! I started to suspect that this was happening here. Here's a rough summary of the salient points in the discussion.

Other Guy (OG for short): Yeah, BUT....it's private property, so they can do anything they want.

Me: It is private property, only because agencies who should have been seeking its protection at the time of the sale missed their chance....and, because a West Virginia regulatory agency failed to accept its responsibility to safeguard the public interest.

And, of course, private ownership doesn't in any way permit an owner to "do anything he wants."

OG: Well, we need jobs in West Virginia.

Me: Right! And the Blackwater Canyon is a key element of the natural resources that already draw \$40 million in tourism annually to Tucker County alone. And tourism is growing fast there. These jobs are in more entrepreneurial, "home grown" businesses that keep the money right there.

OG: We need logging jobs.

Me: Logging and, just as important, wood products will contribute greatly to our economy, especially if we start doing more of the "value added" work here.

Yet there are over 10 million acres of forest land available for logging in West Virginia. Isn't that enough?

OG: No.

Me: So, does that mean that you think every bit of forest in West Virginia should be made available for logging?

OG: Yes.

Me: Do you know that there are other things that a forest is good for besides logging? Have you ever been in a place so rich in other values that you think "This should not be timbered, it should be protected for all West Virginians, for our families, for our future"?

OG: No.

See TP on page 7

Solar Energy

by Don Gasper

I have a number of beautiful picture books on natural history. One is the little pocket book "Geology" of the famous "Golden Guide" series. Just after a page or two of tiny illustrations on the expanding universe, the sun and our atmosphere, I noted on page 13 the following sentence. "In one hour the earth receives more than 20 billion tons of coal, and this is only half of one billionth of the sun's radiation."

I would guess this to mean, in one hour the earth can receive solar energy equivalent to the energy contained in more than 20 billion tons of coal. I thought, "Wow!" Let's get some of this truly free energy.

I recalled a large "eyewitness" picture book on the earth. It is titled "The Visual Dictionary of the Earth," and has a great atmosphere illustration. There, on page 53, it showed that of the incoming radiation:

- ◆ 14% is absorbed by the atmosphere. Some absorbed heat is re-radiated.
- ◆ 7% is reflected by the atmosphere
- ◆ 24% is reflected by clouds. Some absorbed heat is re-radiated.
- ◆ 4% is reflected by oceans and land.
- ◆ 51% is absorbed by the earth's surface.

Half is absorbed by the earth's water and land! Of course, some of this is re-radiated, too – in a delicate balance. We are upsetting this re-radiation, causing global warming. We know that burning anything will create carbon dioxide that

See ENERGY on page 7

Breakthrough in Solar Energy Technology

Solar energy has almost everything going for it. Sunlight beams down in unlimited supply, generating no pollution and is free. So why aren't we using photovoltaic technology more? Well, in the past it has been more expensive to convert solar energy to electricity as compared to other energy sources. However, there has been a breakthrough that could make solar power abundant and inexpensive. Scientists have found that by applying a thin film of copper indium-selenium on to a glass backing it can become a semiconductor. When the semiconductor is exposed to sunlight it becomes active and converts the sunlight to electricity. Even better, this new technology costs up to ten times less than the crystalline silicon based cells now on the market.

These new cells could be used in the next few years and cost as little as 6 cents per kilowatt-hour to produce electricity. This is competitive with the 8 cents per kilowatt-hour people pay now for electricity generated from nuclear, coal and oil fired power plants. Working at the US Department of Energy's National Renewable Energy Laboratory, project leader Ken Zweibel believes that by the year 2005 photovoltaics should compete for at least ten percent of the world's energy markets. If you're interested in solar energy you can contact the Real Goods Company. Real Goods sponsors research in the sustainable technology field, lobbies in Washington, DC, and is an excellent source for photovoltaics. You can order their catalogue full of products for energy efficiency and solar living by calling 1-800-919-2400. (From a report given by Jim Stapleton on public radio station WETS on August 10, 1997)

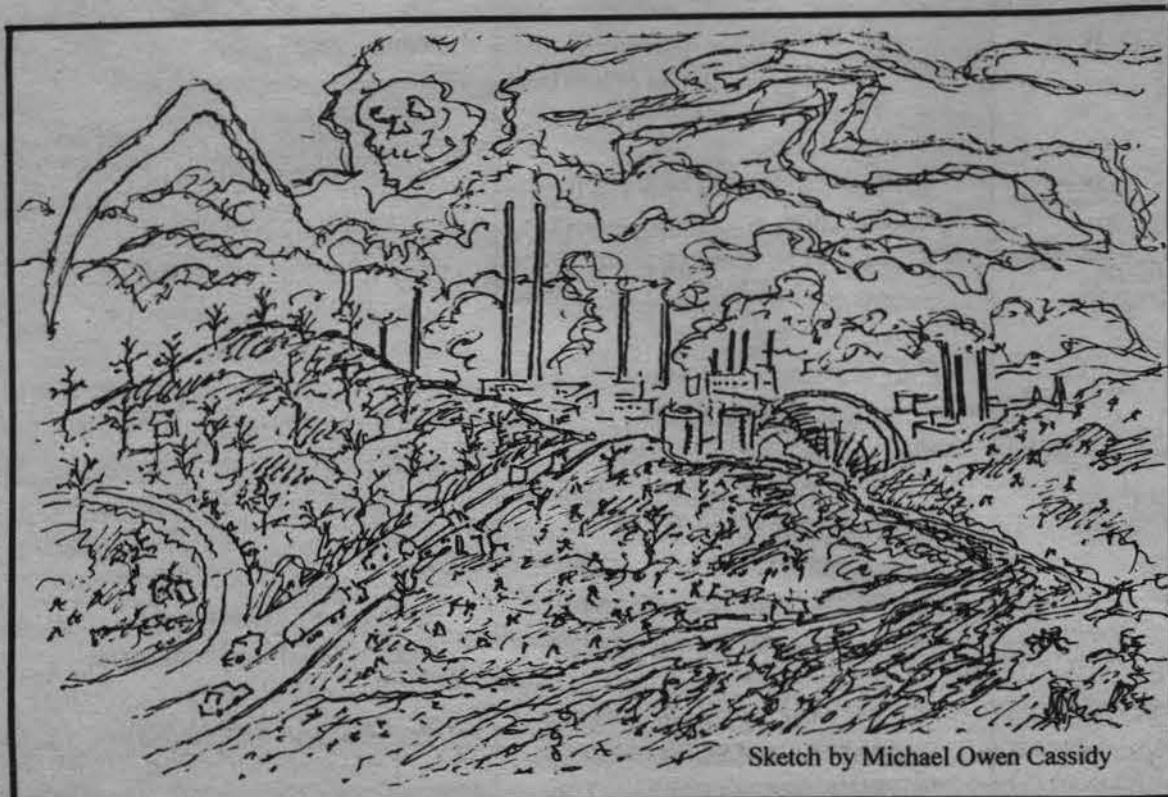
Editorial

The human species, so successful in evolutionary history, and seemingly at its pinnacle of success, seems to be in the process of self destruction. Mother Nature always has the last word, and she can be a tough task mistress on her charges. It may be that humankind, who has so "successfully" dealt with those balancing forces that would hold down population and influence, being short of natural enemies, has been hijacked by the Mother for her balancing act.

Perhaps Mother Nature has to use the very species, the human one, to bring itself back into some semblance of balance on the Earth. Could it be that the greed and/or the obvious shortsightedness of the current main thrust of human endeavor is none other than the biological workings of the Earth Mother, herself, using Man to control Man? This may always have been true to some small extent -- after all, human beings have lived on the planet for thousands of years without doing anything like the terrible damage to other species and the earth's surface as they have done in more recent history (and at a current accelerating pace). It would be the height of irony that a Ronald Reagan, who seemingly so despised nature, was in service to nature's requirement for balance.

Similar examples that could be cited from recent history are so numerous that one has to concede that this notion must have merit. The very existence of a 104th Congress, the paving over of so much of the earth, the destruction of rain forest and indigenous peoples, who have lived for millennia in a balance situation, are only a few of these examples.

The cult of the individual that we've eventually manifest as a species gets no sympathy from Mother Nature -- her interest is only in species preservation. The cult of the individual that has led to the subcults of competitiveness and unbridled capitalism, which, in turn, have led to uncontrolled exploitation of unsustainable earth resources and other life forms (and of each other), and which ultimately find flower in social disorganization through a general paranoia and mistrust of each other -- can it be that Mother Nature (am I allowed some anthropomorphizing?) looks at her human creation in these manifestations with the enigmatic smile of the Mona Lisa? ●



Sketch by Michael Owen Cassidy

A Few Comments from Your Editor

I welcome letters, especially those which comment on prior *Voice* articles or letters. Its nice to get some cross fire, er- debate, going here, on the issues that face us all.

What are your views on Blackwater Canyon (no pun intended!)? Should we just sit back and allow this gem of a natural area be ravaged for greed? Should we allow access to be cut off for tourist and local folks who've been enjoying the area for so long (as well as deprive our state of the big tourist \$ that the tourists bring in)?

How about mountain top removal in southern West Virginia? You must have seen Penny Loeb's article in the August 11 issue of the *US News and World Report*; if not you should find it in the library and read it. Even I was horrified and I live only a few miles from these operations.

Re solid waste? If we're not careful we'll be getting a 1000 tons a day of the stinky garbage from New York or Philadelphia, or toxic waste from some humongous manufacturer, just waiting to get the green light from our "fifth column" within, to pounce on our green West Virginia hills with train loads of poison stuff.

And why do the National Forests give away so much of *our* forest to the rich cats in the logging industry? Let us hear your views!

I welcome articles, either written by you, the reader, or submitted from another source. I am usually in need of good photos, either of nature scenes or wildlife, or photos showing some

real problems to our landscapes of forests and mountains. I also want material more in the natural and cultural realm if it is apropos to the purposes of our publication -- poetry, nature study and experiences in the out-of-doors. Art work, sketches, cartoons are important, too.

Last but not least -- I would like to have a pretty complete calendar to go out in the *Voice* each month. Try and get the dates and descriptions of planned events to me at least a month ahead of time. There is no point in telling me of a meeting to take place on the tenth of the month for a *Voice* that comes out the first of that month. I would like to take in a broad sweep of meetings, events, benefits and fun things both in West Virginia and neighboring states. Think of things which relate not only to environmental issues dead on, but also those things related to that -- peace and justice, health, grassroots organizations and Appalachian cultural happenings.

I prefer text material to be submitted on either 3-1/2 floppy disk, or on the WISE network so it can be downloaded (I am a terrible typist). Right now I prefer graphic materials as they are -- I can get the photos processed, and copy the artwork, cartoons, tables or diagrams. I have a policy of returning photos and floppy disks.

Consider the 25th of each month to be the deadline for materials. Anything later than that, give me a call at 934-5828. Maybe I will be able to squeeze something in at the last minute.

If you submit materials and then you don't find them in the next *Voice*, don't feel bad. I've got some of my own stuff that I've not been able to get into the *Voice* as yet! Seems like there is always a hot situation that needs to be focused on each month.

I will be in Florida until December 3. When I return it will be full speed ahead to get the December *Voice* out as soon as possible. You can help out if you send me materials to this address in Florida: c/o Betsy Hoffman, 4307 NW 5th Ave, Boca Raton, FL 33431. I can borrow my hostess' computer and put material on floppy disk to be printed out when I get back. Have a good Thanksgiving and don't forget to give thanks to the turkey!

Oh, I almost forgot -- it would be nice to have a short bio sketch of those submitting articles so that readers would have some idea of the person and her/his life experience.

And I give thanks to not only the turkey but also you folks who help me out in various ways. ●

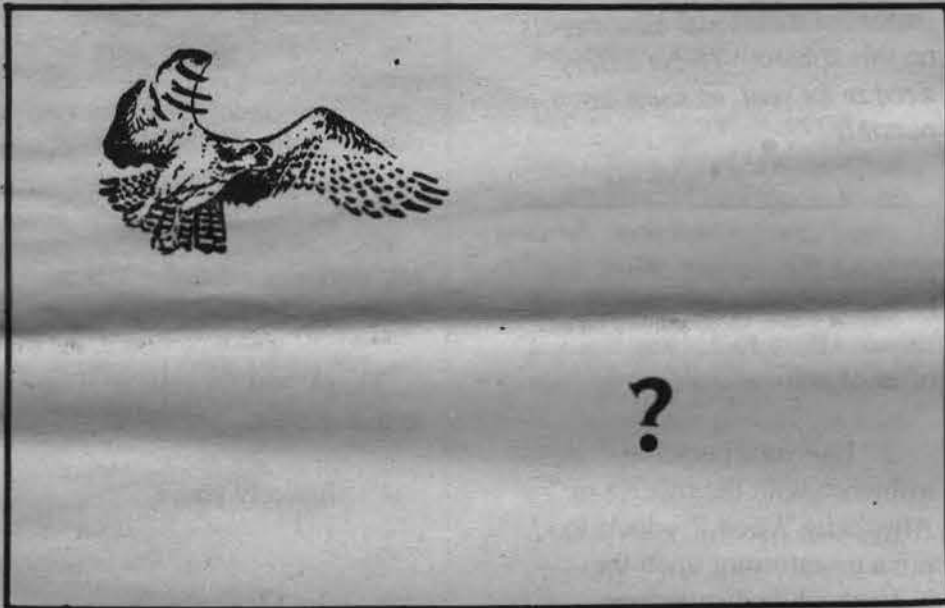




Photo taken circa 1918 after clear cut from U. S. survey of WV; appeared in Tucker County report of 1923.



THENAND NOW



THE FUTURE? IT'S UP TO YOU!

CANYON (Continued from page 1)

" We are cautiously optimistic, but we need to see the entire scope of the proposal. We will not rest comfortably until the entire canyon is public property." It is important that the negotiators get that message loud and clear. We don't want the Senator or Governor to fold their negotiating tents, and try to declare victory after securing only a small portion of the Canyon land.

If AWP was willing, an out right cash purchase would simplify the matter. There is a concern as to what lands are being considered as a trade offer. Surely, the United States Government and the

Government of the State of West Virginia have adequate resources to reimburse Mr. Crites for the 5 million dollars purchase price. Plus, in the true spirit of capitalism, allow him to earn a profit by offering an additional \$500,000. From the stand point of protecting the growing tourism business, it would still be a bargain.

From the latest reports, Congressman Wise has entered the fray. In a letter to AWP released yesterday, Representative Bob Wise urged a compromise to resolve the controversy over logging in the scenic Blackwater Canyon. "I am sure that there is middle

ground that can be attained, and I encourage both parties to realize that goal." Wise went on to say "Blackwater Canyon is one of the crown jewels that attract many visitors each year."

The political strategy would be helped by contacting the respective offices of Senator Rockefeller, Governor Underwood and Representative Wise to thank them for their efforts and at the same time encourage them to work towards the acquisition of the entire Blackwater Canyon.

LEGAL STRATEGY

There is an update on the Public Service Commission (PSC) complaint. The PSC staff has filed a report supporting Allegheny Energy's (AE) "Motion to Dismiss for Lack of Commission Jurisdiction". They contend that AE is an holding company, and does not engage in any acts that would qualify as a public utility. They also contend that regardless of the fact that AE's subsidiaries operate under one tradename does not alter the separate corporate status of the companies. AE claims that their subsidiaries all keep separate records and have separate boards of directors. In short, AE insists that each subsidiary complies with all requirements

to maintain their separate corporate status. The West Virginia Highlands Conservancy attorney, Tom Michael, was given until Monday, Nov. 3, 1997, to file a response.

A check with the Secretary of States Corporate office reveals that the name "Allegheny Energy, Inc." has been reserved by Monongahela Power Company until January, 1998. Monongahela Power is clearly under the jurisdiction of the PSC. We also found these rather peculiar coincidences:

Allegheny Power Service Corp. and West Virginia Power & Transmission Co. both with the identical addresses of;

800 Cabin Hill Drive
Greensburg, PA. 15601

and both with identical names of presidents, namely;

Alan J. Noia, and both with identical names of Vice Presidents, namely;

J. S. Pifer

and, the names of both Secretary and Treasurer being Eileen Beck and Nancy Campbell, respectively!

Since they obviously share common officers it would not be a surprise if that common thread extended to their respective boards of directors. I have not seen any evidence to

CANYON concluded on page 6

McFerrin Letter to Governor Underwood

Box 306
Charleston, WV 25321

October 23, 1997

Hon. Cecil Underwood
State Capitol Complex
Charleston, WV 25305

Dear Governor Underwood:

I am writing because we need your help. As you know, the sale of the Blackwater Canyon and the recently begun timbering in the area have been the source of considerable controversy. From newspaper reports, it appears that even within your own cabinet there is disagreement about what should be done. It is time for you to step forward.

Blackwater Canyon is universally recognized as one of West Virginia's truly wonderful spots. One cannot pick up a tourism brochure without seeing a picture of it. It is a joy to natives and visitors alike. For longer than anyone can remember it has been a place of peace and beauty.

Even if we ignore the aesthetic and even spiritual wealth that comes from a place such as Blackwater Canyon, we would still have the considerable financial wealth that comes to the state from such a place. It is one of the state's most valuable tourist attractions. As such it is a substantial financial resource both for Tucker County and for the whole state. Disneyland is not in West Virginia. People who want that kind of recreation will not come here. Blackwater Canyon is in West Virginia, offering an experience that Disneyland cannot hope to match. If we want those people who want a wild and wonderful experience to continue to come here, we must ensure that places like Blackwater Canyon continue to be here.

CANYON *concluded (from page 5)*

support their assertion that they maintain separate boards of directors. Possibly this is something an administrative law judge might look into. Since the officers of both companies share a common office, I would question their assertion that they keep separate all expenses. Who pays the electric bill at that office? Which company pays for the basic phone bill? Which company pays the water and sewage bill? Maybe they have separate restrooms for each company. Imagine the record keeping dilemma that must arise when A. J. Noia goes to the men's room and washes his hands. Which company was he working for at that moment?

Now that treasure is threatened by logging and other development. We are faced with loss of this place of peace and beauty.

Apparently state officials differ on what is to be done. From Mr. Reintsema's comments in last Sunday's Charleston Gazette, it appears that he seeks to protect the canyon. From Mr. Maxey's comparison of preservation of public lands to a spreading cancer, I infer that he does not.

This issue is too important to ignore. We can't allow state officials to dither while trees fall. It is time for you to do something.

We request that you do the following:

1. Cooperate with Senator Rockefeller in his efforts to resolve this matter. The Sunday Gazette reported that he wants to "do what he can to preserve the area, or at least facilitate the negotiations." Senator Rockefeller could be a powerful ally in any effort to

GRASSROOTS STRATEGY

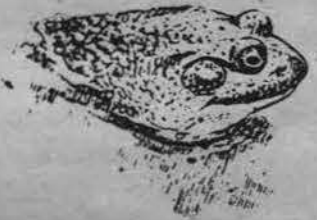
We are looking for groups to sign on the Blackwater Coalition which has a very simple and straight forward mission statement. The goal of the Coalition is to achieve the public ownership of the Blackwater Canyon. We are also asking the leaders and membership of each supporting group to write letters to Senator Rockefeller and Governor Underwood thanking them for their support, while asking that they not stop until all of the Blackwater Canyon is public land. We also encourage the supporting group leaders *and members* to write letters to the editors of their local newspapers on this subject. *These letters need to be sent as soon as possible.*

preserve the canyon. Now that he has indicated his interest, we cannot afford to decline his offer of help.

2. Use your personal influence with the owners of Allegheny Wood Products to put a moratorium upon the logging while discussions continue. As governor you must, of course, consider the interests of all involved. You cannot ignore the interest of any citizen.

Neither can you, however, sit still and allow the decision of what will happen to Blackwater Canyon to be made by default. If you allow the timbering to go ahead, then by the time negotiations are complete, there will be nothing to negotiate over. The trees will be gone, the canyon ruined. In order to reach a sensible resolution of this controversy, we need a timbering moratorium while negotiations continue.

That is why it is important that you use whatever influence you have to stop the timbering. It is the only way to ensure that



any decision we make will be meaningful.

Thank you for your attention to this matter.

Sincerely yours,

John McFerrin
President, West Virginia
Highlands Conservancy

cc: Charleston Gazette.
Beckley Register Herald.



TP (Cont. from page 3)

Me: When I talk to people, including those in the logging community, I get the feeling that nearly all of them, though committed to their way of life, still recognize that there are special places, the Crown Jewels of Wild West Virginia, that we ought to save.

OG: (He's quiet for a second. I'm thinking, "Hey - maybe I got through to this guy after all!

Then)
Well, **YOU USE TOILET PAPER, DON'T YOU?**

Uh-oh. He's right. He's got me now. Abjectly, I admit that, yes, I do use toilet paper. Judging by his reaction, I infer that the "discussion" is now over. Case closed, end of story: This guy uses toilet paper - nuff sed!

Now the full scale of the Blackwater Canyon conflict comes into sharp focus. I see what it's really about. Life is full of tradeoffs.

We must sacrifice the Blackwater Canyon, with all its scenic, natural, recreational, and economic treasures, for toilet paper! Why didn't I realize that before?

Some of history's great swaps came to mind:

- "My kingdom for a horse."
- "Your birthright for a pot of greens."
- "\$24 worth of trinkets for Manhattan Island."
- Now add "The Blackwater Canyon for toilet paper."



ENERGY (Continued from page 3)

increases "greenhouse" gases and effects.

The "State of the World, 1996" by the WorldWatch Institute describes warming very briefly and precisely.

"Fossil fuel burning is now releasing about 6 billion tons of carbon into the air each year, adding 3 billion tons annually to the 170 billion tons that have accumulated since the Industrial Revolution. To allow the earth's climate to return to equilibrium over the next few centuries, carbon emissions will have to be reduced to the rate of which the oceans and forests can absorb them - 1 to 2 billion tons a year, or as much as 80% below today's rate."

We have, however, been increasing these emissions at 2% a year. The United States leads with 1,371 tons a year, China with 835 million tons, Russia with 450 million tons and all others under 300 million tons a year. The US emissions per person are 5.26 tons; all others are under 3.00 except Australia which is about 4.00 per person. All the great emitters have large houses, use automobiles heavily and have low energy prices that do not reflect environmental costs. Germany, the fifth largest producer of carbon, has chosen to face reality, and will reduce their emissions 30% from the 1990 level by 2005. Denmark, Switzerland and the Netherlands have reforms. The US proposals thus far are not impressive because of automaker opposition and others, and the weakening of efficiency standards, relying on voluntary programs. As a result the US carbon emissions will exceed 1990 levels by as much as 10%. This is not what is required for the US if we are to take any kind of environmental leadership role. WorldWatch also says that the consensus of the mainstream scientific community is that

there is no alternative to reducing carbon emissions.

"The Union of Concerned Scientists," a long established and sizable group of eminent scientists (many with Nobel prizes) have been claiming advances in the photovoltaic solar cell field. They say solar cells now convert sunlight to electricity with three times the efficiency of just five years ago. IT now costs about 10 cents a kilowatt-hour. It may cost half this much by the year 2020. (they note wind generated electricity is already down to 5 cents a kw-hr). The photovoltaic cell itself does not wear out. It is particularly useful in developing countries where a central power grid does not reach many people. It may enable these regions to leap past the polluting petroleum/coal age that we must work our way out of.

We must all see to it that this technology is encouraged, and support our government's course set by the Climate Change Convention in Rio in 1992. It will take a lot of attention and support to bring about the needed change against an entrenched status-quo to use this clean, free technology for our buildings and our cars. It is a way to gain for ourselves a little more time in the face of our increasing numbers and demands.



Harper's Index from October 97

Average change in the federal taxes an American earning less than \$22,600 will pay under new tax law: **+\$19**

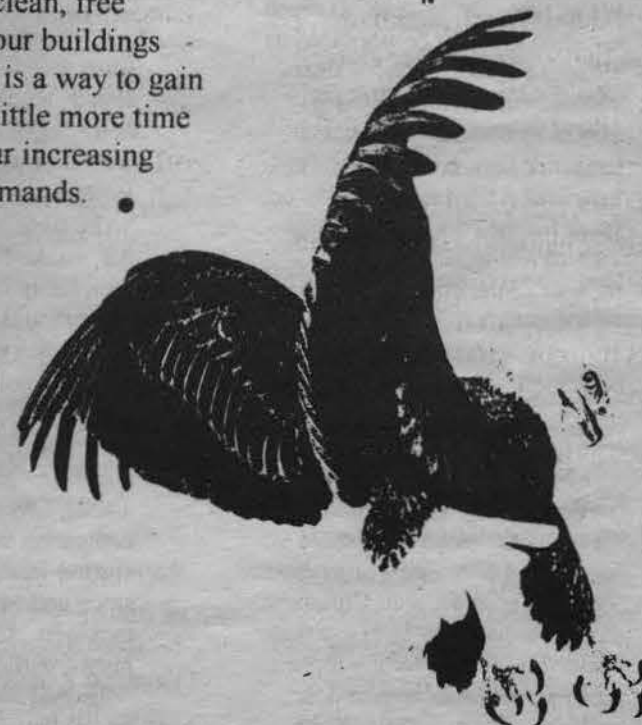
Average change in the federal taxes an American earning more than \$246,000 will pay: **-\$16,157**

Ratio of Americans earning less than \$22,600 to those earning more than \$246,000: **40 to 1**

Percentage of Americans earning more than \$246,600 who met Bill Clinton last year: **11**

Estimated number of people who could be fed. for one year with the food Americans waste in one day: **240,183**

Number of America's poorest children who will not benefit from the new \$500 child-tax credit: **11,336,731**



OSM Oversight

Submitted by Roger Calhoun

First, let me thank Bill Reed for inviting me to write an article for the *Highlands Voice*. I am currently seeking input into areas for oversight for the upcoming year. I have been the Director of the Office of Surface Mining's Charleston Field Office for a little over ten months. During this time I have mainly been trying to learn about the State and carry out the oversight plans that were already established for the evaluation year that ended September 30, 1997. An annual report on those activities is in the works. Now is the time to put together a new plan with your input.

The Charleston Field Office has developed a list of possible oversight topics based, at least in part, on concerns we have heard from citizens to date. Some of these efforts involve our Regional Office in Pittsburgh or other Field Offices with similar issues. Topics we are considering include:

Regulatory Program

In this program the West Virginia Division of Environmental Protection (WVDEP) has full authority to administer the environmental protection requirements of the Surface Mining Control and Reclamation Act. The Office of Surface Mining (OSM) is to provide oversight of the State by looking for trends or systemic problems. OSM maintains some enforcement authority if the State is found to have abused its discretion. Potential oversight and technical assistance activities being considered follow.

Acid Mine Drainage (AMD)

We have several activities ongoing and planned for this effort. These include:

- * AMD Inventory - We will continue to work with WVDEP to assure all discharges from post 1987 mining which may require treatment are identified and properly categorized.

- * AMD Prevention - We are going to review a sample of sites where AMD has occurred despite predictions that it would not, and try to determine what the problem was. This will include a review of the permitting decision as necessary.

- * Bond Release - We will emphasize OSM participation in bond releases in areas where AMD has historically been a problem. This may include some aerial inspections in these regions.

- * Bond Adequacy - The Charleston Field Office is participating on a National team which is attempting to resolve the issue of how to provide financial assurances that AMD can be treated in the event a company forfeits its permit and bond. We are also participating in a review of the West Virginia Bond Pool with the West Virginia Division of Environmental Protection.

- * Watershed Framework Activities - OSM signed an

agreement with 10 other agencies to cooperate in identifying and correcting problems on a watershed basis. We are participating in the planning team and may be called upon for further activities as the program is fully implemented.

- * Bond Release Sites with Non-Complying Water Discharges - As we participate in reviews of watersheds, sites may be identified which have been released from State jurisdiction but are associated with water quality problems. If the discharge is significant, OSM will promptly determine if Federal or State action is necessary to reassert jurisdiction.

- * Mon. River Underground Mine Pools - We are continuing to work with other OSM and State offices in trying to access the potential

See OSM on page 13

Notes from Fall 97 Amicus Journal

We as taxpayer "donate" as much to cotton growing corporations as we spend on our National Parks. Also, of the revenues that are earned by National Parks (entrance fees, concessions, etc.) Less than a third is allowed to be spent for the parks. The almost 70% of this income goes for things like the military, corporate welfare, stuff like that. Is our current government outrageous, or what?

The Land and Conservation fund - which takes in nearly a billion \$ a year from the extraction of oil, gas and other resources - was designated to be spent on National Parks. Congress, with Clinton's approval, has seen fit to use these funds for tax cuts for the more affluent in our society, and the military.

Clinton is an environmental yo-yo. By politicizing *everything* - good, bad or indifferent - he has already earned his place in history as mediocre at best. It is not what is right or wrong with him, but more how it will "play in Peoria." So he signs off on the new Clean Air standards, then ten days later completely wimps out on the overriding necessity for committing to reductions in global warming pollution.

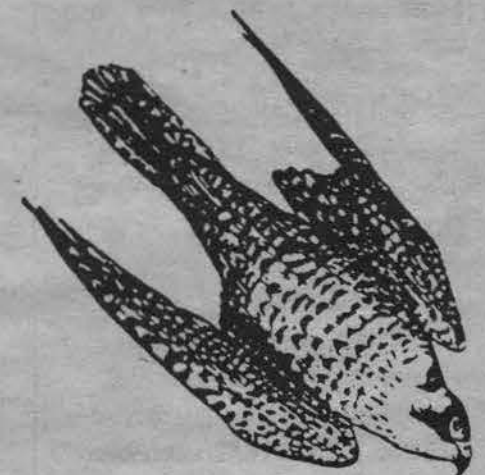
American Electric Power, the Southern Company and TVA are among fifty other large utility companies that create 75% of electric utility emissions that form smog and other air pollution problems. Older and dirtier plants, particularly in the Southeast and Midwest, have been exempted from modern

emissions standards, and as a result the Northeast and Upper Midwest are getting a continuing blast of polluted air which creates health problems for forests, fish in lakes and streams and, yes, human beings, in those regions.

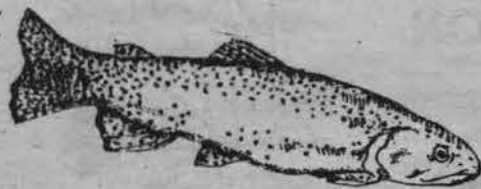
A ten percent reduction in meat consumption in the United States would free enough grain to feed all the world's starving people.

Dr. John M. Whitney, a California veterinarian, offers the following opinions concerning Christianity vs. the environment. "God did not, according to the Bible, 'give' the Earth to Man. Land ownership by Man is a Western civilization falsehood widely accepted by pseudo-Christian, exploitative businessmen. 'Do not take advantage of each other ... the land must not be sold

permanently because the land is Mine and you are but My tenants ...' (Lev.25:17,23). When we clearcut a forest, we are breaking biblical law."



THE WATER QUALITY AND FISHERY STATUS OF OTTER CREEK AND DOLLY SODS WILDERNESS AREAS



An address to the W.V. Highlands Conservancy's 30th Anniversary meeting - October 11, 1997, by J. Rick Webb



Submitted by Don Gasper

Rick Webb, now at the University of Virginia, gathered and organized volunteer help to collect water samples on May 23, 1994 in the Otter Creek and Dolly Sods Wilderness Areas for the U.S. Forest Service. They sampled 99 stream (running water) sites and 26 ponded sites. The flows were normal for the date. He had a superb laboratory standing by to receive the samples where 16 very careful tests were made on each. The acid to base comparison that results in a pH, or hydrogen or acid value, was thoroughly defined - as were the amounts of calcium dissolved in the water, and toxic aluminum and dissolved organic carbon (color). All these last three have something to do with suitability for fish, along with the pH value (or acidity itself).

The chemistry indicated there were only a few areas where fish could be expected - where it was rich enough in nutrients to support them. There were only 27% of the reaches that indicate a moderate to high probability of fish presence. There were half (51%) of these waters that had no ANC (acid neutralizing capacity which is alkaline or basic components) left. Clearly no fish could be present.

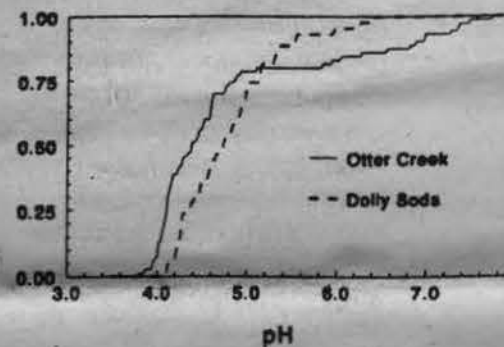
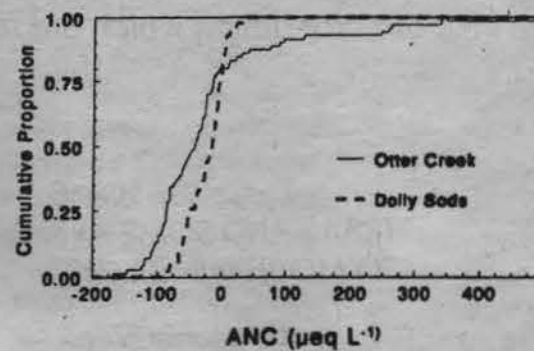
At normal flows for May 23 in the spring of 1994, half the stations in both streams (50%) had zero A.N.C. Half of the stations had a pH of 4.5, and about 75% had a pH of 5.0 which at normal flow occurs often enough to prevent fish habitation. Rick notes that pH 5.0 and zero A.N.C. correlate well in these streams.

Rick states in further explanation in his report:

"The most important surface water constituents that directly influence biological responses to changes in acid-base chemistry are pH, inorganic monomeric aluminum, and calcium ion (Baker *et al.*, 1990b)...Dissolved calcium has the effect of mitigating the physiological responses of fish to acidity and dissolved aluminum (Baker *et al.*, 1990b)."

"Surface water pH has probably received the most attention with respect to effects on fish. A literature review by Baker *et al.* (1990b) revealed that the pH range of 6.0-5.5 is associated with loss of sensitive fish species (e.g., black nose dace) and the pH range of 5.0-4.5 is associated with loss of tolerant fish species (e.g., brook trout). Recent studies in the Blue Ridge mountains of Virginia have demonstrated significant mortality of brook trout fry at episodic pH values of 5.0 (MacAvoy and Bulger, 1995) and sublethal effects on blacknose dace at chronic pH values of 6.0 (Dennis and Buler, 1995). Note the figures which provide plots of pH with ANC for surface waters in both OCW and DSW. The critical pH value of 5.0 and the critical ANC value of 0 ueq/L correspond well. As indicated, the pH and ANC of most sample sites in both areas were less than these critical values."

"Another factor that effects fish population status is the presence of elevated aluminum concentrations. As summarized by Baker *et al.*



(1990b), the toxicity of dissolved aluminum fractions differ. Aluminum that is complexed with organics is relatively nontoxic; so waters with high organic content may contain little toxic aluminum. The inorganic monomeric aluminum fraction is generally regarded as the toxic component, with concentrations in the range of 30-50 ug/L associated with adverse biological effects. Much of the dissolved aluminum is complexed with organics and, as expected, this component is closely associated with concentrations of dissolved organic carbon. However, concentrations of inorganic monomeric aluminum greatly exceed the biologically critical value of 50 ug/L at many of the sites."

The acidity of the water and the scarcity of fish was noted in a 1935 report. Probably this condition existed since the first

logging and fires that followed. No one knows what existed in the original forest before that, but it was never rich.

The water chemistry was related to the very infertile geology and the soils formed from it. There was a particularly strong relationship between the infertile Pennsylvanian (Allegheny and Kanawha) geological strata and the most acidic and sterile reaches of the wilderness areas.

Though it may have been suitable in the original forest for native brook trout, the thriest and most acid tolerant fish, it clearly never could have been very rich. Soil samples produced values of base saturation (or available alkaline nutrients) of only 7.1 and 4.2% - whereas 9.1% was the median of 36 central Appalachian

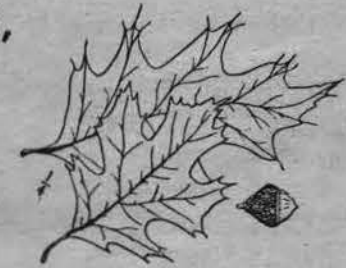


MOUNTAIN BIKING AND WEST VIRGINIA FORESTS, EVERYONE'S NEED FOR IMMEDIATE ACTION



By David B. McMahon

Part II



In Part I in the October issue of the Highlands Voice, David discussed mountain biking in West Virginia, and presented the basis for the reasons for his proposals for action which are set forth in this second and final part of his article

PROPOSED POLICIES AND ACTIONS

What follows is a proposed set of policies and management practices that should govern mountain biking in West Virginia. To the extent these policies are policies that individual mountain bikers or mountain bike businesses should follow, management is required for these policies to be followed. "Management" means several things. It is education of mountain bikers about the appropriate behaviors, enlistment of support for mountain bikers to foster compliance by their fellow mountain bikers, incentives for compliance where possible, and enforcement if necessary against those who are recalcitrant.

1. MANDATE EDUCATION FOR MOUNTAIN BIKERS

Mountain bikers need to know when not to ride on single track trails. They need to know 1) the trail conditions that make mountain bike riding environmentally irresponsible, 2) the tire skidding techniques and practices that damage trails in any conditions and 3) the behavior that is considerate of other users. The sport is growing too quickly for voluntary efforts and word of mouth to have enough impact. The mechanism for education is probably a permit/license/decal system for mountain bikers using public lands that private trail developers will mimic.

2. CLOSE SOME TRAILS AND SOME AREAS TO MOUNTAIN BIKERS

Some forest areas should be preserved untouched for scientific, aesthetic and preservationist reasons. Some trails are too poorly designed, are too steep, or are in areas which are swampy or have poor soils. Other forest users not employing mechanized transportation should have areas isolated for their use without the intrusion of mountain bikes.

3. PROHIBIT MOUNTAIN BIKE RIDING ON WET TRAILS

4. DEVELOP CONSISTENT GUIDELINES FOR "TOO WET" TO RIDE

5. EDUCATE MOUNTAIN BIKERS ABOUT THE STANDARDS

6. DEVELOP LISTS OF ROADS, AND MAYBE SPECIAL TRAILS, THAT CAN BE RIDDEN IN WET WEATHER

7. ENLIST MOUNTAIN BIKERS' HELP IN GETTING OTHERS TO COMPLY

8. ENFORCE THE STANDARDS

Mountain bikes should not be ridden on singletrack trails that are too wet. Simple to say, but there are complex problems.

Many mountain bikers know this. Many do not. Even those who do are uncertain of the proper standard to apply. How is "too wet" defined.

Right now there are not easily observable standards for bikers to apply. Most bikers really do not understand the mechanics of trail wear and tear. They do not see the impact over several years that irresponsible riding has on trails. The effects occur over months and years, and they just do not discern these long term changes.

Bikers hate not to be able to bike singletrack. If one biker or bike resort owners adopts one protective standard, and another biker or resort owner adopts a less protective standard, the pressures to go to the lowest common denominator are irresistible. I've done it myself.

The standard should be "If your tire leaves indentations along the trail, not just in an occasional puddle, stay off singletrack and un-maintained roads. If you are leaving ruts along the trail, turn around and walk your bike out. If your ruts are on a slope, stop and use your foot to eliminate the rut to prevent erosion before you walk out."

Any mountain bike rider is excited about heading for the trails. If the biker gets there and the trails are questionable the temptation is irresistible. That is just for local people. Think of the people who drive to the Elk River Touring Center from Indiana. It rains. It is asking too much to tell them to sit and read.

Roads that are maintained for vehicles are fine to ride even in the mud. Of those roads, the roads that are generally gated to vehicles are much, much more desirable. But roads that are good to ride have to be catalogued and publicized. All maps and guidebooks published about Mountain Biking should indicate good wet weather roads to ride and note this designation.

A few singletrack trails could be highly maintained for wet weather riding in popular areas. One section of Plantation Trail on Canaan Mountain has been rocked in a way that might be adequate. Rocking, plus good drainage might, I say might, make this possible. Trails which are already severely damaged, like Props Run near Slatyfork might be candidates for experimentation.

Giving mud road riding the same glory as "gnarly downhill" could help.

9. PROMOTE TRAIL MAINTENANCE BY RIDERS AS THEY RIDE AND AT ORGANIZED EVENTS BY EDUCATION

10. ORGANIZE TRAIL MAINTENANCE DAYS

11. AWARD POINTS FOR TRAIL MAINTENANCE IN RACING SERIES

MT BIKE *cont. on next page*

MT BIKE (continued from preceding page)**12. WORK TO FUND TRAIL CONSTRUCTION AND MAINTENANCE****13. PROMOTE WEST VIRGINIA AS THE PLACE TO FIND "PRIMITIVE TRAILS" TO MOUNTAIN BIKE (AND THEREFORE THE MOST NEEDY OF RESPONSIBLE TRAIL RIDING)****14. INSIST THAT ANYONE PROMOTING RESPONSIBLE MOUNTAIN BIKING IN WEST VIRGINIA PROMOTE RESPONSIBLE TRAIL RIDING AND OFFER RAINY WEATHER ALTERNATIVES**

An environmentally sound mountain bike trail would have features that prevent trail erosion. It would twist and turn. Straight trails encourage speed and braking. Twisty turn trails replace speed with maneuvering as the interesting feature.

The uphill and downhill sections of trails would side slope away from the hill side and toward the drop off side so water does not gather and form a ditch on the hill side.

Most importantly, trails would not go steadily down hill. Even a trail that gradually descends down the side of a hill becomes an eroded flume unless it dips and rises on its way down. The low dips cause places for the wear to run off.

If dips do not exist then where possible the trail should be altered to include dips. Where that is not practical, then angled water bars made out of used rubber conveyor belt buried edgewise, or rocks or logs (in descending order of preference and durability) should be installed.

If water is not diverted off the trail by dips or water bars then the next heavy thunder storm turns the trail into a stream bed that soon washes the trail down to its rocks. Even most mountain

bikers do not like these rock garden trails ("baby heads" in the parlance) because they make riding very difficult. But most do not understand that the trail did not used to be like that.

The difficulty is that most trails in West Virginia were something else before they became even hiking trails. There were logging roads etc. which were constructed before people care about erosion. They were made steady and straight because straight roads were easy to use and easy to make.

These trails therefore need maintenance work to create swerves and dips and water bars. There are a few mountain bikers who on their own commit hours to trail maintenance, but very few.

Mountain bikers should be educated about trail erosion problems and encouraged to do small things as they ride. A number do this, and more could be encouraged. They should also be encouraged to do organized trail maintenance. All of the businesses principally bike shops, should organize trail maintenance evenings or days on this principle, plus to comply with the next idea.

Mountain bike races are frequently organized into "point series" like professional car racing, tennis tours, etc. A certain number of points are awarded based on the order of finish. The rider with the best total at the end of the year/series gets a big prize. Some states have started awarding points for doing hours of trail maintenance up to the number of points for a first place finish.

15. FIND FUNDING

Volunteer work is important, but it will not keep up with the need. Government provides parks, land and resources to people who like to swim, people who like to fish, people who like to play golf etc. Mountain biking

is good healthy recreation. Government should contribute. But these are not the best of times to suggest additional government spending. Some "general revenue" tax money should be dedicated, but other money needs to be raised.

User fees are a possibility. Such fees run against the grain of mountain bikers' ethos. But people who fish, swim and golf do not do so for free.

Another possibility follows the model that is now used for hunting and is being proposed for bird watching. A small tax is imposed on the purchase of mountain biking equipment with the proceeds dedicated to trail maintenance and mountain bike management.

Promote West Virginia as the place where the mountain biking is good because we preserve our pristine trails by responsible riding — tell the people who come here that they can be part of it.

The State should insist on this latter goal for anyone promoting the sport, particularly with state assistance.

16. OTHER

Some additional rules about races may be wise, like requiring an alternative course prepared in the event of rain.

Some ideas were considered that are probably impractical or too late start now. For example, outlaw the front and now rear suspension systems on bikes that allow riders to do more difficult trails and do them faster. Front suspension is almost universal with those bikers who actually do go into the woods, and rear suspension used more and more — being held back only by the cost.

As stated elsewhere the author believes the views expressed are well considered. Consideration by a larger

group might make changes. There are almost certainly other versions of policies that would be improvements and other possibilities for policies. The important need is to start now to implement the management necessary to get some form of these policies into effect.

CONCLUSION

The winds of change are blowing in the forest recreation. Hunting and fishing have been forms of forest recreation since the beginning. Both of them are now controlled. Their control frequently arose as a reaction to the resource being overused. Those resources are now controlled and relatively stable. Camping, and backpacking are also relatively stable now and have some limitations. Hiking and cross country skiing may be growing slowly and do not impact the resource.

Mountain biking is already picking up to gale force growth. And we are just now starting up the growth curve. For all the good reasons already set out in this article, West Virginia should deal with these issues and get ahead of the curve this time.

Action needs to be taken now, if it is not too late already, to balance the interests of the forest, other forest users and the mountain biking citizenry and businesses. If not, mountain biking will overuse the trail resources, and create hostility among other forest users. The result will be proposals for banning mountain bikes on trails, and the parties will go to war politically. No matter who wins, forest users who should be working together for the forests and their common good will fight each other. If the mountain bikers win, most likely in the current political climate, the forests trails will

MT BIKE concluded on page 13

WEBB from page 9

watersheds considered to be relatively at high risk from acidification by the earlier National Acid Precipitation Assessment Program. This could only produce flows (streams) that were the purest of the pure - too nutrient poor to support fish in most of these reaches. Rick Webb states "Most of this surface water resource ...is highly acidic and unsuitable or marginally suitable for fish and other aquatic fauna."

For the last fifty years the greatest amount of acid rain (or acid deposition in the form of dust) has fallen into this region, that he defines as the most easily acidified (low ANC and un-buffered). From the forests this acidity makes its way into the streams and rivers. Sulfuric acid dominates these surface waters and it makes up as much as 80% of the region's acid deposition. The causal relationship is clear, particularly in light of the "notably low" base saturation of the soils. In his report Rick writes:

"The supply of base cations in watersheds can be external or internal. External sources include atmospheric deposition in both precipitation and dry (aerosol) forms. As indicated by ion-enrichment analysis, internal watershed sources are the main source of base cations in most upland surface waters of the eastern United States (see Baker *et al.*, 1991b). The primary internal sources of base cations in most watersheds are mineral weathering and soil exchange.

By comparison with exchange reactions, mineral weathering occurs at relatively slow and constant rates (Turner *et al.*, 1990; Munson and Gherini, 1991). Thus, the main source of base cations for acid neutralization in most watersheds is the accumulated

supply of exchangeable base cations in the soil. However, the size of this supply and the degree to which soil and surface water acidification occurs are ultimately determined by the availability of base cations in watershed bedrock. As reflected in the low ANC and low base-cation concentrations of stream waters, most of the central Appalachian mountain ridges are underlain by base-poor bedrock (Webb *et al.*, 1989; Church *et al.*, 1992; Herlihy *et al.*, 1993)."

Such strong acid inputs to the forest ecosystem dissolves out nutrients leaving it more impoverished. Trees, though they accumulate nutrients in their biomass reduce available nutrients. This amount is

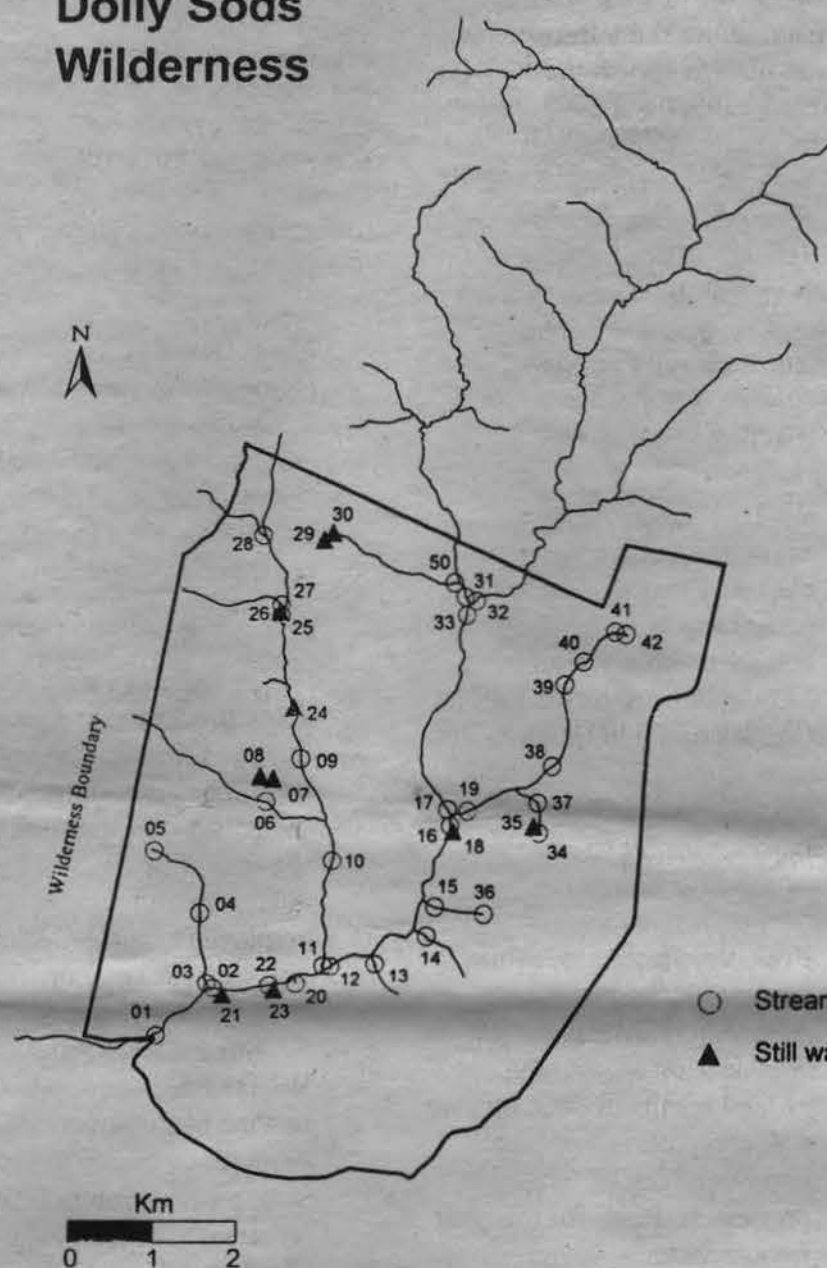
roughly the amount dissolved out. It is fortunate that no harvests will be made in these Wilderness Areas. Trees do not generally grow well here.

In response to a question, he remarked that *harvests are an impoverishment as nutrients leave the site. When asked if a whole-tree clear-cut harvest occurs, can it impoverish the site as much as the effect of 50 years of Acid Rain - he replied, "Roughly." The comment was made, that Acid Rain had dissolved nutrients from the entire Eastern Forest equal to a whole-tree clearcut of the entire Eastern forest - a harvest foregone (lost). There was a silence.* [Italics and bold added by the editor for emphasis]

In such a thorough study old mine openings were noted - perhaps 23 in Otter Creek and 7 in Dolly Sods. The water chemistry revealed there was no impact from them. The only other potentially water quality altering influence is the Department of Natural Resources liming station on the head of Otter Creek. It was found to maintain suitable water quality throughout the main-stem and a fish population of many native brook trout. Also a very unusual amount of standing water was present, and many reaches were occupied by beaver.

WEBB concluded on page 14

Dolly Sods Wilderness



OSM from page 8

impact that can occur as the large underground mines in the Pittsburgh seam discontinue pumping and treatment activities upon mine closures. We are trying to be proactive to prevent major AMD discharges.

Offsite Impacts

One of OSM's national measurements is offsite impacts. However, to measure the success of the State program OSM only counts impacts that would be a violation of the State program. In other words, the nuisance of vibration and noise from a nearby operation is not counted. There is one change from last year in that we will be counting offsite impacts that are continuing from bond forfeiture sites that have not been fully reclaimed.

Reclamation Success

OSM is measuring reclamation success on a national level by counting acres of bond release. We will also be considering this acreage against the total bonded since the beginning of the program. OSM reclamation specialists will review samples of State bond releases to assure all requirements are being met.

Customer Service

During our random inspections we plan to review the files to assure that the State is properly handling citizen complaints. We will also continue to respond to complaints filed with our office by offering the WVDEP the opportunity to resolve the complaint during a joint visit with OSM.

Blasting

WVDEP has requested our assistance in reviewing blasting plans to determine if something more can be done to minimize the nuisances associated with blasting. The Charleston Field Office is also participating in a team with other State and OSM offices to look at blasting issues on a nationwide basis.

Program Documentation

Although OSM has placed emphasis on measurable ground results in oversight we will complete occasional reviews of certain State processes. Plans for this year may include:

- * Civil Penalty Documentation
- * Permit Renewals

- * Show Cause Procedures
- * Resolution of Prohibited Interests
- * Grant Time Reporting
- * Implementation of Program Revisions Prior to Approval

Mountain Top Removal/Large Multiple Seam Operations

We are planning several activities related to large operations. These will include:

- * Drainage Control - Concerns have been raised about the drainage control and increased flooding potential from large operations. We intend to work with WVDEP to ensure that the best management practices are employed to minimize offsite impact from large operations.
- * Stream Mitigation - WVDEP has requested OSM and the Environmental Protection Agency to review State practices on mitigation for stream damage. The Charleston Field Office is also coordinating with other offices to determine OSM's position on the general issue of mines affecting intermittent or perennial streams.

* Post Mining Land Use - In response to citizen concerns we will review the approved post mining land use on the large operations. This review will be delayed until OSM makes a final determination on a State program amendment which would change the available post mining land uses for Mountain Top removal operations.

Random Inspections

Charleston Field Office Reclamation Specialists will continue to make random inspections. Emphasis will be on areas that are still active and have not been reviewed recently by OSM. Special concerns from citizens can also be emphasized during our inspection sampling program.

Water Replacement and Subsidence Evaluation

We will review some of the complaints received by the WVDEP to ensure they are properly meeting requirements placed into Federal law in 1992.

OSM concl. on page 16

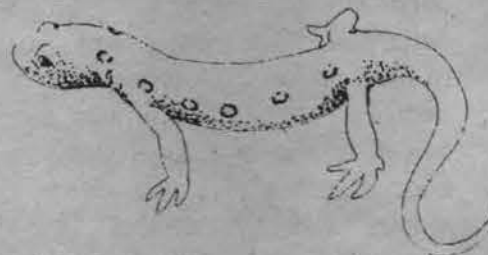
MT BIKE concl. (from page 11)

suffer. If those who would ban mountain biking win, as happened out West, a potentially profitable tourist industry will be lost, environmentalists will have made new enemies at a time they need friends, and an activity that will be supportive of the environment and give quality recreation an exercise to a large number of people will be greatly diminished.

WVHC FALL REVIEW

The Fall Review was held at Camp Kidd near Parsons in Tucker County on October 10-12. We had beautiful weather for it with the fall foliage near its peak coloring. Highlights were a hike in the Blackwater Canyon area - the posting of the actual Canyon, itself, prevented us from a hike in the Canyon.

On Saturday evening, there was a lecture by Rick Webb on his study on the acidity on the Dolly Sods and Otter Creek Wildernesses, respectively. At that time, also, Frank Young, Senior Vice President of WVHC, accepted an award (with reservations, primarily because of Federal failure to enforce the SMCRA) on behalf



of the WVHC from the OSM with Roger Calhoun, WV OSM Director, presenting the award (see photo, Roger Calhoun on left doing the presenting and Frank on the right receiving).

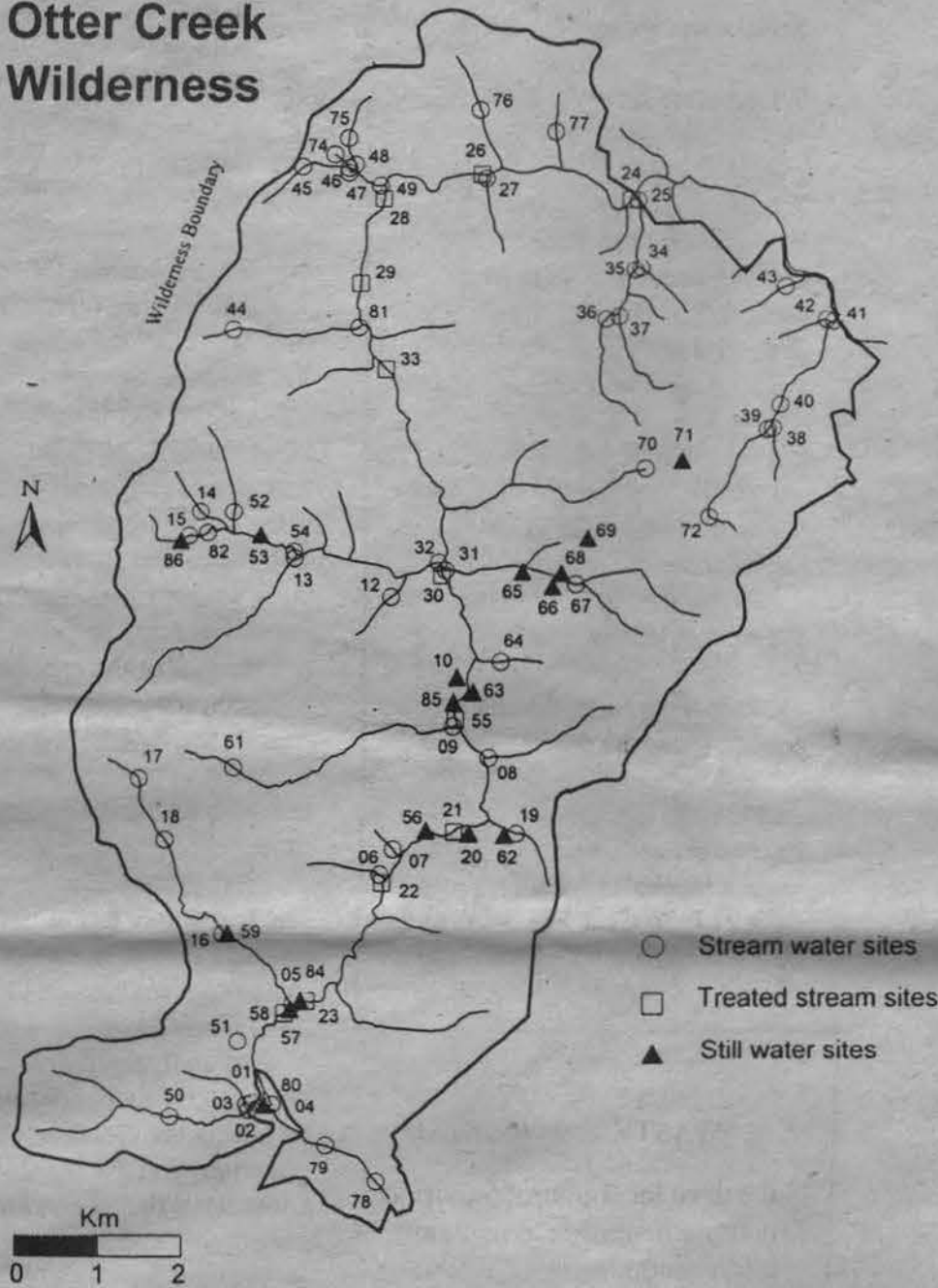
The Board the next day decided to hire Mike Withers to use his considerable skills and experience for the purpose of saving the Blackwater Canyon to preserve its beauty for all the people rather than to allow it to be exploited for a select wealthy elite.



Photo credit - Roger Calhoun

WEBB concluded (from page 12)

Otter Creek Wilderness



- Stream water sites
- Treated stream sites
- ▲ Still water sites

The U.S. Forest Service had the responsibility to carry out this assessment and to consider a monitoring program, and commissioned Rick to do this work. Both are to be commended for such fine and thorough work, that enables managers, and citizens to understand for the first time some of the watershed status and processes and process rates. Both Acid Rain and this infertile geology extend through western Maryland and into Pennsylvania; *it is clear in these special Wilderness Areas and throughout the Mid-Atlantic Highlands that sulfur emissions and its Acid Rain must be reduced.* [Italics added - Ed. Also a note - add to this a big reduction in clearcuts!]



PERSPECTIVES

TREES

Through our woods
Two mammals pass
the fourfooted following the twofooted.

DOG

Will my mistress go uphill
toward distant deer
or down, where groundhogs sleep?
Where she goes I follow.

HUMAN

I walk in these woods alone,
awash in beauty.
I am the only one here.
(I dare not sense these countless lives
on my every side
because
I OWN IT)

Poem by Mary Wildfire



Land Swap Procedures

by Jim Sconyers

This is a condensed summary of the Primary Steps in Processing an Exchange. That is a document outlining steps to follow in the National Forest system in undertaking a land exchange, such as the swap being discussed for a small part of the Blackwater Canyon.

1. Jointly develop a mutually beneficial exchange proposal. Both sides must gain something.
2. Preliminary evaluation of the proposal to determine feasibility. The proposal must meet Forest Service goals and be in the public interest.
3. Early public involvement will reduce the likelihood of appeals and will eliminate unpopular proposals before major investments are made in time and money. To encourage early public involvement,
 - a. publish a notice
 - b. explain the benefits of the exchange to state and local officials and the congressional delegation
 - c. discuss the exchange with adjacent landowners, users, key members of the public

- d. attempt to resolve concerns at the local level before proceeding
4. National Environmental Policy Act requirements must be met.
 - a. EIS is seldom needed.
 - b. Environmental Assessment is normally used. Emphasize impacts, including change in county taxes and distribution of FS receipts to counties land uses impact on permits and leases loss of federal control of TES, cultural resources, wetlands, etc. effects on other resources such as timber, recreation, etc. economic impacts to state and local economies. (Often natural resource impacts are not the major concern in exchanges).
 - c. Use Categorical Exclusions in noncontroversial exchanges with no public objections.

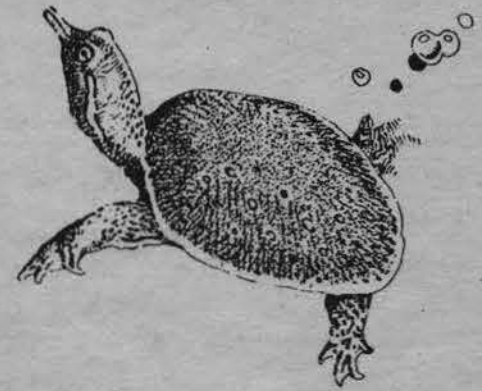
(NOTE: If the case becomes controversial, it is easier to document an Environmental Assessment than to defend a Categorical

Exclusion.)

5. Have the appraisal approved.
6. Complete surveys, title work, etc.
7. Submit the case to the Washington Office for congressional oversight (may involve Secretary of Agriculture or Senate and/or House Agriculture Committees).
8. Obtain deed.
9. Obtain Final Title Policy from the landowner.
10. Accept title.
11. Post records, notify the county, close the case.

APPEALS

Exchanges are subject to USDA review (appeal) procedures. 36 CFR 217; 36 CFR 251 Subpart C; FSM 1570.



the case, saying that the other defendants could represent their interests. The DEP claims that it did, and will, represent the SWAs. The fact is that the DEP's defense of those statutes was minimal. Further, the DEP is the only defendant that has not decided to appeal. If the DEP does not appeal, there will be nobody arguing in defense of the referendum or the other two local control provisions. And of course, the landfill industry is lobbying to prevent any strategy that may result in mooting the case.

The legislature has to have the political will to resist the will of the landfill industry, which is most likely a heavy contributor to their campaigns. It is up to the voters to create the political will by letting the agencies, the governor, and the legislators know what they want. One of the purposes of the November 8 solid waste forum at Jacksons Mill is to provide citizens the opportunity to express their concerns directly to these people.

How does this relate to Corridor H and the West Run Expressway? The referendum also appears in the hazardous waste and the medical waste laws. It could very well be applied to any number of situations, including roads. But only if it is found to be constitutional!!! If we let this opportunity to save it slide by, we will have lost a valuable tool for public input into controversial projects.

Democracy is not a spectator sport, please act!

Blackwater Swap

The rumor mill is churning. Everyone from Underwood and Rockefeller on down seems to want to claim credit for being about to resolve the Blackwater Canyon problem. They claim that a solution is in the works and we should expect to learn about it very soon.

The facts are that Sen. Rockefeller, AWP President John Crites, Mon National Forest Supervisor Chuck Myers, US Forest Service Chief Mike Dombeck, and WV Commissioner of Commerce, Bob Reintsema met in Rockefeller's office in Washington last week. That's as much as anybody has been willing to say so far.

Indications are: they are talking about a trade for the Rail-Trail strip (aka the northside strip, the beauty strip), nothing more. A high MNF staffer as much as said this.

This is not even a new deal. It was well on its way months ago. So if the deal is as described, there is nothing new being pursued or offered. Claims to solve the problem are nothing more than self-serving puffery.

The downside of this scenario (one of several) will be putting us in the position of nixing what they'll tout as the salvation of the Canyon.

WASTE concl. (Fr. Page 15)

the three local control provisions (site approval, siting plans, and referendum), but not have to pay the plaintiffs the \$500,000 attorney fees the state has spent so far. It should be pointed out that the local preference statutes have never been used, so amending them out will have make no difference in the way our laws would be used.

From a legal perspective, it appears that the bulk of WV solid waste laws can be found to be constitutional. Nine years of work may come to fruition!

But there are some wrinkles. The three local control provisions (site approval, siting plans, and referendum) are in the solid waste authority act, and are specific to the SWAs. Judge Stamp refused to allow the SWAs to become interveners in

VICTORY – THE TMDLs ARE HERE

As a result of the lawsuit brought by the West Virginia Highlands Conservancy, the Ohio Valley Environmental Coalition and three individuals (including former Voice editor Bill Ragette), the U.S. Environmental Protection Agency has issued the initial draft "total maximum daily load" (TMDL) requirements for public review and comment. The TMDLs are for the Upper Blackwater River, North and South Forks of the South Branch of the Potomac River, South Branch of the Potomac River, Lunice Creek, Anderson Run and Mill Creek.

The lawsuit was settled earlier this year; it requires that EPA draft TMDLs for 46 rivers and lakes damaged by a variety of pollutants and over 500 stream segments damaged by acid mine drainage. EPA will draft

approximately seven TMDLs for the list of 46 each year between 1997 and 2002. The 500 AMD impacted streams will have TMDLs by 2006.

The Conservancy and OVEC were represented in the lawsuit by Conservancy member Perry McDaniel who worked in concert with counsel for the individuals, Ryan Alexander of the Appalachian Research and Defense Fund and Jim Kringlen of the Legal Aid Society of Charleston. In addition to agreeing to finally draft the TMDLs, which were first required in 1978, EPA has agreed to pay \$ 122,000 in attorney fees and litigation costs.

It is important to emphasize that TMDLs are "total maximum daily loads." Even if discrete, defined sources of pollution (known as point

sources) are using the best available technology, the cumulative impact of point sources and non-point sources of pollution may result in a violation of water quality standards on a particular stream segment. The TMDL approach to pollution control is more *holistic*; it covers *all* sources in any watershed. If the water does not meet water quality "exceeds" standards, TMDLs can be used to force reduction of pollutants.

The TMDL process is critical in that it forces EPA, and indirectly the West Virginia Division of Environmental Protection, to analyze stream conditions, and list any stream for which a particular pollutant exceeds water quality standards.

The draft TMDLs are important in that they cover the Blackwater River, an important

recreational resource, and the South Branch of the Potomac which has been impacted by the increase in the poultry industry.

There will be public hearings: November 18 at 7:00 p.m. in the Spruce Room at the lodge at Canaan Valley State Park (for the Blackwater TMDL); November 19 at 7:00 p.m. at the South Branch Inn in Moorefield (for the South Branch of the Potomac TMDLs). The public comment period is open until November 26. If you have any questions, call Perry McDaniel at 1-800-750-1900. •



OSM concluded (fr. Page 13)

Remining

Charleston Field Office Staff are participating on a regional team to identify ways to encourage remining of areas abandoned without reclamation. We also intend to work with the State to identify specific sites where a remining project could be encouraged.

Program Amendments

West Virginia normally attempts to modify its approved program once a year. Charleston Field Office participates with the Appalachian Regional Coordinating Center in the review of those amendments. We also are working with WVDEP to assure that all previously identified deficiencies or required amendments are resolved in a more timely fashion.

Abandoned Mined Land Program

This program primarily involves making grants to the State to reclaim sites abandoned before the Federal law came into effect in 1977. Oversight activities involve ensuring Federal funds are properly spent, completing the Federal requirements that cannot be delegated to the State, and providing technical assistance. Activities for this year may include the following:

Emergency Declarations

Although WVDEP administers the emergency program OSM must still make the actual declaration of the emergency and make certain findings regarding the National Environmental Protection Act. We will also work with State

officials to develop a training program to assure consistency in WVDEP decisions on emergencies among their various staff in the State.

Contract Administration

We will review a sample of projects to assure that contract requirements are being met.

Required Permits

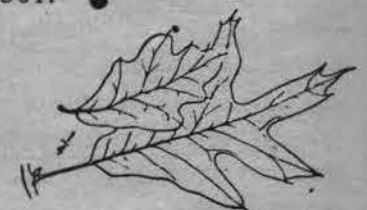
We will review a sample of projects to assure that all required permits are obtained prior to initiating construction. This will include a review of the State's NEPA information.

AMD

OSM will continue to participate in the Clean Streams Initiative by providing assistance to the State and

watershed organizations in coordinating activities related to correcting AMD conditions. We will also participate in discussions with State officials to assure that AMD correction activities are reasonably successful considering future maintenance.

All of the above will take good planning and lots of dedication to complete. Some projects are likely to continue beyond a one year period. If you have any questions or suggestions on OSM oversight please send a note to the Charleston Field Office at chfo@osmre.gov or 1027 Virginia Street, East, Charleston, West Virginia 25301. •



Attack on the Endangered Species Act! -- Again?!

It seems as if we can't have a session in the Congress without an attack on the Endangered Species Act (ESA). The latest is the Kempthorne. At the end of September, the Senate environment and public works committee passed a bill that would weaken the ESA if enacted. The ESA reauthorization bill being whisked through the Senate, S1180, was introduced by Senator Dirk Kempthorne (R-ID). In stark contrast to Representative Miller's House bill, Senator Kempthorne's proposal will reduce the quality of protections currently supporting America's endangered species. Introduced on September 16th and rammed through the Senate with little opportunity for review or amendment, the Kempthorne bill could undermine our nation's ability to recover imperiled fish, wildlife and plants in the following ways: (1) it allows landowners to lock in long term management plans known as "Habitat Conservation Plans (HCP)" that exempt them from further conservation obligations for up to 100 years.

Even if the HCP is found to be contributing to the decline of a species, the Kempthorne bill would allow it to remain in force despite an extinction threat. (2) Kempthorne's ESA reauthorization bill limits watchdog agency review of federal projects that may harm endangered species. Under current law, the US Fish and Wildlife Service (F&WS) acts as the watchdog of other federal entities such as the Forest Service, the Army Corps of Engineers and the Interior Department. Under Kempthorne's proposal, the F&WS must veto a bad agency decision within 60 days, or the offending timber sale, dam or road project moves forward regardless of the consequences for endangered species. (3) The Kempthorne bill would exclude taxpayers [More creeping fascism -- Ed.] from providing input on actions which effect public lands and another public resource, wildlife. Under this Senate proposal citizens opposed to habitat destruction on public land would have no opportunity to comment on a proposed agency action such as a timber

sale or dam. (4) S1180 would add burdensome and time consuming new procedural requirements that could delay listing decisions and recovery plans. Kempthorne's bill requires peer review for all proposals for listed species as endangered or threatened whether there is scientific dispute or not. It also requires extensive economic analysis on the cost, but not on the benefits of all the recovery strategies considered. Even under the current ESA half the species listed as endangered have no recovery plan. It seems certain that, should the Kempthorne bill become law, more endangered species will be strangled by red tape. (5) S1180 would allow the F&WS to avoid designating critical habitat. Fifteen years ago Congress closed this loophole in the original law by forcing the F&WS to identify what lands were important to the recovery of an endangered species. Allowing the F&WS not to comment will allow habitat destruction without confrontation from regulators, a dangerous opportunity for forces insensitive to wildlife's plight

These provisions of Kempthorne's bill, and the rapid pace through which S1180 is being pushed through the Senate have caused grave concern among wildlife advocates. The Sierra Club and other conservation groups are urging senators to look instead at the bill offered by Representative George Miller (D-CA) on the House side. To them, Miller's Endangered Species Recovery Act is the benchmark against which all other reauthorization proposals should be measured. Miller's bill, HR2351, is an innovative alternative based in large part on recommendations of the National Academy of Sciences. With 65 co-sponsors already signed on, Miller's bill serves to prevent species decline and promotes the recovery of species to healthy populations. *Report by Linda Modica.*

[S1180 is just another outrage whereby there is an attempt to prevent citizens from involvement in important government decisions. You can rest assured that wealthy landowners and those who would exploit them for greedy motives have had a lot of input to this bill! *Call or write: your senators to oppose S1180, your representatives to sign on to the Miller bill, HR2351 -- Ed.]*

Sleaze or Stupidity?

Taxpayers Ante Up Most of a Billion Dollars to Get Timber Companies to Wreck Our National Forests

The Sierra Club released a report which using the Forest Service's own figures establishes that the Forest Service timber sales program operated at a net loss to taxpayers of at least \$790,000,000 for fiscal year 1996. This conclusion which the Congressional Research Service confirmed as a reasonable estimate represents the largest annual loss to taxpayers yet. There's simply no justification for having a timber sales program on our National Forests," said Chad Hansen, the report's author and

a National Sierra Club's director. "We could employ more people by ending this wasteful program, and redirecting timber subsidies into worker retraining and ecological restoration," he said, adding, "Why are we paying logging corporations \$800,000,000 each year to destroy our National Forests?" Representative Cynthia McKinney, a Democrat from Georgia, will soon be introducing the National Forest Protection and Restoration Act which would end the federal timber sales program on federal public lands, and redirecting

timber subsidies into retraining and ecological restoration with a hiring preference for dislocated timber workers, payments for counties and deficit reduction. *(Report by Kathy Stubblefield)*

[Contact your representatives in the House to sign on to the McKinney bill -- Ed.]

The preceding two articles are a transcription taken from the *Environmental News* program that appeared on October 26 from WETS, FM, a public radio station on the campus of Eastern Tennessee State University in Johnson City, TN.



A Tale of Two Decisions

by Norm Steenstra

Kathy Karpan, President Clinton's new Director of the Office of Surface Mining came to Charleston last month. She met with a group of Federal regulators, citizen coal activists and environmentalists. In her opening remarks Karpan very defensively, even apologetically stated that there was a need for the Federal Government to regulate coal mining. Karpan, who is from Wyoming, was on the defensive because many folks out west don't want the Feds involved at all in any type of regulations.

When I had a chance to speak to Ms Karpan, I said that to many of us in West Virginia the Federal regulation of coal mining was our only real protection from the influence of coal in our own DEP. If you think about it, we have at least some measure of environmental protection independent from state politics in areas like surface mining, clean air and clean water. We have that minimal layer of protection because there are Federal laws governing the issues.

Some protection exists but there are two glaring areas of non-protection. Solid waste and timbering are two issues on which the Feds have not passed laws protecting us from our own local politics. On those two issues we are entirely at the mercy of wealthy special interests and their rented officials. The timbering of Blackwater Canyon is the latest reminder of that fact.

Over the last 10 years, we as an environmental movement have acted as catalysts and authors of a comprehensive public policy on solid waste. We designed a policy that thought globally and acted locally. We attempted to force all communities, inside and outside our state borders to deal with their own creations. On garbage, sewage sludge, hazardous waste, medical waste and nuclear waste, we helped enact a series of laws that stressed local responsibility, reduction, and local approval of the siting of disposal facilities. With the absence of federal laws we solved the problems

ourselves. Or so we thought. Judge Stamp's recent decision, which basically threw out 10 years of our work, was ironic because he is a Federal judge. Like the proverbial baby, the cornerstone of our garbage wars victory - landfill caps and local referendums, were thrown out with the bath water. Sigh. Our victories are so temporal. Our supposed Federal saviors opened up our whole waste policy to local politics.

The Feds let us down again just last week. Federal Judge Hogan threw out a lawsuit that challenged the construction of Corridor H. Hogan's decision was particularly galling because he said in essence that good points were made by the anti-road plaintiffs but "who was he to doubt the wisdom and decisions [!!!! Ed.] of the local agencies which advocated the project."

DUH! Wait a minute that's what Federal laws are supposed to do, make sure public dollars and public assets like the Mon Forest are not sacrificed or

squandered because of the petty politics of individual states. Just because Senator Byrd and the "build it and they will come" maggies push for a project doesn't mean that the conclusions of their bureaucrats were reached with any level of objectivity. Judge Hogan's decision was a terrible step backward from the Federal government saving us from ourselves.

Alas, the Garbage wars are rekindled and the Corridor H fight continues. Despite these two Federal judicial setbacks, the Lord's work continues. The amazing and truly inspiring fact is that already the veterans of the solid waste fight are organizing to meet the new challenge. Likewise, the first words out of the mouths of the Corridor H activists were "We'll appeal!" Two wonderful examples of endless pressure endlessly applied.

To me the lesson learned is that the Federal Government is not the savior as I told Kathy Karpan. Federal Courts and regulatory agencies often break our hearts. The only thing we can rely on is ourselves and the values that propel us to action.

West Virginia Crisis in Solid Waste

by Tom Degen

Judge Stamp threw out two legislative findings (these are declarations of intent found in the beginning of a piece of legislation that are not technically statutes) and 12 statutes of the solid waste laws. These are the tonnage caps on landfills, the definitions of Class A and Class B landfills, the certificate of need (CON) that landfills must get from the Public Service Commission (PSC), a section of the sewage sludge statute, the certificate of site approval that local solid waste authorities issue, the siting plans that local solid waste authorities develop, and the county-wide referendum on

Class A facilities (this list doesn't add up to 12 because it takes multiple statutes to develop a concept in some cases).

There is language in the two findings concerning waste from "other states" and "unknown origin." There is a statute that allows solid waste authorities to alter a facility's permit to require it to accept local waste. And in the certificate of need statute there is language that requires the PSC grant or deny a CON based on whether a facility will accommodate local needs first. The Judge finds that these provisions, which are referred to

as "local preference statutes," restrict the importation of out-of-state waste, thereby inhibiting inter-state commerce and violating the interstate commerce clause of the U.S. Constitution.

It is on the strength of those 2 statutes and 2 findings that he threw everything else out. For example, Judge Stamp says that the supreme court has already held that tonnage caps are constitutional if they are applied evenhandedly to in-state and out-of-state waste. But the existence of the local preference statutes "contaminates" our caps, and so they are unconstitutional.

Roughly the same logic is applied to the other statutes he threw out.

It was pointed out to the subcommittee that if the legislature could amend out the local preference statutes, the rest of the law has a good chance of standing constitutional scrutiny. If this is done before the case is settled on appeal, the case could very well be rendered moot, and the state would not only keep the caps, CON, sludge statutes, and



Monongahela National Forest Hiking Guide

The Monongahela National Forest Hiking Guide, 6th edition, is bigger and better than ever, with 368 pages, 96 pages of maps, 49 photographs, 177 trails totalling 812 miles, and a full color cover. West Virginia Highlands Conservancy is the publisher. Authors are Allen de Hart and Bruce Sundquist (same as edition 5). Allen has hiked all the trails of the Monongahela N.F. over the past few years. Bruce was the editor for the first four editions. The hiking community and the U.S. Forest Service provided trail reports and photographs. The Guide also provides information for ski-touring and back-packing.

The growing throngs of visitors and the public at large regard the Monongahela National Forest as a 'Special Place'. And indeed it is. The hiking, backpacking, and ski-touring opportunities it provides are among the best in the eastern U.S. The more outstanding areas are becoming known far and wide - Otter Creek Wilderness, Dolly Sods Wilderness, Flatrock Plains, Roaring Plains, Blackwater Canyon, Spruce Knob, North Fork Mountain, Shaver's Mountain, Laurel Fork Wilderness, Cranberry Back Country, Cranberry Wilderness, among others.

Profits from the sale of these guides support a wide variety of worthy environmental projects in the West Virginia Highlands Conservancy. To order your copy of Edition 6 of Monongahela National Forest Hiking Guide, send \$12.95 (this includes \$3.00 first class shipping) to West Virginia Highlands Conservancy
PO Box 306
Charleston, WV 25321

I have included a check or money order for the amount of \$ _____ to WVHC for copies of the Monongahela National Forest Hiking Guide.

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Membership Benefits

- * 1 year subscription to the Highlands Voice
 - * Special meetings with workshops and speakers
 - * Representation through WVHC efforts to monitor legislative and agency activity
- The WVHC, at age 29, is the oldest environmental group in West Virginia. The Conservancy has been influential in protecting and preserving WV's natural heritage. Your support will help WVHC to continue its efforts.

Calendar

November 12 (Wednesday): Event, West Virginia Forest Roundtable. **Where?** Days Inn, Flatwoods. **Time,** 9:30 AM to 4 PM. **Cost,** \$10 to register, meals and lodging extra. **More facts,** "...open dialogue to discuss issues and to promote understanding among all who use and enjoy West Virginia's forests." Will work in small groups. "The purpose of the roundtable is to encourage a free exchange of ideas. All the issues are important. Unfortunately, time limits the number of groups which can report and the number of issues which can be discussed." If interested, Call Center for Economic Options at 345-1298, or Potomac Headwaters RC & D at 267-8953 to see if there is room for another registrant and to get more details.

November 14 (Friday): Event, Open House for the West Virginia Land Trust. **Where,** the home of Joyce McConnell in Morgantown. **Time,** 5 to 8 PM. **How Do I Find It?,** Call Joyce's house for directions at 284-9551. **Fun Stuff,** Music, wine and hors d'oeuvres (what, no women?). **Awards** for environmental stewardship will be given out.

November 15 (Saturday): Event, Mountaintop removal outing in Charleston area. **Details?** Call Laura Spadaro at 472-5151.

November 18 (Tuesday): Event, Blackwater River TMDL meeting. **Where,** The Spruce Room at the lodge at Canaan Valley State Park. **Time,** 7 PM.

November 19 (Wednesday): Event, South Branch of the Potomac TMDL meeting. **Where,** The South Branch Inn in Moorefield. **Time,** 7 PM.

November 19 (Wednesday): At Issue, Fund raiser, hosted by the West Virginia Highlands Conservancy - to support efforts to conserve the Blackwater Canyon. **Time and Place,** 5:30 PM to ? At the Empty Glass, 410 Elizabeth St in Charleston. **The Fun,** helped along by the Carpenter Ants and other talented folks.

December 2 (Tuesday): At Issue, Educational Forum on Mountain Top Removal, sponsored by the Huntington Herald-Dispatch. **Time,** 7 to 9 PM. **Place,** Jean Carlo Stephenson Auditorium at the Huntington City Hall on the corner of 5th Ave and 8th St. **Panelists,** John Aile, chief of the Office of Mining and Reclamation, Dan Kash from the Ohio Valley Environmental Coalition and David Todd from Arch Coal Corporation. **Moderator,** Judge Dan O'Hanlon. No signs or banners will be permitted in the auditorium during the forum (sorry about that, folks). Arrangements can be made for those who have wish to stay overnight in the Huntington area - call Laura Foreman at the OVEC office [(304) 522-0246].

January 14, 1998: WVHC Winter Board meeting. Time and place to be announced.

May 16, 1998 Weekend: WVHC Spring Review. Time and place to be announced.

July 11, 1998: WVHC Summer Board Meeting.

February 21, 1998: Event, Workshop "Coldwater Conservation: What Works and How to Do It" **Where?** Penn State Conference Center Hotel. **Hosts,** Pennsylvania Trout, the Pennsylvania Departments of Environmental Protection, Conservation and Natural Resources and the Fish and Boat Commission. For more **Details,** call Ed Bellis at (814) 364-1548.

May 16, 1998 Weekend: WVHC Spring Review. Time and place to be announced.

July 11, 1998: WVHC Summer Board Meeting. Time and place to be announced.

October 9, 1998 Weekend: WVHC Fall Review. Time and place to be announced.

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